validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: Dealers, exhibitors, and research facilities.

Estimated number of respondents: 164.

Estimated number of responses per respondent: 1.

Estimated total annual burden on respondents: 328 hours.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 3

Animal welfare, Marine mammals, Pets, Reporting and recordkeeping requirements, Research, Transportation.

Accordingly, 9 CFR part 3 would be amended as follows:

PART 3—STANDARDS

1. The authority citation for part 3 would be revised to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 3.103 would be amended by adding a new paragraph (c) to read as follows:

§ 3.103 Facilities, outdoor.

* * * * *

(c) *Perimeter fence.* On and after [*date 6 months after effective date of final rule*] an outdoor facility must be enclosed by a fence that is of sufficient height to keep animals and unauthorized persons out. Fences less than 8 feet high for polar bears or less than 6 feet high for other marine mammals must be approved by the Administrator. The fence must be constructed so that it protects marine mammals by restricting animals and unauthorized persons from going through it or under it and having contact with the marine mammals, and so that it can function as a secondary containment system for the animals in the facility when appropriate. It must be of sufficient distance from the outside wall or fence of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence. Such fences less than 3 feet in distance from the primary enclosure must be approved by the Administrator. For facilities with sea pens, the perimeter fence must prevent access by animals and unauthorized persons to the sea pen from the surrounding land, and would be required to encompass the land portion of the facility from one end of sea pen-shoreline contact to the other end of sea pen-shoreline contact. A perimeter fence is not required if:

(1) The outside walls of the primary enclosure are made of sturdy, durable material, which may include certain types of concrete, wood, plastic, metal, or glass, and are high enough and constructed in a manner that restricts contact with or entry by animals and unauthorized persons that are outside the outdoor facility, and the Administrator gives written approval; or

(2) The outdoor facility is surrounded by an impenetrable natural barrier that restricts the marine mammals to the facility and protects them from contact with animals and unauthorized persons that are outside the facility, and the Administrator gives written approval.

3. Section 3.127 would be amended by adding a new paragraph (d) to read as follows:

§ 3.127 Facilities, outdoor.

* * * * *

(d) *Perimeter fence.* On or after [*date 6 months after effective date of final rule*] an outdoor facility must be enclosed by a fence that is of sufficient height to keep animals and unauthorized persons out. Fences less than 8 feet high for potentially dangerous animals, such as, but not limited to, large felines (e.g., lions, tigers, leopards, cougars, bobcats, etc.), bears, wolves, rhinoceros, and elephants, or less than 6 feet high for other animals must be approved by the Administrator. The fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it or under it and having contact with the animals in the facility, and so that it can function as a secondary containment system for the animals in the facility. It must be of sufficient distance from the outside wall or fence of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence. Such fences less than 3 feet in distance from the primary enclosure must be approved by the Administrator. A perimeter fence is not required if:

(1) The outside walls of the primary enclosure are made of sturdy, durable material, which may include certain types of concrete, wood, plastic, metal, or glass, and are high enough and constructed in a manner that restricts contact with or entry by animals and unauthorized persons that are outside the outdoor facility, and the Administrator gives written approval; or

(2) The outdoor facility is surrounded by an impenetrable natural barrier that restricts the animals in the facility to the facility and protects them from contact with animals and unauthorized persons that are outside the facility, and the Administrator gives written approval.

Done in Washington, DC, this 30th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–11723 Filed 5–5–97; 8:45 am]

BILLING CODE 3410–34–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1015

Procedures for Disclosure or Production of Information Under the Freedom of Information Act; Amendments

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments to rule.

SUMMARY: The Electronic Freedom of Information Act Amendments of 1996, which amend the Freedom of Information Act, are designed to make government documents more accessible to the public in electronic form. The amendments are also intended to expedite and streamline the process by which agencies disclose information generally. In this notice, the Commission proposes amendments to its Freedom of Information Act regulations to comply with the requirements of the new statute.

DATES: Comments concerning this proposal must be received in the Office of the Secretary no later than July 7, 1997. The amendments are proposed to become effective 30 days after their publication in the **Federal Register** in final form.

ADDRESSES: Mail comments concerning this proposal to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or

deliver them to room 502, 4330 East West Highway, Bethesda, MD 20814. Comments may be seen in the Commission's Public Reading Room, 4330 East West Highway, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Jayme Rizzolo Epstein, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0980; or Todd Stevenson, Freedom of Information Officer, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800.

SUPPLEMENTARY INFORMATION:

Background Information

On October 2, 1996, the President signed into law the Electronic Freedom of Information Act Amendments of 1996 (''EFOIA''), Public Law 231, 110 Stat. 3048 (1996). EFOIA includes provisions authorizing or requiring agencies to promulgate regulations implementing certain of its requirements, including the tracking of Freedom of Information Act (''FOIA'') requests, the aggregation of FOIA requests, and the expedited processing of FOIA requests. In addition, EFOIA changes the time limit for responding to a FOIA request from ten to twenty days, the requirements for reporting regarding FOIA activities to Congress, and the cases in which an agency may extend the time within which it will respond to a FOIA request. EFOIA also includes provisions regarding the availability of documents in electronic form, the treatment of electronic records, and the establishment of ''electronic reading rooms.''

The Consumer Product Safety Commission (''Commission'') proposes amendments to its regulations implementing the Freedom of Information Act, 16 CFR part 1015. The proposed amendments would revise the Commission's FOIA regulations to comply with EFOIA.

New Provisions

A. Electronic Records

Section 3 of EFOIA amends 5 USC 552(f) to define ''record'' for purposes of FOIA as including ''any information that would be an agency record subject to the requirements of (5 USC section 552) when maintained by an agency in any format, including an electronic format.'' Section 552(f) thus clarifies that the term ''agency record'' includes information stored on computer as well as traditional paper documents. The proposed regulations amend 16 CFR 1015.1(a) by adding language to reflect this definition of ''record'' and to clarify that the Commission produces all releasable records responsive to a FOIA request, whether in traditional paper or electronic form.

B. Electronic Reading Room

FOIA section 552(a)(2) requires agencies to make available for inspection and copying the following: (1) Final opinions and orders made in adjudicated cases; (2) statements of policy and interpretations not published in the **Federal Register**; and (3) administrative staff manuals and instructions to staff that affect the public. 5 U.S.C. 552(a)(2). As stated in the Commission's FOIA regulations, the Commission maintains these materials in its Public Information Center. 16 CFR 1015.2(a). EFOIA adds a fourth category to the materials that agencies must place in their reading rooms:

> Copies of all records * * * which have been released to any person under [FOIA] and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

EFOIA sec. 4; 5 USC § 552(a)(2)(D).

EFOIA further requires agencies to make available by ''computer telecommunications'' all reading room materials that are created on or after November 1, 1996. The statute envisions that each agency will ultimately have both a traditional reading room and a new ''electronic reading room'' on the World-Wide Web.

Proposed regulation 1015.2(c) states that the Commission will post the requisite materials on its Website. Where appropriate and feasible, and as resources permit, the Commission may also place additional reading room materials on the Website.

C. Multitrack Processing of Requests

EFOIA authorizes agencies to promulgate regulations providing for multitrack processing of requests for records based on the amount of work and/or time involved in processing requests. EFOIA section 7(a); 5 USC 552(a)(6)(D)(i). This would expedite the production of records where little work or time is required. The statute states that an agency's regulations may include a provision granting a FOIA requester whose request does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing. 5 USC 552(6)(D)(ii).

The Commission believes that multitrack processing is the most efficient and fair way to process FOIA requests. If requests were processed on a strict first in, first out basis, easily filled requests—for example for a press release or Commission brochure—would be processed only after earlier-received, complex requests for dozens of documents located in offices throughout the Commission. The Commission currently intends to process FOIA requests on five tracks, as follows:

Track 1: Responsive documents are available in the Office of the Secretary in releasable form. Examples include press releases, Commission brochures, and cleared Commission briefing packages.

Track 2: Responsive documents are on file outside the Office of the Secretary in one easily identifiable location, but must be located and copied, and require internal clearance. Examples include meeting logs, technical reports and contractor reports.

Track 3: Responsive documents are located in various Commission offices and require internal clearance.

Track 4: Responsive documents require both internal clearance and review by identified manufacturers pursuant to sections 6(a) and/or (b) of the Consumer Product Safety Act, 15 U.S.C. 2055(a) and (b). Examples include requests for information regarding Commission investigations of specific products and/or companies.

Track 5: Responsive documents are voluminous or are located in various Commission offices, and require section 6(a) and/or (b) review.

In general, when a request is received, the Freedom of Information Office will review it and categorize it for tracking purposes. Requests within each ''track'' will then be processed according to the date of receipt within each category. This should help further expedite responses to FOIA requests that are easier to fill. Of course, many requests are unique and will not easily fit one of the above descriptions. Others may appear to qualify for a fast track but prove complex once the search for the responsive documents is underway. As the Office of the Secretary implements and gains experience with the multitrack system, adjustments will almost certainly be required.

Pursuant to proposed regulation 1015.3(e), the Office of the Secretary may contact requesters whose requests do not appear to qualify for the fastest tracks and provide such requesters the opportunity to limit their requests so they qualify for a faster track. Such notification will be at the discretion of the Office of the Secretary and will depend largely on whether that Office believes that a narrowing of the request could put the request on a faster track. The regulation further provides that requesters who believe that their requests qualify for the fastest tracks and who wish to be notified if the Office

of the Secretary disagrees may so indicate in the request. If practicable, the Office of the Secretary may also work with such requesters to limit their requests to qualify for a faster track.

D. Time Limit for Responding to Requests

1. General: EFOIA lengthened the time within which agencies must respond to FOIA requests from ten to twenty working days. EFOIA sec. 8(b); 5 U.S.C. 552(a)(6)(A)(i). The proposed regulations amend the Commission's current regulations to conform to the new time limit. *See* 16 CFR 1015.4, 1015.5(a), 1015.6(c).

2. Extension of time in unusual circumstances: Pursuant to FOIA section 552(a)(6)(B), agencies are permitted to extend the time limit for responding to a request or deciding an appeal of a denial of a request in ''unusual circumstances,'' as defined in that section, for no more than ten working days, upon written notice to the requester. 5 U.S.C. 552(a)(6)(B). EFOIA amends section 552(a)(6)(B) to permit agencies to extend the response time by notifying the requesters and providing them with an opportunity to: (1) Limit the scope of the request so that it may be timely answered; or (2) arrange with the agency an alternative time frame for processing the request. EFOIA sec. 7(b); 5 U.S.C. 552(a)(6)(B)(ii). EFOIA also provides that a requester's refusal to modify a request or arrange an alternative response time shall be considered a factor in the judicial review of an agency's failure to comply with the applicable time limits. EFOIA does not alter the definition of ''unusual circumstances.''

The proposed regulations would add a new paragraph (d) to 16 CFR 1015.5 to conform to the new provision.

3. Aggregation of related requests: EFOIA authorizes agencies to promulgate regulations providing for the aggregation of related requests by the same requester or a group of requesters acting in concert when the requests would, if treated as a single request, present ''unusual circumstances'' as defined in 5 U.S.C. 552(a)(6)(B). EFOIA section 7(b); 5 USC 552(a)(6)(B)(iv). Proposed regulation 1015.5(e) implements this provision. As EFOIA requires, the proposed regulation provides that requests will be aggregated only when the Commission ''reasonably believes that such requests actually constitute a single request'' and the requests ''involve clearly related matters.'' *Id.*; 16 CFR 1015.5(e).

4. Requests for expedited processing: EFOIA requires each agency to promulgate regulations providing for the expedited processing of FOIA requests in cases of ''compelling need'' and in other cases determined by the agency. EFOIA sec. 8(a); 5 U.S.C. 552(a)(6)(E)(i). The statute specifies two categories of ''compelling need'':

> (1) That a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
>
> (2) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

5 U.S.C. 552(a)(6)(E)(v). Additionally, the statute sets forth requirements for the handling of requests for expedited processing and for the judicial review of agency denials of such requests. 5 U.S.C. 552(a)(6)(E)(ii)–(iv).

Proposed regulation 1015.5(f) implements the expedited processing requirements of EFOIA. The Commission emphasizes that, in keeping with Congress' express intent that the specified criteria for compelling need ''be narrowly applied,'' expedited processing will be granted only in those truly extraordinary cases meeting the specific statutory requirements. H.R. Rep. 795, 104th Cong., 2d Sess. 26 (1996) (hereafter ''House Report''). As the legislative history states, ''the expedited process procedure is intended to be limited to circumstances in which a delay in obtaining information can reasonably be foreseen to cause a significant adverse consequence to a recognized interest.'' *Id.*

A requester seeking expedited processing under the ''imminent threat'' category of the ''compelling need'' definition must show that: (1) The failure to obtain the information expeditiously threatens the life or safety of an individual; and (2) the threat is ''imminent.'' That an individual or his or her attorney needs information for an approaching litigation deadline is not a ''compelling need'' under this provision.

A requester seeking expedited processing under the second, ''urgency to inform,'' category must show that: (1) He or she is ''primarily engaged in disseminating information;'' (2) there is an ''urgency to inform the public'' about the information requested; and (3) the information relates to an ''actual or alleged Federal government activity.''

To meet the first ''urgency to inform'' criterion, the requester must show that his or her principal occupation is disseminating information to the public. As the legislative history makes clear, ''[a] requestor who only incidentally engages in information dissemination, besides other activities, would not satisfy this requirement.'' *Id.*

To meet the second ''urgency to inform'' criterion, the requester must show more than a general interest in the ''public's right to know.'' *See id.* Rather, as explained in the legislative history, a requester must show that a delay in the release of the requested information would ''compromise a significant *recognized* interest,'' and that the requested information ''pertain[s] to a matter of *current* exigency to the American public.'' *Id.* (emphasis added). It would, therefore, be insufficient to base a showing of ''compelling need'' on a reporter's desire to inform the public of something he or she believes might be of public concern if it were publicized. Rather, a reporter must show that the information pertains to a subject currently of significant interest to the public and that delaying the release of the information would harm the public's ability to assess the subject governmental activity.

The final ''urgency to inform'' criterion makes clear that the information must relate to the activities of the Commission and its staff. A request for expedited processing could thus be considered for information relating, for example, to a Commission decision. The Office of the Secretary generally would not, however, grant a request for expedited processing of information the Commission has collected regarding incidents involving specific consumer products.

EFOIA also authorizes agencies to expand the categories of requests qualifying for expedited processing beyond the two specified in the statute. EFOIA sec. 8(a); 5 U.S.C. 552 (a)(6)(E)(i)(II). The Commission has determined that no further categories are currently necessary or appropriate. As the legislative history explains, ''[g]iven the finite resources generally available for fulfilling FOIA requests, unduly generous use of the expedited processing procedure would unfairly disadvantage other requestors who do not qualify for its treatment.'' House Report at 26.

As EFOIA requires, proposed regulation 1015.5(f)(5) states that the Secretary will process requests granted expedited processing ''as soon as practicable.'' *See* EFOIA sec. 8(a); 5 U.S.C. 552(a)(6)(E)(iii). Pursuant to this requirement, the Office of the Secretary will give priority to such requests.

5. Time limits and section 6(b) of the Consumer Product Safety Act: Pursuant to section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)), prior to

the release of information that identifies a manufacturer or private labeler, the Commission must ''take reasonable steps to assure * * * that (the information) is accurate, and that (its) disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the (Consumer Product Safety Act).'' Section 6(b) requires that the Commission notify identified manufacturers and private labelers that it intends to disclose information at least 30 days prior to the disclosure. 15 U.S.C. 2055(b)(1). The manufacturer or private labeler may then submit comments regarding the disclosure of the information to the Commission. *Id.* If the Commission, after reviewing the comments, decides to release the information over the objections of the manufacturer or private labeler, it must so notify the firm at least 10 days prior to the release. 15 U.S.C. 2055(b)(2).

The Supreme Court, in *Consumer Product Safety Commission* v. *GTE Sylvania, Inc.*, 100 S. Ct. 2051 (1980), ruled that the Commission must follow the requirements of section 6(b) prior to the release of information in response to a FOIA request. As a result, it is frequently impossible for the Commission to comply with FOIA time limits when information responsive to a request identifies a manufacturer or private labeler. When the Office of the Secretary receives a request for information that requires section 6(b) review, it routinely notifies the requester that the response will be delayed. Proposed regulation 1015.5(g) is intended to assure that requesters are aware of the requirements of section 6(b) and of the Commission's section 6(b) regulations at 16 CFR part 1101.

E. Estimates of the Volume of Materials Denied

EFOIA requires that agency responses denying information include an estimate of the volume of any responsive documents the agency is withholding. EFOIA sec. 8(c); 5 U.S.C. 552(a)(6)(F). Additionally, EFOIA requires that when an agency withholds only a portion of a record, the response shall indicate the amount of information deleted on the released record, where possible at the place of the deletion. EFOIA sec. 9; 5 U.S.C. 552(b)(9). Proposed regulation 1015.6 includes a new subparagraph (b)(3) to implement these new requirements.

F. Fees

Proposed §§ 1015.9 (e)(5) and (g)(1) would amend the current regulation on fees the agency charges for the production of documents to reflect current Commission practices. Current § 1015.9(e)(5) sets forth the amount charged for computerized records that the Commission retrieves from on offsite central processing system. Currently, the majority of computer printouts are made at the Commission's offices, and the specified calculation is inapplicable. Proposed § 1015.9(e)(5) would amend the regulation to specify a charge of ten cents per page for computer printouts generated at the Commission.

Section 1015.9(g)(1) currently states that interest will be charged on fees owed ''on the 31st day following the day on which the billing was *sent.*'' (Emphasis added.) Proposed section 1015.9(g)(1) would amend the regulation to provide that interest will instead be calculated based on the day the requester *receives* the bill, as is the current Commission practice.

G. Annual Report to Congress

The current Commission regulations describe the information the Commission submits to Congress annually regarding the Commission's processing of FOIA requests. 16 CFR 1015.10. EFOIA amended the FOIA provisions regarding reporting in several ways, including the timing of reports and the information to be reported. EFOIA sec. 10; 5 U.S.C. 552(e). The proposed regulations amend § 1015.10 to conform to the EFOIA reporting requirements.

Comments

The Commission invites comments by interested persons on these proposed amendments to the Commission's rules governing the processing of FOIA requests. Comments must be submitted by July 7, 1997. Late filed comments will be considered to the extent practicable. Comments should be addressed to the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Secretary in room 502, 4330 East West Highway, Bethesda, MD 20814. Interested persons may examine comments received in the Commission's Public Reading Room, room 419, 4330 East West Highway, Bethesda, MD, between 8 a.m. and 5 p.m., Monday through Friday.

Proposed Effective Date

The Commission proposes that the amendments become effective 30 days after the date of publication of the amendments in final form in the **Federal Register**, and would apply to all requests for information received after that date.

Impact on Small Business

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that these amendments will not have a significant economic impact upon a substantial number of small entities.

Environmental Considerations

These amendments do not fall within any of the categories of Commission activities described in 16 CFR 1021.5(b) which have the potential for producing environmental effects and which, therefore, require environmental assessments, and, in some cases, environmental impact statements. The Commission does not believe that the proposal contains any unusual aspects which may produce effects on the human environment, nor can the Commission foresee any circumstances in which the amendments may produce such effects. For this reason, neither an environmental assessment nor an environmental impact statement is required.

Preemption

In accordance with Executive Order 12988 (February 5, 1996), the Commission states that these amendments have no preemptive effect.

Other Executive Orders

Because this rule will not have any significant impact on family formation, maintenance, or well-being if issued on a final basis, no assessment of the rule is required by Executive Order 12606 of September 2, 1987. The Commission also certifies that the rule does not have sufficient implications for federalism to warrant a Federalism Assessment under Executive Order 12612 of October 26, 1987.

List of Subjects in 16 CFR Part 1015

Administrative practice and procedure, Consumer protection, Disclosure of information, Freedom of information.

In accordance with the provisions of 5 U.S.C. 553 and under the authority of the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, the Commission proposes to amend Part 1015 of Title 16, Chapter II, of the Code of Federal Regulations as follows:

PART 1015—PROCEDURES FOR DISCLOSURE OR PRODUCTION OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

1. Section 1015.1 is amended by revising the second and third sentences of paragraph (a) as follows:

§ 1015.1 Purpose and scope.

(a) * * * Official records of the Consumer Product Safety Commission consist of all documentary material maintained by the Commission in any format, including an electronic format. These records include those maintained in connection with the Commission's responsibilities and functions under the Consumer Product Safety Act, as well as those responsibilities and functions transferred to the Commission under the Federal Hazardous Substances Act, Poison Prevention Packaging Act of 1970, Refrigerator Safety Act, and Flammable Fabrics Act, and those maintained under any other authorized activity * * *

* * * * *

2. Section 1015.2 is amended by revising paragraph (a) and adding paragraph (c) as follows:

§ 1015.2 Public reference facilities.

(a) The Consumer Product Safety Commission will maintain in a public reference room or area the materials relating to the Consumer Product Safety Commission which are required by 5 U.S.C. 552(a)(2) and 552(a)(5) to be made available for public inspection and copying. The principal location will be in the Office of the Secretary of the Commission. The address of this office is:

Office of the Secretary, Consumer Product Safety Commission, Room 500, 4330 East West Highway, Bethesda, MD 20814.

* * * * *

(c) The Consumer Product Safety Commission will maintain an ''electronic reading room'' on the World-Wide Web for those records which are required by 5 U.S.C. 552(a)(2) to be available by ''computer telecommunications.''

3. Section 1015.3 is amended by adding a new paragraph (e) as follows:

§ 1015.3 Requests for records and copies.

* * * * *

(e) The Consumer Product Safety Commission uses a multitrack system to process requests under the Freedom of Information Act that is based on the amount of work and/or time involved in processing requests. Requests for records are processed in the order they are received within each track. Upon receipt of a request for records, the Secretary or delegate of the Secretary will determine which track is appropriate for the request. The Secretary or delegate of the Secretary may contact requesters whose requests do not appear to qualify for the fastest tracks and provide such requesters the opportunity to limit their requests so as to qualify for a faster track. Requesters who believe that their requests qualify for the fastest tracks and who wish to be notified if the Secretary or delegate of the Secretary disagrees may so indicate in the request and, where appropriate and feasible, will also be given an opportunity to limit their requests.

4. Section 1015.4 is amended by revising the last sentence to read as follows:

§ 1015.4 Responses to requests for records; responsibility.

* * * If no response is made by the Commission within twenty working days, or any extension thereof, the requester and the Commission may take the action specified in § 1015.7(e).

5. Section 1015.5 is amended by revising the heading and the first sentence of paragraph (a), changing the phrase ''Chairman of the Commission'' to ''General Counsel of the Commission'' in paragraph (b), and adding new paragraphs (d), (e), (f), and (g) as follows:

§ 1015.5 Time limitation on responses to requests for records and requests for expedited processing.

(a) The Secretary or delegate of the Secretary shall respond to all written requests for records within twenty (20) working days (excepting Saturdays, Sundays, and legal public holidays). * * *

* * * * *

(d) If the Secretary at the initial stage or the General Counsel at the appellate stage determines that an extension of time greater than ten (10) working days is necessary to respond to a request satisfying the ''unusual circumstances'' specified in paragraph (b) of this section, the Secretary or the General Counsel shall so notify the requester and give the requester the opportunity to:

(1) Limit the scope of the request so that it may be processed within the time limit prescribed in paragraph (b); or

(2) Arrange with the Secretary or the General Counsel an alternative time frame for processing the request or a modified request.

(e) The Secretary or delegate of the Secretary may aggregate and process as a single request requests by the same requester, or a group of requesters acting in concert, if the Secretary or delegate reasonably believes that the requests actually constitute a single request which would otherwise satisfy the unusual circumstances specified in paragraph (b) of this section, and the requests involve clearly related matters.

(f) The Secretary or delegate of the Secretary will consider requests for the expedited processing of requests in cases where the requester demonstrates a compelling need for such processing.

(1) The term *compelling need* means:

(i) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(2) Requesters for expedited processing must include in their requests a statement setting forth the basis for the claim that a ''compelling need'' exists for the requested information, certified by the requester to be true and correct to the best of his or her knowledge and belief.

(3) The Secretary or delegate of the Secretary will determine whether to grant a request for expedited processing and will notify the requester of such determination within ten (10) days of receipt of the request.

(4) Denials of requests for expedited processing may be appealed to the Office of the General Counsel as set forth in § 1015.7 of this part. The General Counsel will expeditiously determine any such appeal.

(5) The Secretary or delegate of the Secretary will process as soon as practicable the documents responsive to a request for which expedited processing is granted.

(g) The Secretary may be unable to comply with the time limits set forth in this § 1015.5 when disclosure of documents responsive to a request under this part is subject to the requirements of section 6(b) of the Consumer Product Safety Act, 15 U.S.C. 2055(b), and the regulations implementing that section, 16 CFR part 1101. The Secretary or delegate of the Secretary will notify requesters whose requests will be delayed for this reason.

6. Section 1015.6 is amended by redesignating paragraph (b)(3) as (b)(4), adding a new paragraph (b)(3), and revising the first sentence of paragraph (c) as follows:

§ 1015.6 Responses: Form and content.

* * * * *

(b) * * *

(3) An estimation of the volume of requested material withheld. When only a portion or portions of a document are withheld, the amount of information deleted shall be indicated on the released portion(s) of the record. When technically feasible, the indication of the amount of material withheld will appear at the place in the document

where any deletion is made. Neither an estimation of the volume of requested material nor an indication of the amount of information deleted shall be included in a response if doing so would harm an interest protected by the exemption in 5 U.S.C. 552(b) pursuant to which the material is withheld.

* * * * *

(c) If no response is made within twenty (20) working days or any extension thereof, the requester can consider his or her administrative remedies exhausted and seek judicial relief in a United States District Court as specified in 5 U.S.C. 552(a)(4)(B). * * *

7. Section 1015.9 is amended by revising paragraphs (e)(5) and (g)(1) to read as follows:

§ 1015.9 Fees for production of records.

* * * * *

(e) * * *

* * * * *

(5) Computerized records: $0.10 per page of computer printouts or, for central processing, $0.32 per second of central processing unit (CPU) time; for printer, $10.00 per 1,000 lines; and for computer magnetic tapes or discs, direct costs.

* * * * *

(g) * * *

(1) Interest will be charged on amounts billed, starting on the 31st day following the day on which the requester received the bill. Interest will be at the rate prescribed in 31 U.S.C. 3717.

8. Section 1015.10 is amended by revising the introductory paragraph and paragraphs (b) through (g) as follows:

§ 1015.10 Commission report of actions to Congress.

On or before February 1 of each year, the Commission shall submit a report of its activities with regard to freedom of information requests during the preceding fiscal year to the Attorney General of the United States. This report shall include:

* * * * *

(b)(1) The number of appeals made by persons under such provisions, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(2) a complete list of all statutes that the Commission relies upon to withhold information under such provisions, a description of whether a court has upheld the decision of the Commission to withhold information under each such statute, and a concise description of the scope of any information withheld.

(c) The number of requests for records pending before the Commission as of September 30 of the preceding year, and the median number of days that such requests had been pending before the Commission as of that date.

(d) The number of requests for records received by the Commission and the number of requests which the Commission processed.

(e) The median number of days taken by the Commission to process different types of requests.

(f) The total amount of fees collected by the Commission for processing requests.

(g) The number of full-time staff of the Commission devoted to processing requests for records under such provisions, and the total amount expended by the Commission for processing such requests.

Dated: April 29, 1997.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 97–11497 Filed 5–5–97; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 96N–0417]

RIN 0910–AA59

Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Supplements

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is extending to June 6, 1997, the comment period for the advance notice of proposed rulemaking on current good manufacturing practice (CGMP) in manufacturing, packing, or holding dietary supplements that published in the **Federal Register** of February 6, 1997 (62 FR 5700). This action is being taken in response to several requests from interested persons for an extension of the comment period on this document to allow a more thorough development of comments on FDA's request for information on whether requirements for manufacturing and handling dietary ingredients and dietary supplements may be addressed by a regulation based on the principles of Hazard Analysis and Critical Control Points (HACCP).

DATES: Written comments by June 6, 1997.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Moore, Center for Food Safety and Applied Nutrition (HFS–456), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4605.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 6, 1997 (62 FR 5700), FDA published an advance notice of proposed rulemaking on CGMP in manufacturing, packing, or holding dietary supplements (Docket No. 96N–0417). Interested persons were given until May 7, 1997, to comment on the advance notice of proposed rulemaking.

FDA has received requests from two manufacturers, and two trade organizations representing manufacturers, of dietary supplements for an extension of the comment period. Three requests asked that the agency extend the comment period in order to provide more time for interested parties to develop comments on FDA's request for information on whether requirements for manufacturing and handling dietary ingredients and dietary supplements may be adequately addressed by a regulation based on the principles of HACCP. The requests stated that many dietary supplement manufacturers were not familiar with the HACCP concept, and additional time was needed to fully understand HACCP and its applicability to the development of CGMP for dietary supplements. After careful consideration of the requests submitted to the agency, FDA has decided to grant an extension of the comment period until June 6, 1997.

Interested persons may, on or before June 6, 1997, submit to the Dockets Management Branch (address above) written comments regarding this advance notice of proposed rulemaking. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the appropriate docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–11713 Filed 5–5–97; 8:45 am]

BILLING CODE 4160–01–F