PART 740—[AMENDED]

1. The authority citation for part 740 continues to read as follows:


2. Section 740.9 is amended by revising paragraph (a)(8) and the introductory text of paragraph (a)(14) to read as follows:

§ 740.9 Temporary imports, exports, reexports, and transfers (in-country) (TMP).

(a) * * *

(8) Assembly in Mexico. Commodities may be exported to Mexico under Customs entries that require return to the United States after processing, assembly, or incorporation into end products by companies, factories, or facilities participating in Mexico’s in-bond industrialization program (IMMEX) under this paragraph (a)(8), provided that all resulting end-products (or the commodities themselves) are returned to the United States as soon as practicable but no later than four years after the date of export or reexport.

(14) Return or disposal of items. With the exception of items described in paragraphs (a)(8) and (11) of this section, all items exported, reexported, or transferred (in-country) under this section must, if not consumed or destroyed in the normal course of authorized temporary use abroad, be returned to the United States or other country from which the items were so transferred as soon as practicable but no later than one year after the date of export, reexport, or transfer (in-country). Items not returned shall be disposed of or retained in one of the following ways:

Kevin J. Wolf, Assistant Secretary for Export Administration.

[FR Doc. 2016–28893 Filed 11–30–16; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 375 and 388

[DOcket No. RM17–5–000; Order No.832]

Regulations Implementing the FOIA Improvement Act of 2016 and Clarifying the FOIA Regulations

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: On June 30, 2016, President Obama signed the Freedom of Information Act Improvement Act of 2016. The Act requires agencies to revise their regulations within 180 days to account for the new statutory mandates. After undertaking a review of Commission regulations in accordance with Section 3 of the Act, the Commission is revising its FOIA regulations to incorporate the statutory mandates. Additionally, this rule updates the delegation regulations with respect to determinations made by the General Counsel in response to FOIA administrative appeals.

DATES: This rule will become effective January 3, 2017.


SUPPLEMENTARY INFORMATION:

ORDER NO. 832

FINAL RULE

I. Introduction

1. On June 30, 2016, President Obama signed the Freedom of Information Act (FOIA) Improvement Act of 2016 (FOIA Improvement Act or the Act).1 The Act directs agencies to: (1) Make information that has been requested and disclosed three times publically accessible in an electronic format; 2 (2) institute a sunset period of 25 years on records protected under the deliberative

footnote 1

FOIA Improvement Act of 2016, Public Law 114–185, 130 Stat. 538 (June 2016). The Act also requires several actions that do not necessitate a revising of the regulations such as FOIA officers offering additional FOIA training.

footnote 2


footnote 3

See 5 U.S.C. 552(b)(5)(2012) (incorporating various privileges including the deliberative process privilege covering “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.”)

footnote 4

Commission’s headquarters or on the Commission’s Web site. The Commission is revising that section to codify this requirement.

C. Revisions to Section 388.107

6. The FOIA Improvement Act provides that the deliberative process privilege no longer exempts a document that is 25 years or older. Section 388.107 describes material that is exempt from public disclosure under the Commission’s regulations, and a provision in that section describes material that would traditionally fall under the protection of deliberative process privilege. The Commission is revising section 388.107(e) to reflect the 25 year limitation on material that would otherwise be exempt under the deliberative process privilege.

D. Revisions to Section 388.108

7. The FOIA Improvement Act requires agencies to codify the Department of Justice’s foreseeable harm standard. Under that standard, agencies “shall withhold information” under the FOIA “only if the agency reasonably foresees that disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.” The standard does not require the release of material “that is otherwise prohibited from disclosure by law, or otherwise exempted from disclosure under [Exemption] 3.” The Act also directs agencies to make reasonable efforts to segregate and release nonexempt material. Consistent with Section 3 of the Act, the Commission revises section 388.108 to codify these practices.

E. Revisions to Section 388.109

8. The Act directs agencies to waive processing fees, under certain unusual circumstances, where the agency’s response was delayed.5 The Commission is revising its regulations on FOIA processing fees, section 388.109, to provide for fee waivers in the unusual circumstances described in the Act.

F. Revisions to Section 388.110

9. The FOIA Improvement Act also provides changes to administrative appeals and provides mandatory language that must go in initial response letters. The Act requires that all determination letters must notify the requester that they can seek assistance from the FOIA Public Liaison. Each adverse FOIA determination letter must notify the requester of the option to seek dispute resolution services from Office of Government Information Services (OGIS).

10. The Act also directs Agencies to extend the timeframe to file an administrative appeal from 45 days to at least 90 days. Additionally, the Act mandates that agencies advise requesters that they may seek the assistance of OGIS when the agency extends the response time by ten or more days for unusual circumstances. The Commission will take these steps and revises section 388.110 of its regulations to codify this practice.

III. Information Collection Statement

11. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule. However, this instant Final Rule does not contain any information collection requirements. Therefore, compliance with OMB regulations is not required.

IV. Environmental Analysis

12. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.7 Issuance of this Final Rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission’s regulations implementing the National Environmental Policy Act of 1969. Part 380 of the Commission’s regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for procedural, ministerial, or internal administrative actions.8 This rulemaking is exempt under that provision.

V. Regulatory Flexibility Act

13. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This Final Rule makes procedural modifications as directed by statute. The Commission certifies that it will not have a significant economic impact upon participants in Commission proceedings. An analysis under the RFA is not required.

VI. Document Availability

14. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission’s Home Page (http://www.ferc.gov) and in the Commission’s Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

15. From the Commission’s Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

16. User assistance is available for eLibrary and the Commission’s Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

VII. Effective Date

17. The Commission is issuing this rule as a Final Rule without a period for public comment. Under 5 U.S.C. 553(b)(3)(A), notice and comment procedures are unnecessary for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice . . . .” This rule merely makes modification to existing procedures as directed by statute. The rule will not significantly affect regulated entities or the general public.

18. These regulations are effective January 3, 2017.

List of Subjects

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 388

Confidential business information, Freedom of information. By the Commission.

Issued: November 17, 2016.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

In consideration of the foregoing, the Commission amends parts 375 and 388, Chapter I, Title 18, Code of Federal Regulations, as follows:
PART 375—THE COMMISSION

1. The authority citation for part 375 continues to read as follows:


2. In § 375.309, paragraph (h) is added and reserved, and paragraph (i) is added to read as follows:

§ 375.309 Delegations to the General Counsel.

(i) [Reserved]

(j) [Reserved]

(2) Appeals filed pursuant to this section by more than ten additional working days, the written notice will notify the requester of the right to seek dispute resolution services from the Office of Government Information Services. [FR Doc. 2016–28811 Filed 11–30–16; 8:45 am]

BILLING CODE 6717–01–P

PART 388—INFORMATION AND REQUESTS

3. The authority citation for part 388 continues to read as follows:


4. Amend § 388.106 by adding paragraph (b)(24) to read as follows:


(b) * * * *

(24) Records that have been requested three or more times and determined eligible for public disclosure will be made publicly available on the Commission’s Web site or through other electronic means.

5. Amend § 388.107 by revising paragraph (e) to read as follows:

§ 388.107 Commission records exempt from public disclosure.

(e) Interagency or intragency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency, except that the deliberative process privilege shall not exempt any record 25 years or older.

6. Amend § 388.108 by revising paragraph (c)(4) and adding paragraph (c)(5) to read as follows:

§ 388.108 Requests for Commission records not available through the Public Reference Room (FOIA requests).

(c) * * * *

(4) The Director will consider whether partial disclosure of information is possible whenever it is determined that a document is exempt and will take reasonable steps to segregate and release nonexempt information.

7. Amend § 388.109 by adding paragraph (f) to read as follows:

§ 388.109 Fees for record requests.

(f) The Commission will not charge search fees (or duplication fees for requesters with preferred fee status) where, after extending the time limit for unusual circumstances, as described in § 388.110, the Director does not provide a timely determination.

8. Amend § 388.110 by revising paragraph (a) and adding paragraph (b)(5) to read as follows:

§ 388.110 Procedure for appeal of denial of requests for Commission records not publicly available or not available through the Public Reference Room, denial of . . . fee waiver or reduction, and denial of requests for expedited processing.

(a)(1) Determination letters shall indicate that a requester may seek assistance from the FOIA Public Liaison. A person whose request for records, request for fee waiver, or request for expedited processing is denied in whole or in part may seek dispute resolution services from the Office of Government Information Services, or may appeal the determination to the General Counsel or General Counsel’s designee within 90 days of the determination.

(b) * * *

(5) Whenever the Commission extends the time limit, pursuant to paragraph (b)(1) of this section, by more than ten additional working days, the written notice will notify the requester of the right to seek dispute resolution services from the Office of Government Information Services.

SUMMARY: The United States International Trade Commission (“Commission”) issues a final rule amending its Rules of Practice and Procedure concerning rules of general application to reflect amendments to the Freedom of Information Act (“FOIA”) made by the FOIA Improvement Act of 2016 (“Improvement Act”). Among other things, the Improvement Act requires the Commission to amend its FOIA regulations to extend the deadline for administrative appeals for FOIA decisions, to add information on dispute resolution services, and to amend the...