

The Department's new Freedom of Information Act ("FOIA") regulations go into effect on January 30, 2013. The main themes of the revisions to the regulations are set forth below. The regulations will soon be found at: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=993606fb5ddde4c6be5b09f8e6fc81ac&rgn=div5&view=text&node=43:1.1.1.1.2&idno=43>. They can also be found on our website: <http://www.doi.gov/foia/news/guidance/index.cfm>.

- *The revisions incorporate clarifications and updates resulting from changes to the FOIA and case law.* In 2007, Congress made substantial amendments to the FOIA through the OPEN Government Act of 2007 (the "2007 Amendments"). In a recent case (*Bensman v. National Park Service*, 2011 U.S. Dist. LEXIS 88380 (D. D.C. Aug. 16, 2011)), the court noted that the Department's FOIA regulations did not take the 2007 Amendments into account. The Court also found that the Department's FOIA regulations were inconsistent with the Department's other FOIA guidance material. The revisions bring the Department's regulations in line with the 2007 Amendments, particularly in the sections addressing the Department's time limits for FOIA responses and how that relates to the Department's ability to charge FOIA requesters' fees (see Subpart D). The Department is also working towards standardizing its other FOIA materials, including the Departmental Manual and FOIA Handbook.
- *The revisions incorporate changes to the language and structure of the FOIA regulations in order to improve the Department's FOIA performance.* More nuanced multitrack processing (through which the Department places simple requests, requiring relatively minimal review, in one processing track and more voluminous and complex requests in one or more other tracks) can be found at § 2.15. The new Exceptional/Voluminous processing track will allow the Department to respond to FOIA requests more quickly and effectively. Please note that although processing times vary by track, the time that the Department has to respond to a request (i.e., to say whether it will comply with the request) is mandated by statute and very rarely extends beyond thirty days.) The use of multitrack processing does not alter the statutory deadline for a bureau to determine whether to comply with a FOIA request (see § 2.16).

- *The revisions include current cost figures to be used in calculating and charging fees and increase the amount of information that members of the public may receive from the Department without being charged processing fees.* Revisions of the Department's fee schedule can be found at § 2.42, § 2.49(a)(1), and Appendix A. Among other revisions, the amount at or below which the Department will not charge a fee will increase from \$30.00 to \$50.00 (this change will go into effect immediately, regardless of when the request was filed). Slightly increased fees for production costs will go into effect for requests filed on or after January 30, 2013 (fees for requests that were filed before January 30, 2013, must be calculated using the old fee schedule).
- *The revisions clarify and update procedures for requesting information from the Department and procedures that the Department follows in responding to requests from the public.* The regulations have been reviewed with an eye towards plain language principles, including splitting sections into smaller pieces.
- *The revisions discuss the services offered by OGIS.* Commenters suggested, and the Department agreed, that OGIS's role in the FOIA process should be noted in the regulations. Rather than waiting until after an appeal decision has been made to introduce this information (as one of the commenters suggested), the Department adopted this suggestion by requiring bureaus to provide information on OGIS in letters taking final action on a request, which will ensure maximum dissemination of the information at the most appropriate stage of the process. The revised § 2.21(a) therefore requires the Department to provide notice of the services offered by OGIS to all of the Department's FOIA requesters, rather than just the ones that file appeals.