

**§ 391.4 Laboratory services rate.**

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12 and 362.5 shall be \$50.88 per hour, per program employee.

**§ 391.5 Laboratory accreditation fees.**

(a) The annual fee for the initial accreditation and maintenance of accreditation provided pursuant to §§ 318.21 and 381.153 shall be \$1,500 per accreditation.

\* \* \* \* \*

Done at Washington, DC, on February 25, 1999.

**Thomas J. Billy,**

*Administrator.*

[FR Doc. 99-5318 Filed 3-3-99; 8:45 am]

BILLING CODE 3410-DM-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 63

#### Public Meetings on Proposed Licensing Criteria for the Disposal of High-Level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain, Nevada

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) recently proposed licensing criteria for disposal of spent nuclear fuel and high-level radioactive wastes in the proposed geologic repository at Yucca Mountain, Nevada. The Nuclear Waste Policy Act of 1982 (NWPA) gives the NRC regulatory responsibility and the Department of Energy (DOE) operational responsibility for high-level waste disposal. The proposed regulations would establish the criteria and standards against which NRC will evaluate a DOE license application for the Yucca Mountain site. The proposed criteria will apply specifically and exclusively to the proposed repository at Yucca Mountain. The proposed requirements are designed to implement a health-based, safety objective for long-term repository performance that is fully protective of public health and safety, and the environment, and is consistent with national and international recommendations for radiation protection standards.

The proposed rule was published in the **Federal Register** on February 22, 1999 (64 FR 8640), for a 75-day comment period. The following meetings have been scheduled in the

State of Nevada to: (1) Engage the public in a discussion of the proposed rule; (2) outline the roles and responsibilities of government and the public in the licensing process; and (3) ensure that the process for developing the final rule gives full consideration to the views and concerns of the public. Copies of the proposed rule will be available at the public meeting and can also be obtained from Judy Goodwin, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

The meetings will open with an NRC presentation on the proposed rule, followed by comments from DOE and the U.S. Environmental Protection Agency (invited). The public discussion will begin with a panel of representatives of the major interests affected by the proposed regulations, including local county governments, the State of Nevada, Native American tribes, the Nevada Nuclear Waste Task Force, and the Nuclear Waste Study Committee. The meetings will be facilitated by Francis X. Cameron, Special Counsel for Public Liaison, of the NRC.

**DATES:** The first public meeting will be held on Tuesday, March 23, 1999, from 7:00 pm to 9:30 pm. The second public meeting will be held on Thursday, March 25, 1999, from 7:00 pm to 9:30 pm.

**ADDRESSES:** The first meeting will be held at the Richard Tam Alumni Center at the University of Nevada, Las Vegas, Nevada. The second meeting will be held at the Beatty Community Center in Beatty, Nevada.

**FOR FURTHER INFORMATION CONTACT:** Francis X. Cameron, Special Counsel for Public Liaison, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by telephone: (301) 415-1642, or by e-mail: [fxc@nrc.gov](mailto:fxc@nrc.gov).

**SUPPLEMENTARY INFORMATION:** Members of the public who are unable to attend the meeting are invited to send written comments on the proposed rule to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may be hand-delivered to 11555 Rockville Pike, Rockville, Maryland between 7:30 am and 4:15 pm on Federal workdays. Comments may also be provided via the NRC's interactive rulemaking web site through the NRC home page (<http://www.nrc.gov>) This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher by

telephone: (301) 415-5905, or by e-mail: [CAG@nrc.gov](mailto:CAG@nrc.gov).

Dated at Rockville, Maryland this 26th day of February, 1999.

For the Nuclear Regulatory Commission.

**John T. Greeves,**

*Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 99-5336 Filed 3-3-99; 8:45 am]

BILLING CODE 7590-01-P

## FEDERAL ELECTION COMMISSION

### 11 CFR Parts 2, 4 and 5

[Notice 1999-5]

#### Electronic Freedom of Information Act Amendments

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of proposed rulemaking.

**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. The Commission is proposing amendments to its Freedom of Information Act regulations both to comply with these new requirements and to address issues that have arisen since the rules were originally adopted. **DATES:** Comments must be received on or before April 5, 1999.

**ADDRESS:** All comments should be addressed to Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW, Washington, DC 20463. Faxed comments should be sent to (202) 219-3923, with printed copy follow-up. Electronic mail comments should be sent to [EFOIA@fec.gov](mailto:EFOIA@fec.gov). Commenters sending comments by electronic mail should include their full name, electronic mail address and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, NW, Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Freedom of Information Act ("FOIA")

provides for public access to all federal agency records except those that are protected from release by specified exemptions. 5 U.S.C. 552. In 1996, Congress enacted the "Electronic Freedom of Information Act Amendments of 1996" ("EFOIA"), Pub. L. 101-231, 110 Stat. 2422. EFOIA extends coverage of the FOIA to electronic records and makes other changes in FOIA procedures that are intended to expedite and streamline the process by which agencies disclose information.

The Commission's rules implementing the FOIA are found at 11 CFR part 4. The proposed revisions to the Commission's FOIA rules would in part conform these rules to the new EFOIA requirements. In addition, the Commission is proposing changes that reflect issues that have arisen since the rules were originally enacted.

#### Electronic Records

The main thrust of EFOIA is to require agencies to make covered records available by electronic means. Specifically, for records created on or after November 1, 1996, EFOIA requires each agency to make such records available, including computer telecommunications, within one year after that date. 5 U.S.C. 552(a)(2)(E). The Commission has in place a home page on the World Wide Web, [www.fec.gov](http://www.fec.gov), and is utilizing this site to comply with these new requirements.

EFOIA also requires covered agencies to provide requested records in any form or format requested, if the record is readily reproducible by the agency in that form or format. Each agency must make reasonable efforts to maintain its records in forms or formats that are reproducible electronically, and to search for requested records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system. 5 U.S.C. 552(a)(3)(B), (C).

The Commission is proposing new § 4.7(b)(2) to comply with this new requirement. The new language would require requests for Commission records to specify the preferred form or format, including electronic formats, of the response. The Commission would accommodate requesters as to form or format if the record was readily available in that form or format. If a requester did not specify the form or format of the response, the Commission would respond in the form or format in which the document was most accessible to the Commission.

#### Definitions

EFOIA adds new definitions of the terms "search" and "record" to reflect these revisions. *Search* means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a FOIA request. 5 U.S.C. 552(a)(3)(D). *Record* and any other term used in reference to information includes any information that would be an agency record subject to FOIA requirements when maintained by an agency in any format, including an electronic format. 5 U.S.C. 552(f)(2). The Commission is proposing to include these definitions in revised § 4.1(h) and new § 4.1(o), respectively.

Also, consistent with new 5 U.S.C. 552(1)(2)(D) and (E), the Commission is proposing to revise 11 CFR 4.4 to reflect new material that is to be made available under FOIA. The new categories, to be included in revised §§ 4.4(a) (4) and (5), would include copies of all records which have been released to any person in response to an earlier FOIA request and which the Commission determines have become or are likely to become the subject of subsequent requests for substantially the same records; and a general index of these records.

#### Time Limit for Responding to Requests

EFOIA lengthened the time within which agencies must respond to FOIA requests from ten to twenty working days. 5 U.S.C. 552(a)(6)(A)(i). Proposed § 4.7(c) would conform the Commission's current regulations to this new time limit.

The FOIA at 5 U.S.C. 552(a)(6)(B) permits agencies, upon written notice to the requester, to extend the time limit for responding to a request or deciding an appeal of a denial of a request for not more than ten working days, if "unusual circumstances" exist for the extension. EFOIA did not revise the definition of "unusual circumstances," but it did revise that section to permit agencies to further extend the response time by notifying the requesters and providing them with an opportunity to either limit the scope of the request so that no extension is needed, or to arrange with the agency an alternative time frame for processing the request. 5 U.S.C. 552(a)(6)(B)(ii). Proposed § 4.7(c)(2) would implement this new procedure.

#### Aggregation of 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." 5 U.S.C. 552(a)(6)(B)(iv). Such circumstances include the need to search for and collect the requested records from diverse locations; the need to search for, collect, and examine voluminous separate and distinct records which are demanded in a single request; and the need to consult with another agency or among two or more Commission offices that each have a substantial subject matter interest in the records. 5 U.S.C. 552(a)(6)(B)(iii) (former section 552(a)(6)(B)); 11 CFR 4.7(c). Proposed § 4.7(d) would implement this new 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."

#### Expedited Processing of Certain Requests

EFOIA requires each agency to promulgate regulations providing for the expedited processing of FOIA requests in cases of "compelling need" and in other cases, if any, determined by the agency. 5 U.S.C. 552(a)(6)(E)(1). The statute specifies two categories of "compelling need." The first is where 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. The second involves a request made by a person primarily engaged in disseminating information who shows there is an urgent need to inform the public concerning actual or alleged federal government activity. 5 U.S.C. 552(a)(6)(E)(v). The statute also sets out procedures for handling 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 § 4.7(g) would implement EFOIA's expedited processing requirements. The Commission emphasizes that, in keeping with Congress' express intent that the specified criteria for compelling need "be narrowly applied," expedited processing would be granted only in those truly extraordinary cases that meet the specific statutory requirements. H.R. Rep. No. 795, 104th Cong., 2d Sess. 26 (1996) ("House Report"). The legislative history makes it clear that "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 would have to show that the failure to obtain the requested information expeditiously threatens the life or safety of an individual, and that the threat is "imminent."

That an individual or his or her attorney needs information for an approaching litigation deadline would not be a "compelling need" under this provision.

A requester seeking expedited processing under the second, "urgency to inform," category would have to show that he or she is "primarily engaged in disseminating information;" there is an "urgency to inform the public" about the information requested; and the information relates to an "actual or alleged federal government activity."

To meet the first "urgency to inform" criterion, the requester would have to show that his or her principal occupation was disseminating information to the public. As the legislative history makes clear, "(a) requester 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 would have to 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 would make it clear that the information would have to 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 Commission generally would not, however, grant a request for expedited processing of information that the Commission has

collected regarding specific campaigns or campaign committees.

EFOIA also authorizes agencies to expand the categories of requests qualifying for expedited processing beyond the two specified in the statute. 5 U.S.C. 552(a)(6)(E)(i)(II). While it welcomes comments on this point, the Commission does not at this time believe that further categories are currently necessary or appropriate. As the legislative history explains, "Given the finite resources generally available for fulfilling FOIA requests, unduly generous use of the expedited processing procedure would unfairly disadvantage other requesters who do not qualify for its treatment." House Report at 26.

As required by EFOIA at 5 U.S.C. 552(a)(6)(E)(iii), proposed 11 CFR 4.7(g)(5) provides that the Commission would process requests to grant expedited processing "as soon as practicable." The Commission will also give priority to these requests.

#### **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. 5 U.S.C. 552(a)(6)(F). EFOIA additionally requires that when an agency withholds only a portion of a record, the response indicate the amount of information deleted on the released record; and that, where possible, this be noted at the place of the deletion. 5 U.S.C. 552(b)(9). Proposed § 4.5(c) would implement this new requirement.

#### **Multitrack Processing**

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. 5 U.S.C. 552(a)(6)(D)(i). This would expedite the production of records where little work or time is required. The statute further permits agencies to include in their regulations 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 U.S.C. 552(a)(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 would be processed only after earlier received, complex requests

for dozens of documents located in offices throughout the Commission.

#### **Other (Non-EFOIA) Proposed Amendments**

The Commission is proposing to delete the reference to "the Secretary of the Senate, the Clerk of the House, or their designees *ex officio*" from the definition of "Commissioner" found at 11 CFR 4.1(b). These offices were declared unconstitutional in *FEC v. NRA Political Victory Fund*, 6 F.3d 821 (D.C.Cir. 1993), *cert. dismissed for want of jurisdiction*, 115 S.Ct. 537 (1994). The Commission is further proposing to make this technical revision to its "Sunshine" regulations at 11 CFR 2.2(b), and to its rules governing access to Public Disclosure Division Documents at 11 CFR 5.1(b).

The Commission is also proposing that the first sentence of 11 CFR 4.7(c) be revised to conform with 5 U.S.C. 552(a)(6)(A). The statutory language provides that each agency shall determine within twenty days after the receipt of a FOIA request whether to comply with it. However, the current regulation states that the Commission will provide the requested records within ten days (now twenty days, under EFOIA). Given the Commission's workload and the volume of FOIA requests, the Commission believes the statutory timeframe is more realistic than that included in the current rules.

Finally, the Commission is proposing to restructure and revise 11 CFR 4.4(a), which deals with the availability of records under FOIA. The current provision covers both 5 U.S.C. 552(a)(2) and 552(a)(3). Section 552(a)(2) encompasses final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases; statements of policy and interpretations which have been adopted by the Commission but are not published in the **Federal Register**; and administrative staff manuals and instructions to staff that affect a member of the public. Section 552(a)(3) includes all other documents covered by the FOIA, that is, all documents not subject to one or more of the exceptions set forth at 5 U.S.C. 552(b).

Current 11 CFR 4.4(a)(1)–(3) refers to material covered by 5 U.S.C. 552(a)(2), while §§ 4.4(a)(4)–(15) list other agency documents. However, the listing may be underinclusive, as it may not include all covered documents. It is also overinclusive, since it includes materials that are also available from the Commission's Public Disclosure Division. See 11 CFR 4.4(b). The Commission is proposing to replace the current list of covered documents with

a simple statement in new § 4.4(b) that, in accordance with 5 U.S.C. 552(a)(3), the Commission will make available, upon proper request, all non-exempt Agency records, or portions of records, that have not previously been made public pursuant to 5 U.S.C. 552(a)(1) and (a)(2). Accordingly, proposed §§ 4.4(a)(1)–(3) would follow the language of 5 U.S.C. 552(a)(2), and that of the current rules, while §§ 4.4(a)(4)–(15) would be replaced with a new § 4.4(a)(4) encompassing the materials referred to in 5 U.S.C. 552(a)(3).

The Commission believes it would be a better use of agency resources to treat separately those records required to be made available under the FECA, *see* 11 CFR part 5, and those which may be obtained only through use of the FOIA. It is well established that records which an agency has previously made available to the public under section 552(a)(2) need not be released again in response to a FOIA request made pursuant to section 552(a)(3). *Department of Justice v. Tax Analysts*, 492 U.S. 136, 152 (1989).

Accordingly, current § 4.4(b), which notes that public access to the materials listed in current §§ 4.4(a)(3) and (a)(10)–(1)(13) are also available under the FECA from the Public Disclosure Division, would be repealed. In addition, § 4.4(a)(4), dealing with letter requests for guidance and the Commission's responses thereto; § 4.4(a)(5), minutes of Commission meetings; § 4.4(a)(6), material routinely prepared for public distribution; and § 4.4(a)(14), audit reports discussed in public session, would be moved to 11 CFR 5.4(a), as this information is available from the Commission's Public Disclosure Division. Section 4.4(a)(7), proposals submitted in response to a request for proposals under Federal Procurement Regulations; § 4.4(a)(8), contracts for goods and services entered into by the Commission; and § 4.4(a)(13), studies published by the Commission's Office of Election Administration, would be deleted, as this material is covered by the new general language in proposed § 4.4(b). Finally, § 4.4(a)(9), statements and certifications required by the Government in the Sunshine Act, 5 U.S.C. 552b, would be repealed, as these documents are already covered by the Commission's Sunshine regulations, 11 CFR part 2. The Commission is proposing to make corresponding changes to its rules at 11 CFR part 5, "Access to Public Disclosure Division Documents."

Comments are also welcome on any other aspect of the Commission's FOIA

rules, whether or not impacted by the new EFOIA requirements.

#### **Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)**

The attached proposed rules would not, if promulgated, have a significant economic impact on a substantial number of small entities. Most of the proposed changes conform to statutory amendments that expand the options available to covered entities seeking to obtain records from the Commission under the Freedom of Information Act, while others would clarify the Commission's current rules in this area. Therefore the rules would not have a significant economic effect on a substantial number of small entities.

#### **List of Subjects**

##### *11 CFR Part 2*

Sunshine Act.

##### *11 CFR Part 4*

Freedom of Information.

##### *11 CFR Part 5*

Archives and Records.

For the reasons set forth in the preamble, it is proposed to amend Subchapter A, Chapter I of Title 11 of the Code of Federal Regulations as follows:

#### **PART 2—SUNSHINE REGULATIONS; MEETINGS**

1. The authority citation for part 2 would continue to read as follows:

**Authority:** Sec. 3(a), Pub. L. 94–409, 5 U.S.C. 552b.

2. Section 2.2 would be amended by revising paragraph (b) to read as follows:

#### **§ 2.2 Definitions.**

\* \* \* \* \*

(b) *Commissioner* or *Member*. *Commissioner* or *Member* means an individual appointed to the Federal Election Commission pursuant to 2 U.S.C. 437c and section 101(e) of Pub. L. 94–283, but does not include a proxy or other designated representative of a Commissioner.

\* \* \* \* \*

#### **PART 4—PUBLIC RECORDS AND THE FREEDOM OF INFORMATION ACT**

3. The authority citation for part 4 would continue to read as follows:

**Authority:** 5 U.S.C. 552, as amended.

4. Section 4.1 would be amended by revising paragraphs (b) and (h) and adding new paragraph (o) to read as follows:

#### **§ 4.1 Definitions.**

As used in this part:

\* \* \* \* \*

(b) *Commissioner* means an individual appointed to the Federal Election Commission pursuant to 2 U.S.C. 437c(a).

\* \* \* \* \*

(h) *Search* means all time spent reviewing, manually or by automated means, Commission records for the purpose of locating those records which are responsive to a request, including page-by-page or line-by-line identification of material within documents. Search time does not include review of material in order to determine whether the material is exempt from disclosure.

\* \* \* \* \*

(o) Record and any other term used in 11 CFR part 104 in reference to information includes any information that would be a Commission record subject to the requirements of this part when maintained by the Commission in any format, including an electronic format.

5. Section 4.4 would be amended by revising paragraphs (a), (b), and the first sentence of paragraph (c) to read as follows:

#### **§ 4.4 Availability of records.**

(a) In accordance with 5 U.S.C. 552(a)(2), the Commission shall make the following materials available for public inspection and copying:

(1) Statements of policy and interpretation which have been adopted by the Commission;

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

(3) Opinions of Commissioners rendered in enforcement cases, General Counsel's Reports and non-exempt 2 U.S.C. 437g investigatory materials will be placed on the public record of the Agency no later than 30 days from the date on which a respondent is notified that the Commission has voted to close such an enforcement file.

(4) Copies of all records, regardless of form or format, which have been released to any person under paragraph (a) of this section 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; and

(5) A general index of the records referred to paragraph (a)(4) of this section.

(b) In accordance with 5 U.S.C. 552(a)(3), the Commission shall make available, upon proper request, all non-

exempt Agency records, or portions of records, not previously made public pursuant to 5 U.S.C. 552(a)(1) and (a)(2).

(c) The Commission shall maintain and make available current indexes and supplements providing identifying information regarding any matter issued, adopted or promulgated after April 15, 1975 as required by 5 U.S.C. 552(a)(2)(C) and (E). \* \* \*

6. Section 4.5 would be amended by revising paragraph (c) to read as follows:

#### § 4.5 Categories of exemptions.

\* \* \* \* \*

(c) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by an exemption in paragraph (a) of this section under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made.

\* \* \* \* \*

7. Section 4.7 would be amended by redesignating paragraph (b) as paragraph (b)(1); adding new paragraph (b)(2); revising the first sentence of paragraph (c); redesignating paragraph (d) as paragraph (h); redesignating paragraph (e) as paragraph (i); and adding new paragraphs (d), (e), (f) and (g), to read as follows:

#### § 4.7 Requests for records.

\* \* \* \* \*

(b)(1) \* \* \*

(2) Requests for Commission records and copies thereof shall specify the preferred form or format (including electronic formats) of the response. The Commission will accommodate requesters as to form or format if the record is readily available in that form or format. When requesters do not specify the form or format of the response, the Commission will respond in the form or format in which the document is most accessible to the Commission.

(c) The Commission shall determine within twenty working days after receipt of a request, or twenty working days in the case of an appeal, whether to comply with such request, unless in unusual circumstances the time is extended or subject to § 4.9(f)(3) of this part, which governs advance payments.

\* \* \*

(d) If the Commission determines that an extension of time greater than ten working days is necessary to respond to

a request satisfying the "unusual circumstances" specified in paragraph (c) of this section, the Commission shall so notify the requester and give the requester an opportunity to limit the scope of the request so that it may be processed within the time limit prescribed in paragraph (c) of this section, or arrange with the Commission an alternative time frame for processing the request or a modified request.

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

(f) The Commission uses a multitask 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 Commission will determine which track is appropriate for the request. The Commission 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 Commission disagrees may so indicate in the request and, where appropriate and feasible, will also be given an opportunity to limit their requests.

(g) The Commission 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 Commission will determine whether to grant a request for expedited

processing and notify the requester of such determination within ten days of receipt of the request.

(4) Denials of requests for expedited processing may be appealed as set forth in § 4.8 of this part. The Commission will expeditiously determine any such appeal.

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

\* \* \* \* \*

## PART 5—ACCESS TO PUBLIC DISCLOSURE DIVISION DOCUMENTS

9. The authority citation for part 5 would continue to read as follows:

**Authority:** 2 U.S.C. 437f(d), 437g(a)(4)(B)(ii), 438(a), and 31 U.S.C. 9701.

10. Section 5.1 would be amended by revising paragraph (b) to read as follows:

#### § 5.1 Definitions.

\* \* \* \* \*

(b) *Commissioner* means an individual appointed to the Federal Election Commission pursuant to 2 U.S.C. 437c(a).

\* \* \* \* \*

11. Section 5.4 would be amended by revising paragraph (a)(4) and adding paragraphs (a)(5) through (a)(9) to read as follows:

#### § 5.4 Availability of records.

(a) \* \* \*

(4) Opinions of Commissioners rendered in enforcement cases and General Counsel's Reports and non-exempt 2 U.S.C. 437g investigatory materials will be placed on the public record of the Agency no later than 30 days from the date on which a respondent is notified that the Commission has voted to close such an enforcement file.

(5) Letter requests for guidance and responses thereto.

(6) The minutes of Commission meetings.

(7) Material routinely prepared for public distribution, e.g. campaign guidelines, FEC Record, press releases, speeches, notices to candidates and committees.

(8) Audit reports (if discussed in open session).

(9) Agendas for Commission meetings.

\* \* \* \* \*

Dated: February 28, 1999.

**Scott E. Thomas,**

*Chairman, Federal Election Commission.*

[FR Doc. 99-5219 Filed 3-3-99; 8:45 am]

BILLING CODE 6715-01-P