

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 1

#### Freedom of Information and Privacy Act Regulations

**AGENCY:** Office of the Secretary of Agriculture, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The United States Department of Agriculture (USDA or the Department) is proposing to amend its regulations pertaining to the Freedom of Information and Privacy Act as part of the USDA regulatory reinvention initiative to improve its regulations. These proposed changes, if adopted, will correct references to statutes, regulations, USDA agencies, and USDA officials; reflect the change of the name of the Administration Building to the Jamie L. Whitten Federal Building; update the regulations to reflect changes in statutes and USDA policy; remove gender specific references; remove unnecessary regulations; and make minor, nonsubstantive changes for clarity.

**DATES:** Consideration will be given only to comments received on or before September 23, 1996.

**ADDRESSES:** Please send an original and three copies of your comments to Scott C. Safian, Staff Attorney, Regulatory Division, Office of the General Counsel, U.S. Department of Agriculture, Room 2422, South Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250-1400. Comments received may be inspected at USDA, Room 2422, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250-1400, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 720-5550 to facilitate entry.

**FOR FURTHER INFORMATION CONTACT:** Regarding the regulations mentioned in this document, contact Scott C. Safian,

Staff Attorney, Regulatory Division, Office of the General Counsel, U.S. Department of Agriculture, Room 2422, South Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250-1400, (202) 720-2003.

Regarding general information on USDA's "reinventing initiative," contact: Marvin Shapiro, Chief, Legislative, Regulatory and Automated Systems Division, Office of Budget and Program Analysis, U.S. Department of Agriculture, Room 147-E, Jamie L. Whitten Federal Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250-1400, (202) 720-1516.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 4, 1995, President Clinton announced plans for reforming the Federal regulatory system as part of his "Reinventing Government" initiative. In his March 4 directive, the President ordered the heads of all Federal departments and agencies to conduct a review of their regulations and to eliminate or revise those that are outdated or otherwise in need of reform. The U.S. Department of Agriculture completed its review and submitted a report on the review to the Office of Management and Budget on June 1, 1995. The review included USDA's Administrative Regulations—Official Records (7 CFR, part 1, subpart A) and Administrative Regulations—Privacy Act Regulations (7 CFR, part 1, subpart G). The Department found that these regulations contained incorrect references to statutes, regulations, USDA agencies, USDA officials, and the Jamie L. Whitten Federal Building; unnecessary and outdated provisions; gender specific references; and provisions that could be clarified by making minor, nonsubstantive changes. This proposal, which, if adopted, would correct references to statutes, regulations, USDA agencies, USDA officials and the Jamie L. Whitten Federal Building; remove gender specific references; remove unnecessary regulations; update the regulations to reflect statutory and policy changes that have been made since the regulations were last amended; and make minor nonsubstantive changes for clarity, represents USDA's continuing effort to implement the President's plan.

#### The Proposal

##### *Authority Citations for 7 CFR, Part 1, Subparts A and G*

The Department is proposing to amend 7 CFR, part 1, subpart A, by revising the authority citation for subpart A to reflect the recodification of 7 U.S.C. 2244 at 7 U.S.C. 3125a and the new delegations of authority within the Department which were published in the Federal Register on November 8, 1995, at 60 FR 56392. This proposal also would amend the authority citation for subpart G by adding references to 5 U.S.C. 301 and 31 U.S.C. 9701 which should be included in the authority citation for subpart G.

##### *Amendments to Numerous Provisions in 7 CFR, Part 1, Subparts A and G*

The Department also is proposing to amend numerous sections in 7 CFR, part 1, subparts A and G by updating references to the Department offices, titles of Department officials, and Department agencies; replacing gender specific references with gender neutral references; replacing inaccurate cross references; replacing references to the "Administration Building" with references to the "Jamie L. Whitten Federal Building" to reflect the change in the name of the building that was effectuated by the enactment of Pub. L. No. 103-404; eliminating surplusage; and clarifying provisions in 7 CFR, part 1, subparts A and G.

The Department also is proposing to remove the word "document(s)" and add the word "record(s)" in the place of the word "document(s)" in all of the provisions in 7 CFR, part 1, subparts A and G which relate to the Freedom of Information Act and the Privacy Act, both of which concern access to "records."

##### *Specific Amendments to 7 CFR, Part 1, Subparts A and G*

In addition to the proposed changes related above, the Department is proposing to amend specific provisions within 7 CFR, part 1, subparts A and G as described below.

##### *Freedom of Information Regulations*

Section 1.1 states that subpart A of the regulations establishes policy, procedures, requirements, and responsibilities for administration and coordination of the Freedom of Information Act (FOIA), 5 U.S.C. 552,

and provides that the Office of Governmental and Public Affairs (OGPA) has the primary administrative responsibility for the FOIA in the USDA. The OGPA is no longer an agency of the USDA and its duties have been subsumed by the Office of Communications (OC). Furthermore, while the OGPA was headed by an Assistant Secretary and was part of the Office of the Secretary of Agriculture, the Office of Communications is headed by a Director and is not part of the Secretary's office. The Office of Communications consists of nine divisions, each headed by a director, and a Press Secretary staff. Accordingly, the Department is proposing to amend § 1.1 to reflect these changes in Department administration and organization. Similar changes are proposed to be made in other sections of the regulations.

Section 1.2(a) provides that agencies of USDA shall comply with the time limits set forth in the FOIA for responding to processing requests and appeals for agency documents, unless there are exceptional circumstances within the meaning of 5 U.S.C. 552(a)(6)(B). The Department is proposing to remove the reference to "exceptional circumstances" and replace it with a reference to "unusual circumstances" because the term defined in 5 U.S.C. 552(a)(6)(B) is "unusual circumstance."

Section 1.4(b)(6) describes the organization and responsibilities of the Office of Governmental and Public Affairs. As discussed above, this office no longer exists. Accordingly, this proposed rule would amend § 1.4(b)(6) to reflect these changes in Department administration and organization, and describe the organization of the Office of Communications.

Section 1.6(a) provides that a person requesting records from any agency of the Department may request a fee waiver "if there is likely to be a charge for the requested information." Persons requesting records may not know whether the Department is likely to charge for the requested information, and the Department does not believe that any purpose is served by requiring persons requesting records to determine the likelihood of a fee as a condition of asking for a fee waiver. Accordingly, the Department is proposing to eliminate the requirement that a request for a fee waiver may only be made if there is likely to be a charge for the requested information.

Section 1.8(b) provides that if records requested contain some portions which are exempt from mandatory disclosure and others which are not exempt from

disclosure, the official responding to the request shall ensure that all nonexempt portions are disclosed. In 1974, the FOIA was amended to provide that "reasonably segregable" portions of records shall be provided to persons requesting agency records after deletion of the portions which are exempt under 5 U.S.C. 552(b). For this reason, the Department is proposing to amend § 1.8(b) to require that the official responding to the request ensure that reasonably segregable nonexempt portions are disclosed.

Section 1.11(a) provides that whenever a request (including any "demand" as defined in § 1.21) is received in USDA for information which has been submitted by a business, all agencies of the Department must provide the business information submitter with certain specified information. Section 1.21 was removed from the regulations by a final rule published in the Federal Register on October 19, 1990, at 55 FR 42347. Former 7 CFR 1.21 was reworded and incorporated in a new provision, 7 CFR 1.215. Therefore, the Department is proposing to eliminate the reference to "§ 1.21" and replace it with a reference to 7 CFR 1.215.

Section 1.16 delegates authority within the USDA to promulgate regulations providing a uniform schedule of fees applicable to all agencies of the Department regarding requirements for records under subpart A of the regulations. The regulations providing for a uniform fee schedule are set forth at appendix A of the subpart. Section 1.16 provides that any amendments to the fee schedule shall be made pursuant to notice and opportunity for comment. Under an overly strict reading of this section, even a minor, nonsubstantive change to the fee schedule, such as the correction of a spelling error, may only be made after notice and comment rulemaking. It is not the purpose of § 1.16 to require any more rulemaking procedure than that provided under the Administrative Procedure Act. Accordingly, the Department is proposing to remove the language in § 1.16 which provides that any amendments to the fee schedule will be made pursuant to notice and opportunity for comment. Substantive amendments to the fee schedule, such as changes to the fees to be charged for processing requests under this subpart or changes to the uniform fee schedule that modify procedures for or circumstances under which a fee may be waived or reduced, will continue to be made pursuant to notice and comment rulemaking, as required by law.

#### *Privacy Act Regulations*

Section 1.123 of the Department's Privacy Act regulations contains a listing of those systems of records maintained by agencies of USDA which have been exempted, pursuant to 5 U.S.C. 552a(K) from the provisions of 5 U.S.C. 552a, paragraphs (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act. The reasons for exempting each system of records are set out in the notice for that system published in the Federal Register. The names of several of the agencies and systems listed in § 1.123 are antiquated or have otherwise changed. Accordingly, the Department is proposing to make several changes to § 1.123 to reflect this fact.

#### *Executive Order 12866 and Regulatory Flexibility Act*

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule, if adopted, would correct references to statutes, regulations, USDA agencies, USDA officials, and the Administration Building; remove gender specific references; remove unnecessary provisions; update regulations to reflect changes that have been made in statutes and policy since the regulations were last amended; and make minor, nonsubstantive changes for clarity. This proposed rule will not have any economic impact.

Under these circumstances, the Secretary has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### *Executive Order 12778*

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted, this rule would: (1) Preempt all state and local laws and regulations that are inconsistent with this rule; (2) have no retroactive effect; and (3) would not require administrative proceedings before parties may file suit in court challenging this rule.

#### *Paperwork Reduction Act*

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *List of Subjects in 7 CFR Part 1*

Administrative practice and procedure, Agriculture, Antitrust,

Claims, Cooperatives, Courts, Equal access to justice, Federal buildings and facilities, Freedom of information, Government employees, Lawyers, Privacy.

Accordingly, 7 CFR part 1, subpart A and subpart G, would be amended as follows:

## **PART 1—ADMINISTRATIVE REGULATIONS**

### **Subpart A—Official Records**

1. The authority citation for part 1, subpart A, would be revised to read as follows:

Authority: 5 U.S.C. 301, 552, 7 U.S.C. 3125a; 31 U.S.C. 9701; and 7 CFR 2.28(b)(7)(viii).

2. Section 1.1 would be revised to read as follows:

#### **§ 1.1 Purpose and scope.**

This subpart establishes policy, procedures, requirements, and responsibilities for administration and coordination of the Freedom of Information Act (FOIA), 5 U.S.C. 552, pursuant to which official records may be obtained by any person. This subpart also provides rules pertaining to the disclosure of records pursuant to compulsory process. This subpart also serves as the implementing regulations for the Office of the Secretary (the immediate offices of the Secretary, Deputy Secretary, Under Secretaries, and Assistant Secretaries) and for the Office of Communications. The Office of Communications has the primary responsibility for the FOIA in the Department of Agriculture (USDA). The term "agency" or "agencies" is used throughout this subpart to include both USDA program agencies and staff offices.

#### **§ 1.2 [Amended]**

3. Section 1.2 would be amended as follows:

a. Paragraph (a) would be amended by removing the word "documents" and adding the word "records" in its place; and by removing the word "exceptional" and adding the word "unusual" in its place.

b. Paragraph (b) would be amended by removing the word "documents" and adding the word "records" in its place.

#### **§ 1.3 [Amended]**

4. In § 1.3, paragraph (a)(2) would be amended by removing the word "thereto" and adding the words "to indexes" in its place.

5. Section 1.4 would be amended as follows:

a. Paragraph (a) introductory text would be amended by removing the

words "Office of Governmental and Public Affairs" and adding the words "Office of Communications" in their place.

b. Paragraphs (a)(1) and (a)(2) would be amended by removing the words "Administration Building" and adding the words "Jamie L. Whitten Federal Building" in their place.

c. Paragraph (a)(3) would be amended by removing the words "Director of Information, Office of Governmental and Public Affairs" and adding the words "FOIA Coordinator, Office of Communications" in their place.

d. Paragraph (a)(4) would be amended by removing the words "Assistant Secretary for Governmental and Public Affairs" and adding the words "Director of Communications, Office of Communications" in their place.

e. Paragraph (b) introductory text would be amended by removing the words "Office of Governmental and Public Affairs (OGPA)" and adding the words "Office of Communications (OC)" in their place.

f. Paragraph (b)(3) would be amended by removing the reference "7 CFR part 2, subpart A" and adding the reference "part 2, subpart A, of this title" in its place.

g. Paragraph (b)(4) would be amended by removing the words "Office of Governmental and Public Affairs" and adding the words "Office of Communications" in their place; and by removing the words "The Office is" and adding the words "The Office of Communications is" in their place.

h. Paragraph (b)(5) would be revised to read as set forth below.

i. Paragraph (b)(6) would be revised to read as set forth below.

#### **§ 1.4 Implementing regulations for the Office of the Secretary.**

\* \* \* \* \*

(b) \* \* \*

5. The Office of Communications is headed by the Director of Communications. In the Director's absence, the Office of Communications is headed by the Press Secretary.

(6) The Office of Communications consists of nine divisions, each headed by a director, and a Press Secretary.

#### **§ 1.5 [Amended]**

6. In § 1.5, paragraph (b) would be amended as follows:

a. In the first sentence, by removing the word "also"; and by adding the words "for public inspection and copying" immediately after the words "make available".

b. In the second sentence, by removing the word "thereto" and adding the words "to such indexes" in its place.

c. In the third sentence, by removing the word "Notice" and adding the word "notice" in its place.

7. Section 1.6 would be amended as follows:

a. In paragraph (a), the second sentence would be amended by removing the words "if there is likely to be a charge for the requested information"; in the third sentence, by removing the words "Office of Governmental and Public Affairs" and adding the words "Office of Communications" in their place both time they appear; in the third sentence, by removing the words "Director of Information" and adding the words "Director of Communications" in their place; and in the fourth sentence, by removing the words "that Act" and adding the words "the Freedom of Information Act" in their place.

b. Paragraph (b) would be amended by removing the words "etc., which" and adding the words "names of individuals, names of offices, and names or agencies or other organizations that" in their place.

c. In paragraph (c), the first sentence would be amended by removing the word "it" and adding the words "the agency" in its place; and by removing the words "he or she" and adding the words "the requester" in their place.

d. Paragraph (e) would be amended by removing the words "the person making the request" and adding the words "the requester" in their place; and by adding the words "of this subpart" immediately after the words "appendix A".

e. Paragraph (f) would be amended by removing the words "nonagency-specific, i.e., are"; and by removing the words "Office of Governmental and Public Affairs, Office of Information, Special Programs Division" and adding the words "Office of Communications" in their place.

f. Paragraph (g) would be amended by removing the word "(agencies)" and adding the words "or agencies" in its place; and by removing the words "The unit" and adding the words "The central processing unit" in their place.

g. Paragraph (h) would be revised to read as set forth below.

#### **§ 1.6 Requests for records.**

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(h) Each agency shall develop and maintain a record of all written and oral requests and appeals received in that agency. The record shall include the name of the requester; a brief summary of the information requested; whether the request or appeal was granted, denied, or partially denied; the exemption from mandatory disclosure under 5 U.S.C. 552(b) upon which any

denial was based; and the amount of any fees associated with the request or appeal.

#### § 1.8 [Amended]

8. Section 1.8 would be amended as follows:

a. In paragraph (a) introductory text, the third sentence would be amended by removing the words "it grants" and adding the words "the agency grants" in their place.

b. Paragraph (b) would be amended by removing the word "insure" and adding the word "ensure" in its place; and by adding the words "reasonably segregable" immediately before the word "nonexempt".

c. In paragraph (d) introductory text, the third sentence would be amended by removing the words "it grants" and adding the words "the agency grants" in their place.

d. In paragraph (e), the sentence would be amended by removing the word "Agencies" and adding the words "Each agency" in its place; by removing the word "thereof" and adding the words "of the fee" in its place; in the third sentence, by removing the words "In instances where" and adding the word "If" in their place; and by removing the word "likewise".

e. Paragraph (f) would be amended by removing the words "the forwarding of copies" and adding the words "providing copies of the records" in their place.

f. Paragraph (g) would be amended by adding the words "of this subpart" immediately after the words "appendix A" both times they appear; and, in the second sentence, by removing the words "Similarly, as a matter of policy, where" and adding the word "If" in their place.

9. Section 1.9 would be amended as follows:

a. Paragraph (a) would be amended by removing the words "They include" and adding the words "Search services include" in their place; and by removing the words "They also include" and adding their words "Search services also include" in their place.

b. Paragraph (c) would be removed.

c. Paragraph (b) would be revised to read as set forth below.

#### § 1.9 Search services.

\* \* \* \* \*

(b) Search services do not include the time spent locating a record if the record is in its normal location in a file or other facility or the review of records to determine whether the records are exempt.

10. Section 1.10 would be amended as follows:

a. Paragraph (a) would be amended by removing the word "documents" and adding the word "records" in its place; by adding the words "of this subpart" immediately after the words "appendix A"; and by removing the word "document" and adding the word "record" in its place.

b. Paragraph (b) would be amended by removing the word "documents" and adding the word "records" in its place both times it appears.

c. Paragraph (c) would be revised to read as set forth below.

#### § 1.10 Review services.

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(c) Review services do not include the time spent resolving general legal or policy issues regarding the application of exemptions.

#### § 1.11 [Amended]

11. In § 1.11, paragraph (a) introductory text would be amended by removing the words "Whenever a request (including any 'demand' as defined in § 1.21)" and adding the words "If a request (including a subpoena duces tecum as described in § 1.215)" in their place.

#### § 1.13 [Amended]

12. Section 1.13 would be amended as follows:

a. In paragraph (b), the last sentence would be amended by removing the words "Assistant General Counsel." and adding the words "Assistant General Counsel, Research and Operations Division, Office of the General Counsel." in their place.

b. Paragraph (c) would be amended by adding the words ", Research and Operations Division, Office of the General Counsel," immediately after the words "Assistant General Counsel"; by removing the words "Office of Governmental and Public Affairs" and adding the words "Office of Communications" in their place; and by removing the word "thereof" and adding the words "of the administrative deadline" in its place.

#### § 1.14 [Amended]

13. Section 1.14 would be amended to read as follows:

a. Paragraph (a) would be amended by removing the word "dispatched" and adding the words "sent to the requester" in its place.

b. Paragraph (b)(3) would be amended by removing the word "therein" and adding the words "in the request" in its place; and by removing the words "Office of Governmental and Public Affairs" and adding the words "Office of Communications" in their place.

14. Section 1.16 would be revised to read as follows:

#### § 1.16 Fee schedule.

Pursuant to § 2.28 of this title, the Chief Financial Officer is delegated authority to promulgate regulations providing for a uniform fee schedule applicable to all agencies of the Department regarding requests for records under this subpart. The regulations providing for a uniform fee schedule are found in appendix A of this subpart.

#### § 1.18 [Amended]

15. Section 1.18 would be amended as follows:

a. Paragraph (a)(7) would be amended by removing the word "fully".

b. Paragraph (b) would be amended by removing the words "Director of Information, Office of Governmental and Public Affairs" and adding the words "Director of Communications, Office of Communications" in their place.

c. Paragraph (c) would be amended by removing the words "Director of Information" and adding the words "Director of Communications" in their place; and by removing the reference "5 U.S.C. 552(d)" and adding the reference "5 U.S.C. 552(e)" in its place.

#### *Appendix A of Subpart A [Amended]*

16. Appendix A of subpart A would be amended as follows:

a. Section 1 would be amended by removing the word "documents" and adding the word "records" in its place.

b. In § 2, the first sentence would be amended by adding the words "of this appendix" immediately after the words "section 5" and by removing the word "document" and adding the word "record" in its place; in the second sentence, by removing the words "in certifying" and adding the word "certifying" in their place and by removing the words "in sending" and adding the word "sending" in their place; and in the third sentence, by removing the word "schedule" and adding the word "appendix" in its place.

c. In § 3, paragraph (a) would be amended by removing the word "documents" and adding the word "records" in its place; by removing the words "as specified below in section 5" and adding the words "as specified in section 5 of this appendix" in their place; by removing the word "information" and adding the word "records" in its place; and by adding the words "of this appendix" immediately after the reference to "section 4(e)".

d. In § 3, paragraph (b) would be amended by removing the words "Also, no" and adding the word "No" in their place.

e. In § 3, paragraph (c) would be amended by removing the words "In addition, fees" and adding the word "Fees" in their place.

f. In § 3, paragraph (d) introductory text would be amended by removing the word "Documents" and adding the word "Records" in its place; and in paragraph d(2) by removing the word "free" and adding the word "fee" in its place.

g. In § 4, paragraph (c) would be amended by removing the word "information" and adding the word "records" in its place; and by removing the word "document(s)" and adding the word "records" in its place.

h. In § 4, paragraph (j) would be amended by removing the words "as amended (5 U.S.C. 552)," by adding the words "of this appendix" immediately after the reference to "section 6"; and by removing the word "schedule" and adding the word "appendix" in its place.

i. In § 4, paragraph (k) would be amended by removing the word "schedule" and adding the word "appendix" in its place; and by removing the words "(formerly 31 U.S.C. 483a)".

j. Section 5 introductory text would be amended by removing the words "as amended," and by removing the words "The Act" and adding the word "FOIA" in their place.

k. In § 5, paragraph (a) introductory text would be amended by adding the words "of this appendix" immediately after the reference to "section 3(a)"; and in paragraph (a)(2) by removing the word "documents" and adding the word "records" in its place.

l. In § 5, paragraph (b)(2) would be amended by adding the words "of this appendix" immediately after the reference "(see section 5(a)(1))".

m. In § 5, paragraph (d) would be amended by removing the words "any of the above categories" and adding the words "the categories described in paragraphs (a), (b), or (c) of this section" in their place; by removing the word "documents" and adding the word "records" in its place; and by adding the words "of this appendix" immediately after the reference to "section 4(e)".

n. In § 6, paragraph (a) introductory text would be amended by revising the first sentence to read, "Agencies shall waive or reduce fees on request for records if disclosure of information in the records is deemed to be in the public interest."

o. In § 6, paragraph (a)(1)(v) would be amended by removing the words ", if so,".

p. In § 6, paragraph (a)(3)(i) would be amended by removing the word "information" and adding the word "records" in its place.

q. In § 6, paragraph (a)(3)(ii) would be amended by removing the word "recipient" and adding the word "requester" in its place.

r. In § 8, paragraph (d) would be amended by removing the word "below" and adding the words "in section 9 of this appendix" in its place.

s. Section 9 would be amended by removing the reference "section 3717 of title 31 U.S.C." and adding the reference "31 U.S.C. 3717" in its place.

t. Section 10 would be amended by removing the reference "the provisions of 31 U.S.C. 3701, 3711-3719" and adding the reference "31 U.S.C. 3701, 3711-3720A" in its place.

u. In § 13, the heading would be amended by removing the word "photographic".

v. Section 13 introductory text would be amended by removing the words "this action to be" and adding the words "that furnishing free reproductions is" in their place.

w. In § 13, paragraph (a) would be amended by removing the words "Press, radio, television, and newsreel representatives" and adding the words "Representatives of the news media" in their place.

x. Section 17 introductory text would be amended by removing the word "here" and adding the words "in this section" in its place.

y. In § 17, the fourth sentence of paragraph (a) would be amended by removing the words "fee schedule" and adding the word "appendix" in their place; and by removing the words "National Agricultural Library, Room 111, Information Access Division, USDA, Beltsville, Maryland 20705 (301-344-3834)" and adding the words "National Agricultural Library, Agricultural Research Service, USDA, Document Delivery Services Branch, 10301 Baltimore Boulevard, Beltsville, Maryland 20705-2351 (301-504-6503)" in their place.

z. In § 17, paragraph (c) would be amended by removing the word "below" and adding the words "in this paragraph" in its place.

aa. In § 17, paragraph (d) would be amended by removing the word "below" and adding the words "in this paragraph" in its place.

bb. Section 11 including the heading would be revised to read as set forth below.

cc. Section 12 would be revised to read as set forth below.

dd. In § 17, paragraph (e) would be revised to read as set forth below.

#### Appendix A—Fee Schedule

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#### Section 11. *Photographic and digital reproductions of microfilm, aerial imagery, and maps.*

Microfilm, aerial imagery, and maps that have been obtained in connection with the authorized work of this Department may be sold at the estimated cost of furnishing reproductions of these records, using photographic, digital, or other methods of reproduction as prescribed in this appendix.

#### Section 12. *Agencies which furnish photographic reproductions.*

(a) *Aerial photographic reproductions.* The agencies of the Department identified in this paragraph furnish aerial photographic reproductions.

(1) Farm Service Agency (FSA), APFO, USDA-FSA, 2222 West 2300 South, P.O. Box 30010, Salt Lake City, Utah 84125.

(2) Natural Resources Conservation Service (NRCS), National Cartography and Geospatial Center, 501 Felix Street, Building 23, Fort Worth, Texas 76115, or a cartographic facility in any NRCS Technical Service Center.

(b) *Other photographic reproductions.* Photographic reproductions other than aerial photographic reproductions may be obtained from the agencies of the Department identified in this paragraph.

(1) Farm Service Agency (FSA), Aerial Photography Field Office, USDA-FSA, 2222 West 2300 South, P.O. Box 30010, Salt Lake City, Utah 84125.

(2) Forest Service (FS), USDA, P.O. Box 96090, Washington, DC. 20090-6090, or a FS Regional Office.

(3) National Agricultural Library, Agricultural Research Service, USDA, Document Delivery Services Branch, 10301 Baltimore Boulevard, Beltsville, Maryland 20705-2351.

(4) Natural Resources Conservation Service, National Cartography and Geospatial Center, 501 Felix Street, Building 23, Fort Worth, Texas 76115.

(5) Office of Communications, Photography Division, Room 4407 South Building, Washington, DC. 20250.

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#### Section 17. *Reproduction prices.*

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(e) *Special needs.* For special needs not covered elsewhere in this section, persons desiring aerial photographic reproductions should contact the aerial photography coordinator, Farm Service Agency (FSA), Aerial Photography Field Office, USDA-FSA, 2222 West 2300 South, P.O. Box 30010, Salt Lake City, Utah 84125.

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#### Subpart G—Privacy Act Regulations

17. The authority citation for part 1, subpart G, would be revised to read as follows:

Authority: 5 U.S.C. 301 and 552a; 31 U.S.C. 9701.

**§ 1.110 [Amended]**

18. Section 1.110 would be amended by removing the word "It" and adding the words "This subpart" in its place; and by removing the words "the Act" and adding the words "the Privacy Act" in their place both times they appear.

**§ 1.112 [Amended]**

19. In § 1.112, paragraph (a) introductory text would be amended by adding the words "or her" immediately after the word "him".

**§ 1.113 [Amended]**

20. Section 1.113 would be amended as follows:

a. Paragraph (a) would be amended by adding the words "or her" immediately after the word "him"; and by adding the words "or herself" immediately after the word "himself".

b. In paragraph (b), the first sentence would be amended by removing the words "he is" and adding the words "the requester is" in their place; in the second sentence, by removing the words "he shall" and adding the words "the requester shall" in their place; by removing the word "his" and adding the words "the requester's" in its place; by removing the words "he understands" and adding the words "the requester understands" in their place; and, in the last sentence by removing the words "when the records are ones whose disclosure is required by 5 U.S.C. 552" and adding the words "if the records are required by 5 U.S.C. 552 to be released" in their place.

c. Paragraph (c) would be amended by removing the words "him via" and adding the words "himself or herself by" in their place; by removing the words "him during" and adding the words "the requester during" in their place; and by removing the words "their presence" and adding the words "the presence of such other person or persons" in their place.

d. Paragraph (d) would be amended by removing the words "to him" and adding the words "to the requester" in their place; by removing the words "him copies" and adding the words "the requester copies" in their place; and by removing the word "thereof" and adding the words "of those records" in its place.

e. In paragraph (e), the first sentence would be amended by removing the words "he shall" and adding the words "the requester shall" in their place; by removing the words "his request" and adding the words "his or her request" in their place; by removing the words

"his identity" and adding the words "the requester's identity" in their place; in the second sentence, by removing the words "he is" and adding the words "the requester is" in their place; by removing the words "he understands" and adding the words "the requester understands" in their place; and in the third sentence, by removing the words "when the records are ones whose disclosure is required by 5 U.S.C. 552" and adding the words "if the records are required by 5 U.S.C. 552 to be released" in their place.

**§ 1.114 [Amended]**

21. Section 1.114 would be amended as follows:

a. Paragraph (d) would be amended by removing the word "he" and adding the words "the system manager" in its place both times it appears.

b. Paragraph (e) would be amended by removing the word "he" and adding the words "the head of the agency" in its place; by removing the word "therefor" and adding the words "for the determination" in its place; and by removing the word "his" and adding the words "the requester's" in its place.

**§ 1.116 [Amended]**

22. Section 1.116 would be amended as follows:

a. Paragraph (a) introductory text would be amended by adding the words "or her" immediately after the word "him".

b. Paragraph (b) would be amended by removing the reference "5 U.S.C. 552(e) (1) and (5)" and adding the reference "5 U.S.C. 552a(e) (1) and (5)" in its place.

**§ 1.117 [Amended]**

23. Section 1.117 would be amended as follows:

a. Paragraph (a) introductory text would be amended by removing the word "It" and adding the words "The agency" in its place.

b. In paragraph (a)(2), the first sentence would be amended by removing the word "his" and adding the word "the" in its place; and by removing the word "he" and adding the words "the requester" in its place.

c. Paragraph (b) would be amended by removing the word "therefor" and adding the words "for the inability to comply with paragraphs (a)(1) or (a)(2) of this section within 30 days," in its place.

d. Paragraph (d)(3) would be amended by removing the words "and where" and adding the word "if" in their place.

e. Paragraph (e)(2) would be amended by removing the word "therefor" and adding the words "for the determination not to grant all or a portion of the

request for correction or amendment" in its place.

f. Paragraph (e)(3) would be amended by adding the words "or she" immediately after the word "he".

**§ 1.118 [Amended]**

24. Section 1.118 would be amended as follows:

a. Paragraph (c) would be amended by removing the word "his" and adding the word "a" in its place.

b. Paragraph (d) would be amended by removing the word "he" and adding the words "the head of the agency" in its place.

c. Paragraph (e) introductory text would be amended by removing the word "he" and adding the words "the head of the agency" in its place.

d. Paragraph (e)(1) would be amended by removing the word "therefor" and adding the words "for the determination" in its place.

e. Paragraph (e)(2) would be amended by removing the word "his" and adding the words "the requester's" in its place.

**§ 1.121 [Amended]**

25. Section 1.121 would be amended by removing the words "enumerated acts" and adding the words "acts enumerated in 5 U.S.C. 552a(i)" in their place; by removing the words "on or after September 27, 1995," and by removing the reference "5 U.S.C. 552a(m)" and adding the reference "5 U.S.C. 552a(m)(1)" in its place.

**§ 1.122 [Amended]**

26. Section 1.122 would be amended by removing the word "thereof" and adding the words "of systems of records" in its place; by removing the word "below" and adding the words "in this section" in its place.

**§ 1.123 [Amended]**

27. Section 1.123 would be amended as follows:

a. The introductory text would be amended by removing the word "thereof" and adding the words "of systems of records" in its place; by removing the word "below" and adding the words "in this section" in its place.

b. By removing the heading "AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE" and adding the heading "FARM SERVICE AGENCY" in its place.

c. By removing the heading "FARMERS HOME ADMINISTRATION" and removing the words "Credit Report File, USDA/FmHa-3".

d. By removing the heading "FEDERAL GRAIN INSPECTION SERVICE" and adding the heading

“GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION” in its place.

e. By removing the heading “FOOD AND NUTRITION SERVICE” and adding the heading “FOOD AND CONSUMER SERVICES” in its place.

f. By removing, under the subheading *Community Development Division*, the words “Farmers Home Administration (FmHA) General Case Files, USDA/OGC-12.” and adding the words “Farm Service Agency (FSA) General Case Files, USDA/OGC-12a. Rural Housing Service (RHS) General Case Files, USDA/OGC-12b. Rural Business-Cooperative Development Service (RBS) General Case Files, USDA/OGC-12c. Federal Crop Insurance Corporation (FCIC) Cases, USDA/OGC-16.” in their place.

g. By removing the subheading *Foreign Agriculture and Commodity Stabilization Division* and adding the subheading *International Affairs and Commodity Programs Division* in its place.

h. By removing under the newly designated subheading *International Affairs and Commodity Programs Division* the words “Federal Crop Insurance Corporation (FCIC) Cases, USDA/OGC-16.”

i. By removing the subheading “*Packers and Stockyards Division* and adding the subheading *Trade Practices Division* in its place.

#### *Appendix A of Subpart G—INTERNAL DIRECTIVES [Amended]*

28. Appendix A of subpart G would be amended as follows:

a. In § 1, paragraph (c) introductory text would be amended by adding the words “, of” immediately before the colon.

b. In § 1, paragraph (c)(4) would be amended by removing the word “him” and adding the words “the individual” in its place.

c. In § 1, paragraph (d)(7) would be amended by adding the words “or her” immediately after the word “his”; and by removing the word “him” and adding the words “the individual” in its place.

d. In § 1, paragraph (d)(8) would be amended by adding the words “or her” immediately after the word “his”; by removing the word “he” and adding the words “the individual” in its place both times it appears; and by adding the words “or her” immediately after the word “him”.

e. In § 2, paragraph (a) would be amended by removing the words “insure that 30” and adding the words “ensure that at least 30” in their place.

f. In § 3, paragraph (c) would be amended by removing the word “above” and adding the words “required under paragraph (a) of this section” in its place; and by adding the words “or her” immediately after the word “his”.

g. In § 4, by removing the words “, if such contract is agreed to on or after September 27, 1975,”; and by removing the words “that section” and adding the reference “5 U.S.C. 552a(i)” in their place.

h. In § 6, paragraph (a) would be amended by adding the words “on her” immediately after the word “his”.

i. In § 6, paragraph (b) introductory text would be amended by removing the words “The provisions of paragraph (a) of this Section” and by adding the words “Paragraph (a) of this section” in their place.

j. In § 6, paragraph (c) would be amended by adding the words “or her” immediately after the words “his”.

k. Section 7 introductory paragraph would be amended by removing the words “(beginning March 30, 1976)”.

l. Section 8 would be amended by removing the words “the provisions of”.

Done in Washington, DC., this 16th day of July 1996.

Dan Glickman,

*Secretary of Agriculture.*

[FR Doc. 96-18860 Filed 7-24-96; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 35

[Docket No. RM96-11-000]

#### Capacity Reservation Open Access Transmission Tariffs

July 18, 1996.

**AGENCY:** Federal Agency Regulatory Commission.

**ACTION:** Notice of proposed rulemaking; extension of time and convening a public conference.

**SUMMARY:** Various participants have requested additional time to comment on the Commission's notice of proposed rulemaking in this proceeding. The proposed rule specifies filing requirements to be followed by public utilities in making transmission tariff filings based on capacity reservations for all transmission users. An extension of time is being granted and a one-day technical conference will be convened.

**DATES:** An extension of time for filing comments on the proposed rule is

granted to and including October 21, 1996. A technical conference will be held on September 20, 1996.

**ADDRESSES:** Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:** David D. Withnell, Federal Energy Regulatory Commission, Office of the General Counsel, 888 First St., NE., Washington, DC 20426, telephone: (202) 208-2063.

**SUPPLEMENTARY INFORMATION:** On June 27, 1996, July 3, 1996, and July 17, 1996, Various Utilities,<sup>1</sup> Joint Petitioners,<sup>2</sup> and Allegheny Power Service Corporation (Allegheny Power),<sup>3</sup> respectively, filed motions for an extension of time within which to file comments in response to the Notice of Proposed Rulemaking issued April 24, 1996 in the above-captioned proceeding.<sup>4</sup> Various Utilities, Joint Petitioners, and Allegheny Power express concern that the August 1, 1996 date set by the Commission for filing written comments should hamper the ability of electric industry participants, who must also meet the various requirements of Order Nos. 888 and 889,<sup>5</sup> to address the issues in a meaningful manner.<sup>6</sup> Various Utilities and Allegheny Power request a 61-day extension of time, until October 1, 1996. Joint Petitioners request a greater number of technical conferences or an

<sup>1</sup> Central Illinois Public Service Company, Cleveland Electric Illuminating Company, Commonwealth Edison Company, Central Power and Light Company, Ohio Edison Company, Pennsylvania Power Company, Public Service Company of Oklahoma, South Carolina Electric & Gas Company, Toledo Edison Company, Southwestern Electric Power Company, West Texas Utilities Company, and Union Electric Company.

<sup>2</sup> Edison Electric Institute, National Association of Regulatory Utility Commissioners, American Public Power Association, National Rural Electric Cooperative Association, and North American Electric Reliability Council.

<sup>3</sup> Submitted on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company.

<sup>4</sup> Capacity Reservation Open Access Transmission Tariffs, Notice of Proposed Rulemaking, 61 FR 21847 (May 10, 1996) (CRT NOPR).

<sup>5</sup> Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996) (Order No. 888); Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs. ¶ 31,037 (1996) (Order No. 889); Order Clarifying Order Nos. 888 and 889 Compliance Matters, 76 FERC ¶ 61,009 (July 2, 1996).

<sup>6</sup> Answers in support have been filed by Virginia Electric and Power Company, M-S-R Public Power Agency, Transmission Agency of Northern California, Colorado Association of Municipal Utilities, South Carolina Public Service Authority, and Transmission Access Policy Study Group.