**OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

32 CFR Part 1704

**Mandatory Declassification Review Program**

**AGENCY:** Office of the Director of National Intelligence.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of the Director of National Intelligence (ODNI) is publishing this proposed rule pursuant to Executive Order 13526, relating to classified national security information. It provides procedures for members of the public to request from ODNI a Mandatory Declassification Review (MDR) of information classified under the provisions of Executive Order 13526 or predecessor orders such that the agency may retain it with reasonable effort. This rule also informs requesters where to send requests for an MDR.

**DATES:** Submit comments on or before May 25, 2016.

**ADDRESSES:** You may submit comments by any of the following methods: By mail to the Office of the Director of National Intelligence, Director of the Information Management Division, Washington, DC 20511, by facsimile at (703) 874-8910, or by email at dni-FOIA@dni.gov.

**FOR FURTHER INFORMATION CONTACT:** Jennifer L. Hudson, 703–874–8085.

**SUPPLEMENTARY INFORMATION:** It is the policy of the ODNI to act in matters relating to national security information in accordance with Executive Order 13526 and directives issued thereunder by the Information Security Oversight Office (ISOO). The purpose of this rule is to assist in implementing specific sections of Executive Order 13526 concerning the Mandatory Declassification Review (MDR).

**Regulatory Impact**

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review Act (CRA) and administrative rulemaking. As required by the Regulatory Flexibility Act (RFA), we certify that this proposed rule will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies.

**List of Subjects in 32 CFR Part 1704**

Declassification, Information, Intelligence, National security information.

For the reasons set forth in the preamble, ODNI proposes to add 32 CFR part 1704 to read as follows:

**PART 1704—MANDATORY DECLASSIFICATION REVIEW PROGRAM**

Sec. 1704.1 Authority and purpose.

1704.2 Definitions.

1704.3 Contact information.

1704.4 MDR program feedback.

1704.5 Guidance.

1704.6 Exceptions.

1704.7 Requirements.

1704.8 Fees.

1704.9 Determination by originator or interested party.

1704.10 Appeals.

**Authority:** 50 U.S.C. 3001; E.O. 13526, 75 FR 707. 3 CFR, 2009 Comp. p. 298.

**§ 1704.1 Authority and purpose.**

(a) Authority. This part is issued under the authority of 32 CFR 2001.33; Section 3.5 of Executive Order 13526 (or successor Orders); the National Security Act of 1947, as amended (50 U.S.C. 3001 et seq.).

(b) Purpose. This part prescribes procedures, subject to limitations set forth below, for requesters to request a mandatory declassification review of information classified under Executive Order 13526 or predecessor or successor orders. Section 3.5 of Executive Order 13526 and these regulations are not intended to and do not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees, or agents, or any other person.

**§ 1704.2 Definitions.**

For purposes of this part:

Control means the authority of the agency that originates information, or its successor in function, to regulate access to the information. (32 CFR 2001.92)

Day means U.S. Federal Government working day, which excludes Saturdays, Sundays, and federal holidays. Three (3) days may be added to any time limit imposed on a requester by this part if responding by U.S. domestic mail; ten (10) days may be added if responding by international mail.

D/IMD means the Director of the Information Management Division and the leader of any successor organization, who serves as the ODNI’s manager of the information review and release program.

Federal agency means any Executive agency, as defined in 5 U.S.C. 105; any Military department, as defined in 5 U.S.C. 102; and any other entity within the executive branch that comes into the possession of classified information.

Information means any knowledge that can be communicated or documentary material, regardless of its physical form that is owned by, produced by or for, or under the control of the U.S. Government; it does not include information originated by the incumbent President, White House Staff, appointed committees, commissions or boards, or any entities within the Executive Office that solely advise and assist the incumbent President.

Interested party means any official in the executive, military, congressional, or judicial branches of government, or U.S. Government contractor who, in the sole discretion of the ODNI, has a subject...
matter or other interest in the
documents or information at issue.
NARA means the National Archives
and Records Administration.
ODNI means the Office of the Director
of National Intelligence.
Order means Executive Order 13526,
“Classified National Security
Information” (December 29, 2009) or
successor Orders.
Originating element means the
element that created the information at
issue.
Presidential libraries means the
libraries or collection authorities
established under the Presidential
Libraries Act (44 U.S.C. 2112) and
similar institutions or authorities as
may be established in the future.
Referral means coordination with or
transfer of action to an interested party.
Requester means any person or
organization submitting an MDR
request.

§ 1704.3 Contact information.
For general information on the
regulation in this part or to submit a
request for a Mandatory Declassification
Review (MDR), please direct your
communication by mail to the Office of
the Director of National Intelligence,
Director of the Information Management
Division, Washington, DC 20511; by
facsimile to (703) 874–8910; or by email to
DNI-FOIA@dni.gov. For general
information on the ODNI MDR program or
status information on pending MDR
cases, call (703) 874–8500.

§ 1704.4 Suggestions or comments.
The ODNI welcomes suggestions for
improving the administration of our
MDR program in accordance with
Executive Order 13526. Suggestions
should identify the specific purpose and
the items for consideration. The ODNI
will respond to all communications and
take such actions as determined feasible
and appropriate.

§ 1704.5 Guidance.
Address all communications to the
point of contact as specified in § 1704.3.
Clearly describe, list, or label said
communication as an MDR Request.

§ 1704.6 Exceptions.
MDR requests will not be accepted
from a foreign government entity or any
representative thereof. MDR requests
will not be accepted for documents
required to be submitted for pre-
publication review or other
administrative process pursuant to an
approved nondisclosure agreement; for
information that is the subject of
pending litigation; nor for any
document or material containing
information contained within an
operational file exempted from search
and review, publication, and disclosure
under the FOIA. If the ODNI has
reviewed the requested information for
declassification within the past two
years, the ODNI will not conduct
another review, but the D/IMD will
notify the requester of this fact and the
prior review decision. Requests will not
be accepted from requesters who have
outstanding fees for MDR or Freedom of
Information Act (FOIA) requests with
the ODNI or another federal agency.

§ 1704.7 Requirements.
An MDR request shall describe the
document or material containing the
information with sufficient specificity to
enable the ODNI to locate it with a
reasonable amount of effort.

§ 1704.8 Fees.
(a) In general. Any search, review,
and reproduction fees will be charged in
accordance with the provisions below
relating to schedule, limitations, and
category of requester. Applicable fees
will be due even if a subsequent search
locates no responsive records.

The ODNI may
require an advance payment of up to
100 percent of the estimated fees when
projected fees exceed $250.00, not
including charges associated with the
first 100 pages of production and two
hours of search (when applicable), or
when the requester previously failed to
pay fees in a timely fashion, for fees of
any amount. ODNI will hold in
abeyance for 45 days those requests
where advance payment has been
requested.

(b) Agency discretion to waive fees.
Records will be furnished without
charge or at a reduced rate when ODNI
determines:

(1) As a matter of administrative
discretion, the interest of the United
States Government would be served, or

(2) It is in the public interest to
provide responsive records because the
disclosure is likely to contribute
significantly to the public
understanding of the operations or
activities of the United States
Government and is not primarily in the
commercial interest of the requester.

(c) Agreement to pay fees. If you
request an MDR, it shall be considered
a firm commitment by you to pay all
applicable fees chargeable under this
regulation, up to and including the
amount of $25.00. When making a
request, you may specify a willingness
to pay a greater or lesser amount.

(d) Advance payment. The ODNI may
require an advance payment of up to
100 percent of the estimated fees when
projected fees exceed $250.00, not
including charges associated with the
first 100 pages of production and two
hours of search (when applicable), or
when the requester previously failed to
pay fees in a timely fashion, for fees of
any amount. ODNI will hold in
abeyance for 45 days those requests
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requested.

(e) Schedule of fees—(1) In general.
The schedule of fees for services
performed in responding to requests for
records is as follows:

<table>
<thead>
<tr>
<th>Personnel Search and Review</th>
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<tbody>
<tr>
<td>Clerical/Technical</td>
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<tr>
<td>Professional/Supervisory</td>
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<td>Manager/Senior Professional</td>
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<tr>
<th>Computer Search and Production</th>
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<tbody>
<tr>
<td>Search (on-line)</td>
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<tr>
<td>Search (off-line)</td>
</tr>
<tr>
<td>Other activity</td>
</tr>
<tr>
<td>Tapes (mainframe cassette)</td>
</tr>
<tr>
<td>Tapes (mainframe cartridge)</td>
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<tr>
<td>Tapes (mainframe reel)</td>
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<tr>
<td>Tapes (PC 5mm)</td>
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<tr>
<td>Diskette (3.5&quot;)</td>
</tr>
<tr>
<td>CD (bulk recorded)</td>
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<tr>
<td>CD (recordable)</td>
</tr>
<tr>
<td>Telecommunications</td>
</tr>
<tr>
<td>Paper (mainframe printer)</td>
</tr>
<tr>
<td>Paper (PC b&amp;w laser printer)</td>
</tr>
<tr>
<td>Paper (PC color printer)</td>
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</table>
(2) Application of schedule. Personnel search time includes time expended in manual paper records searches, indices searches, review of computer search results for relevance, and personal computer system searches. In any event where the actual cost to ODNI of a particular item is less than the above schedule (e.g., a large production run of a document resulting in a cost less than $5.00 per hundred pages), then the actual lesser cost will be charged.

(3) Other services. For all other types of output, production, or reproduction (e.g., photographs, maps, or published reports), ODNI will charge actual cost or amounts authorized by statute. Determinations of actual cost shall include the commercial cost of the media, the personnel time expended in making the item, or, if the production is a large production run of photographs, maps, or published photographs, maps, or published photographs, maps, or published report, then the personnel time expended in making the item, or, if the production is effected by a commercial service, then that charge shall be deemed the actual cost for purposes of this regulation.

(f) Limitations on collection of fees—

(1) In general. No fees will be charged if the cost of collecting the fee is equal to or greater than the fee itself. That cost includes the administrative costs to ODNI of billing, receiving, recording, and processing the fee for deposit to the Treasury Department and, as of the date of these regulations, is deemed to be $10.00.

(g) Associated requests. If it appears a requester or a group of requesters acting in concert have requested portions of an apparently unitary request for the purpose of avoiding the assessment of fees, ODNI may aggregate any such requests and charge accordingly. Requests from multiple requesters will not be aggregated without clear evidence. ODNI will not aggregate multiple unrelated requests.

§ 1704.10 Appeals.

(a) Administrative. Appeals of initial decisions must be received by the D/IMD within 60 days of the date of mailing of the ODNI's decision. The appeal must identify with specificity the documents or information to be considered on appeal and it may but need not provide a factual or legal basis for the appeal.

(1) Exceptions. No appeal shall be accepted from a foreign government entity or any representative thereof. Appeals will not be accepted for documents required to be submitted for pre-publication review or other administrative process pursuant to an approved nondisclosure agreement; for information that is the subject of pending litigation; nor for any document or material containing information contained within an operational file exempted from search and review, publication, and disclosure under the FOIA. No appeals shall be accepted if the requester has outstanding fees for information services at ODNI or another Federal agency. In addition, no appeal shall be accepted if the information in question has been the subject of a declassification review within the previous two years.

(b) Receipt, recording, and tasking. The D/IMD will record each appeal received under this part and acknowledge receipt to the requester.

(3) Appellate authority. The ODNI Chief Management Officer (CMO), after consultation with all interested parties or ODNI component organization as well as with the Office of General Counsel, will make a final determination on the appeal within 60 days.

(b) Final appeal. The D/IMD will prepare and communicate the ODNI administrative appeal decision to the requester, NARA, Presidential Library and referring agency, as appropriate. Correspondence will include a notice, if applicable, that a further appeal of ODNI's final decision may be made to the Interagency Security Classification Appeals Panel (ISCAP) established pursuant to section 5.3 of Executive Order 13526. Action by that Panel will be the subject of rules to be promulgated by the Information Security Oversight Office.

Dated: April 12, 2016.

Mark W. Ewing,
Chief Management Officer.

[FR Doc. 2016–09251 Filed 4–22–16; 8:45 am]

BILLING CODE 9500–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180


Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before May 25, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the

Paper Production

<table>
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<tr>
<th>Photocopy (standard or legal)</th>
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<td>Pre-printed (if available)</td>
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