

(6) Rules and decisions denying requests for records which otherwise implement or relate to the Act; and

(7) Materials published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552 (a)(1) and such other materials which each unit may consider desirable and practical to make available for the convenience of the public.

(b) The Secretary of Commerce has determined (DAO 205-12, subparagraph 5.02a.5), that it is unnecessary and impracticable to publish quarterly or more frequently and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). Upon request, copies of such indexes shall be provided at a cost not to exceed the direct cost of duplication and mailing, if required.

(c) The central facility established by the Assistant Secretary for Administration is the Central Reference and Records Inspection Facility, Room H6628, Department of Commerce Building, 14th Street between Constitution and Pennsylvania Avenue NW., Washington, DC 20230. The facility is open to the public Monday through Friday of each week, except on official holidays of the Federal Government, between the hours of 9 a.m. and 4:30 p.m. There are no fees or formal requirements for inspection of materials. Equipment for making copies of these materials is available for use by the public. Copies of various Commerce Department materials regularly available for sale by the Department may be purchased at the facility. Information about these materials can also be obtained at this facility. Correspondence concerning materials available at the facility or information about the rules implementing the Act may be sent to the above address. The telephone number of the facility is (202) 377-3271.

(d) The following units of the Department are participating in the use of this central facility: All components of the Office of the Secretary of Commerce.

(e) Other units of the Department which have established separate public reference facilities, listed in Appendix B to this part, may publish rules applicable to the services provided therein for public inspection and copying of

materials, provided such rules are not inconsistent with the part.

§ 4.5 Requests for records.

(a) A request for a record (or information contained therein) of the Department which is not customarily made available to the public as part of the Department's regular informational services or which is not available in a public reference facility described in § 4.4(c) or Appendix B to this part, shall be made in writing, with the envelope and the letter clearly marked "Freedom of Information Request" to distinguish it from other mail to the Department. Each such request, so marked, shall be addressed to the unit of the Department identified in Appendix B to this part which the requester knows or has reason to believe is responsible for the records requested. If the requester is not sure which is the responsible addressee unit, it shall address the request to the central facility identified in § 4.4(c), or obtain advance information from that facility as to which is the responsible addressee unit.

(b) Any request for records which is not marked and addressed as specified in paragraph (a) of this section will be so marked and addressed by Department personnel and forwarded immediately to the responsible unit having possession or control of the records requested or having primary concern with such records. A request which is improperly addressed by the requester will not be deemed to have been "received" for purposes of the time period set forth in 5 U.S.C. 552(a)(6), until the earlier of the time that (1) forwarding of the request to the responsible unit has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Department personnel. In each instance when a request is forwarded, the responsible unit receiving it shall notify the requester that the request was improperly addressed and of the date the request was received by the unit.

(c) Requesters must reasonably describe the records sought. A request for records shall identify the records sufficiently to enable Department personnel familiar with the subject matter to locate them with a reasonable amount

§ 4.6

15 CFR Subtitle A (1-1-98 Edition)

of effort. The requester shall, to the extent possible, furnish specific descriptive information regarding date and place the records were made, the file descriptions, subject matter, persons involved, and other pertinent details that will help identify the records. If the request relates to a matter in pending litigation, the court, location, and case shall be identified. When more than one record is requested, the request shall clearly describe each specific record, and the specific information requested which is contained in the record, so that its availability may be separately determined. When appropriate, the requester shall describe the intended use of the requested records. Employees at a facility or at a specific address listed in Appendix B will assist the public to a reasonable extent in framing a request.

[53 FR 6972, Mar. 4, 1988; 53 FR 16211, May 5, 1988]

§ 4.6 Initial determinations of availability of records.

(a) The responsible unit which receives a request for records shall promptly log the receipt of the request, and within ten days of its receipt (excluding Saturdays, Sundays, and legal public holidays) shall initially determine:

(1) Whether the request is for records under the Act, is for materials available otherwise than under the Act, or is for information not contained in existing records and, therefore, not under the Act. The requester shall be promptly notified in writing how the request is being handled when it does not come within the Act.

(2) Whether the records requested are reasonably described and can be located on the basis of the information supplied by the requester. If any of the records requested cannot be identified and located from the information furnished, the unit shall promptly so inform the requester in writing, specifying what additional identification is needed to assist the unit in locating the record, and offering to assist the requester to reformulate the request.

(3) Whether the records no longer exist, or are not in the unit's possession. The unit should, if it knows which unit of the Department or other

agency may have the records, forward the request to it. In each instance, the unit shall promptly notify the requester in writing.

(4) Whether the requested records are the exclusive or primary concern of another executive agency. If so, the unit shall refer the request and the responsive records to that other agency for further action under its rules, and promptly notify the requester in writing of this referral. When the subject matter of a classified record originated by another agency indicates that disclosure of the identity of the originating agency might itself compromise national security, that agency shall be consulted prior to any referral of the responsive records.

(5) Whether the request is a categorical one. A categorical request, i.e., one for all records falling within a reasonably specific but broad category, shall be regarded as conforming to the statutory requirement that records be reasonably described, if the particular records can be identified, searched for, collected and produced without unduly burdening or disrupting the unit's operations. If the categorical request does not reasonably describe the records requested, the unit shall promptly notify the requester in writing specifying what additional identification is needed, and extend to the requester an opportunity to confer with Department personnel to attempt to reformulate the request so as to reasonably describe the records.

(6) In determining records responsive to a request a unit ordinarily shall include only those records within a unit's possession and control as of the date of its receipt of the request.

(7) In each of the situations set forth in paragraphs (a) and (b) of this section, the procedures relating to fees described in § 4.9 shall be applied and coordinated as appropriate.

(b) An authorized official in the responsible unit shall review the request to determine the availability of the records requested.

(1) The determination shall be made within ten days (excluding Saturdays, Sundays and legal public holidays) of the receipt of the request (as defined in § 4.5(b) of this part), unless the time is