

documentation (e.g., magnetic tape or disk), among others. The copy provided will be in a form that is reasonably usable by the requester.

Educational institution refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates programs of scholarly research.

Non-commercial scientific institution refers to an institution that is not operated on a commercial basis and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

Representative of the news media refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. As used herein, the word "news" means information that is about current events or that would be of current interest to the public.

Review refers to the process of examining documents located in response to a request that is for a commercial use to determine whether any portion of any document located is permitted to be withheld. It also includes the time spent processing any documents for disclosure; i.e., doing all that is necessary to delete unreleasable portions and prepare documents for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

Search time is the time spent by the agency to identify the documents requested and will be charged in accordance with § 9.11(a)(1) and (2).

[52 FR 31398, Aug. 20, 1987; 53 FR 16256, May 6, 1988]

§ 9.13 Classifying requests for fee purposes.

(a) When the Panama Canal Commission receives a request for documents that appears to be for commercial use, fees will be assessed for the total search time, review time, and all duplication of the documents. Requestors must reasonably describe the records

sought. When the agency has reasonable cause to doubt the stated use of the documents, or where the use is not clear from the request itself, the agency can seek additional clarification. Requesters should note that the Panama Canal Commission may assess fees for search and review even if no documents are determined to be releasable under the Freedom of Information Act.

(b) Educational institution requesters will be provided the first 100 pages of duplication without charge and will not be charged for search time. To be eligible for this reduction in fees, the requester must show that the request is being made under the auspices of a qualifying institution and that the records are being sought to further scholarly research and not for commercial use. The requester must reasonably describe the records sought.

(c) Non-commercial scientific institution requesters will be provided the first 100 pages without charge and will not be charged for search time. To be eligible for this reduction in fees, the requester must show that the request is being made under the auspices of a qualifying institution and that the records are being sought to further scientific research and not for commercial use. The requester must reasonably describe the records sought.

(d) Representatives of the news media will be provided the first 100 pages without charge and will not be charged for search time. To be eligible for reduction in fees, the requester must meet the criteria prescribed in § 9.12 and the request must not be for commercial use. A request for records supporting the news dissemination function of the requester will not be considered to be a request that is for a commercial use. The requester must reasonably describe the records sought.

(e) For all other requesters who do not fit into the above categories, fees will be charged which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time will be furnished without charge. The requester must reasonably describe the records sought.

(f) Those requesters searching for records about themselves will be treated under the Privacy Act of 1974 and will only be charged for reproduction costs.

(g) A requester may not file multiple requests solely in order to avoid payment of fees. When the agency reasonably believes that a requester is attempting to separate a request into a series of requests for the purpose of evading the assessment of fees, the agency may aggregate any such requests and charge accordingly.

[52 FR 31398, Aug. 20, 1987; 53 FR 16256, May 6, 1988]

§ 9.14 Current index.

(a) The Commission maintains and will make available for public inspection and copying a current index of the agency's opinions, policy statements, administrative staff manuals, and instructions to staff that affect a member of the public.

(b) The Commission has decided that it is not necessary to publish this index.

(c) On request, the Commission will provide copies of this index to members of the public. The charges for the copies will be no greater than those set out in § 9.11.

[44 FR 75309, Dec. 19, 1979. Redesignated at 52 FR 31397, Aug. 20, 1987; 53 FR 16256, May 6, 1988]

§ 9.15 Annual report.

On or before March 1 of each calendar year, the Panama Canal Commission sends to both Houses of Congress a report of its activities in connection with the Freedom of Information Act during the preceding calendar year. The Freedom of Information Act requires each agency to make this report and to include in it such information as: how many requests were denied and why; how many denials were appealed and the result of those appeals; the name and title of each official who denied a request; and other information showing how the agency administered the Freedom of Information Act during the period covered by the report.

[44 FR 75309, Dec. 19, 1979. Redesignated at 52 FR 31397, Aug. 20, 1987; 53 FR 16256, May 6, 1988]

§ 9.16 Predisclosure notification procedures for confidential commercial information.

(a) *In general.* Confidential commercial information provided to the Panama Canal Commission by a submitter shall not be disclosed pursuant to a Freedom of Information Act (FOIA) request except in accordance with this section. The following definitions apply:

(1) *Confidential commercial information* means records provided to the Commission by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means any person or entity who provides confidential commercial information to the Commission. The term "submitter" includes, but is not limited to, corporations, state governments, and foreign governments.

(b) *Notice to submitters.* The Panama Canal Commission shall provide a submitter with prompt notice of receipt of a Freedom of Information Act request encompassing its confidential commercial information whenever required in accordance with paragraph (c) of this section, and except as provided in paragraph (g) of this section. The written notice shall either describe the exact nature of the information requested or provide copies of the records or portions of records containing the requested information.

(c) *When notice is required.* (1) For confidential commercial information submitted prior to January 1, 1988, the Panama Canal Commission shall provide a submitter with notice of receipt of a FOIA request whenever:

(i) the records are less than 10 years old and the information has been designated by the submitter as confidential commercial information;

(ii) The Panama Canal Commission has reason to believe that disclosure of the information could reasonably result in commercial or financial harm to the submitter; or

(iii) The information is subject to the prior express commitment of confidentiality given by the Commission to the submitter.