rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Special Assistant to the Under Secretary is excepted under Schedule C.

Effective November 19, 1976, § 213.3316 (a) (39) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* * * *

(39) One Special Assistant to the Under Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-34220 Filed 11-18-76;8:45 am]

CHAPTER XV—NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

PART 2505—PRIVACY ACT

PART 2510—FREEDOM OF INFORMATION ACT

Implementation

On August 30, 1976 proposed rules for implementation of the Privacy and Freedom of Information Acts were published in the FEDERAL REGISTER (41 FR 36514) by the National Study Commission on Records and Documents of Federal Officials. Interested parties were given an opportunity to submit comments on the proposed rules.

As a result of comments received, the following changes are made:

1. Section 2505.7 is revised to clarify the fact that an individual requesting an amendment of a record must specify the nature and content of the requested change, as recommended by the Office of Management and Budget.

2. Section 2505.11 is revised to specify the Commission's fee schedule for copying, as recommended by the Office of Management and Budget.

3. The address of the Office of General Counsel to the Commission has been changed to General Counsel, Public Documents Commission, c/o Assistant Secretary for Administration (A), Room 6316, Department of State, Washington, D.C. 20520.

Accordingly, with these changes, the proposed regulations are adopted as set forth below.

Signed this 31st day of October, 1976.

HERBERT BROWNELL,
Chairman.

Title 5 of the CFR is amended by adding a new Chapter XV consisting of Parts 2505 and 2510 to read as follows:

Sec.

2505.1 Purpose and scope.
2505.2 Definitions.
2505.3 Procedures for requests pertaining to individual records in a record system.
2505.4 Times, places and requirements for the identification of the individual making the request.
2505.5 Disclosure of the requested information to the requester.
2505.6 Access to the accounting of disclosures from records.
2505.7 Request for correction or amendment of the record.
2505.8 Agency review of request for correction or amendment of the record.
2505.9 Appeal of an initial adverse agency determination on correction or amendment of the record.
2505.10 Disclosure of record to a person other than the individual to whom the record pertains.
2505.11 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 2505.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the National Study Commission on Records and Documents of Federal Officials (hereafter known as the Commission) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him for the purpose of review, amendment and/or correction.

§ 2505.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history, and that contains his name, or the identifying number, symbol or other identifying particular assigned to the individual such as a social security number;

(d) The term "system of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 2505.3 Procedures for requests pertaining to individual records in a record system.

An individual may submit a request in writing, delivered by mail or in person, to the General Counsel to the Commission, c/o Assistant Secretary for Administration (A), Room 6316, Department of State, Washington, D.C. 20520, to determine if a system of records named by the individual contains a record pertaining to the individual, or if the Commission maintains any system of records which pertains to the individual. An individual who requires assistance in identifying a system of records, or in preparing a request for access to a system of records, or who needs assistance in requesting amendment of a record, may address such requests to the General Counsel, c/o Assistant Secretary for Administration (A), Room 6316, Department of State, Washington, D.C. 20520.

§ 2505.4 Times, places, and requirements for the identification of the individual making a request.

An individual who delivers a request in person to the General Counsel to the Commission pursuant to § 2505.3 shall present the request to the Commission office at the State Department, Room 4236, Washington, D.C. 20520 on any business day between the hours of 9 a.m. and 5:30 p.m. "The requester should be prepared to identify himself by signature and/or by other evidence of identity." Requests for access to a system of records will be acknowledged within ten (10) days of receipt. The acknowledgment will indicate (a) whether access will be granted, and, (b) that an approved access will be granted within 30 days unless, for good cause shown, the Commission is unable to do so.

§ 2505.5 Disclosure of the requested information to the individual.

Upon verification of a requester's identity by the General Counsel of the Commission, c/o Assistant Secretary for Administration, Room 6316, Department of State, Washington, D.C. 20520, and in accordance with the identification provisions of § 2505.4, the Commission shall

disclose to the individual the information contained in the record which pertains to that individual. The individual may be accompanied for the purpose by a person of his choosing; consent for a third party to review a record in any system of records must be in writing. Upon request of the individual to whom the record pertains, all information in the accounting of disclosures will be made available to him. In the event that the Commission denies any individual access to a record, the Commission will inform the individual of his right to judicial review.

§ 2505.6 Access to the accounting of disclosures from records.

An indiivdual may request access to a list of those persons to whom records about the individual have been disclosed. An individual seeking access to the accounting of disclosures from records pertaining to him should follow the same procedures as established above for access to the records themselves (see §§ 2505.3, 2505.4, 2505.5).

§ 2505.7 Request for correction or amendment of a record.

An individual should submit a request in writing to the General Counsel to the Commission stating the individual's desire to correct or to amend his record as well as the specific nature and content of the requested change. This request is to be made in accordance with the provisions of § 2505.4.

§ 2505.8 Commission review of request for correction or amendment of the record.

Within ten (10) working days of the receipt of the request to correct or to amend a record, the General Counsel to the Commission will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 2505.9 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the General Counsel to the Commission to correct or to amend his record may submit a request for a review of such refusal to the Chairman of the Commission, Justice Department, Room 1127, Washington, D.C. 20530. Not later than thirty (30) working days from the date on which the individual requests such review, the Chairman will complete such review and make a final determination unless, for good cause shown, the Chairman extends such thirty-day period. If, after his review, the Chairman determines not to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his disagreement with the refusal of the Commission and may seek judicial review of the Chairman's determination under 5 U.S.C. 552 (g)(1)(A). A copy of the corrected record or statement of dispute will be provided to prior recipients of the information in question, to the extent that the Commission has an accounting of the disclosure of that information.

§ 2505.10 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, except as required or permitted under 5 U.S.C. 552a(b).

§ 2505.11 Fees.

(a) Where applicable, fees for copying records shall be charged in accordance with the schedule set forth in this section. Fees may only be charged where an individual has requested that a copy be made of a record to which he is granted access. No fee may be charged for making a search of a Privacy Act Record System whether the search is manual, mechanical, or electronic.

(b) The fee schedule is as follows:

(1) Copying of records susceptible to photocopying—$.10 per page.

(2) Copying of records not susceptible to photocopying, e.g., punch cards or magnetic tapes—at actual cost to be determined on a case-by-case basis.

(3) No charge will be made if the total amount of copying for an individual does not exceed $25.

Sec.

2510.1 Purpose and scope.
2510.2 Requests for records.
2510.3 Commission response to requests for records.
2510.4 Appeal procedure within the Commission.
2510.5 Failure to meet administrative deadlines.
2510.6 Fee schedule.
2510.7 Prepayment of fees over $25.
2510.8 Form of payment.

AUTHORITY: 5 U.S.C. 552.

§ 2510.1 Purpose and scope.

The purpose of these regulations is to establish a procedure, pursuant to the Freedom of Information Act, as amended 5 U.S.C. 552 (Pub. L. 90-23, as amended by Pub. L. 93-502,) by which records of the National Study Commission on Records and Documents of Federal Officials (hereafter referred to as the Commission) may be obtained by interested individuals.

§ 2510.2 Requests for records.

(a) Any individual who wishes to inspect or obtain copies of any record of the Commission shall submit a request in writing, addressed to the General Counsel to the Public Documents Commission, c/o Assistant Secretary for Administration (A), Room 6316, Department of State, Washington, D.C. 20520. To facilitate processing requests, the phrase "FOIA REQUEST" should be placed on the front of the envelope.

(b) A request must reasonably describe the records to enable Commission personnel to locate them with reasonable effort. Where possible, specific information regarding dates, titles, etc. which may help identify the records should be supplied by the requester.

(c) If the Commission determines that a request does not reasonably describe a record, it shall inform the requester of this fact and extend an opportunity to confer promptly with a knowledgeable Commission employee to attempt to identify the records he is seeking.

§ 2510.3 Commission response to requests for records.

(a) The Commission shall inform the requester of its determination concerning that request within ten working days, unless additional time is required because:

(1) The request requires the collection of a substantial number of specified records; or

(2) The request is couched in categorical terms and requires an extensive search for the records responsive to it; or

(3) The request presents a need for consultation, which shall be conducted with all practicable speed, with another Department, agency, or commission having a substantial interest in the determination of the request.

In no event shall the extension exceed a total of ten working days.

(b) If the Commission determines to grant the request, it shall notify the requester of any conditions (e.g., payment of fees) and the approximate date upon which compliance will be effected. If it grants only a portion of the request, it shall treat the portion not granted as a denial.

(c) If the Commission denies the request, it shall immediately inform the requester of that decision and of the following:

(1) The reasons for the denial;

(2) The requester's right to appeal such denial to the Chairman of the Commission, c/o Assistant Secretary for Administration (A), Room 6316, Department of State, Washington, D.C. 20520.

(3) The requirement that such appeal be made within forty-five days of the date of denial; and

(4) The name and title or position of each person responsible for denial of the request.

(d) If the reason for not fulfilling the request is that the records requested are the records of another commission, Department, or agency, the Commission shall inform the requester of this fact and shall forward the request to that commission, Department, or agency for processing in accordance with the latter's regulations. If the agency has no knowledge concerning the requested records it shall notify the requester of that fact.

(e) 5 U.S.C. 552(b) provides that the requirements of the statute do not apply to matters that are:

(1) Specifically authorized under criteria established by an Executive Order

to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such Executive Order.

(2) Related solely to the internal personnel rules and practices of an agency.

(3) Specifically exempted from disclosure by statute.

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

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

(i) Interfere with enforcement proceedings;

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

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record 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, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures; or

(vi) Endanger the life or physical safety of law enforcement personnel.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting the record after deletion of the portions which are exempt under this section.

§ 2510.4 Appeal procedure within the Commission.

(a) If a request for records is denied, the person making the request shall have the right to appeal the denial. This appeal must be in writing and addressed to the Chairman of the Public Documents Commission, c/o Assistant Secretary for Administration (A), Room 6316, Department of State, Washington, D.C. 20520. To facilitate processing of an appeal, the phrase "FOIA APPEAL" should be placed on the front of the envelope.

(b) If an appeal from a denial of an initial request is made to the Chairman, the Chairman shall inform the requester of the determination regarding that appeal within twenty working days of receipt of the appeal, unless the Chairman extends this period for good cause.

(c) If the Chairman grants the appeal, he shall inform the requester of any conditions (e.g., payment of fees) and the approximate date upon which compliance will be effected. If he grants only a portion of the appeal, he shall treat the portion not granted as a denial.

(d) If the Chairman determines to deny the appeal, he immediately shall inform the requester of that decision and of the following:

(1) The reasons for the denial;

(2) The right to judicial review of the denial in accordance with 5 U.S.C. 552 (a)(4); and

(3) The name and title or position of each person responsible for denial of the appeal.

§ 2510.5 Failure to meet administrative deadlines.

In the event the Commission fails to meet either of the administrative deadlines set forth in these regulations, it shall notify the requester, state the reasons for the delay, and the date by which it expects to dispatch determination. Although the requester may be deemed to have exhausted his administrative remedies under 5 U.S.C. 552(a)(6)(C), the Commission shall continue processing the request as expeditiously as possible and will dispatch the determination when it is reached within the applicable deadline.

§ 2510.6 Fee schedule.

In computing applicable fees, the Commission will consider the following costs in providing costs in providing the requested records.

(a) *Reproduction fees.* (1) The fee for reproducing copies of Commission records (by routine electrostatic copying up to and including material 8½ x 14 inches shall be $0.10 per page.

(2) The fee for reproducing copies of any Commission records over 8½ x 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

(b) *Search fees.* (1) The standard search fee shall be $4 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(2) When professional staff must be used to search for the requested records because clerical staff would be unable to locate them, the search fee shall be $8 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

§ 2510.7 Prepayment of fees over $25.

When the individual handling a request for Commission records determines that the anticipated total fee (search and reproduction) is likely to exceed $25, the requester shall be notified that the anticipated fee must be prepaid prior to the Commission's making the records available. The Commission will remit the excess paid by the requester or bill the requester for an additional amount according to the variations between the final fee charged and the amount prepaid.

§ 2510.8 Form of payment.

Payment shall be by check or money order payable to the National Study Commission on Records and Documents of Federal Officials and shall be addressed to the individual designated by the Commission in correspondence with the requester.

[FR Doc.76-34212 Filed 11-18-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, MEAT AND POULTRY PRODUCTS INSPECTION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Subpart V—Special Provisions for Designated States and Territories: Criteria and Procedure for Designating Establishments With Operations Which Would Clearly Endanger the Public Health; Disposition of Poultry Products Therein

DESIGNATION OF THE COMMONWEALTH OF PUERTO RICO AND THE TERRITORIES OF GUAM AND THE VIRGIN ISLANDS UNDER THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT FOR SPECIAL PURPOSES

• Purpose. The purpose of this document is to notify the public that the Secretary of Agriculture hereby designates the Commonwealth of Puerto Rico and the Territories of Guam and the Virgin Islands under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act. •

Statement of Considerations: Sections 202, 203, and 204 of the Federal Meat Inspection Act (21 U.S.C. 642, 643, 644) provide for recordkeeping, access, and related requirements; registration requirements; and regulation of transactions involving dead, dying, disabled, or diseased livestock of the specified kinds, or parts of the carcasses of such animals that died otherwise than by slaughter, with respect to operators engaged in specified kinds of business but not in or "commerce" as defined in the Act. Similar provisions with respect to poultry and poultry products are contained in sections 11 (b), (c), and (d) of the Poultry Products Inspection Act (21 U.S.C. 460 (b), (c), and (d)). Section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act (21 U.S.C. 645, 460(e)) authorize the Secretary of Agriculture to exercise the authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in the

specified kinds of business but not in or for "commerce" in any State or organized Territory when he determines, after consultation with an appropriate advisory committee, that the State or Territory does not have at least equal authority under its laws or is not exercising such authority in a manner to effectuate the purposes of the Acts.

The Secretary, after consultation with the appropriate advisory committee, has now determined that said Commonwealth and Territories are not exercising, in a manner to effectuate the purposes of the said Acts, with respect to intrastate businesses, authorities at least equal to those under sections 202, 203, and 204 of the Federal Meat Inpection Act and section 11 (b), (c) and (d) of the Poultry Products Inspection Act, including the Secretary or his representatives being afforded access to such places of business and the facilities, inventories, and records thereof. Therefore, said Commonwealth and Territories are hereby designated under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act for the exercise of the specified authorities with respect to intrastate businesses, and hereafter sections 202, 203, and 204 of the Federal Meat Inspection Act and section 11 (b), (c), and (d) of the Poultry Products Inspection Act shall apply as hereinafter provided, to persons, firms, and corporations engaged in the kinds of business specified in said sections, but not in or for commerce, to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

§ 331.6 [Amended]

Accordingly, the table in § 331.6 of the meat inspection regulations (9 CFR 331.6) is amended as follows:

1. In the "State" column, "Guam, Puerto Rico, and the Virgin Islands" are added in alphabetical order in all three places.

2. In the "Effective date of designation" column, November 19, 1976, is added on the line with "Guam, Puerto Rico, and the Virgin Islands" in all three places.

(Secs. 21 and 205, 34 Stat. 1260, as amended, 81 Stat. 584, (21 U.S.C. 621, 645); 37 FR 28464, 28477.)

§ 381.224 [Amended]

Further, the table in § 381.224 of the poultry products inspection regulations (9 CFR 381.224) is amended as follows:

1. In the "State" column, "Guam, Puerto Rico, and the Virgin Islands" are added in alphabetical order in all three places.

2. In the "Effective date" column, November 19, 1976, is added on the line with "Guam, Puerto Rico, and the Virgin Islands" in all three places.

(Secs. 11(e) and 14, 71 Stat. 441, as amended, 82 Stat. 791, (21 U.S.C. 460(e)), 463; 37 FR 28464, 28477.)

These amendments of the regulations are necessary to reflect the determinations of the Secretary of Agriculture under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act, and to effectuate the purposes of the Acts by affording representatives of the Secretary of Agriculture access to places of business engaged in intrastate activities and to otherwise facilitate the enforcement of the Acts. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

These amendments and the notice given hereby shall become effective November 19, 1976.

The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on November 15, 1976.

JAMES O. LEE, JR.,
Acting Administrator, Animal and Plant Health Inspection Service.

[Fr Doc.76-34174 Filed 11-18-76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-325]

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Customs Clearance for High Government Officials

This amendment to the Customs Regulations abolishes an obsolete provision which extended the privilege of admission free of duty without entry to the baggage and effects of high officials of this Government returning from special missions abroad. Section 148.84 of the Customs Regulations (19 CFR 148.84) is amended to eliminate this obsolete practice and provide instead for expedited customs clearance for the baggage and effects of high officials of this Government returning from special missions abroad.

Section 148.84 of the Customs Regulations (19 CFR 148.84) is amended to read as follows:

§ 148.84 Baggage and effects of high Government officials.

Expedited customs clearance of their baggage and effects may be extended to high officials of this Government returning from special missions abroad, upon application therefor direct to the Department of the Treasury and the issuance of appropriate instructions.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

Since this amendment merely abolishes an obsolete practice which has no statutory basis, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

Effective date: This amendment shall become effective December 1, 1976.

Dated: November 15, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-34218 Filed 11-18-76;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 22]

PART 422—ORGANIZATION AND PROCEDURES

SUBPART B—GENERAL PROCEDURES

SUBPART E—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

Statement of Earnings; Authority to Deny Requests for Information

On January 9, 1976, there was published in the FEDERAL REGISTER (41 FR 1601), a Notice of Proposed Rule Making with proposed amendments to Subparts B and E of Regulations No. 22 of the Social Security Administration. The proposed amendment to Subpart B revises § 422.125(e)(2) to charge in accordance with the fee schedule set out in § 422.440 when a more detailed statement of earnings is requested for a purpose not related to title II of the Social Security Act. The public was allowed 30 days from the January 9, 1976, publication date within which to comment on the proposed amendments. We believe that publication provided ample time for comment and adequate notice to all interested individuals and organizations so that promulgation at this time of the amendments set forth below is in keeping with the spirit and intent of the Secretary's regulation development policies announced on July 25, 1976.

The proposed amendments to Subpart E make changes to Regulations No. 22 which revise the regulations to conform with the Freedom of Information Act Amendments (Pub. L. 93-502) approved November 21, 1974. The major purpose of these amendments is to assist the public in requesting information from the records of the Social Security Administration. These amendments include reference to the indexing of certain policy and manual information in the Social Security Rulings, the availability of procedural manuals for inspection and copying, modification as to the source to which requests for information may be addressed, more information on processing requests within the 10-day time limit and rules for possible extension of that time limit, a fee schedule conforming to Department of Health, Education, and Welfare (HEW) regulations, the identification of Social Security Administration officials with specific authority to deny requests for information, and additional information about the denial of requests for information.

Specifically, the Freedom of Information Act Amendments require that each agency publish indexes: of final opinions and orders made in the adjudication of cases; of statements of policy and interpretation which are adopted by the agency and are not published in the FEDERAL REGISTER; and of administrative staff manuals and staff instructions that affect a member of the public. Such indexes must cover a period of time beginning with July 4, 1967. The Social Security Administration publishes these indexes in the "Social Security Rulings". Section 422.406 is amended to reflect this decision. As of January 1976, the Social Security Administration has made some 149 million determinations in retirement and survivors insurance benefit cases, 9.3 million in disability insurance and miner's benefit cases, and 470 million in health insurance cases. The volume of determinations is so huge that publication of an index of all such determinations would be a virtual impossibility and would neither aid nor enlighten the public. Also, written rationale for the determination, often made on the basis of unquestioned facts, does not exist in the majority of cases. They are not considered precedential and they are not consulted in the adjudication of other cases. Those cases that influene determinations and decisions of the Social Security Administration, generally the final orders and opinions which 5 U.S.C. 552 (a)(2) requires to be made available to the public, are published in the "Social Security Rulings".

Section 422.412 now sets out the principle that staff manuals which contain policies, procedures, or interpretations that affect the public are available for public inspection and copying. The principle remains unchanged. The Social Security Administration, though, issues numerous manuals of procedures which have not previously been routinely made available to the public. For the most part they are detailed instructions for the routine performance of specific jobs. These manuals of procedure will also be made available for inspection and copying. A complete listing of all manuals is published in the "Social Security Rulings". The listing first appeared in the January 1975 issue and will be republished annually thereafter in January issues. Supplements will be published throughout the year at quarterly intervals.

Section 422.428 discusses where requests for information may be made. The section presently provides that requests may be made to any office of the Social Security Administration. This is being modified to provide that requests for materials listed in §§ 422.430 and 422.432 should be submitted to social security district offices and branch offices, and requests for other records should be addressed to the Director, Office of Information, Social Security Administration, or to the Information Center Officer in the appropriate regional offices. Requests for information about certain individual records pertaining to individuals entitled to or receiving social security benefits should be addressed to specified officials having custody of the record.

Section 422.436 is revised to provide that a requester need only reasonably describe the record he seeks and that decisions must be reached within 10 working days from the date the request is received by the office designated in § 422.428. However, this time period may be extended under circumstances described in § 422.436(b). This conforms the section to the Freedom of Information Act Amendments.

Section 422.440 sets out a fee schedule conforming to the one prescribed by the Department of Health, Education, and Welfare on May 1, 1975, at 40 FR 18998 for Departmentwide use.

Section 422.444 is revised to authorize only certain specific individuals to officially deny the requests directed to them by proposed § 422.428.

Section 422.448 is revised to set out in more detail the procedure for handling an appeal of a denial of a request for information, and the time limits imposed by the Freedom of Information Act Amendments during which an agency must decide to affirm or reverse such denial. The time limit may be extended under circumstances described in § 422.436(b).

The present § 422.452 provides that a denial may be reviewed by the Federal courts pursuant to 5 U.S.C. 522(a)(3). This section is revised to reflect the fact that judicial review is now authorized by 5 U.S.C. 552(a)(4), as amended by section 1(b)(2) of Pub. L. 93–502.

Interested parties were given a 30-day period within which to submit data, views, or arguments in writing with regard to the proposed amendments.

Three letters of comments were received in response to the Notice of Proposed Rule Making. Two of the three letters welcomed the regulations as greatly facilitating public access to the Administration's written policy and instructions to staff. The first commenter was wholly favorable. The second commenter suggested that entire manuals and instructions to staff members should be provided when it is in the public interest to do so. This proposal is not being adopted since, as pointed out in the regulation, sets of entire manuals are not printed in sufficient quantities to permit sale or other distribution. It has not been established at this time that there is a sufficient predictable need to warrant this service nor that the absence of such service prevents persons from obtaining the requested information.

The same commenter requested that in order to more uniformly protect the rights of the individual when a response to his request will be delayed more than 10 days, the regulations should require notifying the requester in specific detail which item(s) of the material(s) requested will delay a reply, the possible location(s) of those items and what efforts are being made to locate them, other agencies involved, the names of the individuals handling the requests and their addresses and phone numbers, and possible questions about the withholding of the information. This suggestion has not been adopted because the time required to provide such detailed information would probably further protract the delay which the Social Security Administration considers it is obliged to minimize.

In the same letter, the commenter argued that the charging of $.10 per page is too high and suggested that this charge level be reviewed. This suggestion is being considered. As a matter of fact, there is a Department Task Force studying the fee schedule costs.

The third commenter stated that when necessary, the regulations should provide for prompt forwarding of misdirected written requests, and that an acknowledgement should be sent, including the date of receipt and identification and address of the proper office. It was pointed out that this provision would be consistent with HEW Regulations and in a modification of § 422.436(a), has been adopted. The commenter also suggested several modifications in language in order to conform Social Security Administration regulations to HEW Regulations, 45 CFR 5.51 (d). The modifications were essentially editorial (e.g., the commenter stated that instead of using "unusual circumstances" as in 45 CFR 5.51(d) and 5 USC 552(a)(6)(B), § 422.436(b) uses "unusual conditions" and that § 422.436(b)(1) uses "offices that are separate" rather than "field facilities" and "other establishments" as used in 45 CFR 5.51(d)(1) and 5 USC 552(a)(6)(B)(i), etc.). The commenter also stated that § 422.436(b)(3) omits the phrase "which shall be conducted with all practicable speed" following the words "the need for consultation" as it is written in 5 USC 552(a)(6)(iii) and 45 CFR 5.51(d)(3). In addition, the commenter suggested that § 422.436 (b) make clear that determinations required to be made within the time period cover both the release and withholding of records. These suggestions have been adopted.

The same commenter suggested that the effect of an oral response on the requester is not clearly shown and that specific assistance (including the use of a proper form) should be given to solicit a request in writing. Another criticism the commenter made was that the Social Security Administration had omitted the requirement contained in the HEW Regulations that denial should contain the names and titles of the responsible officials. Still a further comment was that the Social Security Administration should add in the final version of the regulations, provisions explaining that "reasons" for denial or "partial" denial must include a reference to a publicly available index of exempted documents, a statement of the statutory exemption(s) believed to be applicable, and a detailed justification. These comments have been partially adopted. Certain language modifications have been made in § 422.444(c) to clearly state that oral replies are not official determinations that official determinations will be made only when the request is in writing, and

that available assistance will be offered to the requester to submit his request in writing. However, it is unnecessary and inappropriate for this regulation to provide detailed procedural instructions and methods (e.g. forms) to accomplish this purpose. Also, the language concerning the denial of written requests has been revised to be more consistent with HEW Regulations. In regard to the comment of providing more regulatory guidance in denial rationale, it is considered that advising the individual that the document requested is non-existent or not reasonably described, or clearly stating the specific exemption(s) involved, as pertinent, properly carries out the Social Security Administration's obligation under the Freedom of Information Act and adequately puts the requester on notice why he may not be given the material he has requested.

The commenter further suggested that the regulations should include a clause similar to § 5.85(c) of the HEW Regulations covering the fact that the agency's failure to comply with the time limits constitutes an exhaustion of the administrative remedies of the requester. This suggestion has been adopted, in a modification of the language of § 422.448.

The third commenter argued that the 30-day time limit on administrative review set out in § 422.448, is too short. No change has been made in this provision because, on the basis of experience, the time limit has been found adequate.

In addition to changes resulting from public comments, § 422.125 of Regulations No. 22 has been revised to reflect that the Privacy Act of 1974 permits a charge only for copying when an individual requests access to the individual's own record. Also, the Social Security Administration determined that certain officials should be added to the listing in § 422.428 of persons to whom requests for records may be made. These are the Assistant Commissioner for Research and Statistics and the Regional Commissioners. Also, appropriate changes were made in § 422.444(b) with respect to the denial of requests.

Accordingly, with the changes mentioned and other minor editorial changes for clarity, the proposed amendments to the regulations are adopted as set forth below.

(Secs. 205, 1102, and 1106 of the Social Security Act, as amended; 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 53 Stat. 1389, as amended; 42 U.S.C. 405, 1302, and 1306; and 5 U.S.C. 552.)

(Catalog of Federal Domestic Assistance Program Nos. 13.800 through 13.807, Social Security Programs.)

Effective date: These amendments will be effective November 19, 1976.

Dated: September 2, 1976.

JAROLD A. KIEFFER,
Acting Commissioner of Social Security.

Approved: October 20, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Part 422 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below.

1. Section 422.125(e)(2) is revised to read as follows:

§ 422.125 Statements of earnings; resolving earnings discrepancies.

* * * * *

(e) *Detailed earnings statements.* * * *

(2) If the more detailed statement of earnings is requested for a purpose not related to title II of the Social Security Act by a party other than the individual requesting access to such individual's own record, a charge will be imposed according to the schedule of fees set out in § 422.440. Only copying charges may be assessed an individual requesting copies of the individual's own record.

* * * * *

2. Section 422.406(a) is amended by revising the material preceding paragraph (a)(1) and by adding a new paragraph (a)(4) to read as follows:

§ 422.406 Publication.

(a) *Methods of publication.* Materials required to be published pursuant to the provisions of 5 U.S.C. 552(a)(1) and (a)(2) are published in one of the following ways:

* * * * *

(4) By publication in the "Social Security Rulings" of indexes of precedential social security orders and opinions issued in the adjudication of claims, statements of policy and interpretations which have been adopted but have not been published in the FEDERAL REGISTER, and of administrative staff manuals and instructions to staff that affect a member of the public. The "Social Security Rulings" may be purchased through the Government Printing Office.

* * * * * *

3. Section 422.412 is revised to read as follows:

§ 422.412 Availability of administrative staff manuals.

All administrative staff manuals of the Social Security Administration and instructions to staff personnel which contain policies, procedures, or interpretations that affect the public are available for inspection and copying. A complete listing of such materials is published in "Social Security Rulings." These manuals are generally not printed in a sufficient quantity to permit sale or other general distribution to the public. Selected material is maintained at district offices and field offices and may be inspected there. See §§ 422.430 and 422.432 for a listing of this material.

4. Section 422.428 is revised to read as follows:

§ 422.428 Where requests for records may be made.

(a) *General.* Any request for any record may be made to (1) the Director, Office of Information, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, or (2) the Information Center Officer, at the Regional Offices of the Department of Health, Education, and Welfare. The locations and service areas of these offices are as follows:

Region I—John F. Kennedy Federal Building, Boston, MA 02203. Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region II—26 Federal Plaza, New York, NY 10007. New York, New Jersey, Puerto Rico, Virgin Islands.

Region III—P.O. Box 13716, Philadelphia, PA 19101. Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

Region IV—50 Seventh Street, NE, Atlanta, GA 30323. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region V—300 South Wacker Drive, Chicago, IL 60606. Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region VI—1114 Commerce Street, Dallas, TX 75202. Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region VII—601 East 12th Street, Kansas City, MO 64106. Iowa, Kansas, Missouri, Nebraska.

Region VIII—Federal Office Building, 19th and Stout Streets, Denver, CO 80202. Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region IX—Federal Office Building, 50 Fulton Street, San Francisco, CA 94102. Arizona, California, Hawaii, Nevada, Guam, Trust Territory of Pacific Islands, American Samoa.

Region X—Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101. Alaska, Idaho, Oregon, Washington.

(b) *Records pertaining to individuals.* The Social Security Administration maintains numerous records pertaining to individuals. Disclosure of such records is generally prohibited by section 1106 of the Social Security Act (42 U.S.C. 1306), except as prescribed in Part 401 of this chapter. (See § 422.426(b)). Requests for records pertaining to individuals may be addressed to:

(1) Assistant Commissioner for Research and Statistics, Baltimore, Maryland 21235, when information is sought from the record of a person who has participated in a research survey conducted by or for the Social Security Administration, Office of Research and Statistics; or whose records have been included by statistical sampling techniques in research and statistical studies authorized by the Social Security Act in the fields of income security or health maintenance.

(2) Director, Bureau of Data Processing, Baltimore, Md. 21235, when earnings records are sought;

(3) Director, Division of International Operations, P.O. Box 1756, Baltimore, Md. 21203, when information is sought from the record of an individual entitled to benefits and living outside the United States;

(4) Director, Bureau of Disability Insurance, Baltimore, Md. 21241, when information is sought from the record of a person living in the United States who receives social security disability benefits, supplemental security income benefits as a blind or disabled individual, or miner's benefits under title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended (30 U.S.C. 901 et seq.).

(5) Director, Program Service Center, Bureau of Retirement and Survivors Insurance, when information is sought from the record of a person living in the United States who receives social security retirement or survivors insurance benefits or supplemental security income benefits as an aged individual. The first three digits of the social security number (SSN) of the person on whose record benefits are being paid determines the director who maintains the record.

Records are maintained as follows:

Director	*1st 3 digits of social security number*
Northeastern Program Service Center, 9605 Horace Harding Expressway, Flushing, N.Y. 11368.	001 through 134.
Mid-Atlantic Program Service Center, 401 North Broad St., Philadelphia, Pa. 19108.	135 through 222, 232 through 236, 577 through 584.
Southeastern Program Service Center, 2001 12th Avenue, North, Birmingham, Ala. 35285.	223 through 231, 237 through 267, 400 through 428, 587.
Great Lakes Program Service Center, 165 North Canal Street, Chicago, Ill. 60506.	268 through 302, 316 through 399, 700 through 729.
Mid-American Program Service Center, 601 East 12th Street, Kansas City, Mo. 64106.	303 through 315, 429 through 500, 505 through 515, 525, 585.
Western Program Service Center, P.O. Box 2000, Richmond, Calif. 94802.	501 through 504, 516 through 524, 526 through 576, 586.

As an alternative, requests for such records may be addressed directly to Director, Bureau of Retirement and Survivors Insurance, Baltimore, Maryland 21235.

(6) Regional Representative, Bureau of Health Insurance when information is sought from the Medicare records of beneficiaries. Requests for these records may be addressed to the Regional Representative, Health Insurance, serving the geographic area in which the health care services were performed. The Regional Representatives are located at the regional offices listed in § 422.428(a).

(7) To an Administrative Law Judge (ALJ), a Hearing Examiner (Supplemental Security Income), or the Appeals Council, (if address unknown, contact local social security office for address), but only if the requester has actual knowledge that the record is in his or its possession;

(8) Managers of local district and branch offices of the Social Security Administration (the address of local offices may be found in local telephone directory) if the record requested is not listed in paragraphs (b)(1) through (b)(7) of this section. Requests for records listed in (b)(4) through (b)(6) of this section may be made to local offices, but only when the requester has actual knowledge that the record is in the possession of that office.

(9) As an alternative, requests may be made to the Regional Commissioners, SSA, for records listed in paragraphs (b)(4) through (b)(8) of this section. The Regional Commissioners are located at the regional offices listed in § 422.428(a).

(c) *Requests for materials listed in § 422.430 or § 422.432 or indexed in the Social Security Rulings.* A request to inspect and copy materials listed in § 422.430 or § 422.432 or indexed in the "Social Security Rulings" may be made to any district or branch office of the Social Security Administration. If the specific material requested is not available in the office receiving the request, the material will be obtained and made available promptly.

5. Section 422.436 is revised to read as follows:

§ 422.436 Requests for information or records.

(a) A request should reasonably identify the requested record by brief description. Requesters who have detailed information which would assist in identifying the records requested are urged to provide such information in order to expedite the handling of the request. Envelopes in which written requests are submitted should be clearly identified as a Freedom of Information request. The request should include the fee or request determination of the fee. When necessary, a written request will be promptly forwarded to the proper office, and the requester should be advised of the date of the receipt and identification and address of the proper office.

(b) Determinations of whether records will be released or withheld will be made within 10 working days from date of receipt of the request in the office listed in § 422.428 except where the Social Security Administration extends this time and sends notice of such extension to the requester. Such extension may not exceed 10 additional working days and shall apply only where the following unusual circumstances exist:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the requests;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are requested in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the request or among two or more components of the Social Security Administration having a substantial interest in the subject matter of the request.

(c) If an extension is made, the requester will be notified in writing prior to the expiration of 10 working days from receipt of the request and will be given an explanation as to why the extension was necessary and the date on which a determination will be made.

(d) Authority to extend the time limit with respect to any request for information or records is granted to the Director, Office of Information of the Social Security Administation and to the Information Center officers of the regional office of the Department of Health, Education, and Welfare. Those officers and employees of the Social Security Administration who are listed in § 422.444(b) as having authority to deny requests for information from records maintained on individuals are granted authority to extend the time limit for responding to requests for information from such records.

6. Section 422.440 is revised to read as follows:

§ 422.440 Fees and charges.

(a) *Statement of policy.* As specified in § 401.6 of Part 401 of this chapter, it is the policy of the Social Security Administration to comply with certain requests for information services without charge. Except as otherwise determined pursuant to paragraph (c) of this section, fees will be charged for the following services with respect to all other requests for information from records which are reasonably identified by the requesters:

(1) Reproduction, duplication, or copying of records;

(2) Searches for records; and

(3) Certification or authentication of records.

(b) *Fee schedules.* The fee schedule of the Social Security Administration is as follows:

(1) *Search for records.* Three dollars per hour: *Provided, however,* That no charge will be made for the first half hour.

(2) *Reproduction, duplication, or copying of records.* Ten cents per page where such reproduction can be made by commonly available photocopying machines. The cost of reproducing records which cannot be so photocopied will be determined on an individual basis at actual cost.

(3) *Certification or authentication of records.* Three dollars per certification or authentication.

(4) *Forwarding materials to destination.* Any special arrangements for forwarding which are requested shall be charged at actual cost; however, no charge will be made for postage.

(5) No charge will be made when the total amount does not exceed five dollars.

(c) *Waiver or reduction of fees.* Waiver or reduction of the fees set forth in paragraph (b) of this section may be made upon a determination that such waiver or reduction is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Such determination may be made by the appropriate officer or employee identified in § 422.444.

(d) *Sale of documents.* On occasion, a previously printed document may be available for sale to the public; the cost of supplying the document is one cent per page unless the document is available for sale from the Superintendent of Documents, in which case the price shall be that determined by the Superintendent.

7. Section 422.444 is revised to read as follows:

§ 422.444 Denial of requests.

(a) *General authority.* Except as provided in paragraph (b) of this section, authority to deny written requests for inspection or copying of any social security record is granted only to the Director, Office of Information, (SSA), and to the Information Center Officers of the regional offices of the Department of Health, Education, and Welfare.

(b) *Limited authority.* Inspection or copying of records pertaining to one individual by another person is generally prohibited by section 1106 of the Social Security Act (42 U.S.C. 1306) except as Part 401 of this chapter otherwise provides. Requests for inspection and copying of such records which § 422.428(b) designates them to receive may be denied by the following officers and employees of the Social Security Administration:

(1) Assistant Commissioner for Research and Statistics;

(2) Directors of the Bureaus of Data Processing, Disability Insurance, and Retirement and Survivors Insurance;

(3) Members of the Appeals Council, Administrative Law Judges, and Hearing Examiners (SSI);

(4) Regional Commissioners;

(5) Director, Program Service Centers, Bureau of Retirement and Survivors Insurance;

(6) Regional Representatives, Bureau of Health Insurance;

(7) Director, Division of International Operations;

(8) District Managers;

(9) Branch Managers.

(c) *Forms of denials.* (1) Oral requests may be dealt with orally, but the requester should be advised that the oral response is not an official determination and that an official determination may be obtained only by submitting the request in writing. Appropriate available assistance will be offered. (2) Written Requests—Denials of written requests shall be in writing and shall contain the reasons for the denial including, as appropriate, a statement that a document requested is nonexistent or not reasonably described or is subject to one or more clearly described exemption(s). Denials shall also provide the requester with appropriate information on how to exercise the right of appeal. Such notification shall set forth the name and title or position of the person responsible for the denial of such request if such person is other than the appropriate Information Center Officer.

8. Section 422.448 is revised to read as follows:

§ 422.448 Administrative Review.

(a) *Review by the Commissioner.* A person whose request has been denied may initiate a review by filing a request for review with the Commissioner of Social Security, 6401 Security Boulevard, Baltimore, Maryland 21235, within 30 days of receipt of the determination to deny or within 30 days of receipt of records which are in partial response to his request if a portion of a request is granted and a portion denied, whichever is later. Upon receipt of a timely request for review, the Commissioner shall review the decision in question and the findings upon which it was based. Upon the basis of the data considered in connection with the decision and whatever other evidence and written argument is submitted by the person requesting the review or which is otherwise obtained, the Commissioner or his designee will affirm or revise in whole or in part the findings and decision in question. A decision to affirm the denial shall be made only upon concurrence of the Assistant Secretary for Public Affairs, or his designee, after consultation with the General Council, or his designee, and the appropriate program policy official. Written notice of the decision of the Commissioner shall be mailed to the person who requested the review. A written decision shall be made within 20 working days from receipt of the request for review. Extension of the time limit may be granted under the circumstances listed in § 422.436(b) to the extent that the maximum 10 day limit on extensions has not been exhausted on the initial determination. The decision shall state the basis therefor and shall advise the requester of his right to judicial review.

(b) *Failure of the Commissioner to comply with the time limits.* Failure of the Commissioner to comply with the time limits set forth in § 422.436 constitutes an exhaustion of the requester's administrative remedies.

9. Section 422.452 is revised to read as follows:

§ 422.452 Court review.

Where the Commissioner upon review affirms the denial of a request for records, in whole or in part, the requester may seek court review in the district court of the United States pursuant to 5 U.S.C. 552(a)(4)(B).

[FR Doc.76-34288 Filed 11-18-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 75P-0019]

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Food Labeling; Fat, Fatty Acid, and Cholesterol Content

The Food and Drug Administration is amending the provision for optional labeling regarding fat and/or cholesterol to make it clear that certain information is already provided on the package; effective November 19, 1976.

This amendment provides that the word "this" may precede the word "information" in the label statement under § 1.18(d) (21 CFR 1.18(d)) which now reads: "Information on fat (and/or cholesterol, where appropriate) content is provided for individuals who, on the advice of a physician, are modifying their total dietary intake of fat (and/or cholesterol, where appropriate)."

Section 1.18 provides, under paragraph (g), for a statement on the principal display panel telling the consumer where information on cholesterol (fat) is found in the labeling.

The Grocery Manufacturers of America submitted a petition requesting that the wording in the statement required by § 1.18(d) be clarified by placing the word "this" immediately before the rest of the statement so that the required statement would read: "This information on fat (and/or cholesterol, where appropriate) content is provided for individuals who, on the advice of a physician, are modifying their total dietary intake of fat (and/or cholesterol, where appropriate)."

The petition asserts that the required statement in § 1.18(d) is misleading consumers, prompting them to write to manufacturers for information on fat and cholesterol without realizing the statement refers to the data already provided on the package. A copy of the petition is on file in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Because the requested amendment simply clarifies the existing regulation without changing its meaning or substance, the Commissioner has concluded that § 1.18(d) should be amended to allow the word "this" to appear in the required statement as an optional form.

The Commissioner has considered the environmental effects of the issuance of this amendment and has concluded that under § 6.1(c) (21 CFR 6.1(c)) this amendment does not constitute a substantial change to existing regulations and therefore an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040-1042 as amended, 1047-1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 1 is amended in § 1.18 by revising paragraph (d) to read as follows:

§ 1.18 Labeling of foods in relation to fat, fatty acid, and cholesterol content.

* * * * *

(d) A food labeled in accordance with pargraph (b) or (c) of this section shall display the following statement on the label: "Information (or "this information") on fat (and/or cholesterol, where appropriate) content is provided for individuals who, on the advice of a physician, are modifying their dietary intake