

scope of which are familiar to only a few persons having a special working knowledge of the activities of the Department of the Treasury, may not be incorporated in the FEDERAL REGISTER by reference. Matter may be incorporated by reference only pursuant to the provisions of 5 U.S.C. 552(a)(1) and 1 CFR part 20.

(2) *Effect of failure to publish.* Except to the extent that a person has actual and timely notice of the terms of any matter referred to in paragraph (a) of this section which is required to be published in the FEDERAL REGISTER, such person is not required in any matter to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to paragraph (b)(1) of this section. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.

#### § 1.4 Public inspection and copying.

(a) *In general.* Subject to the application of the exemptions described in § 1.2(c), each component of the Department of the Treasury is required in conformance with 5 U.S.C. 552(a)(2), to make available for public inspection and copying, or, in the alternative, to promptly publish and offer for sale the following information with respect to the component:

(1) Final opinions, including concurring and dissenting opinions, and orders, if such opinions and orders are made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted by the component but are not published in the FEDERAL REGISTER; and

(3) Its administrative staff manuals and instructions to staff that affect a member of the public.

(b) *Indexes.* Each component of the Department of the Treasury is hereby also required in conformance with 5 U.S.C. 552(a)(2), to maintain and make available for public inspection and copying current indexes identifying any matter described in paragraphs (a) (1) through (3) of this section which is issued, adopted, or promulgated after July 4, 1967, and which is required to be

made available for public inspection or published. In addition, each component shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplement unless the head of each component (or a delegate) determines by order published in the FEDERAL REGISTER that the publication would be unnecessary and impractical; in which case the component shall nonetheless provide copies of the index on request at a cost not to exceed the direct cost of duplication.

(c) *Effect of failure to publish or make available.* No matter, described in paragraphs (a) (1) through (3) of this section, which is required by this paragraph to be made available for public inspection or published, may be relied upon, used, or cited as precedent by the component against a party, other than an agency, unless that party has actual and timely notice of the terms of such matter or unless the matter has been indexed and either made available for inspection or published, as provided by this paragraph. This paragraph may be interpreted to apply only to matters which have precedential significance. It does not apply to matters which have been made available pursuant to § 1.3.

(d) *Deletion of identifying details.* To prevent a clearly unwarranted invasion of personal privacy, a component of the Department of the Treasury may, in accordance with 5 U.S.C. 552(a)(2), delete identifying details contained in any matter described in paragraphs (a) (1) through (3) of this section before making such matter available for inspection or publishing it. However, in every case where identifying details are so deleted, the exemption justifying the deletion will be identified in an attachment to the document from which the identifying details have been deleted.

(e) *Public reading rooms.* Each component of the Department of the Treasury shall make available for inspection and copying, in a reading room or otherwise, the matters described in paragraphs (a) (1) through (3) of this section which are required by such paragraph (a) to be made available for public inspection or published in the current indexes such matters. Facilities shall be

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provided whereby a person may inspect the material and obtain copies of that which is shelved. Fees shall not be charged for access to materials, but fees are to be charged in accordance with §1.7 for copies of material provided to the person. (See the appendices to this subpart for the location of established reading rooms of components of the Department of the Treasury.)

### **§1.5 Specific requests for other records.**

(a) *In general.* Except for records made available under §§1.3 and 1.4, above, but subject to the application of the exemptions described in §1.2(c) above, each component of the Department of the Treasury shall promptly make the requested records available to any person in conformance with 5 U.S.C. 552(a) (3). The request must be for reasonably described records and conform in every respect with the rules and procedures of this subpart A, particularly this section, §1.7 and the applicable appendix to this subpart. Any request or any appeal from the initial denial of a request that does not comply with the foregoing requirements and those set forth elsewhere in subpart A will not be considered subject to the time constraints of paragraphs (g), (h), and (i) of this section, unless and until the request is amended to comply. Components shall promptly advise the requester in what respect the request or appeal is deficient so that it may be resubmitted or amended for consideration in accordance with this subpart. When the request conforms with the requirements of this subpart, components shall make every reasonable effort to comply with the request within the time constraints. This subpart applies only to existing records in the possession or control of the component. There is no requirement that records be created or data processed in a format other than required for governmental purposes in order to comply with a request for records.

(b) *Requests for records not in control of component.* (1) When the record requested is in the possession or under the control of a component of the Department other than the office to whom the request is addressed, the re-

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quest for the record shall immediately be transferred to the appropriate component and the requester notified to that effect. This referral shall not be considered a denial of access within the meaning of these regulations. The component of the Department to whom this referral is made shall treat this request as a new request addressed to it and the time limits for response set forth by paragraph (g)(1) of this section shall begin when the referral is received by the designated office or officer of the component. Where the request is for a record which is not in the possession or control of any component of the Department of the Treasury, the requester shall be so advised and the request shall be returned to the requester.

(2) When an unclassified record created by another agency or another Treasury component is in the possession of a component of the Department of the Treasury, and that record is requested under the FOIA, the responsible Treasury official shall refer the record to the agency or Treasury component originating the record for a direct response to the requester. The requester shall be informed of the referral. However, where it is determined that the record is exempt from disclosure under the provisions of the FOIA (5 U.S.C. 552) and will be withheld from disclosure, the referral need not be made. In such an instance, the component of the Department that maintains the records shall inform the requester of the applicable appeal rights and shall notify the agency or component that originated the record(s) of the request and the determination not to release the record(s). If there is any subsequent change in this initial determination, the documents shall be referred to the originating agency or component for response to the requester.

(3) When a classified record originated by another agency or another component of the Department is in the possession of a component of the Department of the Treasury, and a FOIA request for that record is received, the request shall be referred to the originating Department, agency, or component of the Department for a direct response. This is not a denial of a FOIA