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petition contains adequate justification, a rulemaking proceeding will be initiated or a final rule will be issued as appropriate. If the Secretary finds that the petition does not contain adequate justification, the petition will be denied by letter or other notice, with a brief statement of the ground for denial. The Secretary may consider new evidence at any time; however, repetitious petitions for rulemaking will not be considered.

**PART 13—USE OF PENALTY MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN**

Sec.

- 13.1 Purpose.
- 13.2 Procedures for obtaining and disseminating data.
- 13.3 Withdrawal of data.
- 13.4 Reports.

AUTHORITY: 39 U.S.C. 3220(a)(2); 5 U.S.C. 301.

SOURCE: 51 FR 19830, June 3, 1986, unless otherwise noted.

**§ 13.1 Purpose.**

To support the national effort to locate and recover missing children, the Department of Housing and Urban Development (HUD) joins other executive departments and independent establishments of the Government of the United States in using penalty mail to disseminate photographs and biographical information on hundreds of missing children.

[51 FR 19830, June 3, 1986; 51 FR 43608, Dec. 3, 1986]

**§ 13.2 Procedures for obtaining and disseminating data.**

(a) HUD shall insert, manually and via automated inserts, pictures and biographical data related to missing children in domestic penalty mail directed to members of the public in the United States, its territories and possessions. These include:

- (1) Standard letter-size envelopes (4½" × 9½");
- (2) Document-size envelopes (9½" × 12", 9½" × 11½", 10" × 13"); and
- (3) Other envelopes (miscellaneous size).

(b) Missing children information shall not be placed on the *Penalty Indi-*

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*cia, OCR Read Area, Bar Code Read Area, and Return Address* areas of letter-size envelopes.

(c) Posters containing pictures and biographical data shall be placed on bulletin boards in Headquarters and Field offices.

(d) HUD shall accept camera-ready and other photographic and biographical materials solely from the National Center for Missing and Exploited Children (National Center). Photographs that were reasonably current as of the time of the child's disappearance shall be the only acceptable form of visual media or pictorial likeness used in penalty mail or posters.

**§ 13.3 Withdrawal of data.**

HUD shall remove all printed penalty mail envelopes and other materials from circulation or other use within a three month period from the date the National Center receives information or notice that a child, whose picture and biographical information have been made available to HUD, has been recovered or that the parent or guardian's permission to use the child's photograph and biographical information has been withdrawn. The HUD contact person shall be notified immediately and in writing by the National Center of the need to withdraw from circulation penalty mail envelopes and other materials related to a particular child.

**§ 13.4 Reports.**

HUD shall compile and submit to Office of Juvenile Justice and Delinquency Prevention (OJJDP), by June 30, 1987, a consolidated report on its experience in implementing S. 1195 *Official Mail Use in the Location and Recovery of Missing Children* along with recommendations for future Departmental action.

**PART 14—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN ADMINISTRATIVE PROCEEDINGS**

**Subpart A—General Provisions**

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## § 14.110

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AUTHORITY: Sec. 504(c)(1) of the Equal Access to Justice Act (5 U.S.C. 504(c)(1); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

SOURCE: 52 FR 27126, July 17, 1987, unless otherwise noted.

## Subpart A—General Provisions

### § 14.50 Definitions.

*Act.* The Equal Access to Justice Act, 5 U.S.C. 504, title II of Pub. L. 96-481, as amended by Pub. L. 99-80.

*Adjudicative officer.* The hearing examiner, administrative law judge, administrative judge of the HUD Board of Contract Appeals, or other officer designated by the Secretary or other responsible Department official, who presided at the adversary adjudication.

*Adversary adjudication.* (a) An adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but not including an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license; and

(b) Appeals of decisions of contracting officers made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before agency boards

of contract appeals as provided in section 8 of that Act (41 U.S.C. 607).

*Agency counsel* (a) When the position of the Department is being represented, the attorney or attorneys designated by the Department's General Counsel to represent the Department in a proceeding covered by this part, and

(b) When the position of another agency of the United States is being represented, the representative as designated by that agency.

*Department.* The Department of Housing and Urban Development, or the organizational unit within the Department responsible for conducting an adversary adjudication subject to this part.

*Proceeding.* An adversary adjudication as defined above.

*Secretary.* The Secretary of Housing and Urban Development.

### § 14.100 Time computation.

Time periods stated in this part shall be computed in accordance with the Department's rules with respect to computation of time which apply to the underlying proceeding.

### § 14.105 Purpose of these rules.

The Act provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (*adversary adjudications*) before the Department. An eligible party may receive an award when it prevails over an agency, unless the agency's position was substantially justified or special circumstances make an award unjust. The rules in this part described the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards and the procedures and standards that the Department will use to make them.

### § 14.110 When the Act applies.

The Act applies to any adversary adjudication pending or commenced before this Department on or after August 5, 1985. It also applies to any adversary adjudication commenced on or after October 1, 1984, and finally disposed of before August 5, 1985, provided that an application for fees and expenses, as described in subpart B of