

shall be decided for the Department by the Assistant Secretary—Policy, Budget and Administration or an official designated by the Assistant Secretary, after consultation with the Solicitor.

(b) *Time limit.* (1) A final determination on any appeal shall be made within thirty (30) working days after receipt of the appeal.

(2) The thirty (30) day period for decision on an appeal may be extended, for good cause shown, by the Secretary of the Interior. If the thirty (30) day period is extended, the individual submitting the appeal shall be notified of the extension and of the date on which a determination on the appeal is expected to be dispatched.

(c) *Form of decision.* (1) The final determination on an appeal shall be in writing and shall state the basis for the determination.

(2) If the determination upholds, in whole or part, the initial decision rejecting the petition for amendment, the determination shall also advise the individual submitting the appeal:

(i) Of his or her right to file a concise statement of the reasons for disagreeing with the decision of the agency;

(ii) Of the procedure established by § 2.77 for the filing of the statement of disagreement;

(iii) That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed together with, at the discretion of the Department, a brief statement by the Department summarizing its reasons for refusing to amend the record;

(iv) That prior recipients of the challenged record will be provided a copy of any statement of dispute to the extent that an accounting of disclosure was maintained; and

(v) Of his or her right to seek judicial review of the Department's refusal to amend the record.

(3) If the determination reverses, in whole or in part, the initial decision rejecting the petition for amendment, the system manager responsible for the system containing the challenged record shall be directed to:

(i) Amend the challenged record accordingly; and

(ii) If an accounting of disclosures has been made, advise all previous recipients of the record of the amendment and its substance.

[40 FR 44505, Sept. 26, 1975, as amended at 48 FR 56586, Dec. 22, 1983; 53 FR 3750, Feb. 9, 1988]

§ 2.76 [Reserved]

§ 2.77 Statements of disagreement.

(a) *Filing of statement.* If the determination of the Assistant Secretary—Policy, Budget and Administration under § 2.75 rejects in whole or part, a petition for amendment, the individual submitting the petition may file with the system manager for the system containing the challenged record a concise written statement setting forth the reasons for disagreement with the determination of the Department.

(b) *Disclosure of statements.* In any disclosure of a record containing information about which an individual has filed a statement of disagreement under this section which occurs after the filing of the statement, the disputed portion of the record will be clearly noted and the recipient shall be provided copies of the statement of disagreement. If appropriate, a concise statement of the reasons of the Department for not making the requested amendments may also be provided to the recipient.

(c) *Maintenance of statements.* System managers shall develop procedures to assure that statements of disagreement filed with them shall be maintained in such a way as to assure dissemination of the statements to recipients of the records to which the statements pertain.

[48 FR 56586, Dec. 22, 1983]

§ 2.78 [Reserved]

§ 2.79 Exemptions.

(a) *Criminal law enforcement records exempt under 5 U.S.C. 552a(j)(2).* Pursuant to 5 U.S.C. 552a(j)(2) the following systems of records have been exempted from all of the provisions of 5 U.S.C. 552a and the regulations in the subpart except paragraphs (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) of 5 U.S.C. 552a and the portions of the regulations in

§ 2.80

this subpart implementing these paragraphs:

(1) Investigative Case File System, Interior/FWS-20.

(2) Law Enforcement Services System, Interior/BIA-18.

(3) Law Enforcement Statistical Reporting System, Interior/NPS-19.

(4) Investigative Records, Interior/Office of Inspector General-2.

(b) *Law enforcement records exempt under 5 U.S.C. 552a(k)(2)*. Pursuant to 5 U.S.C. 552a(k)(2), the following systems of records have been exempted from paragraphs (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a and the provisions of the regulations in this subpart implementing these paragraphs:

(1) Investigative Records, Interior/Office of Inspector General-2.

(2) Permits System, Interior/FWS-21.

(3) Criminal Case Investigation System, Interior/BLM-18.

(4) Civil Trespass Case Investigations, Interior/BLM-19.

(5) Employee Conduct Investigations, Interior/BLM-20.

(6)-(7) [Reserved]

(8) Employee Financial Irregularities, Interior/NPS-17.

(9) Trespass Cases, Interior/Reclamation-37.

(10) Litigation, Appeal and Case Files System, Interior/Office of the Solicitor-1 to the extent that it consists of investigatory material compiled for law enforcement purposes.

(11) Endangered Species Licenses System, Interior/FWS-19.

(12) Investigative Case File, Interior/FWS-20.

(13) Timber Cutting and Trespass Claims Files, Interior/BIA-24.

(c) Investigatory records exempt under 5 U.S.C. 552a(k)(5), the following systems of records have been exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a and the provisions of the regulations in this subpart implementing these subsections:

(1) [Reserved]

(2) National Research Council Grants Program, Interior/GS-9

43 CFR Subtitle A (10-1-03 Edition)

(3) Committee Management Files, Interior/Office of the Secretary-68.

(5 U.S.C. 301, 552a and 5 U.S.C. app. sections 9(a)(1)(D) and 9(b); 5 U.S.C. 301, 552, and 552a; 31 U.S.C. 483a; and 43 U.S.C. 1460)

[40 FR 44505, Sept. 26, 1975, as amended at 40 FR 54790, Nov. 26, 1975; 47 FR 38328, Aug. 31, 1982; 48 FR 37412, Aug. 18, 1983; 48 FR 56586, Dec. 22, 1983; 49 FR 6907, Feb. 24, 1984]

Subpart H—Legal Process: Testimony by Employees and Production of Records

SOURCE: 65 FR 46369, July 28, 2000, unless otherwise noted. Redesignated at 67 FR 64530, Oct. 21, 2002.

GENERAL INFORMATION

§ 2.80 What does this subpart cover?

(a) This subpart describes how the Department of the Interior (including all its bureaus and offices) responds to requests or subpoenas for:

(1) Testimony by employees in State, territorial or Tribal judicial, legislative or administrative proceedings concerning information acquired while performing official duties or because of an employee's official status;

(2) Testimony by employees in Federal court civil proceedings in which the United States is not a party concerning information acquired while performing official duties or because of an employee's official status;

(3) Testimony by employees in any judicial or administrative proceeding in which the United States, while not a party, has a direct and substantial interest;

(4) Official records or certification of such records for use in Federal, State, territorial or Tribal judicial, legislative or administrative proceedings.

(b) In this subpart, "employee" means a current or former Department employee, including a contract or special government employee.

(c) This subpart does not apply to:

(1) Congressional requests or subpoenas for testimony or records;

(2) Federal court civil proceedings in which the United States is a party;

(3) Federal administrative proceedings;

(4) Federal, State and Tribal criminal court proceedings;