Anhang: Gesetzestexte
Das Akteneinsichtsrecht im Verwaltungsverfahrensgesetz von 1946

Vorschlag der American Bar Association von Januar 1944 für die Information Section des Administrative Procedure Act

Sec. 3. PUBLIC INFORMATION.- Except to the extent that there is directly involved any military, naval, or diplomatic function of the United States requiring secrecy in the public interest -

(a) RULES.-Every agency shall separately state and currently publish rules containing

(1) descriptions of its internal and field organization together with the general course and method by which each type of matter directly affecting private parties is channeled and determined,

(2) substantive regulations authorized by law, as well as any statements of general policy or interpretations framed by the agency and of general public application or legal effect, and

(3) the nature and requirements of all formal or informal procedures to private parties, including forms and instructions as to the scope and contents of all papers, reports, or examinations.

(b) RULINGS AND ORDERS.-Every agency shall preserve and publish or make available to public inspection all rulings on questions of law and all opinions rendered or orders issued in the course of adjudication, except those relating to the internal management of the agency and not directly affecting the right of, or procedures available to, the public.

(c) RELEASES.-Except to the extent that their contents are included in the materials issued or made available pursuant to subsection (a) or (b) of this section, every agency shall, either prior to or upon issuance, file with (or, in the case of any agency not located at the national capital, register and mail to) the Division of the Federal Register all other releases intended for general public information or of general application or effect; and the Division shall preserve and make all such filings available to public inspection in the same manner as documents published in the Federal Register: Provided moreover, that no agency shall, directly or indirectly, issue publicity reflecting adversely upon any person, product, commodity, security, private activity, or enterprise otherwise than by issuance of the full texts of authorized public documents, impartial summaries of the positions of all parties to any controversy, or the issuance of legal notice of public proceedings within its jurisdiction; And provided, further, that, upon proper request, matters of official record shall be made available to all interested persons except personal data, information required by law to be held confidential, or for good cause found and upon published rule, other specified classes of information.

---

1 American Bar Association (Januar 1944): Fair Administrative Procedure for Federal Agencies is Offered in Improved Draft of a Proposed Bill, American Bar Association Journal, Bd. 30, Nr. 1, S. 7-8.
1.b Vergleich der Vorschläge der American Bar Association von Januar und März 1944 für die Public Information Section des Administrative Procedure Act

ABA Vorschlag Januar 1944

Sec. 3. PUBLIC INFORMATION.— Except to the extent that there is directly involved any military, naval, or diplomatic function of the United States requiring secrecy in the public interest —

(a) RULES.—Every agency shall separately state and currently publish rules containing

(1) descriptions of its internal and field organization together with the general course and method by which each type of matter directly affecting private parties is channeled and determined,

(2) substantive regulations authorized by law, as well as any statements of general policy or interpretations framed by the agency and of general public application or legal effect, and

(3) the nature and requirements of all formal or informal procedures to private parties, including forms and instructions as to the scope and contents of all papers, reports, or examinations.

(b) RULINGS AND ORDERS.—Every agency shall preserve and publish or make available to public inspection all rulings on questions of law and all opinions rendered or orders issued in the course of adjudication, except those

relating to the internal management of the agency and not directly affecting the right of, or procedures available to, the public.

(c) RELEASES.—Except to the extent that their contents are included in the materials issued or made available pursuant to subsection (a) or (b) of this section, every agency shall, either prior to or upon issuance, file with (or on the Case of any agency not located at the national capital, register and mail to) the Division of the Federal Register all other releases intended for general public information or of general application or effect; and the

ABA Vorschlag März 1944

Sec. 3. PUBLIC INFORMATION.— Except to the extent that there is directly involved any military, naval, or diplomatic function of the United States requiring secrecy in the public interest —

(a) RULES.—Every agency shall separately state and currently publish rules containing

(1) descriptions of its internal and field organization together with the general course and method by which each type of matter directly affecting private parties is channeled and determined,

(2) substantive regulations authorized by law, and adopted by the agency, as well as any statements of general policy or interpretations framed by the agency and of general public application or legal effect, and

(3) the nature and requirements of all formal or informal procedures to private parties, including forms and instructions as to the scope and contents of all papers, reports, or examinations.

(b) RULINGS AND ORDERS.—Every agency shall preserve and publish or make available to public inspection all rulings on questions of law and all opinions rendered or orders issued in the course of adjudication, except those

relating to the internal management of the agency and not directly affecting the right of, or procedures available to, the public.

(c) RELEASES.—Except to the extent that their contents are included in the materials issued or made available pursuant to subsection (a) or (b) of this section, every agency shall, either prior to or upon issuance, file with (or on the Case of any agency not located at the national capital, register and mail to) the Division of the Federal Register all other releases intended for general public information or of general application or effect; and the
Division shall preserve and make all such filings available to public inspection in the same manner as documents published in the Federal Register. Provided moreover, that no agency shall, directly or indirectly, issue publicity reflecting adversely upon any person, product, commodity, security, private activity, or enterprise otherwise than by issuance of the full texts of authorized public documents, impartial summaries of the positions of all parties to any controversy, or the issuance of legal notice of public proceedings within its jurisdiction; And provided, further, that upon proper request, matters of official record shall be made available to all interested persons except personal data, information required by law to be held confidential, or for good cause found and upon published rule, other specified classes of information.

Division shall preserve and make all such filings available to public inspection in the same manner as documents published in the Federal Register. Provided moreover, that no agency shall, directly or indirectly, issue publicity reflecting adversely upon any person, product, commodity, security, private activity, or enterprise otherwise than by issuance of the full texts of authorized public documents, impartial summaries of the positions of all parties to any controversy, or the issuance of legal notice of public proceedings within its jurisdiction.

Division shall preserve and make all such filings available to public inspection in the same manner as documents published in the Federal Register. Provided moreover, that no agency shall, directly or indirectly, issue publicity reflecting adversely upon any person, product, commodity, security, private activity, or enterprise otherwise than by issuance of the full texts of authorized public documents, impartial summaries of the positions of all parties to any controversy, or the issuance of legal notice of public proceedings within its jurisdiction; And provided, further, that upon proper request, matters of official record shall be made available to all interested persons except personal data, information required by law to be held confidential, or for good cause found and upon published rule, other specified classes of information.
Sec. 3. PUBLIC INFORMATION.- Except to the extent that there is directly involved any military, naval, or diplomatic function of the United States requiring secrecy in the public interest -

(a) RULES.-Every agency shall separately state and currently publish rules containing

1. descriptions of its internal and field organization together with the general course and method by which each type of matter directly affecting private parties is channeled and determined,

2. substantive regulations authorized by law, and adopted by the agency, as well as any statements of general policy or interpretations framed by the agency and of general public application, and

3. the nature and requirements of all formal or informal procedures to private parties, including forms and instructions as to the scope and contents of all papers, reports, or examinations.

(b) RULINGS AND ORDERS.-Every agency shall preserve and publish or make available to public inspection all rulings on questions of law and all opinions rendered or orders issued in the course of adjudication, except to the extent (1) required by rule for good cause and expressly authorized by law to be held confidential or (2) relating to the internal management of the agency and not directly affecting the right of, or procedures available to, the public.

(c) RELEASES.-Except to the extent that their contents are included in the materials issued or made available pursuant to subsection (a) or (b) of this section, every agency shall, either prior to or upon issuance, file with (or, on the case of any agency not located at the national capital, register and mail to) the Division of the Federal Register all other releases intended for general public information or of general application or effect; and the Division shall preserve and make all such filings available to public inspection in the same manner as documents published in the Federal Register. No agency shall, directly or indirectly, issue publicity reflecting adversely upon any person, product, commodity, security, private activity, or enterprise otherwise than by issuance of the full texts of authorized public documents, impartial summaries of the positions of all parties to any controversy, or the issuance of legal notice of public proceedings within its jurisdiction. Upon proper request, matters of official record shall be made available to all interested persons except personal data, information required by law to be held confidential, or for good cause found and upon published rule, other specified classes of information.

1.d Vergleich des Vorschläges der American Bar Association für die Information Section des Administrative Procedure Act mit der tatsächlich 1946 verabschiedeten Version dieser Sektion

Vorschlag der ABA von März 1944 für die Information Section des APA

§ 552. Publication of Information, rules, opinions, orders, and public records.

Sec. 3. PUBLIC INFORMATION.

Except to the extent that there is directly involved
any military, naval, or diplomatic function of the United States requiring secrecy in the public interest -

(a) RULES.-Every agency shall separately state and currently publish in the Federal Register
(1) descriptions of its internal and field organization together with the general course and method by which each type of matter directly affecting private parties is channeled and determined,

(2) substantive regulations authorized by law, and adopted by the agency, as well as any statements of general policy or interpretations framed by the agency and of general public application or legal effect,

and

(3) the nature and requirements of all formal or informal procedures to private parties, including forms and instructions as to the scope and contents of all papers, reports, or examinations.

Information Section des APA von 1946

§ 552. Publication of Information, rules, opinions, orders, and public records.

Sec. 3

Except to the extent that there is involved

(1) any military, naval or diplomatic function of the United States requiring secrecy in the public interest or

(2) any matter relating solely to the internal management of an agency-

(a) RULES.-Every agency shall separately state and currently publish in the Federal Register
(1) descriptions of its internal central and field organizations together with the general course and method by which each type of matter directly affecting private parties is channeled and determined, including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests;

(2) substantive regulations authorized by law, and adopted by the agency, as well as any statements of the general policy or interpretations framed by the agency and for general public application or legal effect, course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations;

and

(3) the nature and requirements of all formal or informal procedures to private parties, including forms and instructions as to the scope and contents of all papers, reports, or examinations.

substantive rules adopted as authorized by law and statements of
general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(b) RULINGS AND ORDERS.-Every agency shall preserve and publish or, in accordance with published rule, make available to public inspection all rulings on questions of law. 

(b) OPINIONS AND ORDERS.-Every agency shall preserve and publish or, in accordance with published rule, make available to public inspection all final opinions and all opinions rendered or orders issued in the course of adjudication, except to the extent (1) required by rule for good cause and expressly authorized by law to be held confidential or (2) relating to the internal management of the agency and not directly affecting the right of, or procedures available to, the public cited as presidents) and all rules.

(c) RELEASES. -Save as otherwise required by

Except to the extent that their contents are included in the materials issued or made available pursuant to subsection (a) or (b) of this section, every agency shall, either prior to or upon issuance, file with (or, on the Case of any agency not located at the national capital, register and mail to) the Division of the Federal Register all other releases intended for general public information or of general application or effect; and the Division shall preserve and make all such filings available to public inspection in the same manner as documents published in the Federal Register. No agency shall, directly or indirectly, issue publicity reflecting adversely upon any person, product, commodity, security, private activity, or enterprise otherwise than by issuance of the full texts of authorized public documents, impartial summaries of the positions of all parties to any controversy, or the issuance of legal notice of public proceedings within its jurisdiction. Upon proper request

Save as otherwise required by
, matters of official record shall be made available to all interested persons except personal data, information required by law to be held confidential, or for good cause found and upon published rule, other specified classes of information be made available to persons properly and directly concerned except information held confidential for good cause found.

statute, matters of official record shall in accordance with published rule, other specified classes of be made available to persons properly and directly concerned except information held confidential for good cause found.

statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.
§ 552. Publication of Information, rules, opinions, orders, and public records.

SEC. 3 Except to the extent that there is involved

(1) any function of the United States requiring secrecy in the public interest or

(2) any matter relating solely to the internal management of an agency-

(a) RULES.-Every agency shall separately state and currently publish in the Federal Register

(1) descriptions of its central and field organizations including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests;

(2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and

(3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(b) OPINIONS AND ORDERS.-Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as presidents) and all rules.

(c) PUBLIC RECORDS.-Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

II Wichtigste Gesetze, die 1953 den Zugang zu und die Geheimhaltung von Informationen im Besitz der Bundesverwaltung regelten

1. Exekutivordern und Exekutivdirektiven des Präsidenten:
   - das Employee Loyalty Program; Exekutivorder 9835
   - die Direktive vom 13. März 1948
   - die Exekutivorder 10290 vom 24. September 1951

2. Vom Kongress verabschiedete Gesetze. Hier lassen sich 3 Kategorien unterscheiden:
   2.1. Gesetze allgemeinen Charakters, die sich auf alle Akten der Bundesverwaltung beziehen:
      - das Housekeeping Statute von 1789, das für die Bundesministerien (executive departments) gilt,
      - das Verwaltungsverfahrensgesetz, das für die unabhängigen Bundesbehörden (administrative agencies) gilt,
      - United States Code 2507, das für die Akten von Verhandlungen vor dem Court of Claims gilt.
      2.2. Gesetze, welche den Zugang zu bestimmten Informationen beschränken:
         a) Gesetze, welche den Zugang Informationen beschränken, deren Bekanntwerden die nationale Sicherheit gefährden könnte:
            - United States Code 171r. "Information detrimental to national security may be omitted from report of the Secretary of Defense."
            - United States Code 793-797. "Unauthorized gathering, transmitting or losing defense information penalized."
            - United States Code 42. "Inventions made secret where disclosure detrimental to public safety."
            - United States Code 154(j). "Federal Communications Commission may withhold secret information relating to national defense."
            - United States Code 46a. "Codes, code systems and intelligence activities protected."
            - United States Code 159. "Information detrimental to national security may be omitted from report of National Advisory Committee of Aeronautics."

5 United States Code Annotated 22.
6 Administrative Procedure Act; 5 United States Code Annotated 1001-1011.
7 Der United States Code ist die kumulierte und periodisch neu aufgelegte Sammlung aller Bundesgesetze der USA.
- *United States Code* 403g. "Central Intelligence Agency exempted from requirements concerning disclosure of information about its personnel."

- *United States Code* 403(d)(3). "Director of Central Intelligence made responsible for protecting intelligence sources and methods from unauthorized disclosure."

- *United States Code* 783(b). "Government personnel forbidden to communicate classified information to agents of foreign governments, etc."

b) Gesetz zum Schutz der Ermittlungskanten zur Absetzung des Direktors einer national bank

c) Gesetz zum Schutz von Ermittlungskanten der Kontrollkommission für den Wertpapierhandel

d) Gesetz zum Schutz der Personalakten des Außenministeriums

2.3. Verwaltungsvorschriften der Ministerien, unabhängigen Behörden und Verwaltungseinheiten (governmental entities)

3. Gesetze, die bestimmte Informationen der Öffentlichkeit zugänglich machen:

3.1. Gesetze, die Behörden zum Veröffentlichen (direkt oder für den Kongress) bestimmter Berichte verpflichten oder sie verpflichten, bestimmte Informationen Angehörigen anderer Bundesverwaltungen oder niedrigerer Verwaltungsebenen zugänglich zu machen.

3.2. Gesetze, welche die Veröffentlichung bestimmter Informationen festlegen (eine Auswahl):

- *Lobbying Regulation Act*

- *Official Register* (Verzeichnis öffentlicher Angestellter)
III Der *Freedom of Information Act* von 1966

III.a Amendements zur *Public Information Section* des *Administrative Procedure Act* von 1946 durch den *Freedom of Information Act*


---

**Public Information Section (Sec. 3) des APA von 1946**

§ 552. Publication of Information, rules, opinions, orders, and public records.

Sec. 3

Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency-

(a) RULES.

- Every agency shall separately state and currently publish in the Federal Register

(1) descriptions of its central and field organizations including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests;

(2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and

---

**FOIA von 1966 ohne technische Korrekturen**

§ 552. Publication of Information, rules, opinions, orders, and public records.

Sec. 3

Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency-

Every agency shall make available to the public the following information:

(a) RULES PUBLICATION IN THE FEDERAL REGISTER.

- Every agency shall separately state and currently publish in the Federal Register for the guidance of the public

(1)(A) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information, make submittals or requests and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(2)(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or and informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and

(C) rules of procedure, descriptions
of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations:

(D) substantive rules of general applicability
adopted as authorized by law, and statements of general policy or interpretations of general applicability
formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(E) every amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purpose of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(b) AGENCY OPINIONS AND ORDERS. - Every agency shall publish or, in accordance with published rules, make available to public inspection

(A) all final opinions or (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (except those required for good cause to be held confidential and not cited as presidents) and all rules

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

(C) administrative staff manuals and instructions to staff that affect a member of the public, unless such
materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction:

Provided, That every Case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless the party shall have actual and timely notice of the terms thereof.

(c) PUBLIC RECORDS.—Save as otherwise required by statute, matters of official record shall in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, be made available to any persons properly and directly concerned except information held confidential for good cause found.

Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from withholding materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction:

Provided, That every Case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless the party shall have actual and timely notice of the terms thereof.

(c) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person.

Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from withholding materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction:

Provided, That every Case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless the party shall have actual and timely notice of the terms thereof.

(c) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person.
agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo, and the burden shall be on the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to causes which the court deems of greater importance, proceedings before the district court, as authorized by this subsection, shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(d) AGENCY PROCEEDINGS. - Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

(e) EXEMPTIONS. The provisions of this section shall not be applicable to matters that are

(1) specifically required by Executive order to be kept secret in the interest of national defense or foreign policy;

(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 any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party 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 files compiled for law enforcement purposes except to the extent available by law to a private party;

(8) contained in or related to examination, operating, or condition
(g) PRIVATE PARTY. - As used in this section, 'private party' means any party other than the agency.

(h) EFFECTIVE DATE. - This amendment shall become effective one year following the date of the enactment of this Act.
III.b Der *Freedom of Information Act* von 1966\(^1\)

(Ohne Korrekturen durch PL 90-23)

Sec. 3 Every agency shall make available to the public the following information:

(a) **Publication in the Federal Register.** - Every agency shall separately state and currently publish in the Federal Register for the guidance of the public:

   (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

   (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

   (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

   (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

   (E) every amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purpose of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(b) **Agency opinions and orders.** - Every agency shall, in accordance with published rules, shall make available for public inspection and copying:

   (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases,

   (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

   (C) administrative staff manuals and instructions to staff that affect a member of the public, unless such materials are promptly published and copies offered for sale.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided,* That every Case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless the party shall have actual and timely notice of the terms thereof.

---

(c) AGENCY RECORDS. - Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo, and the burden shall be on the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to causes which the court deems of greater importance, proceedings before the district court, as authorized by this subsection, shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(d) AGENCY PROCEEDINGS. - Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

(e) EXEMPTIONS. The provisions of this section shall not be applicable to matters that are

1. specifically required by Executive order to be kept secret in the interest of national defense or foreign policy;
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 any person and privileged or confidential;
5. inter-agency or intra-agency memorandums or letters which would not be available by law to a private party 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 files compiled for law enforcement purposes except to the extent available by law to a private party;
8. contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and
9. geological and geophysical information and data (including maps) concerning wells.

(f) LIMITATION OF EXEMPTION. - Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

(g) PRIVATE PARTY. - As used in this section, "private party" means any party other than the agency.

(h) EFFECTIVE DATE. - This amendment shall become effective one year following the date of the enactment of this Act.
IV Version des Freedom of Information Act von 1967

IV.a Die Amendements durch Public Law 90-23

Der FOIA wurde 1967 durch PL 90-23 mit technischen Korrekturen versehen.

FOIA von 1966¹

§ 552. Publication of Information, rules, opinions, orders, and public records.

Sec. 3
Every agency shall make available to the public the following information:

(a) PUBLICATION IN THE FEDERAL REGISTER. - Every agency shall separately state and currently publish in the Federal Register for the guidance of the public:

(A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy.

Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3 (a) Each agency shall make available to the public the following information as follows:

(1)

(A) descriptions of its central and field organization and the established places at which, the officers employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy.

§ 552. Publication of Information, rules, opinions, orders, and public records.

Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3 (a) Each agency shall make available to the public information as follows:

(1)

Each agency shall separately state and currently publish in the Federal Register for the guidance of the public:

(A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy.

¹ PL 89-487, 80 Stat. 250.
or interpretations of general applicability formulated and adopted by the agency; and

(E) every amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(b) AGENCY OPINIONS AND ORDERS. - Every agency shall, in accordance with published rules, make available for public inspection and copying:

(A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

(C) administrative staff manuals and instructions to staff that affect a member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. Provided, or interpretations of general applicability formulated and adopted by the agency; and

(E) every amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall may not in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this paragraph, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) AGENCY OPINIONS AND ORDERS. - Every agency shall, in accordance with published rules, make available for public inspection and copying:

(A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

(C) administrative staff manuals and instructions to staff that affect a member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction.
That every

Case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless the party shall have actual and timely notice of the terms thereof.

(c) AGENCY RECORDS. - Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have

**Paragraphs Required by This Subsection**

- In accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, an agency, upon request, shall make the records promptly available to any person.
- Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have

**That every**

**However, in each**

Case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used, or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless the party shall have actual and timely notice of the terms thereof.

**A**

- For example, in each subsection paragraph required by this paragraph to be made available or published, No A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used, or cited as precedent by an agency against any private party unless other than an agency only if -
  1. it has been indexed and either made available or published as provided by this subsection paragraph;
  2. unless the party shall have actual and timely notice of the terms thereof.

**Except with respect to the records made available pursuant to subsections under paragraphs (1)**

- For each agency, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, shall make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have has
jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo, and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish the responsible officers for contempt.

(d) AGENCY PROCEEDINGS. - Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

(e) EXEMPTIONS. The provisions of this section shall not be applicable to matters that are:

(1) specifically required by Executive order to be kept secret in the interest of national defense or foreign policy;
(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 any person and privileged or
confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party 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 files compiled for law enforcement purposes except to the extent available by law to a private party;
(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and
(9) geological and geophysical information and data (including maps) concerning wells.

(f) LIMITATION OF EXEMPTION. - Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

(g) PRIVATE PARTY. - As used in this section, "private party" means any party other than the agency.

(h) EFFECTIVE DATE. - This amendment shall become effective one year following the date of the enactment of this Act.

confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private 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 files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;
(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; and
(9) geological and geophysical information and data, including maps, concerning wells.

(c) LIMITATION OF EXEMPTION. - Nothing in this section does not authorize withholding of information or limiting the availability of records to the public except as specifically stated in this section; nor shall this section be authority to withhold information from Congress.

Der FOIA mit den technischen Korrekturen durch PL 90-23.

§ 552. Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3
(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public -

(A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

(C) administrative staff manuals and instructions to staff that affect a member of the public; unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for

---

the public as to any matter issued, adopted, or promulgated after July 4, 1967 and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied upon, used, or cited as precedent by an agency against a party other than an agency only if-

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a Case the court shall determine the matter de novo, and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this subsection, shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(b) This section does not apply to matters that are-

(1) specifically required by Executive order to be kept secret in the interest of national defense or foreign policy;

(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 any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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 files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(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; and

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

(c) This section does not authorize withholding of information or limit the availability of records to the public except as specifically stated in this section. This section is not authority to withhold information from Congress.
### V Version des Freedom of Information Act von 1974

#### V.a Gesetzesvorschläge für das Novellieren des Freedom of Information Act aus dem 93. Kongress

<table>
<thead>
<tr>
<th>Datum</th>
<th>Sponsor / Partei</th>
<th>Bearbeitungsfristen in Werktagen: 10 nach Antrag / 20 auf Widerspruch / 20 für Stellungnahmen vor Gericht</th>
<th>jährliche Berichtspflicht</th>
<th>In Camera Review</th>
<th>Einschränkung der Exemption 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>01-03-73 H.R. 535</td>
<td>Fuqua (D-Fl)</td>
<td>✓ ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
<tr>
<td>02-05-73 H.R. 3674</td>
<td>Moss (D-Ca)</td>
<td>- ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
<tr>
<td>02-23-73 H.R. 4938</td>
<td>Erlenborn (R-III)</td>
<td>- ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
<tr>
<td>02-23-73 H.R. 4960</td>
<td>Horton (R-NY)</td>
<td>✓ ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
<tr>
<td>03-08-73 H.R. 5425</td>
<td>Moorhead (D-Penn)</td>
<td>✓ ✓ ✓ ✓</td>
<td>✓ ✓ ✓</td>
<td>✓ ✓ ✓</td>
<td>✓ ✓ ✓</td>
</tr>
<tr>
<td>03-08-73 H.R. 5426</td>
<td>Moorhead (D-Penn)</td>
<td>✓ ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
<tr>
<td>03-08-73 S. 1142</td>
<td>Muskie (D-Maine)</td>
<td>✓ ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
<tr>
<td>03-08-73 H.R. 5433</td>
<td>Roe (D-NJ)</td>
<td>- ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
<tr>
<td>03-20-73 H.R. 5873</td>
<td>Matsunaga (D-Hawaii)</td>
<td>✓ ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
<tr>
<td>04-10-73 S. 1520</td>
<td>Roth (D-NJ)</td>
<td>- ✓ ✓ ✓</td>
<td>- ✓</td>
<td>- ✓</td>
<td>- ✓</td>
</tr>
</tbody>
</table>


Das Exekutivprivileg darf ausschließlich durch den Präsidenten geltend gemacht werden und nur beansprucht werden, wenn ein Bekanntwerden der Informationen dem nationalen Interesse schaden zufügt.

Das Exekutivprivileg darf ausschließlich durch den Präsidenten geltend gemacht werden und nur beansprucht werden, wenn ein Bekanntwerden der Informationen dem nationalen Interesse schaden zufügt.

Verpflichtet die Verwaltung, dem Kongress alle in ihrem Besitz befindlichen Informationen innerhalb von 30 Tagen zugänglich zu machen, wenn kein Exekutivprivileg geltend gemacht wird.

Das Exekutivprivileg darf ausschließlich durch den Präsidenten geltend gemacht werden und nur beansprucht werden, wenn ein Bekanntwerden der Informationen dem nationalen Interesse schaden zufügt.

Einsetzen einer Kommission zum Überprüfen des exekutiven Klassifikationssystemes mit dem Ziel nicht gerechtfertigte Geheimhaltung zu unterbinden.
Bearbeitungsfristen in Werktagen:
10 nach Antrag / 20 auf Widerspruch / 20 für Stellungnahmen vor Gericht

<table>
<thead>
<tr>
<th>Datum Bill-Nr.</th>
<th>Sponsor / Partei</th>
<th>Prozesskostenerstattung</th>
<th>In Camera Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>09-20-73 S. 2451</td>
<td>Hathaway (D-Maine)</td>
<td>-/-/-</td>
<td>Erweitern der Exemption 1</td>
</tr>
<tr>
<td>10-08-73 S. 2543</td>
<td>Kennedy (D-Mass)</td>
<td>-/-/- ✓</td>
<td>Vereinheitlichen der Gebühren für Suche und Vervielfältigung. Keine Gebühren bei sozialen Härtefällen, wenn Gebühr geringer als 3 $, wenn die Suche erfolglos war oder die Informationen nicht herausgegeben werden</td>
</tr>
<tr>
<td>11-13-73 H.R. 11454</td>
<td>Goldwater (R-Calif.)</td>
<td>-/-/-</td>
<td>Informationen, die einzelnen Personen zugeordnet werden können, dürfen erst nach schriftlicher Zustimmung dieser Personen herausgegeben werden</td>
</tr>
<tr>
<td>12-20-73 H.R. 12080</td>
<td>Moorhead (D-Penn)</td>
<td>✓1 ✓/-</td>
<td>Ausweitung der Publikationspflichten der Behörden (interne Beschlüsse, Ausführungsbestimmungen etc.)</td>
</tr>
<tr>
<td>01-22-74 H.R. 12195</td>
<td>Erlenborn (R-III)</td>
<td>-/-/-</td>
<td>Die Bestimmungen von H.R. 12135 ergänzt durch die Verpflichtung aller Angehörigen der Exekutive zur Aussage vor dem Kongress bzw. seinen Ausschüssen. Eine Aussage kann nur vorübergehend verweigert werden, wenn der Zeuge annehmen muss, der Präsident würde die von ihm verlangten Informationen durch das Exekutivprivileg schützen wollen</td>
</tr>
</tbody>
</table>

1 Innerhalb von 5 Tagen den Erhalt des Antrages bestätigen.
Bearbeitungsfristen in Werktagen:
10 nach Antrag / 20 auf Widerspruch / 20 für Stellungnahmen vor Gericht

<table>
<thead>
<tr>
<th>Datum</th>
<th>Sponsor / Partei</th>
<th>Prozesskostenerstattung In Camera Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>01-31-74</td>
<td>Erlenborn (R-III)</td>
<td>-/-/-</td>
</tr>
<tr>
<td>H.R. 12462</td>
<td></td>
<td>- - - Sprachlich überarbeitete Fassung von H.R. 12195</td>
</tr>
<tr>
<td>01-31-74</td>
<td>Moorhead (D-Penn)</td>
<td>-/-/- ✓ ✓</td>
</tr>
<tr>
<td>H.R. 12471</td>
<td></td>
<td>- Behörden werden zum Veröffentlichen von Gebührentabellen für FOIA-Antragsbearbeitungen verpflichtet.</td>
</tr>
<tr>
<td>03-13-74</td>
<td>Lujan (R-NM)</td>
<td>-/-/-</td>
</tr>
<tr>
<td>04-08-74</td>
<td>Steelman (R-Texas)</td>
<td>✓/-/-</td>
</tr>
<tr>
<td>H.R. 14031</td>
<td></td>
<td>- - -</td>
</tr>
<tr>
<td>04-08-74</td>
<td>Steelman (R-Texas)</td>
<td>-/-/-</td>
</tr>
<tr>
<td>H.R. 14032</td>
<td></td>
<td>- - -</td>
</tr>
<tr>
<td>04-30-74</td>
<td>Metcalf (D-Mon.)</td>
<td>-/-/-</td>
</tr>
<tr>
<td>05-02-74</td>
<td>Steelman (R-Texas)</td>
<td>-/-/-</td>
</tr>
<tr>
<td>H.R. 14570</td>
<td></td>
<td>- - - Beschränkung der Exemption 1 (Identisch mit H.R. 14035)</td>
</tr>
<tr>
<td>05-02-74</td>
<td>Steelman (R-Texas)</td>
<td>-/-/-</td>
</tr>
<tr>
<td>H.R. 14571</td>
<td></td>
<td>- - - ? (Identisch mit H.R. 14032)</td>
</tr>
<tr>
<td>05-28-74</td>
<td>Hathaway (D-Maine)</td>
<td>-/-/-</td>
</tr>
<tr>
<td>S. 3540</td>
<td></td>
<td>- - -</td>
</tr>
<tr>
<td>06-24-74</td>
<td>Steelman (R-Texas)</td>
<td>-/-/-</td>
</tr>
<tr>
<td>H.R. 15577</td>
<td></td>
<td>- - -</td>
</tr>
</tbody>
</table>
V.b Novellierung des Freedom of Information Act durch die Freedom of Information Act Amendments of 1974

FOIA 1967

§ 552. Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3
(a) Each agency shall make available to the public information as follows:
(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public
- (A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;
(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.
(2) Each agency, in accordance with

Amendments durch Public Law 93-502

FOIA 1974

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3
(a) Each agency shall make available to the public information as follows:
(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public
- (A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.
(2) Each agency, in accordance with
published rules, shall make available for public inspection and copying -
(A) final opinions, including concurring and dissenting opinion as well as orders, made in the adjudication of cases;
(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and
(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published.

A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied upon, used, or cited as precedent by an agency against a party other than an agency only if -

(i) it has been indexed and either made available or published as provided by this paragraph; or
(ii) unless the party shall have actual and timely notice of the terms thereof.

published rules, shall make available for public inspection and copying -
(A) final opinions, including concurring and dissenting opinion as well as orders, made in the adjudication of cases;
(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and
(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying # current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published.

Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied upon, used, or cited as precedent by an agency against a party other than an agency only if -

(i) it has been indexed and either made available or published as provided by this paragraph; or
(ii) unless the party shall have actual and timely notice of the terms thereof.
(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records, shall make the records promptly available to any person.

(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and the burden is on the agency to sustain.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain.
its action. its action. its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the
district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(4)
Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(5)
Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

(i) the need to search for and collect the requested records from field facilities or other establishments
that are separate from the office processing the request; 
(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or 
(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are:

(1) specifically required by Executive order to be kept secret in the interest of national defense or foreign policy;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute;

that are separate from the office processing the request; 
(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or 
(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are:

(1) specifically required under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(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 any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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 files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(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; and

(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 such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize
withholding of information or limit the availability of records to the public except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include:

1. The number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

2. The number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

3. The names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

4. The results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

5. A copy of every rule made by such agency regarding this section;

6. A copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

7. Such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and
penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.
Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public -

(A) descriptions of its central and field organization and the established places at which, the officers (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public; unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall none-
theless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency unless only if -

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records, which (A) reasonable describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)

(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a Case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trail or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withhold-
ing. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)

(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

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

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

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.
(b) This section does 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

(B) 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 memorandums 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 (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the Case of a record compiled by 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, (E) disclose investigative techniques and procedures, or (F) 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; or

(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 such record after deletion of the portions which are exempt under this subsection.

c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include -

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;
(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

VI.a Die Amendements durch den Government in the Sunshine Act

FOIA 1974

Amendments durch Public Law 94-409, den Government in the Sunshine Act

FOIA 1976

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3
(a) Each agency shall make available to the public information as follows:
(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public
   - (A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
   (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
   (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
   (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
   (E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of

persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinion as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing.

Each agency also shall maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published.

Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if -

(i) it has been indexed and either made available or published as provided by
this paragraph; or
(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which
(A) reasonably describes such records and
(B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after
service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.
member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

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

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

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the
agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records.

Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are -

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and
(B) 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 (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;
(5) inter-agency or intra-agency memorandums 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

(A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication,

(C) constitute an unwarranted invasion of personal privacy,

(D) disclose the identity of a confidential source and, in the Case of a record compiled by 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,

(E) disclose investigative techniques and procedures, or

(F) 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; and

(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 such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the House of Representatives and the Senate.
Congress. The report shall include -

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.
Sec. 4. The amendments made by this Act shall take effect on the ninetieth day beginning after the day of enactment of this Act.

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public -

(A) descriptions of its central and field organization and the established places at which, the officers (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public; unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall none-

theless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency unless only if-

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records, which (A) reasonable describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a Case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withhold-
ing. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)

(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

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

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

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.
(b) This section does 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

(B) 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 (other than section 552b of this title), provided that such statute

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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 (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the Case of a record compiled by 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, (E) disclose investigative techniques and procedures, or (F) 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; or

(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 such record after deletion of the portions which are exempt under this subsection.

c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include -

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;
(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

VII.a Die Amendements durch den *Civil Service Reform Act of 1978*

FOIA 1976

Amendments durch *Public Law 95-454, den Civil Service Reform Act*

FOIA 1978

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public -

(A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the
Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinion as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if -

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.
(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which
(A) reasonably describes such records and
(B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a Case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.
recommends.

action that the Commission
authority shall take the corrective
representative. The administrative
officer or employee or his
findings and recommendations to the
concerned and shall send copies of the
administrative authority of the agency
findings and recommendations to the
submit its
of the evidence submitted, shall
, after investigation and consideration
that the circumstances surrounding the
withholding raise questions whether
agency personnel acted arbitrarily or
capriciously with respect to the
withholding, the Civil Service
Commission shall promptly initiate a proceeding to
determine whether disciplinary action
is warranted against the officer or
employee who was primarily
responsible for the withholding. The
Commission , after investigation and consideration
of the evidence submitted, shall
submit its
findings and recommendations to the
administrative authority of the agency
concerned and shall send copies of the
findings and recommendations to the
officer or employee or his
representative. The administrative
authority shall take the corrective
action that the Commission
recommends.

(G) In the event of noncompliance
with the order of the court, the district
court may punish for contempt the
responsible employee, and in the Case
of a uniformed service, the responsible
member.

(5) Each agency having more than one
member shall maintain and make
available for public inspection a
record of the final votes of each

(F) Whenever the court orders the
production of any agency records
improperly withheld from the
complainant and assesses against the
United States reasonable attorney fees
and other litigation costs, and the court
additionally issues a written finding
that the circumstances surrounding the
withholding raise questions whether
agency personnel acted arbitrarily or
capriciously with respect to the
withholding, the Civil Service
Commission Special Council
shall promptly initiate a proceeding to
determine whether disciplinary action
is warranted against the officer or
employee who was primarily
responsible for the withholding. The
Commission Special Council
, after investigation and consideration
of the evidence submitted, shall
submit its
findings and recommendations to the
administrative authority of the agency
concerned and shall send copies of the
findings and recommendations to the
officer or employee or his
representative. The administrative
authority shall take the corrective
action that the Commission Special
Council
recommends.

(G) In the event of noncompliance
with the order of the court, the district
court may punish for contempt the
responsible employee, and in the Case
of a uniformed service, the responsible
member.

(5) Each agency having more than one
member shall maintain and make
available for public inspection a
record of the final votes of each
member in every agency proceeding.
(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -
(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and
(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -
(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the
agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are -

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and

(B) 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 other than section 552 b of this title), provided that such statute

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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
(A) interfere with enforcement
proceedings,
(B) deprive a person of a right to a fair
trial or an impartial adjudication,
(C) constitute an unwarranted invasion
of personal privacy,
(D) disclose the identity of a
confidential source and, in the Case of
a record compiled by 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,
(E) disclose investigative techniques
and procedures, or
(F) 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; and

(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 such record after
deletion of the portions which are
exempt under this subsection.

(c) This section does not authorize
withholding of information or limit the
availability of records to the public,
except as specifically stated in this
section. This section is not authority to
withhold information from Congress.

(d) On or before March 1 of each
calendar year, each agency shall
submit a report covering the preceding
calendar year to the Speaker of the
House of Representatives and
President of the Senate for referral to
the appropriate committees of the
Congress. The report shall include -
(1) the number of determinations
made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;
(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;
(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;
(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;
(5) a copy of every rule made by such agency regarding this section;
(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and
(7) such other information as indicates efforts to administer fully this section.
The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.
(e) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.
Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public -

(A) descriptions of its central and field organization and the established places at which, the officers (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public; unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or in-
struction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency unless only if -

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records, which (A) reasonable describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)

(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a Case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Council shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Council, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency.
concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Council recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

   (A) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

   (B) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

   (B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

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

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

   (iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

   (C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does 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
(A) are in fact properly classified pursuant to such Executive order;
(B) related solely to the internal personnel rules and practices of an agency;
(2) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute
(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
(5) inter-agency or intra-agency memorandums 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 (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the Case of a record compiled by 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, (E) disclose investigative techniques and procedures, or (F) 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; or
(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 such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include -
(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;
(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;
(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;
(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

VIII.a Amendements durch den Title IV, Sec. 402 des Semiconductor Chip Protection Act of 1984¹

FOIA 1978

Amendments durch Public Law 98-620, den Semiconductor Protection Act of 1984

FOIA 1984

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.
Sec. 3
(a) Each agency shall make available to the public information as follows:
(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public-
(A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;
(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;
(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;
(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and
(E) each amendment, revision, or repeal of the foregoing.
Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register.

¹ United States; Congress (1984): Title IV - Federal Courts Improvements, Sec. 402. Amendments to other Laws, [withdrawal of Section 552(a)(4)(D) of Title 5, United States Code], in: Semiconductor Chip Protection Act of 1984, to reform the civil service laws, United States and Congress, Public Law 98-620, Washington, DC.
Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinion as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published.

Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an
agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which

(A) reasonably describes such records and

(B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to
any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Council shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Council, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Council recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible


(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6) (A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

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

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

(iii) the need for consultation, which
shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records.

Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does 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

(B) 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 other than section 552 b of this title), provided that such statute

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from any person and privileged or
(5) inter-agency or intra-agency memorandums 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
(A) interfere with enforcement proceedings,
(B) deprive a person of a right to a fair trial or an impartial adjudication,
(C) constitute an unwarranted invasion of personal privacy,
(D) disclose the identity of a confidential source and, in the Case of a record compiled by 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,
(E) disclose investigative techniques and procedures, or
(F) 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; and

(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 such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the Congress.
(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including
the Executive Office of the President),
or any independent regulatory agency.

Sec. 4. The amendments made by this Act shall take effect on the ninetieth day beginning after the day of enactment of this Act.
VIII.b Version des Freedom of Information Act von 1984

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public -

(A) descriptions of its central and field organization and the established places at which, the officers (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public; unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or in-
struction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency unless only if-

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records, which (A) reasonable describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)

(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a Case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.


(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Council shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Council, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Council recommends.
(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)

(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

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

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

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are -

(1)

(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and
(B) 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 other than section 552 b of this title, provided that such statute
   (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
   (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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 (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by 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, (E) disclose investigative techniques and procedures, or (F) 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; or

(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 such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include-

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;
(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

IX.a Die Amendements durch den Freedom of Information Reform Act of 1986

FOIA 1984

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public

(A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

FOIA 1986

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public

(A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -
(A) final opinions, including concurring and dissenting opinion as well as orders, made in the adjudication of cases;
(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and
(C) administrative staff manuals and instructions to staff that affect a member of the public;
unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if -
(i) it has been indexed and either made available or published as provided by this paragraph; or
(ii) unless the party shall have actual and timely notice of the terms thereof.
(3) Except with respect to the records

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -
(A) final opinions, including concurring and dissenting opinion as well as orders, made in the adjudication of cases;
(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and
(C) administrative staff manuals and instructions to staff that affect a member of the public;
unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each Case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which Case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if -
(i) it has been indexed and either made available or published as provided by this paragraph; or
(ii) unless the party shall have actual and timely notice of the terms thereof.
(3) Except with respect to the records
made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to all constituent units of such agency.

. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that -

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose

made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to all constituent units of such agency.

. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that -

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose

conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.
is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section -

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

(II) for any request described in clause (ii) (I) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under

is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section -

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

(II) for any request described in clause (ii) (I) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under
(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.


(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Council shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.


(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Council shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The
Special Council, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Council recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than
ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are -

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and
(B) 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 other than section 552 b of this title, provided that such statute
(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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
(A) interfere with enforcement proceedings,
(B) deprive a person of a right to a fair trial or an impartial adjudication,
(C) constitute an unwarranted invasion of personal privacy,
(D) disclose the identity of a confidential source

and, in the Case of a record
compiled by 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

personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute other than section 552 b of this title, provided that such statute
(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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 or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information
(A) could reasonably be expected to interfere with enforcement proceedings,
(B) would deprive a person of a right to a fair trial or an impartial adjudication,
(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
(D) 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 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, (E) disclose investigative 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 (F) could reasonably be expected to 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; and

(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 such record after deletion of the portions which are exempt under this subsection.

(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and -

(A) the investigation or proceeding involves a possible violation of criminal law; and

(B) there is reason to believe that

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

(ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not

by a confidential source, (E) would disclose investigative 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 (F) could reasonably be expected to endanger the life or physical safety of any individual;

(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; and

(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 such record after deletion of the portions which are exempt under this subsection.
subject to the requirements of this section unless the informant’s status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include -

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

subject to the requirements of this section unless the informant’s status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(e) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include -

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;
(5) a copy of every rule made by such agency regarding this section;
(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and
(7) such other information as indicates efforts to administer fully this section.
The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e)
For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(f)
For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.
Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

Sec. 3

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public -

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinion as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall none-theless provide copies of such index on request at a cost not to exceed the direct cost of du-
plication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if -

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which

(A) reasonably describes such records and

(B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)

(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that -

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section -

(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or
(II) for any request described in clause (ii) (II) or (III) of this subparagraph for the
first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previ-
ously failed to pay fees in a timely fashion, or the agency has determined that the
fee will exceed $250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute spe-
cifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the
court shall determine the matter de novo: Provided, That the court's review of the
matter shall be limited to the record before the agency.

(B) On complaint, the district court of the United States in the district in which the com-
plainant resides, or has his principal place of business, or in which the agency records
are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from
withholding agency records and to order the production of any agency records impro-
perly withheld from the complainant. In such a Case the court shall determine the matter
de novo, and may examine the contents of such agency records in camera to determine
whether such records or any part thereof shall be withheld under any of the exemptions
set forth in subsection (b) of this section, and the burden is on the agency to sustain its
action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or oth-
erwise plead to any complaint made under this subsection within thirty days after service
upon the defendant of the pleading in which such complaint is made, unless the court
otherwise directs for good cause shown.


(E) The court may assess against the United States reasonable attorney fees and other litiga-
tion costs reasonably incurred in any Case under this section in which the complainant
has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld
from the complainant and assesses against the United States reasonable attorney fees and
other litigation costs, and the court additionally issues a written finding that the circum-
stances surrounding the withholding raise questions whether agency personnel acted ar-
britarily or capriciously with respect to the withholding, the Special Council shall
promptly initiate a proceeding to determine whether disciplinary action is warranted
against the officer or employee who was primarily responsible for the withholding. The
Special Council, after investigation and consideration of the evidence submitted, shall
submit his findings and recommendations to the administrative authority of the agency
concerned and shall send copies of the findings and recommendations to the officer or
employee or his representative. The administrative authority shall take the corrective ac-
tion that the Special Council recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish
for contempt the responsible employee, and in the Case of a uniformed service, the re-
ponsible member.

(5) Each agency having more than one member shall maintain and make available for public in-
specation a record of the final votes of each member in every agency proceeding.

(6)

(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this
subsection, shall -
(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request -

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

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

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are -

(1)

(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and

(B) 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 other than section 552 b of this title), provided that such statute

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information
   (A) could reasonably be expected to interfere with enforcement proceedings,
   (B) would deprive a person of a right to a fair trial or an impartial adjudication,
   (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
   (D) 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 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,
   (E) 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
   (F) could reasonably be expected to endanger the life or physical safety of any individual;

(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; and

(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 such record after deletion of the portions which are exempt under this subsection.

(c)

(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and -
   (A) the investigation or proceeding involves a possible violation of criminal law; and
   (B) there is reason to believe that
      (i) the subject of the investigation or proceeding is not aware of its pendency, and
      (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the re-
quirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include -

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

X.a Die Amendements durch die Electronic Freedom of Information Act of 1996

FOIA 1986


FOIA 1996

(Im dieser Form heute, Juli 1999, gültig)

Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public:

(A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.
(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and
(C) administrative staff manuals and instructions to staff that affect a member of the public;

(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and
(E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale.

For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction.

However, in each Case the justification for the deletion shall be explained fully in writing.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;
(C) administrative staff manuals and instructions to staff that affect a member of the public;

(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and
(E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale.

For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D).

However, in each Case the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically
A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if:

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which

(A) reasonably describes such records and

(B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication.

Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if:

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) unless the party shall have actual and timely notice of the terms thereof.

(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which

(A) reasonably describes such records and

(B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if:

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which

(A) reasonably describes such records and

(B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.
an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term 'search' means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that -

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term 'search' means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that -

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to
reasonable standard charges for document search and duplication.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section -

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

(II) for any request described in clause (ii) (II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.

(B) On complaint, the district court of the United States in the district in
which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a Case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.


(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Council shall promptly initiate a proceeding to determine whether disciplinary action

In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.


(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Council shall promptly initiate a proceeding to determine whether disciplinary action
is warranted against the officer or employee who was primarily responsible for the withholding. The Special Council, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Council recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall-

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons

(B)(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons unusual

(B)(ii) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual
for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or to reasonably modify the request or to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or to arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular requests -

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

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or to reasonably modify the request or to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or to arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular requests -

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

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.
(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(C)(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term 'exceptional circumstances' does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional

receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.

(C)(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term 'exceptional circumstances' does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional

receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.
circumstances exist for purposes of this subparagraph.

(D)(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records -

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure -

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time circumstances exist for purposes of this subparagraph.

(D)(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records -

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure -

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time circumstances exist for purposes of this subparagraph.
of the determination.

(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

(v) For purposes of this subparagraph, the term 'compelling need' means-

(I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.

(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

(b) This section does not apply to matters that are-

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and

(B) 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 (other than section 552b of this title), provided
that such statute
(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information
(A) could reasonably be expected to interfere with enforcement proceedings,
(B) would deprive a person of a right to a fair trial or an impartial adjudication,
(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
(D) 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 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,
(E) 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

(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information
(A) could reasonably be expected to interfere with enforcement proceedings,
(B) would deprive a person of a right to a fair trial or an impartial adjudication,
(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
(D) 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 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,
(E) 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
(F) could reasonably be expected to endanger the life or physical safety of any individual;

(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; and

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

(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and-

(A) the investigation or proceeding involves a possible violation of criminal law; and

(B) there is reason to believe that

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

(ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which
involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include -

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation which shall cover the preceding fiscal year and which shall include -

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation which shall cover the preceding fiscal year and which shall include -

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(e)(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report covering the preceding fiscal year and which shall include -

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and
of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

(ii) a complete list of all statutes that the agency relies upon to authorize the agency to withhold information under subsection (b)(3), a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;

(C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median number of days that such requests had been pending before the agency as of that date;

(D) the number of requests for records received by the agency and the number of requests which the agency processed;

(E) the median number of days taken by the agency to process different types of requests;

(F) the total amount of fees collected by the agency for processing requests; and

(G) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(2) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means.

(3) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the
Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(4) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(5) The Attorney General of the United States shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(4) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(5) The Attorney General of the United States shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each Case, the disposition of such Case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

; and

(2) 'record' and any other term used in this section in reference to
information includes any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format.

(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including -

(1) an index of all major information systems of the agency;

(2) a description of major information and record locator systems maintained by the agency; and

(3) a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.
Sec. 552. Public information; agency rules, opinions, orders, records, and proceedings.

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public -

(A) descriptions of its central and field organization and the established places at which, the employees (and in the Case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying -

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;

(C) administrative staff manuals and instructions to staff that affect a member of the public;

(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each Case the justification for the deletion shall be explained fully in writ-
ing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the record as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if -

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3)

(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which

(i) reasonably describes such records and

(ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term 'search' means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(4)

(A)

(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.
(ii) Such agency regulations shall provide that -

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section -

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

(II) for any request described in clause (ii) (II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed $250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: Provided, That the court's review of the matter shall be limited to the record before the agency.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a Case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).
(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.


(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any Case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Council shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Council, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Council recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the Case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)

(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefore, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B)

(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify
the person making the request if the request cannot be processed within the time
limit specified in that clause and shall provide the person an opportunity to limit the
scope of the request so that it may be processed within that time limit or an opportu-
nity to arrange with the agency an alternative time frame for processing the re-
quest or a modified request. Refusal by the person to reasonably modify the request
or arrange such an alternative time frame shall be considered as a factor in deter-
mining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, 'unusual circumstances' means, but only to the extent
reasonably necessary to the proper processing of the particular requests -

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

(II) the need to search for, collect, and appropriately examine a voluminous
amount of separate and distinct records which are demanded in a single re-
quest; or

(III) the need for consultation, which shall be conducted with all practicable speed,
with another agency having a substantial interest in the determination of the
request or among two or more components of the agency having substantial
subject-matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public
comment, providing for the aggregation of certain requests by the same requestor,
or by a group of requestors acting in concert, if the agency reasonably believes that
such requests actually constitute a single request, which would otherwise satisfy the
unusual circumstances specified in this subparagraph, and the requests involve
clearly related matters. Multiple requests involving unrelated matters shall not be
aggregated.

(C)

(i) Any person making a request to any agency for records under paragraph (1), (2), or
(3) of this subsection shall be deemed to have exhausted his administrative reme-
dies with respect to such request if the agency fails to comply with the applicable
time limit provisions of this paragraph. If the Government can show exceptional
circumstances exist and that the agency is exercising due diligence in responding to
the request, the court may retain jurisdiction and allow the agency additional time
to complete its review of the records. Upon any determination by an agency to
comply with a request for records, the records shall be made promptly available to
such person making such request. Any notification of denial of any request for re-
cords under this subsection shall set forth the names and titles or positions of each
person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term 'exceptional circumstances' does not in-
clude a delay that results from a predictable agency workload of requests under this
section, unless the agency demonstrates reasonable progress in reducing its backlog
of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an al-
ternative time frame for processing a request (or a modified request) under clause
(ii) after being given an opportunity to do so by the agency to whom the person
made the request shall be considered as a factor in determining whether exceptional
circumstances exist for purposes of this subparagraph.

(D)
Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records -

- in cases in which the person requesting the records demonstrates a compelling need; and
- in other cases determined by the agency.

Notwithstanding clause (i), regulations under this subparagraph must ensure -

- that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and
- expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

For purposes of this subparagraph, the term 'compelling need' means -

- that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
- with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.

In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.
(b) This section does 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

(A) 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 (other than section of this title), provided that such statute

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums 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) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings,

(B) would deprive a person of a right to a fair trial or an impartial adjudication,

(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(D) 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 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,

(E) 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

(F) could reasonably be expected to endanger the life or physical safety of any individual;

(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 such record after deletion of the portions which are exempt under this subsection. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made.
(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and -

(A) the investigation or proceeding involves a possible violation of criminal law; and

(B) there is reason to believe that

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

   (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e)

(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include -

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)

   (i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

   (ii) a complete list of all statutes that the agency relies upon to authorize the agency to withhold information under subsection (b)(3), a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;

(C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median number of days that such requests had been pending before the agency as of that date;

(D) the number of requests for records received by the agency and the number of requests which the agency processed;

(E) the median number of days taken by the agency to process different types of requests;
(F) the total amount of fees collected by the agency for processing requests; and

(G) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(2) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means.

(3) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(4) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(5) The Attorney General of the United States shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such Case, and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term -

(1) 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) 'record' and any other term used in this section in reference to information includes any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format.

(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including -

(1) an index of all major information systems of the agency;

(2) a description of major information and record locator systems maintained by the agency; and

(3) a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.