burden on the public notice and procedure hereon are unnecessary and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

### PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By revising and reissuing AD 86–07–02, Amendment 39–5382, (51 FR 28323; August 7, 1986) as follows:

**Britten-Norman Limited:** Applies to all BN–2A Mark III Trislander Series (all Models and Serial Numbers) and BN–2 Islander Series (all Models and Serial Numbers) airplanes.

Compliance: Required prior to further flight after the effective date of this AD, unless already accomplished within the last 100 hours time-in-service (TIS), and thereafter at intervals not to exceed 100 hours TIS from the last inspection.

To preclude possible failure of the main gear, loss of control and possible catastrophic secondary failures to the airplane, accomplish the following:

(a) Inspect the junction of the torque link lug and upper case for cracks by visual means with 10-power magnifying glass or by dye penetrant.

(b) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the inspection specified in paragraph (a) above can be accomplished.

(c) If cracked parts are found as a result of the inspection in paragraph (a) of this AD, prior to further flight replace the cracked parts with airworthy units.

(d) If the landing gear is replaced, only equal pairs of the same manufacturer are approved as replacement parts. Mixing of different manufacturer landing gears is not authorized.

(e) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishment of these inspections concurrent with other scheduled maintenance on the airplane.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Office, AEU–100, Europe, Africa and Middle East, FAA, c/o American Embassy, B–1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Pilatus Britten-Norman LTD, Bembridge, Isle of Wight, England, or the FAA Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Note: While the AD applies to all Pilatus Britten-Norman LTD, BN–2A Mark III Trislander Series and BN–2 Islander Series airplanes landing gear, the following information refers to the Fairey Hydraulics Limited landing gear: CAA–UK Airworthiness Directive No. 005–03–86, uses Pilatus Britten-Norman Campaign Wires BN–2/SB's 170, 173, 173A, and 173B; Pilatus Britten-Norman Mandatory Service Bulletin SB 170, Issue 2, dated April 14, 1986; Pilatus Britten-Norman Service Bulletin SB 173 dated June 2, 1986. Since issuance of CAA–UK AD No. 005–03–86, BN–2/SB.170 Issue 3 Dated July 20, 1987, and BN–2/SB.173 Issue 2 dated March 27, 1987, have also been issued.

This AD became effective on August 13, 1986, to all persons except those to whom it had already been made effective by priority letter from the FAA dated March 28, 1986.

This correction becomes effective on November 9, 1987.

Issued in Kansas City, on October 23, 1987.

**Don C. Jacobsen,**

*Acting Director, Central Region.*

[FR Doc. 87–26118 Filed 11–9–87; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### 18 CFR Part 389

**[Docket No. RM87-32-000; Order No. 480]**

## Requirements of Landowner Notification Under Section 14 of the Electric Consumers Protection Act

November 4, 1987.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule; Notice of OMB control number.

**SUMMARY:** On September 30, 1987, the Federal Energy Regulatory Commission issued a final rule (Order No. 480) in Docket No. RM87–32–000, 52 FR 37284 (Oct. 6, 1987). The rule amended the Commission's regulations to conform to the requirement in the Electric Consumers Protection Act that a hydroelectric license applicant notify, by certified mail, affected landowners and government entities of the license application. This notice states that OMB has approved the information collection requirements in Order No. 480.

**EFFECTIVE DATE:** November 4, 1987.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1987), require that OMB approve certain information collection requirements imposed by agency rules. On November 2, 1987, the OMB approved the information collection requirements of 18 CFR 4.32 as amended by this rule under Control Numbers 1902–0058 and 1902–0115. Therefore, the final rule in Docket No. RM87–32–000 is effective November 5, 1987.

The Commission recognizes that applicants may need to notify the same government entities of the license application pursuant to 18 CFR 4.32 and 18 CFR 4.38. However, notification under § 4.32 must be by certified mail while notification under § 4.38 may be by any means. Therefore, while notification by a method other than certified mail may satisfy the requirements of § 4.38 it does not meet the requirements of § 4.32. If an applicant notifies government entities by any means other than certified mail under § 4.38, it must do so again by certified mail in order to meet the requirements of § 4.32. But, if the applicant notifies government entities by certified mail it can meet the requirements of both §§ 4.32 and 4.38.

### List of Subjects in 18 CFR Part 389

Reporting and recordkeeping requirements.

Accordingly, Part 389, Chapter I, Title 18, Code of Federal Regulations is amended as set forth below.

**Lois D. Cashell,**

*Acting Secretary.*

### PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 389 continues to read as follows:

**Authority:** Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

#### § 389.101 [Amended]

2. The Table of OMB Control Numbers in § 389.101(b) is amended by revising the OMB Control Number Column corresponding to "4.32" in the section column to read "0058, 0073, 0115".

[FR Doc. 87–26027 Filed 11–9–87; 8:45 am]

BILLING CODE 6717-01-M

**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Part 103**

**[T.D. 87-137]**

## Customs Regulations Amendment Relating to Availability of Information Compiled For Law Enforcement Purposes

**AGENCY:** Customs Service, Treasury.

**ACTION:** Interim regulations.

**SUMMARY:** This document amends the Customs Regulations on an interim basis to conform the regulations to certain changes made to the Freedom of Information Act by the Freedom of Information Reform Act of 1986. These changes altered the criteria used by Federal agencies to exempt from disclosure, records and information compiled for law enforcement purposes. An agency may now exempt from disclosure investigatory records the production of which "could reasonably be expected" to interfere with law enforcement proceedings. This standard ("could reasonably be expected") represents a lower threshold for withholding records. In addition, an agency can treat records as outside the scope of the FOIA if they pertain to a criminal proceeding or investigation, the subject is unaware of its pendency, and disclosure of the existence of such records could reasonably be expected to interfere with such proceedings.

The change merely conforms the regulations to a statutory change already in effect and, because of its impact on law enforcement, it is in the public interest to make the regulatory change as soon as possible.

**EFFECTIVE DATE:** November 10, 1987. Written comments must be received on or before January 11, 1988.

**ADDRESS:** Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Customs Service Headquarters, Room 2324, 1301 Constitution Avenue NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Lee H. Kramer, Disclosure Law Branch, (202-566-8681).

**SUPPLEMENTARY INFORMATION:**

### Background

The Anti-Drug Abuse Act of 1986 (Pub. L. 99-570) provides for a wide range of programs and measures to enhance efforts to counteract the problem of drug abuse in the U.S. sections 1801-1804 of title 1, Subtitle N of Pub. L. 99-570, cited as the "Freedom of Information Reform Act of 1986", amended the Freedom of Information Act (FOIA) (5 U.S.C. 552) relative to the availability of information compiled for law enforcement purposes. As amended by section 1802, 5 U.S.C. 552(b)(7) now provides that an agency may exempt from disclosure, investigatory records compiled for law enforcement purposes, the production of which "could reasonably be expected" to interfere with law enforcement proceedings. This standard ("could reasonably be expected") represents a lower threshold for withholding records. As amended, the statute provides that law enforcement records or information may be withheld when: Disclosure could reasonably be expected to interfere with enforcement proceedings; would deprive a person of a right to a fair trial or an impartial adjudication; could reasonably be expected to constitute an unwarranted invasion of personal privacy; could reasonably be expected to disclose the identity of a confidential source; would disclose law enforcement techniques or investigation/prosecution guidelines; or could reasonably be expected to endanger the life or physical safety of any individual. Changes were also made relative to an exemption for certain pending criminal investigations when the subject of the investigation or proceeding is not aware of its pendency and the disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings. These statutory changes require conforming changes to § 103.12, Customs Regulations (19 CFR 103.12), which sets forth the type of U.S. Customs Service records which are exempt from disclosure under 5 U.S.C. 552.

### Inapplicability of Public Notice and Delayed Effective Date Provisions

Inasmuch as this amendment merely conforms the regulations to a statutory change already in effect, and because of its positive impact on law enforcement, it is in the public interest to make the regulatory change effective as soon as possible. Accordingly, notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b)(B), and for the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

### Executive Order 12291

Because this document will not result in a "major rule" as defined in E.O. 12291, Customs has not prepared a regulatory impact analysis.

### Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

### Drafting Information

The principal author of this document was Arnold L. Sarasky, Regulations Control Branch, U.S Customs Service. However, personnel from other offices participated in its development.

### List of Subjects in 19 CFR Part 103

Freedom of information.

### Amendment To The Regulations

Part 103, Customs Regulations (19 CFR Part 103), is amended as set forth below:

## PART 103—AVAILABILITY OF INFORMATION

1. The general authority citation for Part 103 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 19 U.S.C. 66, 1624, 31 U.S.C. 483a.

2. Section 103.12 is amended by revising paragraph (g) and adding new paragraphs (h) and (i), to read as follows:

**§ 103.12 Exemptions.**

* * * * *

(g) *Certain investigatory records.* Records or information compiled for law enforcement purposes, but only to the extent that the production of such enforcement records or information:

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

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

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

(4) 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;

(5) 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

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

(h) *Certain pending criminal investigation.* Whenever a request is made which involves access to records described in paragraph (g)(1) of this section, and

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

(2) There is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, Customs may, during only such times as that circumstance continues, treat the records as not subject to the requirements of this Part.

(i) *Informant records.* Whenever informant records maintained by Customs under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, Customs may treat the records as not subject to the requirements of this Part unless the informant's status as an informant has been officially confirmed.

**William von Raab,**

*Commissioner of Customs.*

Approved: October 23, 1987.

**Francis A. Keating, II,**

*Assistant Secretary of Treasury.*

[FR Doc. 87-26002 Filed 11-9-87; 8:45 am]

BILLING CODE 4820-02-M

## DEPARTMENT OF STATE

### 22 CFR Part 31

[108.867]

### Administrative Settlement of Tort Claims and Certain Property Damage Claims

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This publication amends the Department of State's regulations concerning Administrative Settlement of Tort Claims and Certain Property Damage Claims to reflect that, pursuant to a delegation of authority signed by the Secretary of State and a redelegation of authority signed by the Legal Adviser to the Secretary, the Assistant Legal Adviser for International Claims and Investment Disputes is authorized to consider, ascertain, adjust, and determine all claims arising from the above acts, including the denial of all claims, and to compromise and settle such claims in the amount of $2,500 or less. The delegation of authority and redelegation are published elsewhere in this issue.

**EFFECTIVE DATE:** November 10, 1987.

**FOR FURTHER INFORMATION CONTACT:** Ronald J. Bettauer, Assistant Legal Adviser for International Claims and Investment Disputes, Department of State, Washington, DC 20520; telephone (202) 632-7810.

**SUPPLEMENTARY INFORMATION:** The Administrative Settlement of Tort Claims and Certain Property Damage Claims provisions in part establish and provide a procedure for the preparation and submission of claims capable of administrative settlement under the Federal Tort Claims Act (22 U.S.C. 2672), as amended and the Act of August 1, 1956 (5 U.S.C. 170g), and authorize certain officers of the Department of State to consider, ascertain, adjust, determine, compromise and settle such claims. These provisions have been amended to reflect that the Assistant Legal Adviser for International Claims and Investment Disputes is authorized to consider, ascertain, adjust and determine all claims arising from the above acts, including the denial of all claims, and to compromise and settle such claims in the amount of $2,500 or less.

### List of Subjects for 22 CFR Part 31

Claims.

Accordingly, 22 CFR Part 31 is amended as follows:

### PART 31—[AMENDED]

1. The authority citation for Part 31 continues to read as follows:

Authority: 49 Stat. 906, as amended, sec. 4, 63 Stat. 111, as amended, sec. 2, 70 Stat. 890, sec. 1, 62 Stat. 983, as amended at 80 Stat. 306; 22 U.S.C. 277e, 2658, 2669, 28 U.S.C. 2672; 28 CFR 14.11.

**§ 31.2 [Amended]**

2. Section 31.2 is amended in the first sentence by replacing the "and" after the "Legal Adviser" with a comma, adding "and the Assistant Legal Adviser" after "the Deputy Legal Advisers", adding "compromise," after "determine," and insert "and except that the Assistant Legal Adviser may only award, compromise or settle claims in the amount of $2,500 or less" before the period.

3. Section 31.3 is amended by adding the following paragraph:

**§ 31.3 Definitions.**

* * * * *

(j) "Assistant Legal Adviser" means the Assistant Legal Adviser for International Claims and Investment Disputes of the Department of State.

**§ 31.4 [Amended]**

4. Section 31.4(c) is amended by replacing "the Legal Adviser" with "the Assistant Legal Adviser for International Claims and Investment Disputes, L/CID".

**§ 31.6 [Amended]**

5. Section 31.6(a) is amended by replacing "the Legal Adviser, Deputy Legal Advisers" with "the Assistant Legal Adviser".

**§ 31.8 [Amended]**

6. Section 31.8(a) introductory text is amended by replacing "or Deputy Legal Advisers" with ", Deputy Legal Advisers or the Assistant Legal Adviser".

7. Section 31.8(b) is amended by replacing "the Legal Adviser" with "the Assistant Legal Adviser".

8. Section 31.8(c) is amended in the first sentence by replacing "or Deputy Legal Adviser" with ", Deputy Legal Adviser, or the Assistant Legal Adviser".

9. Section 31.8(d) is amended in the first sentence by replacing "or Deputy Legal Adviser" with "Deputy Legal Adviser, or the Assistant Legal Adviser".

Because these changes relate solely to delegations of authority for internal agency management of the claims process, these amendments do not constitute a rulemaking proceeding subject to the requirements of 5 U.S.C. 553.

**Abraham D. Sofaer,**

*Legal Adviser.*

Date: October 28, 1987.

[FR Doc. 87-25956 Filed 11-9-87; 8:45 am]

BILLING CODE 4710-08-M

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### 36 CFR Part 1120

### Information Availability; Procedures

**AGENCY:** United States Architectural and Transportation Barriers, Barriers Compliance Board (ATBCB).

**ACTION:** Interim final rule and request for comments.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board is amending its regulation at 36 CFR Part 1120, Information Availability Procedures. These regulations, published in final form in the **Federal Register** on December 8, 1980 (45 FR 10012), provide information to the public on procedures for obtaining information

from the Board. The amendments promulgated herein incorporate guidelines issued by the Office of Management and Budget (OMB) on March 27, 1987. (52 FR 10012) As explained in those guidelines, section 1803 of the Freedom of Information Reform Act of 1986 requires each Federal agency to establish by April 25, 1987, within OMB guidelines, a schedule and system for collecting fees to recover certain direct costs associated with responding to Freedom of Information Act (FOIA) requests. The ATBCB is now issuing amendments to incorporate these guidelines regarding standard government-wide definitions and administrative provisions for assessing and collecting FOIA fees. Because preparation and review of this interim final rule has taken longer than anticipated, and in light of the April 25, 1987, effective date of the new fee and fee waiver provisions of the Reform Act, the ATBCB is publishing this rule as an interim final rule which is effective upon publication. In response to the requirement that the regulations implementing such provisions be published for notice and comment, the ATBCB will carefully review the public comments in response to this interim final rule and publish a notice at a future date discussing the comments and amending or confirming, as appropriate, the effectiveness of the rule.

**DATES:** Effective November 10, 1987. Written comments must be submitted on or before December 10, 1987.

**ADDRESS:** Written comments should be addressed to the General Counsel, ATBCB, 330 C Street, SW., Room 1010, Washington, DC 20202. Comments received will be available for public inspection at the above address from 9 a.m. to 5 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Mark W. Smith, ATBCB, 330 C Street, SW., Room 1010, Washington, DC 20202, (202) 245-1801 (v/TDD). This is not a toll-free number. This interim final rule is available on cassette at the above address for persons with visual impairments.

**SUPPLEMENTARY INFORMATION:**

## Background

On October 28, 1986, Congress enacted omnibus drug enforcement legislation which included amendments to the Freedom of Information Act (5 U.S.C. 552, as amended; Freedom of Information Reform Act of 1986, Pub. L. 99-570.) The revisions, among other things, required agencies to charge standard reasonable fees for the direct costs they incur in responding to FOIA requests. Further, the amendments required OMB to issue a uniform FOIA fee schedule for all agencies in order to ensure the consistent application of fees government-wide. On March 27, 1987, OMB issued its "Uniform Freedom of Information Act Fee Schedule and Guidelines." (52 FR 10012)

In responding to the statute's directive, OMB interpreted the direct cost provision of the legislation to mean the costs each agency incurs in operating its FOIA program. Therefore, since the costs of operating a FOIA program may vary from agency to agency, OMB determined that it was not feasible to establish a single set of FOIA fees, but rather that it was more appropriate to establish a standard set of criteria upon which agencies could establish individual fee schedules to assess actual charges for FOIA services.

This interim final rule incorporates the standard criteria developed by OMB and establishes a fee schedule for FOIA requests to the ATBCB.

## Provisions of the Interim Final Rule

*Subpart A, Section 1120.2*

This section is amended to incorporate the standard definitions provided in OMB's guidelines. Definitions of the terms "direct costs," "document search," "duplication," and "review," clarify the nature of services to be provided. Definitions of the terms "commercial use requestor," "educational institution and non-commercial scientific institution," and "representative of the news media" provide criteria for classifying requestors.

*Subpart D, Section 1120.25*

This section is amended to correct an inaccurate reference regarding fee estimates and assurance of payments. In addition, it is amended to revise the dollar amount which establishes (in accordance with the dollar limitation specified in 5 U.S.C. 552) when such estimate/assurance will be required.

*Subpart E, Section 1120.51*

Changes in this section add a new paragraph (a) which states ATBCB policy with respect to assessing and collecting the full direct costs the agency incurs in responding to FOIA requests. Further, new paragraphs (b) and (c) are added to incorporate OMB guidelines regarding categories of requestors and levels of fees appropriate for each category. Paragraph (b) lists the four categories of requestors— commercial use requestor; educational and non-commercial scientific institution requestor; requestors who are representatives of the news media; and, all other requestors. Paragraph (c) specifies that, except for commercial use requestors, the ATBCB will provide each requestor two hours of search time and the first 100 pages of duplication without charge. Commercial use requestors will be charged the full direct costs of processing the request.

*Subpart E, Section 1120.51(c) (1) Through (3)*

The revisions found in this section impose a new fee schedule, established in accordance with OMB standard criteria. Accordingly the fees for search and review time, when performed by ATBCB employees, will be computed at the prevailing basic rate of pay (plus 16 percent) of the employee actually performing the work. If other than an ATBCB employee performs the work necessary to respond to an FOIA request, or if the ATBCB incurs expenses due to any other methods employed to respond to the request, the requestor will be charged according to the actual direct charges to the ATBCB. Charges for reproduction of documents would be assessed at a per-page rate for paper copies of the documents requested. All other direct costs of searching for, reviewing and duplicating records will be based on the actual direct cost to the ATBCB of providing such service.

*Subpart E, Section 1120.51(b)*

Amendments to this section address requirements that (1) agencies provide free of charge to each requestor (other than commercial use requestors) two hours of search time and 100 copies of duplication; and (2) agencies not charge requestors if the cost of collecting and processing the fee is likely to exceed the fee itself. A new paragraph (g) is added to advise requestors that the ATBCB will aggregate requests if there is reason to believe a requestor has broken down a request to avoid fee assessments.

*Subpart E, Section 1120.53*

This section is amended to advise requestors that the ATBCB will charge interest on overdue payments and will employ the remedies afforded in the Debt Collection Act of 1982 to collect any overdue fees. Requestors are also advised that advance payment or assurance of payment may be required if the amount due is likely to exceed $250.00 (an amount established by Congress). Further, if a requestor fails to make timely payments, the agency may not process further or pending requests until the debt is cleared. ATBCB policy regarding fee waiver requests are also be addressed in these amendments. The policy is revised to state that commercial use requestors may not be approved for fee waivers based solely on the assertion of "in the public interest."

**Other Information**

The ATBCB has determined, as required by the National Environmental Policy Act of 1969, 42 U.S.C. 4332, that the rule will not have any significant impact on the environment. This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the ATBCB certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Accordingly, 36 CFR Part 1120 is amended as set forth below. By vote of the Board on September 16, 1987.

**Thomas E. Harvey,**
*Chairperson.*

Title 36 CFR Part 1120 is amended as follows:

## PART 1120—INFORMATION AVAILABILITY: PROCEDURES

1. The authority citation for Part 1120 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Subpart A, § 1120.2 is amended by adding paragraphs (h) through (o) at the end of that section to read as follows:

**§ 1120.2 Definitions.**

* * * * *

(h) "Direct Costs" means costs to the ATBCB of searching for and duplicating requested documents. However, with respect to commercial use requestors, as defined in paragraph (l) of this section, direct costs shall also include costs associated with review of the requested documents.

(i) "Search" means the time spent looking for material which responds to a request, including line-by-line identification of material within the documents requested.

(j) "Duplication" means the process of making a copy of a document necessary to respond to a request.

(k) "Review" means the process of examining and processing for release any documents located in response to a commercial use request to determine whether any portion of any document located is permitted to be withheld, except that it does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(l) "Commercial Use Requestor" means any person who seeks information for a use or purpose that is related to commerce, trade or profit as these terms are commonly known or have been interpreted by the courts in the context of the Freedom of Information Act.

(m) "Educational Institution" means an accredited institution of higher learning engaged in scholarly research.

(n) "Non-Commercial Scientific Institution" means an independent non-profit institution whose purpose is to conduct scientific research.

(o) "Representative of the News Media" means any representative of established news media outlets; i.e., any organization such as a television or radio station, or a newspaper or magazine of general circulation, or persons working for such organization which regularly publish information for dissemination to the general public whether electronically or in print. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

**§ 1120.25 [Amended]**

3. Subpart D, § 1120.25 is amended by (1) removing the reference "1120.32(d)," in the last sentence of the section, and substituting the reference "1120.33(d)"; and, (2) removing "$25.00" at the end of the last sentence of the section and inserting "$250.00".

4. Subpart E, § 1120.51 is amended by redesignating paragraph (b) as paragraph (e); by removing paragraphs (e) (1), (3) and (4); by redesignating paragraph (e)(2) as paragraph (e)(3) and paragraphs (e) (5) through (8) as (e) (4) through (7); and by adding new paragraphs (e) (1) and (2) to read as follows:

**§ 1120.51 [Amended]**

(e) * * *

(1) If the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee;

(2) For any request made by an individual or group of individuals falling into the categories described at § 1120.51(b) (excepting commercial use requests) the first two hours of search time and first 100 pages of duplication;

* * * * *

5. Subpart E, § 1120.51 is amended by redesignating paragraph (c) as paragraph (f) and adding to new paragraph (f) the following phrase after the words "unproductive searches" to read as follows:

"* * * or for searches when records located are determined to be exempt from disclosure"

6. Subpart E, § 1120.51 is further amended by revising paragraph (a) and adding new paragraphs (b), (c), (d) and (g) to read as follows:

**§ 1120.51 Charges for services.**

(a) It shall be the policy of the ATBCB to comply with requests for documents made under the FOIA using the most efficient and least costly methods available. Requestors will be charged fees, in accordance with the administrative provisions and fee schedule set forth below, for searching for, reviewing (in the case of commercial use requestors only), and duplicating requested records.

(b) Categories of requestors. For the purpose of standard FOIA fee assessment, the four categories of requestors are: Commercial use requestors; educational and non-commercial scientific institution requestors; requestors who are representatives of the news media; and, all other requestors (see § 1120.2 (l) through (o), Definitions).

(c) Levels of fees. Levels of fees prescribed for each category of requestor are as follows:

(1) Commercial use requestors. When the ATBCB receives a request for documents which appears to be a request for commercial use, the Board may assess charges in accordance with the fees schedule set forth below, which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Costs for time spent reviewing records to determine whether they are exempt from mandatory disclosure applies to the initial review only. No fees will be assessed for reviewing records, at the administrative appeal level, of the exemptions already applied.

(2) Educational and non-commercial scientific institution requestors. The ATBCB shall provide documents to requestors in this category for the cost of reproduction alone, in accordance with the fees schedule set forth below, excluding charges for the first 100 pages of reproduced documents.

(i) To be eligible for inclusion in this category, requestors must demonstrate the request is being made 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.

(ii) Requestors eligible for free search must reasonably describe the records sought.

(3) Requestors who are representatives of the news media. The ATBCB shall provide documents to requestors in this category for the cost of reproduction alone, in accordance with the fee schedule set forth below, excluding charges for the first 100 pages of reproduced documents.

(4) All other requestors. The ATBCB shall charge requestors who do not fit into any of the categories described above, fees which recover the full direct cost of searching for and reproducing records that are responsive to the request, except that the first two hours of search time and the first 100 pages of reproduction shall be furnished without charge.

(d) Schedule of FOIA fees. (1) Record search (ATBCB employees)—$14.00 per hour.

(2) Document review (ATBCB employees)—$20.00 per hour.

(3) Duplication of documents (paper copy of paper original)—$.20 per page.

* * * * *

(g) Where the ATBCB reasonably believes that a requestor or group of requestors is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the ATBCB shall aggregate any such requests and charge accordingly.

**§ 1120.53 [Amended]**

7. Section 1120.53 is amended to redesignate paragraph (c) as (e); at the end of the first sentence of that section, insert a phrase to read: "and not the commercial interest of the requestor"; following the first sentence, insert a new sentence to read: "The ATBCB will not consider a request for waiver or reduction of fees, made by a commercial use requestor, based upon the requestor's assertion that disclosure would be in the public interest."; and, in the new third sentence of that paragraph remove the phrase beginning "a representative of the press * * *" to the end of that sentence, and insert in lieu thereof the following phrase to read: "representatives of educational and non-commercial scientific institutions, the news media, or other requestors such as representatives of public interest groups."

8. Subpart E, § 1120.53 is further amended by redesignating paragraph (b) as paragraph (c) and revising it to read as follows and adding a new paragraphs (b) and (d).

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(b) Charging interest. The ATBCB may charge interest to those requestors failing to pay fees assessed in accordance with the procedures described in section 1120.51. Interest charges, computed at the rate prescribed in section 3717 of Title 31 U.S.C.A., will be assessed on the full amount billed starting on the 31st day following the day on which the bill was sent.

(c) Advance payment or assurance of payment.

(1) When an ATBCB office determines or estimates that the allowable charges a requestor may be required to pay are likely to exceed $250.00, the ATBCB may require the requestor to make an advance payment or arrangements to pay the entire fee before continuing to process the request. The ATBCB shall promptly inform the requestor (by telephone, if practicable) of the need to make an advance payment or arrangements to pay the fee. That office need not search for, review, duplicate, or disclose records in response to any request by that requestor until he or she pays, or makes acceptable arrangements to pay, the total amount of fees due (or estimated to become due) under this subpart.

(2) Where a requestor has previously failed to pay a fee charged in a timely fashion, the ATBCB may require the requestor to pay the full amount owed, plus any applicable interest, as provided in § 1120.53(b), and to make an advance payment of the full amount of the estimated fee before any new or pending requests will be processed from that requestor.

(3) In those instances described in paragraphs (c) (1) and (2) of this section, the administrative time limits prescribed in § 1120.33(d) will begin only after the ATBCB has received all fee payments due or acceptable arrangements have been made to pay all fee payments due.

(d) Effect of the Debt Collection Act of 1982 (Pub. L. 97-365). Requestors are advised that the ATBCB shall use the authorities of the Debt Collection Act of 1982, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to encourage repayment of debts arising from freedom of information act requests.

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[FR Doc. 87-25883 Filed 11-9-87; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Part 61**

**[FRL-3288-9]**

## National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Local Air Agency in Washington

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; delegation of authority.

**SUMMARY:** Section 112(d) of the Clean Air Act permits EPA to delegate to the states the authority to implement and enforce the standards set out in 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAP).

The State of Washington Department of Ecology (WDOE) on August 25, 1987, requested EPA to subdelegate to the Grant County Clean Air Authority (GCCAA) the authority to implement and enforce Subpart M (asbestos) under NESHAP. EPA granted the request on October 21, 1987. GCCAA now has the authority to enforce Subpart M (asbestos) as set forth in 40 CFR Part 61.

**EFFECTIVE DATE:** October 21, 1987.

**ADDRESSES:** Material in support of this subdelegation may be examined during normal business hours at the following locations: Air Programs Branch, (10A-87-17), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Armina Nolan, Air Programs Branch, AT-092, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1757, FTS: 399-1757.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 112(d) of the Clean Air Act, as amended, the Regional Administrator of Region 10, EPA, delegated to the State of Washington Department of Ecology (WDOE) on February 28, 1975, the authority to enforce the National Emission Standard for Hazardous Air Pollutants (NESHAP) for asbestos. The delegation was announced in the **Federal Register** on April 1, 1975 (40 FR 14632).

On August 25, 1987, WDOE requested approval of a subdelegation to the Grant County Clean Air Authority (GCCAA). On October 21, 1987, the Regional Administrator concurred in the following letter:

Andrea Beatty Riniker,

*Washington Department of Ecology, PV-11 Olympia, Washington 98504*