

§ 4.2

the FEDERAL REGISTER. These supplementary rules shall be maintained in the central public reference facility identified in §4.4(c), where information about them may be obtained.

§ 4.2 Policies.

(a) Department Administrative Order 205-12 contains the basic policies and other criteria to be considered in issuing and administering these rules.

(b) Requests for records made under 5 U.S.C. 552(a)(3) apply only to existing records. The Department is not required, in response to a request, to create records by combining or compiling information contained in existing records, to program or reprogram computers, or otherwise to prepare new records. Departmental officials may, upon request, provide or create new information in record form pursuant to user charge statutes, such as 15 U.S.C. 1525-27, or in accord with authority otherwise provided by law.

§ 4.3 Definitions.

(a) All terms used in this part which are defined in 5 U.S.C. 551 shall have the same meaning herein.

(b) As used in this part, *Act* means the "Freedom of Information Act," as amended, 5 U.S.C. 552.

(c) The terms *Office of the Secretary* and *operating unit*, as explained in Department Organization Order 1-1, "Mission and Organization of the Department of Commerce" (35 FR 19704, December 27, 1970), are defined as follows:

(1) The "Office of the Secretary" is the general management arm of the Department and provides the principal support to the Secretary in formulating policy and in providing advice to the President. It provides program leadership for the Department's functions and exercises general supervision over the operating units. It also directly carries out program functions as may be assigned by the Secretary from time to time, and provides, as determined to be more economical or efficient, administrative and other support services for designated operating units.

(2) An "operating unit" is an organizational entity outside the Office of the Secretary charged with carrying out specified substantive functions (i.e. programs) of the Department. The op-

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erating units constitute the components of the Department through which most of its substantive functions are carried out.

(d) The term *unit* as used in this part means

(1) An operating unit of the Department, and

(2) Each Secretarial officer and the persons and the Departmental officers reporting to a Secretarial officer.

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

§ 4.4 Availability of materials for inspection and copying; indexes.

(a) The Assistant Secretary for Administration has established and maintains a central public reference facility available to units of the Department, at which place the following materials of those units utilizing the facility shall be made available for public inspection and copying:

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

(2) Those statements of policy and interpretations which have been adopted by the participating organizations and are not published in the FEDERAL REGISTER;

(3) Administrative staff manuals and instructions to staff that affect a member of the public;

(4) Current indexes providing identifying information for the public as to any matter which was issued, adopted, or promulgated after July 4, 1967, and is required by 5 U.S.C. 552(a)(2) to be made available or published;

(5) Records of the final votes of each member in every proceeding of an agency comprised of more than one member.

(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