

(i) Floor space shall consist of a minimum of 3 feet along each conveyor line and after each chiller to allow carcasses to be removed for evaluation. The space shall be level and protected from all traffic and overhead obstructions.

(ii) The vertical distance from the bottom of the shackles to the floor shall not be less than 48 inches.

(iii) A table, at least 2 feet wide, 2 feet deep, and 3 feet high designed to be readily cleanable and drainable shall be provided for reinspecting the sampled birds.

(iv) A minimum of 200-footcandles of shadow-free lighting with a minimum color rendering index of 85 on the table surface shall be provided.

(v) A separate clip board holder shall be provided for holding the recording sheets.

(vi) Handwashing facilities shall be provided for and shall be within easy access of persons working at the stations.

(vii) Hangback racks designed to hold 10 carcasses shall be provided for and positioned within easy reach of the person at the station.

Done at Washington, DC, on October 2, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-24389 Filed 10-20-87; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 4 and 5

[Notice 1987-12]

Public Records and Freedom of Information Act

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: The Federal Election Commission has revised its regulations implementing the Freedom of Information Reform Act, Pub. L. No. 99-570, and guidelines established by the Office of Management and Budget (OMB), 52 FR 10012 (March 27, 1987). The revisions are based on the Commission's experience in working with the Freedom of Information Act (FOIA) and on public comments received in response to the Notice of Interim Rulemaking published by the Commission.

The revisions incorporate the recent changes to the FOIA regarding among other things, establishment of fees to be charged for search, review and

duplication of records in response to FOIA requests. These rules also include a revision of the FOIA fee reduction and waiver standard drawn directly from the language of the Reform Act, along with procedures for implementing that standard.

Further information on these revisions is provided in the supplementary information which follows.

EFFECTIVE DATE: November 20, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 376-5690 or Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986 (FOIRA) requires each agency to promulgate regulations, pursuant to notice and receipt of public comments, specifying the schedule of fees applicable to the processing of Freedom of Information Act (FOIA) requests and establishing procedures and guidelines for determining when such fees should be waived or reduced. The FOIRA also requires the Office of Management and Budget (OMB) to promulgate guidelines containing a uniform schedule of fees applicable to all agencies. OMB's guidelines were published on March 27, 1987 (52 FR 10012). The Federal Election Commission Interim Rule, published for comment on June 24, 1987 (52 FR 23636), conforms to the OMB guidelines.

The Commission received three comments on the interim rules. Having considered these comments, the Commission is now publishing the final rules together with a statement explaining their basis and purpose in accordance with the Administrative Procedure Act, 5 U.S.C. 553(c).

Statement of Basis and Purpose

Basis and Purpose of the Public Records and Freedom of Information Act Regulations, 11 CFR Parts 4 and 5

Part 4—Freedom of Information Act

The rules implementing the Freedom of Information Act have been revised and expanded as a result of the Freedom of Information Reform Act of 1986 (Pub. L. 99-570). Several new definitions and modifications have been made to broaden the scope of the FOIA and establish uniformity with the fee provisions set by the Office of Management and Budget.

The comments received were taken into consideration in developing the final rule. These comments primarily addressed definitions of terms contained in the proposed fee schedule regarding the different categories of requestors. In particular, the commenters objected to

the definitions of "freelance journalist," "representative of the news media" and "commercial use." However, the Commission's definitions of these terms conform to OMB guidelines and are consistent with the statute and legislative history.

Section 4.1 Definitions. This section adds seven new definitions, paragraphs (g) through (n). These amendments are intended to clarify the expanded provisions of the statute. Three of these definitions were addressed by the comments.

Concerning "commercial use," (11 CFR 4.1(k)) the commenters focus on statements in the legislative history which seem to indicate that it is the requestor rather than the nature of the request which is controlling. Specifically, one commenter proposed a definition of "commercial use" requestor that would distinguish between private, profit-making and non-profit entities, allowing at a minimum that requests from public interest groups, labor unions, libraries and the news media not be treated as commercial requests. This interpretation is contrary to legislative intent. Congress did not intend that organizations seeking to establish private repositories of public records would qualify for waivers. See 123 Cong. Rec. S 14038 (daily ed. Sept. 27, 1985) (statement of Sen. Hatch). Furthermore, the statute does not refer to commercial users, but instead plainly states "commercial use." Therefore, the Commission regulations implement the statute.

With regard to "representative of the news media" (11 CFR 4.1(n)), the comments received suggest that the Commission liberalize its definition beyond the guidelines set forth by OMB. One commenter stated that the Commission's definition is counter to the legislative history and allows the Commission to judge what is current before acting on a request. The commenter suggested that "representative of the news media" be broadened to include any person or organization which publishes or disseminates information to the public. The Commission has retained the word "news" in the definition because it is based on the statutory phrase "news media." The other commenters interpret the Commission definition as inconsistent with Congressional intent due to the use of the terms "current events" or information of "current interest to the public." The Commission concludes however, that the plain meaning of the word "news" entails currency of events and that its interpretation is consistent with the

statute and OMB guidelines. As a result no change has been made to this definition. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category.

Concerning "freelance journalist" (11 CFR 4.1(n)) one commenter suggested the Commission delete its definition of freelance journalist from the rules as it did not properly describe the work of a freelance journalist and discriminated against first-time freelancers. The Commission's intent was not to limit qualification under this definition to any one particular form of proof or discriminate against legitimate freelancers. Rather, its intent was to incorporate legitimate freelance journalists into the definition, but not anyone merely declaring himself or herself to be a freelance journalist. Accordingly, in addition to the standard set forth by Representative English in his comments in which he describes freelance writers as those "who can demonstrate that their work is likely to be published * * *." 132 Cong. Rec. H 9464 (Oct. 8, 1986), the Commission has adopted other indicia of qualification consistent with another commenter's suggestion. Among these qualifications would be a contract or past publication record. The Commission considers this definition practical and has made no change in the final rule.

In addition to the above concerns expressed in all three comments one set of comments suggested among other things, that the OMB guidelines are in certain instances not supported by, or are contrary to, the legislative intent of the FOIRA. Specifically, this commenter suggested that the phrase "educational institution" (See 11 CFR 4.1(1)) is self defining. The commenter recommended that the Commission borrow from the Tax Code's section 501(c)(3) grant of tax deductible status to determine what constitutes an "educational institution." To adopt such a proposal would be contrary to the congressional intent of the FOIRA and OMB guidelines. The Tax Code merely provides that "corporations, any community chest, fund, or foundation, organized and operated exclusively for * * * educational purposes * * *" qualify for exemption from taxation. 26 U.S.C. 501(c)(3). The legislative history of the FOIRA makes it plain that mere non-profit status does not entitle a person or organization to qualify for a limitation of fees as an educational institution. 132 Cong. Rec. S14040 (Sept. 27, 1986.)

Accordingly, the Commission rejects this suggestion.

Section 4.5 Categories of exemptions. This section revises the introductory text in paragraphs (a) and (a)(1) and redesignates paragraphs (b) through (d) as paragraphs (c) through (e). The purpose of this change is to reflect the extensive revisions in the FOIRA exempting information from disclosure under the FOIA, and establishing three special exclusions for specific types of law enforcement records.

Section 4.7 Requests for records. This section is amended to reflect circumstances that might warrant an extension of time for fulfilling a request due to the addition of regulations concerning advance payments at § 4.9(f).

Section 4.9 Fees. This section has received extensive revisions in order to make the FOIA fees charged by government agencies more uniform. Accordingly, the Commission has revised and amended Section 4.9 to conform with government wide standards.

One commenter argued that there is no basis in the FOIRA or its legislative history for construing the automatic waiver of fees for the first two hours of search time to mean something less than that for computer searches. 11 CFR 4.9(a)(2). Congress made it clear that each agency must develop regulations based on OMB's guidelines for a uniform schedule of fees. The Commission's regulations are in conformance with OMB's guidelines on this section, and therefore considered both appropriate and consistent with the requirements of the FOIRA.

This commenter along with another commenter also suggested that the Commission reject the Department of Justice fee waiver policy and adopt simpler less restrictive fee waiver regulations. 11 CFR 4.9(b). The Commission has not utilized the six factors outlined by the Justice Department in its 1983 memorandum but has developed its own standard without guidance from the Department of Justice. Furthermore, one comment received suggests that in light of the Paperwork Reduction Act the Commission should reassess its fee waiver regulations because they seek information from requestors. However, 2 U.S.C. 438(c) exempts the Commission from the Paperwork Reduction Act.

In response to actual Commission practices relating to requests for special mailing services, the Commission has revised the portion of § 4.9(c)(4) dealing with "other charges." The interim rule

appeared to indicate that the Commission would initially pay for such services and bill the requestor. In fact, the Commission's practice is to have requestors pay these costs directly to the company providing the expedited delivery or mailing service. The final rule reflects this practice and explains how it will operate.

Another commenter suggested that the Commission adopt the language in the OMB guidelines relating to "aggregating requests" (11 CFR 4.9(e)) and "advance payments." (11 CFR 4.9(f)). The commenter asserted that § 4.9(e) fails to note the "presumptions against aggregation when the requests have been made more than 30 days apart and does not state that aggregation of multiple requests on unrelated subjects from one requester are prohibited." The Commission has clearly stated that it will consider the time frame involved, as well as the subject matter of the requests, and may find that requests made more than 30 days apart should be aggregated. The Commission, while setting guidelines for determining when requests should be aggregated, also believes each case should be considered on its own merits. The commenter also recommends adopting a clear presumption against advance payments. The Commission's regulations set forth two criteria to be considered when making a determination whether or not to require advance payment. The first criterion is when the Commission estimates or determines that allowable charges that a requestor may be required to pay are likely to exceed \$250. The second criterion is when a requestor has previously failed to pay a fee in a timely fashion. Moreover, the Commission regulations, while not a verbatim statement of the OMB guidelines, closely conform to the standard established by OMB and are consistent with the statute. As a result it is unnecessary to adopt the commenter's proposals.

Part 5—Access to Public Disclosure Division Documents

Section 5.6(a)(1) Fees. This section is amended to reflect the increase in the direct costs of microfilm and personnel to the Commission. The changes in the Public Disclosure fee schedule for these items are made to keep them consistent with the revised FOIA fee schedule.

List of Subjects

11 CFR Part 4

Freedom of Information.

11 CFR Part 5

Archives, Records.

For the reasons set out in the basis and purpose, Title 11, Parts 4 and 5 of the Code of Federal Regulations are amended as follows.

PART 4—PUBLIC RECORDS AND THE FREEDOM OF INFORMATION ACT

1. The authority citation for Part 4 is revised to read as follows:

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

2. Section 4.1 is amended by revising paragraphs (g) through (n) to read as follows:

§ 4.1 Definitions.

(g) "Direct costs" means those expenditures which the Commission actually incurs in searching for and duplicating (and, in the case of commercial use requestors, reviewing) documents to respond to a FOIA request. Direct costs include the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating equipment. Direct costs do not include overhead expenses such as the cost of space and heating or lighting the facility in which the records are stored.

(h) "Search" means all time spent looking for material that is responsive to a FOIA request, including page-by-page or line-by-line identification of material within documents. This includes both manual searches and searches conducted with a computer using existing programming. Search time does not include review of material in order to determine whether the material is exempt from disclosure.

(i) "Review" means the process of examining a document located in response to a commercial use request to determine whether any portion of the document located is exempt from disclosure. Review also refers to processing any document for disclosure, i.e., doing all that is necessary to excise exempt portions of the document and otherwise prepare the document for release. Review does not include time spent by the Commission resolving general legal or policy issues regarding the application of exemptions.

(j) "Duplication" means the process of making a copy of a document necessary to respond to a FOIA request. Examples of the form such copies can take include, but are not limited to, paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk).

(k) "Commercial use" means a purpose that furthers the commercial, trade, or profit interests of the requestor

or the person on whose behalf the request is made. The Commission's determination as to whether documents are being requested for a commercial use will be based on the purpose for which the documents are being requested. Where the Commission has reasonable cause to doubt the use for which the requestor claims to have made the request or where that use is not clear from the request itself, the Commission will seek additional clarification before assigning the request to a specific category.

(l) "Educational institution" means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(m) "Non-commercial scientific institution" means an organization that is not operated on a commercial basis, as that term is defined in paragraph (k) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(n) "Representative of the news media" means a person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. Examples of news media entities include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of news, as defined in this paragraph) who make their products available for purchase or subscription by the general public. A freelance journalist may be regarded as working for a news organization and therefore considered a representative of the news media if that person can demonstrate a solid basis for expecting publication by that news organization, even though that person is not actually employed by that organization. The best means by which a freelance journalist can demonstrate a solid basis for expecting publication by a news organization is by having a publication contract with that news organization. When no such contract is present, the Commission will look to the freelance journalist's past publication record in making this determination.

3. Section 4.5 is amended by revising the introductory text of paragraph (a), paragraph (a)(7) and paragraph (b) to read as follows:

§ 4.5 Categories of exemptions.

(a) No requests under 5 U.S.C. 552 shall be denied release unless the record contains, or its disclosure would reveal, matters that are:

* * * * *

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(b) Whenever a request is made which involves access to records described in 11 CFR 4.5(a) (7); and

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that—

(i) The subject of the investigation or proceeding is not aware of its pendency, and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings; The agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of the Freedom of Information Act.

* * * * *

4. Section 4.7 is amended by revising paragraph (c) to read as follows:

§ 4.7 Requests for records.

(c) Records or copies thereof will normally be made available either immediately upon receipt of a request or within ten working days thereafter, or twenty working days in the case of an appeal, unless in unusual circumstances the time is extended or subject to 11 CFR 4.9(f)(3), which governs advance payments. In the event the time is extended, the requestor shall be notified of the reasons for the extension and the date on which a determination is expected to be made, but in no case shall the extended time exceed ten working days. An extension may be made if it is—

(1) Necessary to locate records or transfer them from physically separate facilities; or

(2) Necessary to search for, collect, and appropriately examine a large quantity of separate and distinct records which are the subject of a single request; or

(3) Necessary for consultation with another agency which has a substantial interest in the determination of the request, or with two or more components of the Commission which have a substantial subject matter interest therein.

5. Section 4.9 is revised to read as follows:

§ 4.9 Fees.

(a) *Exceptions to fee charges*—(1) *General.* Except for a commercial use requester, the Commission will not charge a fee to any requester for the first two hours of search time and the first 100 pages of duplication in response to any FOIA request.

(2) *Free computer search time.* For purposes of this paragraph, the term "search time" is based on the concept of a manual search. To apply this to a search conducted by a computer, the Commission will provide the equivalent dollar value of two hours of professional staff time, calculated according to paragraph (c)(4) of this section, in computer search time. Computer search time is determined by adding the cost of the computer connect time actually used for the search, calculated at the rate of \$25.00 per hour, to the cost of the operator's salary for the time spent conducting the computer search, calculated at the professional staff time rate set forth at paragraph (c)(4) of this section.

(3) *Definition of pages.* For purposes of this paragraph, the word "pages" refers to paper copies of a standard agency size which will normally be 8½" x 11" or 8½" x 14". Thus, while a

requester would not be entitled to 100 free computer disks, for example, a requester would be entitled to 100 free pages of a computer printout.

(4) *Minimum charge.* The Commission will not charge a fee to any requester when the allowable direct cost of that FOIA request is equal to or less than the Commission's cost of routinely collecting and processing a FOIA request fee.

(b) *Fee reduction or waiver*—(1) The Commission will consider requests for the reduction or waiver of any fees assessed pursuant to paragraph (c)(1) of this section if it determines, either as a result of its own motion or in response to a written submission by the requester, that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and that disclosure of the information is not primarily in the commercial interest of the requester.

(2) A request for a reduction or waiver of fees shall be made in writing by the FOIA requester; shall accompany the relevant FOIA request so as to be considered timely; and shall include a specific explanation as to why the fee for that FOIA request should be reduced or waived, applying the standard stated in paragraph (b)(1) of this section to the facts of that particular request. In addition, the explanation shall include: the requester's (and user's, if the requester and the user are different persons or entities) identity, qualifications and expertise in the subject area, and ability and intention to disseminate the information to the public; and a discussion of any commercial or personal benefit that the requester (and user, if the requester and user are different persons or entities) expects as a result of disclosure, including whether the information disclosed would be resold in any form at a fee above actual cost.

(c) *Fees to be charged.* (1) The FOIA services provided by the Commission in response to a FOIA request for which the requester will be charged will depend upon the category of the requester. The categories of FOIA requestors are as follows:

(i) *Commercial use requestors.* A requester of documents for commercial use will be assessed reasonable standard charges for the full allowable direct costs of searching for, reviewing for release and duplicating the records sought, according to the Commission's schedule of fees for those services as set forth at paragraph (c)(4) of this section. A commercial use requester is not entitled to two hours of free search time

nor 100 free pages of duplication of documents.

(ii) *Educational and non-commercial scientific institution requestors.* The Commission will provide documents to requestors in this category for the cost of duplication of the records provided by the Commission in response to the request, according to the Commission's schedule of fees as set forth at paragraph (c)(4) of this section, excluding charges for the first 100 pages of duplication. Requestors in this category will not be charged for search time. To be eligible for inclusion in this category, requestors must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(iii) *Requestors who are representatives of the news media.* The Commission will provide documents to requestors in this category for the cost of duplication of the records provided by the Commission in response to the request, according to the Commission's schedule of fees as set forth at paragraph (c)(4) of this section, excluding charges for the first 100 pages of duplication. Requestors in this category will not be charged for search time. To be eligible for inclusion in this category, the requester must meet the criteria listed at 11 CFR 4.1(n) and his or her request must not be made for a commercial use. A request for records supporting the news dissemination function of the requestor shall not be considered to be a request that is for a commercial use.

(iv) *All other requestors.* The Commission will charge requestors who do not fit into any of the categories listed in paragraph (c)(1) (i), (ii) or (iii) of this section the full direct costs of searching for and duplicating records in response to the request, according to the Commission's schedule of fees as set forth at paragraph (c)(4) of this section, excluding charges for the first two hours of search time and the first 100 pages of duplication. Requests from record subjects for records about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for duplication.

(2) The Commission may assess fees for the full allowable direct costs of searching for documents in response to a request even if the Commission fails to locate any documents which are responsive to that request and, in the

case of commercial use requestors, of reviewing documents located in response to a request which the Commission determines are exempt from disclosure.

(3) If the Commission estimates that search or duplication charges are likely to exceed \$25.00, it will notify the requestor of the estimated amount of the fee unless the requestor has indicated in advance a willingness to pay a fee as high as that estimated by the Commission. Through this notification, the Commission will offer the requestor the opportunity to confer with Commission staff to reformulate the original request in order to meet the requestor's needs at a lower cost.

(4) The following is the schedule of the Commission's standard fees. The cost of staff time will be added to all of the following fees, generally at the "Professional" rate listed below, except for the cost of "Photocopying from photocopying machines" which has been calculated to include staff time.

Photocopying	
Photocopying from photocopying machines.....	\$.07 per page
Photocopying from microfilm reader-printer.....	\$.15 per page
Paper copies from microfilm-paper print machine.....	\$.05 per frame page
Reels of Microfilm	
Daily film (partial or complete roll)...	\$2.85 per roll
Other film (partial or complete roll)...	\$5.00 per roll
Publications: (new or not from available stocks)	
Cost of photocopying document...	\$.07 per page
Cost of binding document.....	\$.30 per inch
Publications: (available stock)	

If available from stock on hand, cost is based on previously calculated cost as stated in the publication (based on actual cost per copy, including reproduction and binding). Commission publications for which fees will be charged include, but are not limited to, the following: Advisory Opinion Index, Report on Financial Activity, Financial Control and Compliance Manual, MUR Index, and Guideline for Presentation in Good Order.

Computer Tapes

Cost to process the request at the rate of \$25.00 per hour connect time plus the cost of the computer tape (\$25.00) and professional staff time (see Staff Time).

Computer Indexes (including Name Searches)

Cost to process the request at the rate of \$25.00 per hour connect time plus the cost of professional staff time (see Staff Time).

Staff Time

Clerical: \$4.50 per each half hour (agency average of staff below a GS-11) for each request.

Professional: \$12.40 per each half hour (agency average of staff at GS-11 and above) for each request.

Other Charges

Certification of a Document: \$7.35 per quarter hour.

Transcripts of Commission meetings not previously transcribed: \$7.50 per half hour (equivalent of a GS-11 executive secretary).

The Commission will not charge a fee for ordinary packaging and mailing of records requested. When a request for special mailing or delivery services is received the Commission will package the records requested. The requestor will make all arrangements for pick-up and delivery of the requested materials. The requestor shall pay all costs associated with special mailing or delivery services directly to the courier or mail service.

(5) Upon receipt of any request for the production of computer tape or microfilm, the Commission will advise the requestor of the identity of the private contractor who will perform the duplication services. If fees are charged for the production of computer tape or microfilm, they shall be made payable to that private contractor and shall be forwarded to the Commission.

(d) *Interest charges.* FOIA requestors should pay fees within 30 days following the day on which the invoice for that request was sent to the requestor. If the invoice is unpaid on the 31st day following the day on which the invoice was sent, the Commission will begin assessing interest charges, which will accrue from the date the invoice was mailed. Interest will be charged at a rate that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point, pursuant to 31 U.S.C. 3717. The accrual of interest will be stayed by the Commission's receipt of the fee, even if the fee has not yet been processed.

(e) *Aggregating requests.* A requestor may not file multiple requests, each seeking portions of a document or documents, in order to avoid payment of fees. When the Commission reasonably believes that a FOIA requestor or group of requestors acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Commission will aggregate any such requests and charge the appropriate fees. In making this determination, the Commission will consider the time period in which the requests have occurred, the relationship of the requestors, and the subject matter of the requests.

(f) *Advance payments.* The Commission will require a requestor to make an advance payment, i.e., a

payment before work is commenced or continued on a request, when:

(1) The Commission estimates or determines that allowable charges that a requestor may be required to pay are likely to exceed \$250. In such a case, the Commission will notify the requestor of the likely cost and, where the requestor has a history of prompt payment of FOIA fees, obtain satisfactory assurance of full payment, or in the case of a requestor with no FOIA fee payment history, the Commission will require an advance payment of an amount up to the full estimated charges; or

(2) A requestor has previously failed to pay a fee in a timely fashion (i.e., within 30 days of the date of the billing). In such a case, the Commission may require that the requestor pay the full amount owed plus any applicable interest or demonstrate that the fee has been paid and make an advance payment of the full amount of the estimated fee before the Commission begins to process a new request or a pending request from that requestor.

(3) If the provisions of paragraph (f) (1) or (2) of this section apply, the administrative time limits prescribed in 11 CFR 4.7(c) will begin only after the Commission has received the payments or the requestor has made acceptable arrangements to make the payments required by paragraph (f) (1) or (2) of this section.

PART 5—ACCESS TO PUBLIC DISCLOSURE DIVISION DOCUMENTS

1. The authority citation for Part 5 continues to read as follows:

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

2. Section 5.6(a)(1) is amended by revising the fees for "Reels of Microfilm," "Research Time/Photocopying Time," and "Other Charges" to read as follows:

§ 5.6 Fees.

(a)(1) * * *	
Reels of Microfilm	
Daily film (partial or complete roll)...	\$2.85 per roll
Other film (partial or complete roll)...	\$5.00 per roll
* * * * *	

Research Time/Photocopying Time

Clerical: First ½ hour is free; remaining time costs \$4.50 per each half hour (agency average of staff below a GS-11) for each request.

Professional: First ½ hour is free; remaining time costs \$12.40 per each half hour (agency average of staff at GS-11 and above) for each request.

Other Charges

Certification of a Document: \$7.35 per quarter hour.

Transcripts of Commission meetings not previously transcribed: \$7.50 per half hour (equivalent of a GS-11 executive secretary).

Scott E. Thomas,

Chairman, Federal Election Commission.

Dated: October 13, 1987.

[FR Doc. 87-23999 Filed 10-20-87; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: On June 16, 1986 the Board of Directors of the FDIC granted the request of several petitioners that the FDIC reconsider the provisions of the FDIC's rule governing securities subsidiaries and affiliates of insured nonmember banks which deal with the use of a common name or logo and separate offices. A request for comment on whether or not these provisions should be retained, modified, or eliminated was published in the *Federal Register* on August 20, 1986. A subsequent proposed rule was published for comment on April 9, 1987. Insured nonmember banks that prior to December 28, 1984 became affiliated with a securities company, or prior to that date established or acquired a subsidiary that engages in securities activities, are presently required to comply with the common name or logo and separate office restrictions of the regulation by October 15, 1987. The Board of Directors is extending the compliance deadline with these provisions of the regulation until November 15, 1987 for institutions currently subject to the October 15, 1987 deadline in order to provide staff further time to consider the comments on the proposed rule.

EFFECTIVE DATE: October 13, 1987.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On November 19, 1984, the FDIC adopted § 337.4 of its regulations (12 CFR 337.4) (49 FR 46722, November 28, 1984), governing certain securities activities of

subsidiaries of insured nonmember banks and the affiliation of insured nonmember banks with certain types of securities companies. The regulation requires, among other things, that securities subsidiaries which engage in activities prohibited to the bank by the Glass-Steagall Act must meet the definition of "bona fide subsidiary." That definition in turn requires, among other things, that a bank and such a securities subsidiary must operate out of separate offices that share no common entrance. The subsidiary is also prohibited from sharing a common name or logo with the bank. The regulation imposes similar requirements upon a bank affiliated with a securities company if that securities company conducts activities that would be prohibited to the bank by the Glass-Steagall Act. Banks that were affiliated with such a securities company prior to December 28, 1984, or that established or acquired such a securities subsidiary prior to December 28, 1984, were required to comply with the name and office restrictions as soon as practicable, but not more than one year from December 28, 1984 without the FDIC's consent.

In December 1985 several banks filed petitions with the FDIC requesting that the FDIC reconsider the requirements in the regulation that a bank and its securities subsidiary or affiliate must have separate offices that share no common entrance and the prohibition on the use by a bank of a common name or logo with its securities subsidiary or affiliate. In order to permit sufficient time for the FDIC to fully consider the petitions, the Board of Directors extended the above-described compliance deadline with the common name or logo and separate office provisions of the regulation until June 30, 1986. (51 FR 880, January 9, 1986).

On June 16, 1986 the Board of Directors granted the requests to reconsider the common name or logo prohibition and the separate office and separate entrance requirement. A document soliciting comment on whether or not to modify or retain these restrictions was published for public comment on August 20, 1986. (51 FR 29657). At the same meeting, and in conjunction with its vote to solicit public comment, the Board of Directors voted to extend the June 30, 1986 compliance deadline for the name and office restrictions until December 31, 1986 for institutions with preexisting affiliate and subsidiary relationships. (51 FR 23405, June 27, 1986). Inasmuch as staff had not yet completed its review of the comments nor formulated a recommendation to the Board of

Directors by early December 1986 with respect to the August 20, 1986 solicitation of comment, the Board of Directors voted to extend the compliance deadline until June 30, 1987 in order to allow staff to prepare its recommendation. (51 FR 45755, December 22, 1986).

After considering the comments, the FDIC proposed to amend § 337.4 by: (1) Revising the requirement that securities subsidiaries and affiliates must use separate offices from the bank that share no common entrance with the bank, (2) deleting the prohibition against such subsidiaries and affiliates sharing a common name or logo with the bank, and (3) establishing certain affirmative disclosure requirements to the effect that investments recommended, offered or sold by or through such subsidiary or affiliate are not FDIC insured deposits, that the subsidiary and affiliate are separate organizations from the bank, and that the obligations of the subsidiary and affiliate are not guaranteed, warranted or otherwise supported by the bank. (52 FR 11492, April 9, 1987). The comment period closed on May 11, 1987. As staff had not completed work on a recommendation to the Board of Directors as of mid-June 1987, the Board of Directors voted to extend the current June 30, 1987 compliance deadline with the common name or logo and separate entrance provisions of the regulation until October 15, 1987. At its October 13, 1987 Board of Directors' meeting the FDIC's Board of Directors further extended the compliance deadline until November 15, 1987.

In accordance with 5 U.S.C. 553, the FDIC has found that prior notice and a delayed effective date with respect to this amendment are unnecessary as the amendment delays the imposition of requirements that are already imposed by existing regulation. Since the amendment only provides for an extension of time for compliance with certain portions of the regulation and imposes no burden upon banks, securities affiliates or the public, it is not subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) or the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 12 CFR Part 337

Banks, banking; Securities, State nonmember banks.

In consideration of the foregoing, the FDIC hereby amends Part 337 of Title 12 of the Code of Federal Regulations as follows: