

DEPARTMENT OF STATE**22 CFR Part 171****BROADCASTING BOARD OF GOVERNORS****22 CFR Chapter V, and 48 CFR Chapter 19**

[Public Notice # 3127]

Repeal, Redesignation and Amendment of the United States Information Agency's Former Regulations**AGENCY:** Department of State and Broadcasting Board of Governors.**ACTION:** Final rule.

SUMMARY: Pursuant to the consolidation of the United States Information Agency ("USIA") and the Department of State as mandated by the Foreign Affairs Agencies Consolidation Act of 1998, this rule amends USIA's former public regulations in the Code of Federal Regulations (CFR). Some of these regulations are repealed, some are revised and amended to apply only to the Department of State, and some are amended to apply only to the Broadcasting Board of Governors ("BBG"). Chapter V of 22 CFR is amended to cover only the BBG.

DATES: Effective October 1, 1999.**FOR FURTHER INFORMATION CONTACT:** Bill Ohlhausen (202)-619-6972; Tom Heinemann (202)-647-5154.

SUPPLEMENTARY INFORMATION: This rule amends USIA's former public regulations, which appear at chapter V of 22 CFR and chapter 19 of 48 CFR, in order to avoid having duplicative regulations after USIA is consolidated with the Department of State pursuant to the Foreign Affairs Agencies Consolidation Act of 1998, Public Law 105-277. It also clarifies which of USIA's regulations will apply to the newly-created Broadcasting Board of Governors.

The rule makes several types of changes. First, chapter V is retitled "Broadcasting Board of Governors" and subchapter G of Chapter I (State Department regulations) is retitled "Public Diplomacy and Exchanges." Second, parts that will apply only to the BBG are amended to limit their application in this manner. Third, several parts of 22 CFR chapter V that are no longer necessary for either the State Department or BBG are removed. Finally, certain sections are amended and redesignated as State Department regulations. These actions shall take effect in accordance with the savings

provisions at Section 1323(e)(5) and 1327(a)-(f) of the Act.

This rule involves agency management functions and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 801. It is also exempt from review under Executive Order 12866 but has been reviewed internally by State and USIA to ensure consistency with the purposes thereof. This amendment has been found to be a minor rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121. It does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act.

List of Subjects*22 CFR Part 61*

Education, Imports, Exports, Trade agreements, Audio visual material.

22 CFR Part 62

Cultural exchange programs.

22 CFR Part 63

Cultural exchange programs.

22 CFR Part 64

Cultural exchange programs.

22 CFR Part 65

Cultural exchange programs, Education.

22 CFR Part 66

Freedom of information.

22 CFR Part 67

Organization and functions.

22 CFR Part 171

Freedom of information.

22 CFR Part 500

Conflict of interest.

22 CFR Part 501

Foreign service.

22 CFR Part 502

Education, Imports, Exports, Trade agreements, Audio visual material.

22 CFR Part 503

Freedom of information.

22 CFR Part 504

Organization and functions (Government Agencies).

22 CFR Part 505

Privacy.

22 CFR Part 506

Government employees.

22 CFR Part 510

Administrative practice and procedure.

22 CFR Part 511

Claims.

22 CFR Part 512

Administrative practice and procedure, Debt, Claims.

22 CFR Part 513

Administrative practice and procedure, Courts, Government employees.

22 CFR Part 514

Cultural exchange programs.

22 CFR Part 515

Cultural exchange programs.

22 CFR Part 516

Cultural exchange programs, Government employees.

22 CFR Part 517

Cultural exchange programs, Education.

22 CFR Part 518

Accounting, Audit requirements, Grant programs, Reporting and record-keeping requirements, Non-profit organizations.

22 CFR Part 519

Contract programs, Grant programs, Loan programs, Lobbying.

22 CFR Part 521

Administrative practice and procedure, Claims, Fraud, Penalties.

22 CFR Part 525

Administrative practice and procedure, Conflicts of interest.

22 CFR Part 526

Freedom of information.

22 CFR Part 527

Organization and functions.

22 CFR Part 530

Administrative practice and procedures, Civil rights, Equal employment opportunity, Federal buildings and facilities, Individuals with disabilities.

48 CFR Parts 1901 Through 1953

Administrative practice and procedure, Contract programs.

Accordingly, for the reasons set forth above, effective October 1, 1999, pursuant to the Foreign Affairs Reform and Restructuring Act of 1998, Public Law 105-277, 112 Stat. 2681-761, Titles 22 and 48 of the Code of Federal Regulations is amended as follows:

TITLE 22—[AMENDED]

I. Title 22 of the Code of Federal Regulations is amended as follows:

**CHAPTER I—DEPARTMENT OF STATE
SUBCHAPTER C—FEES AND FUNDS**

**PART 22—SCHEDULE OF FEES FOR
CONSULAR SERVICES—
DEPARTMENT OF STATE AND
FOREIGN SERVICE**

1. The authority for part 22 is revised to read as follows:

Authority: 8 U.S.C. 1153 note, 1351, 1351 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 2504(a), 4201, 4206, 4215, 4219; 31 U.S.C. 9701; Pub. L. 105-277, 112 Stat. 2681 et seq.; E.O. 10718, 22 FR 4632, 3 CFR 1954-1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1996-1970 Comp., 570.

1a. Section 22.1 is amended by adding item 72 to read as follows:

§ 22.1 Schedule of Fees.

Item No.	Fee
* * * *	
72. Fee for Exchange Waiver Review	\$136.00

**SUBCHAPTER G—PUBLIC DIPLOMACY
AND EXCHANGES**

2. Subchapter G is added with a heading to read as set forth above.

**PART 171—AVAILABILITY OF
INFORMATION AND RECORDS TO
THE PUBLIC**

3. The authority citation for Part 171 is revised to read as follows:

Authority: 5 U.S.C. 551 *et seq.*, 552, 552a; 5 U.S.C. App. 201; Pub. L. 105-277, 112 Stat. 2681 *et seq.*; E.O. 12600, 52 FR 19825, 3 CFR, 1995 Comp., p. 333.

4. Section 171.11 is amended by removing “and” in the last sentence of paragraph (a)(3) before “records subject to section 102(d) of the National Security Act” and adding the following at the end of the sentence:

§ 171.11 Exemptions.

- (a) * * *
- (3) * * * and records subject to section 501 of the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1461, as amended).

* * * * *

**CHAPTER V—BROADCASTING BOARD OF
GOVERNORS**

5. The heading of Chapter V is revised to read as set forth above.

PART 500—[REMOVED]

6. Part 500 is removed.

**PART 501—APPOINTMENT OF
FOREIGN SERVICE OFFICERS**

7. In part 501:

a. All references to “USIA” or “United States Information Agency” are revised to read “Broadcasting Board of Governors”; and

b. All references to “Agency” are revised to read “Board”.

**PART 502—[REDESIGNATED AS PART
61]**

8. Part 502 is transferred to chapter I and redesignated as Part 61 in subchapter G.

9. In redesignated part 61:

a. All references to “USIA” or “United States Information Agency” are revised to read “Department of State”;

b. All references to “Agency” are revised to read “Department”;

c. All references to “Director” are revised to read “Secretary of State”.

d. In redesignated § 61.9, remove the symbol “GC/A” and add, in its place, the symbol “ECA/GCV—Attestation Officer”.

**PART 503—AVAILABILITY OF
RECORDS**

10. In part 503:

a. All references to “USIA” or “United States Information Agency” are revised to read “Broadcasting Board of Governors”; and

b. All references to “Agency” are revised to read “Department”.

PART 504—[REMOVED]

11. Part 504 is removed.

**PART 505—PRIVACY ACT POLICIES
AND PROCEDURES**

12. In part 505:

a. All references to “USIA” or “United States Information Agency” are revised to read “Broadcasting Board of Governors”; and

b. All references to “Agency” are revised to read “Board”.

**PART 506—PART-TIME CAREER
EMPLOYMENT PROGRAM**

13. In part 506:

a. All references to “USIA” or “United States Information Agency” are revised to read “Broadcasting Board of Governors”; and

b. All references to “Agency” are revised to read “Board”.

PART 510—SERVICE OF PROCESS

14. In part 510:

a. All references to “USIA” or “United States Information Agency” are revised to read “Broadcasting Board of Governors”; and

b. All references to “Agency” are revised to read “Board”.

PART 511—FEDERAL TORT CLAIMS

15. In part 511:

a. All references to “USIA” or “United States Information Agency” are revised to read “Broadcasting Board of Governors”; and

b. All references to “Agency” are revised to read “Board”.

**PART 512—COLLECTION OF DEBTS
UNDER THE DEBT COLLECTION ACT
OF 1982**

16. In part 512:

a. All references to “USIA” or “United States Information Agency” are revised to read “Broadcasting Board of Governors”; and

b. All references to “Agency” are revised to read “Board”.

**PART 513—GOVERNMENT
DEBARMENT AND SUSPENSION
(NON-PROCUREMENT) AND
GOVERNMENTWIDE REQUIREMENTS
FOR DRUG-FREE WORKPLACE
(GRANTS)**

17. In part 513:

a. All references to “USIA” or “United States Information Agency” are revised to read “the Broadcasting Board of Governors”; and

b. All references to “Agency” are revised to read “Board”.

PART 514—[AMENDED]

§ 514.44 [Redesignated as § 41.63]

18. Section 514.44 is transferred to chapter I and redesignated as § 41.63 in subpart G.

§ 514.90 [Amended]

19. Section 514.90 is amended by removing and reserving paragraph (b).

**PART 514—[REDESIGNATED AS PART
62]**

20. The remainder of part 514 is transferred to chapter I and redesignated as part 62 in new subchapter G.

21. In redesignated part 62:

a. All references to “USIA”, “the United States Information Agency”, or “agency” are revised to read “Department of State”;

b. All references to “Director of the United States Information Agency” or “Director” are revised to read “Secretary of State”;

c. All references to “General Counsel” are revised to read “Bureau of Consular Affairs”; and

d. All references to “Board” or “Branch” are revised to read “Division”.

PART 41—[AMENDED]

22. The authority for Part 41 is revised to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105-277, 112 Stat. 2681 *et seq.*

22a. Redesignated § 41.63 is amended by revising the heading of paragraph (g) and the introductory text of paragraph (g)(1), the first sentence of paragraph (g)(3), and the first and last sentences of paragraph (g)(4) to read as follows:

§ 41.63 Two-year home-country physical presence requirement.

* * * * *

(g) The Exchange Visitor Waiver Review Division.

(1) The Exchange Visitor Waiver Review Division ("Division") shall consist of Department of State positions equivalent to the following positions:

* * *

* * * * *

(3) The State Department official equivalent to the Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee, shall serve as Division Chairman. * * *

(4) Cases will be referred to the Division at the discretion of the Chief, Waiver Review Division, of the Department's Office of Exchange Visitor Program Services. * * * The Chief, Waiver Review Division, or his or her designee may, at the Chairman's discretion, appear and present facts related to the case but shall not participate in Division deliberations.

* * * * *

PART 62—[AMENDED]

23. The authority for redesignated part 62 is revised to read as follows:

Authority: 8 U.S.C. 1101(A)(15)(j), 1182, 1184, 1258; 22 U.S.C. 1431-1442, 2451-2460; Pub. L. 105-277, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978, 3 CFR, 1978 Comp. p. 168.

23a. Redesignated § 62.50 is amended by revising the introductory language in paragraph (h)(1) to read as follows:

§ 62.50 Sanctions.

* * * * *

(h) The Exchange Visitor Program Designation, Suspension, and Revocation Board. (1) The Exchange Visitor Program Designation, Suspension, and Revocation Board ("Board") shall consist of Department of State positions equivalent to the following positions:

* * * * *

PART 515—[REDESIGNATED AS PART 63]

24. Part 515 is transferred to chapter I and redesignated as Part 63 in new subchapter G.

25. In redesignated part 63:
a. All references to "USIA" or "the United States Information Agency" are revised to read "Department of State"; and

b. All references to "Director" are revised to read "Secretary of State".

PART 516—[REDESIGNATED AS PART 64]

26. Part 516 is transferred to chapter I and redesignated as Part 64 in new subchapter G.

27. In redesignated part 64:
a. All references to "USIA," "United States Information Agency," or "Agency" are revised to read "Department of State"; and

b. All references to "Director" are revised to read "Secretary of State".

c. The authority for redesignated part 64 is revised to read as follows:

Authority: Sec. 108A (Pub. L. 94-350, 90 Stat. 823) added to the Mutual Educational and Cultural Exchange Act, as amended, 75 Stat. 527-28, 22 U.S.C. 2451 *et seq.*; and under Executive Orders 11034 and 12048, as amended; Pub. L. 105-277, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977 and the Continuity Order (Continuity of Operations) of April 1, 1978 (43 FR 15371).

28a. Redesignated § 64.8 is amended by revising the last sentence to read as follows:

§ 64.8 Obligation of Employee to Advise Agency

* * * In the case of the Department, an employee shall advise the DAEO who may, after consultation with appropriate officials of the Department, furnish a "no objection" statement.

PART 517—[REDESIGNATED AS PART 65]

29. Part 517 is transferred to Chapter I and redesignated as Part 65 in new subchapter G.

30. In redesignated part 65:
a. All references to "USIA" or "United States Information Agency" are revised to read "Department of State"; and

b. All references to "Director" are revised to read "Secretary of State".

PART 521—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

31. In part 521:

a. All references to "USIA" or "United States Information Agency" are

revised to read "the Broadcasting Board of Governors"; and

b. All references to "Agency" are revised to read "Board".

PART 525—[REMOVED]

32. Part 525 is removed.

PART 526—[REDESIGNATED AS PART 66]

33. Part 526 is transferred to Chapter I and redesignated as Part 66 in new subchapter G.

34. In redesignated part 66:
a. All references to "USIA" or "United States Information Agency" are revised to read "Department of State"; and

b. All references to "Director" are revised to read "Secretary of State."

c. The authority citation for redesignated part 66 is revised to read as follows:

Authority: 22 U.S.C. 4411 *et seq.*; Pub. L. 99-570, Secs. 1801-1804, 100 Stat. 3207-48 (1986); Pub. L. 105-277, 112 Stat. 2681 *et seq.*

35. Redesignated § 66.3 is amended by revising paragraph (a) to read as follows:

§ 66.3 Places at which forms and instructions for use by the public may be obtained.

(a) All forms and instructions pertaining to procedures under FOIA may be obtained from the FOIA officer of the National Endowment for Democracy, 1101 15th St., NW; Suite 700, Washington, D.C. 20005-5000.

* * * * *

36. Redesignated § 66.5 is amended by revising the first sentence of paragraph (a)(1) and paragraph (a)(2) to read as follows:

§ 66.5 Availability of NED records.

* * * * *

(a) Requests for records—How made and addressed.

(1) Requesters seeking access to NED records under FOIA should direct all requests in writing to: Freedom of Information Act Officer, National Endowment for Democracy, 1101 15th St., NW; Suite 700, Washington, D.C. 20005-5000. * * *

(2) Appeals of denials of initial requests must be addressed to NED in the same manner or to the Department of State pursuant to the procedures set forth at part 171 of this Title, with the addition of the word "APPEAL" preceding the address on the envelope. Appeals addressed directly to the Department of State will not be deemed to have been received by NED for purposes of the time period set forth in 5 U.S.C. 552(a)(6)(A)(1) until actually

received by NED. The Department of State shall forward any appeal received by it to NED within 2 working days from the actual day of receipt by the Department of State.

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PART 527—[REDESIGNATED AS PART 67]

37. Part 527 is transferred to Chapter I and redesignated as Part 67 in new subchapter G.

38. The authority citation for redesignated part 67 is revised to read as follows:

Authority: 22 U.S.C. 4411 et seq.; Title II, Sec. 210, Pub. L. 99-93, 99 Stat. 431 (22 U.S.C. 4415); Pub. L. 105-277, 112 Stat. 2681 et seq.

38a. Redesignated § 67.2 is amended by revising the first and last sentence of paragraph (a) and the second sentence of paragraph (c) to read as follows:

§ 67.2 Board of Directors.

(a) NED is governed by a bipartisan board of Directors of not fewer than thirteen and not more than twenty-five members reflecting the diversity of American society. * * * A current list of members of the Board of Directors and a schedule of upcoming meetings is available from NED's office at 1101 15th Street, NW; Suite 700, Washington, DC 20005-5000.

* * * * *

(c) * * * All grants made by the corporation shall be by a two-thirds vote of those voting at a meeting at which a quorum is present. Notwithstanding the foregoing, the Board may from time to time adopt, upon a two-thirds vote of those voting at a meeting at which a quorum is present, procedures to address emergency funding requests between meetings of the Board. * * *

39. Redesignated § 67.4 is amended by revising the second sentence of paragraph (i) to read as follows:

§ 67.4 Description of functions and procedures.

* * * * *

(i) * * * Letters of inquiry and formal proposals should be submitted to: Director of Program, National Endowment for Democracy 1101 15th Street, NW, Suite 700, Washington, DC 20005-5000.

PART 530—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES INFORMATION AGENCY

40. In Part 530:

a. All references to "USIA" or "United States Information Agency" are revised to read "the Broadcasting Board of Governors"; and

b. All references to "Agency" are revised to read "Board".

TITLE 48—[AMENDED]

II. Title 48 of the Code of Federal Regulations is amended as follows:

CHAPTER 19—BROADCASTING BOARD OF GOVERNORS

1. In Chapter 19:

a. The chapter heading is revised as set forth above.

b. All references to "USIA" or "United States Information Agency" are revised to read "the Broadcasting Board of Governors"; and

c. All references to "Agency" are revised to read "Board".

Dated: October 1, 1999.

John Lindburg,

Acting Executive Director, Broadcasting Board of Governors.

Dated: October 1, 1999.

Patrick F. Kennedy,

Assistant Secretary for Administration, Department of State.

[FR Doc. 99-26081 Filed 10-6-99; 8:45 am]

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NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 516

RIN 3141-AA20

Administrative Practice and Procedure; Testimony; Information; Response to Subpoena

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission issues a final rule describing the duties of its personnel and former personnel with respect to litigation involving the National Indian Gaming Commission or the official responsibilities of National Indian Gaming Commission employees.

EFFECTIVE DATE: November 8, 1999.

FOR FURTHER INFORMATION CONTACT: Richard B. Schiff, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20036; telephone: 202-632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Because the National Indian Gaming Commission is regularly associated with a variety of matters which have the potential for resulting in litigation, the

National Indian Gaming Commission has a requirement for regulations describing the duties of its personnel with respect to such litigation. On July 1, 1999, the Commission proposed such regulations. **Federal Register:** July 15, 1999 (Volume 64, Number 135) page 38164-38165. The Commission requested comments on those proposed regulations. Below is the Commission's analysis of the comments received during the comment period and the text of the final regulations.

General Comments

A commenter pointed out that, although the **SUPPLEMENTARY INFORMATION** published with the Proposed Rule had noted that the regulations were intended to be the Commission's "Touhy regulations," and cited *United States Ex. Rel. Touhy v. Ragen*, 340 U.S. 462 (1951), the statutory basis for Touhy regulations, 5 U.S.C. 301, was omitted. The Final Rule corrects this oversight.

Concern was expressed by a commenter that application of these rules to litigation in which the National Indian Gaming Commission is a party would be inconsistent with the Federal Rules of Civil Procedure. The Commission considers it self-evident that it may not relieve itself of its obligations as a litigant by promulgating a housekeeping regulation, and that there will be circumstances under which the Federal Rules of Civil Procedure rather than these regulations will guide the actions of Commission personnel. Nonetheless, the Commission, like any public or private party to litigation, may protect itself against unauthorized disclosures of information, and, even when the Commission is a party to the proceeding, it has authority to prescribe regulations for the conduct of its employees relating to disclosure of information to the opposing party.

Comment was received which referenced 25 U.S.C. 2716(a) and the Trade Secrets Act, 18 U.S.C. 1905, and expressed the view that the regulation should address concerns of gaming tribes respecting protection of confidential information submitted to the National Indian Gaming Commission by such tribes. The comment suggested that the Final Rule should: (a) Restrict disclosure of such information in court, and (b) Require notification to tribes in the event third parties request such information.

The Commission is issuing these regulations to guide the conduct of Commission personnel and former personnel with respect to requests or demands for information that are