

## PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

■ 1. The authority citation for part 23 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40013, 44701, 44702, 44704.

■ 2. Amend § 23.1557 by revising § 23.1557(c)(1) introductory text to read as follows:

### § 23.1557 Miscellaneous markings and placards.

\* \* \* \* \*

(c) \* \* \*

(1) Fuel filler openings must be marked at or near the filler cover with—

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Issued in Washington, DC on June 16, 2008.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

[FR Doc. E8–13900 Filed 6–19–08; 8:45 am]

**BILLING CODE 4910–13–P**

## EXECUTIVE OFFICE OF THE PRESIDENT

### Office of the United States Trade Representative

#### 15 CFR Part 2004

#### Freedom of Information Act

**AGENCY:** Office of the United States Trade Representative, Executive Office of the President.

**ACTION:** Final rule.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is issuing a final rule to update its Freedom of Information Act (FOIA) regulations. USTR last made changes to its FOIA regulations in 1975. Since that time the information relating to USTR has changed and there have been several changes to the FOIA, which needed to be reflected in the regulations.

**DATES:** *Effective Date:* July 21, 2008.

**FOR FURTHER INFORMATION CONTACT:** David Apol, USTR, telephone (202) 395–9633, FAX (202) 395–3640.

**SUPPLEMENTARY INFORMATION:** USTR last made changes to its FOIA regulations in 1975. 40 FR 30934, Jul. 24, 1975.

Since that time, pertinent information relating to USTR has changed and USTR has made changes in the way it implements the FOIA. In addition, Executive Order 13392 mandated changes in federal agency FOIA practices to ensure prompt and effective response to the public's requests for

information. 70 FR 75373, Dec. 19, 2005. Finally, Public Law 110–175, the OPEN Government Act of 2007, amended the definition of “representative of the news media” and made other changes to the FOIA.

In response to Executive Order 13392, USTR created a FOIA plan requiring it to revise its FOIA regulations and to improve the efficiency of information disclosure under the FOIA. On February 14, 2008, USTR published a proposed rule in the **Federal Register**, 73 FR 8629, to amend its FOIA regulations and requested public comments. USTR received no comments during the 60-day comment period. USTR's final regulations are identical to those in the proposed rule.

This final rule updates USTR's FOIA regulations to provide current information about USTR and to more accurately reflect its FOIA practices. The final rule also brings USTR's fee structure into conformity with the Office of Management and Budget's (OMB's) Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 FR 10012, Mar. 27, 1987. The final rule also incorporates changes made by the OPEN Government Act of 2007.

#### Executive Order 12866

The United States Trade Representative certifies that the final rule is not significant for purposes of Executive Order 12866, 58 FR 51735, Oct. 4, 1993. Therefore, OMB has not reviewed the final rule under that Executive Order.

#### Regulatory Flexibility Act

The United States Trade Representative certifies that this final rule is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, because it will not have a significant economic impact on a substantial number of small entities. For this reason, USTR has not prepared a Regulatory Flexibility Statement and Analysis.

#### Paperwork Reduction Act

The United States Trade Representative certifies that the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, does not apply because the final rule does not seek to collect information. Therefore, it does not require OMB approval.

■ For the reasons stated in the preamble, USTR revises 15 CFR Part 2004 to read as follows:

## PART 2004—FREEDOM OF INFORMATION POLICIES AND PROCEDURES

### Organization

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2004.11 Payment and waiver.

**Authority:** 5 U.S.C. 552; Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 FR 10012, Mar. 27, 1987.

### Organization

#### § 2004.1 In general.

This information is furnished for the guidance of the public and in compliance with the requirements of the Freedom of Information Act, 5 U.S.C. 552, as amended (FOIA). This regulation should be read in conjunction with the FOIA.

#### § 2004.2 Authority and functions.

The Office of the United States Trade Representative (USTR) negotiates directly with foreign governments to conclude trade agreements, and resolve trade disputes, and participates in global trade policy organizations. USTR consults with governments, business groups, legislators, and public interest groups to obtain their views on trade issues and explain the President's trade policy positions. The general functions of USTR, as provided by statute, are to develop and coordinate international trade and direct investment policy, advise and assist the President, represent the United States in international trade negotiations, and provide policy guidance to federal agencies on international trade matters. The United States Trade Representative, a cabinet officer, serves as a vice chairman of the Overseas Private Investment Corporation, a Board member of the Millennium Challenge Corporation, a non-voting member of the Export-Import Bank, and a member of the National Advisory Council on International Monetary and Financial Policies.

#### § 2004.3 Organization.

USTR's main office is located in Washington, DC. It also maintains a mission in Geneva, Switzerland.

## Procedures

### § 2004.4 Availability of records.

USTR's publicly accessible records are available through USTR's public reading room or its Web site. USTR also provides records to individual requesters in response to FOIA requests. USTR generally withholds predecisional, deliberative documents and classified trade negotiating and policy documents under 5 U.S.C. 552(b).

### § 2004.5 Accessing records without request.

(a) *Public reading room.* USTR maintains and makes available for public inspection and copying USTR records pertaining to matters within the scope of 5 U.S.C. 552(a)(2), as amended. Most records in USTR's public reading room comprise responses to **Federal Register** notices that USTR has issued. USTR's public reading room is located at 1724 F Street, NW., Washington, DC. Access to the reading room is by appointment only. Contact USTR's FOIA Officer at (202) 395-6186 to set up an appointment.

(b) *Electronic resources.* Certain USTR records, including press releases and other public issuances, are available electronically from USTR's homepage at <http://www.ustr.gov>. USTR encourages requesters to visit its Web site before making a request for records under § 2004.6.

### § 2004.6 Requesting records.

(a) *Written requests required.* For records not available as described under § 2004.5, requesters wishing to obtain information from USTR must submit a written request to USTR's FOIA Officer. Requests should be addressed to FOIA Officer, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. As there may be delays in mail delivery, it is advisable to send request via facsimile to (202) 395-9458.

(b) *Contents of requests.* Requests shall be as specific as possible and shall reasonably describe the records sought so that the records can be located with a reasonable amount of effort. The request should identify the desired record or reasonably describe it and should include information such as the date, title or name, author, recipient, and subject matter of the record.

(c) *Response to requests—(1) Processing.* The FOIA Officer shall ordinarily determine within 20 days (except Saturdays, Sundays, and federal holidays) after receiving a request for records, whether it is appropriate to grant or deny the request. The 20-day period may be tolled one time if the

FOIA Officer requests information from the requestor or if additional time is necessary to clarify issues with the requestor regarding a fee assessment.

(i) *Request granted.* If the FOIA Officer decides to grant the request, the FOIA Officer shall promptly provide the requester written notice of the decision. The FOIA Officer shall normally include with the notice both the requested records and a copy of the decision.

(ii) *Request denied.* If the FOIA Officer denies the request, in full or part, the FOIA Officer shall provide the requester written notice of the denial together with the approximate number of pages of information withheld and the exemption under which the information was withheld. The notice shall also describe the procedure for filing an appeal.

(2)(i) *Expedited processing.* At the time a requester submits an initial request for records the requester may ask the FOIA Officer in writing to expedite processing of the request. The request for expedited processing must be accompanied by a written statement, true and correct to the best of the requester's knowledge and belief, explaining why expedited processing is warranted. The FOIA Officer shall generally grant requests for expedited processing of requests for records, and appeals of denials under paragraph (d)(2) of this section, whenever the FOIA Officer determines that:

(A) Failure to obtain the requested records on an expedited basis could reasonably pose an imminent threat to a person's life or physical safety; or  
(B) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public about government activity that is the specific subject of the FOIA request.

(ii) The FOIA Officer shall ordinarily decide within ten days after receiving a request for expedited processing whether to grant it and shall notify the requester of the decision. If the FOIA Officer grants a request for expedited processing, the FOIA Officer shall process the request as soon as practicable. If the FOIA Officer denies a request for expedited processing, USTR shall act expeditiously on any appeal of the denial.

(3) *Extension for unusual circumstances—(i) In general.* If the FOIA Officer determines that unusual circumstances exist, the FOIA Officer may extend for no more than ten days (except Saturdays, Sundays, and Federal holidays) the time limits described in paragraph (c)(1) of this section by providing written notice of the

extension to the requester. The FOIA Officer shall include with the notice a brief statement of the reason for the extension and the date the FOIA Officer expects to make the determination.

(ii) *Additional procedures.* The FOIA Officer shall provide written notice to the requester if the FOIA Officer decides that the determination cannot be made within the time limit described in paragraph (c)(3)(i) of this section. The notice shall afford the requester an opportunity to limit the scope of the request to the extent necessary for the FOIA Officer to process it within that time limit or an opportunity to arrange a longer period for processing the request.

(d) *Appeals—(1) Initiating appeals.* Requesters not satisfied with the FOIA Officer's written decision may request USTR's FOIA Appeals Committee to review the decision. Appeals must be delivered in writing within 60 days of the date of the decision and shall be addressed to the FOIA Appeals Committee, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. As there may be delays in mail delivery, it is advisable to FAX appeals to (202) 395-9458. An appeal shall include a statement specifying the records that are the subject of the appeal and explaining why the Committee should sustain the appeal.

(2) *Appeal decisions.* The Committee shall ordinarily decide the appeal within 20 working days from the date it receives the appeal. If the Committee denies the appeal in full or part, the Committee shall promptly notify the requester in writing of the Committee's decision and the provisions for judicial review. If the Committee sustains the appeal, the FOIA Officer shall notify the requester in writing and shall make available to the requester copies of the releasable records once the requester pays any fees that USTR assesses under §§ 2004.8 through 2004.10.

## Costs

### § 2004.7 Definitions.

For purposes of these regulations:

(a) *"Commercial use request"* means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's or other person's commercial, trade, or profit interests.

(b) *"Direct costs"* means those costs incurred in searching for and duplicating (and, in the case of commercial use requests, reviewing) documents to respond to a FOIA request. Direct costs include, for example, salaries of employees who

perform the work and costs of conducting large-scale computer searches.

(c) “*Duplicate*” means to copy records to respond to a FOIA request. Copies can take the form of paper, audio-visual materials, or electronic records, among others.

(d) “*Educational institution*” means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, that operates a program or programs of scholarly research.

(e) “*Non-commercial scientific institution*” means an institution that is not operated on a commercial basis and that operates solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(f) “*Representative of the news media*” means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

(g) “*Review*” means to examine a record to determine whether any portion of the record may be withheld and to process a record for disclosure, including by redacting it.

(h) “*Search for*” means look for and retrieve records covered by a FOIA request, including by looking page-by-page or line-by-line to identify responsive material within individual records.

#### **§ 2004.8 Fees in general.**

USTR shall charge fees that recoup the full allowable direct costs it incurs in responding to FOIA requests. USTR may assess charges for time spent searching for records even if USTR fails to locate the records or if the records are located and determined to be exempt from disclosure. In general, USTR shall apply the following fee schedule, subject to §§ 2004.9 through 2004.11:

(a) *Manual searches.* Time devoted to manual searches shall be charged on the basis of the salary of the employee(s) conducting the search (basic hourly rate(s) of pay for the employee(s), plus 16 percent).

(b) *Electronic searches.* Fees shall reflect the direct cost of conducting the search. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for and printing records responsive to the FOIA

request and operator/programmer salary attributable to the search.

(c) *Record reviews.* Time devoted to reviewing records shall be charged on the same basis as under paragraph (a) of this section, but shall only be applicable to the initial review of records located in response to commercial use requests.

(d) *Duplication.* Fees for copying paper records or for printing electronic records shall be assessed at a rate of \$.15 per page. For other types of copies such as disks or audio visual tapes, USTR shall charge the direct cost of producing the document(s). If duplication charges are expected to exceed \$25, the FOIA Officer shall notify the requester, unless the requester has indicated in advance a willingness to pay fees as high as those anticipated. If a requester wishes to limit costs, the FOIA Officer shall provide the requester an opportunity to reformulate the request in order to reduce costs. If the requester reformulates a request, it shall be considered a new request and the 20-day period described in § 2004.6(c)(1) shall be deemed to begin when the FOIA Officer receives the request.

(e) *Advance payments required.* The FOIA Officer may require a requester to make an advance deposit of up to the amount of the entire anticipated fee before the FOIA Officer begins to process the request if:

(1) The FOIA Officer estimates that the fee will exceed \$250; or

(2) The requester has previously failed to pay a fee in a timely fashion.

When the FOIA Officer requires a requester to make an advance payment, the 20-day period described in § 2004.6(c)(1) shall begin when the FOIA Officer receives the payment.

(f) *No assessment of fee.* USTR shall not charge a fee to any requester if:

(1) The cost of collecting the fee would be equal to or greater than the fee itself; or

(2) After December 31, 2008, USTR fails to comply with any time limit under the Freedom of Information Act for responding to a request for records where no unusual or exceptional circumstances apply.

#### **§ 2004.9 Fees for categories of requesters.**

USTR shall assess fees for certain categories of requesters as follows:

(a) *Commercial use requesters.* In responding to commercial use requests, USTR shall assess fees that recover the full direct costs of searching for, reviewing, and duplicating records.

(b) *Educational institutions.* USTR shall provide records to requesters in this category for the cost of duplication alone, excluding charges for the first 100 pages. To qualify for inclusion in this

fee category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scholarly research, not an individual goal.

(c) *Representatives of the news media.* USTR shall provide records to requesters in this category for the cost of duplication alone, excluding charges for the first 100 pages.

(d) *All other requesters.* USTR shall charge requesters who do not fall within paragraphs (a) through (c) of this section fees that recover the full direct cost of searching for and duplicating records, excluding charges for the first 100 pages of reproduction and the first two hours of search time.

#### **§ 2004.10 Other charges.**

USTR may apply other charges, including the following:

(a) *Special charges.* USTR shall recover the full cost of providing special services, such as sending records by express mail, to the extent that USTR elects to provide them.

(b) *Interest charges.* USTR may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the FOIA Officer sent the billing. Interest shall be charged at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of billing.

(c) *Aggregating requests.* When the FOIA Officer reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a request into a series of requests for the purpose of avoiding fees, the FOIA Officer shall aggregate those requests and charge accordingly.

#### **§ 2004.11 Payment and waiver.**

(a) *Remittances.* Payment shall be made in the form of check or money order made payable to the Treasury of the United States. At the time the FOIA Officer notifies a requestor of the applicable fees, the Officer shall inform the requestor of where to send the payment.

(b) *Waiver.* USTR may waive all or part of any fee provided for in §§ 2004.8 through 2004.9 when the FOIA Officer deems that disclosure of the information is in the general public's 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. In determining whether a fee should be waived, the FOIA Officer may consider whether:

(1) The subject matter specifically concerns identifiable operations or activities of the government;

(2) The information is already in the public domain;

(3) Disclosure of the information would contribute to the understanding of the public-at-large as opposed to a narrow segment of the population;

(4) Disclosure of the information would significantly enhance the public's understanding of the subject matter;

(5) Disclosure of the information would further a commercial interest of the requester; and

(6) The public's interest is greater than any commercial interest of the requester.

**Susan C. Schwab,**

*United States Trade Representative.*

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## DEPARTMENT OF STATE

### 22 CFR Part 62

[Public Notice: 6267]

RIN 1400-AC35

#### Exchange Visitor Program—College and University Students, Student Interns

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department is hereby revising its regulations regarding College and University Students. The Final Rule creates a new subcategory of the College and University Student category—"Student Interns." Participation in this new sub-category is open to foreign students enrolled and pursuing a degree at post-secondary academic institutions outside the United States. Student interns may participate in a student internship program for up to 12 months at each degree level.

**DATES:** *Effective Date:* This Final Rule is effective July 21, 2008.

**SUPPLEMENTARY INFORMATION:** The Department of State (Department) designates U.S. government, academic, and private sector entities to conduct educational and cultural exchange programs pursuant to a broad grant of authority provided by the Mutual Educational and Cultural Exchange Act of 1961, as amended (Fulbright-Hays Act). Under this authority, designated program sponsors facilitate the entry into the United States of more than 350,000 exchange participants each year.

In June 2007, the Department established a new exchange visitor

category—"intern"—by amending existing regulations set forth in 22 CFR 62.22 (72 FR 33669, June 19, 2007). Now, private sector organizations can offer internships to individuals with less training and experience than had been required of "trainee" category participants. To be eligible as an intern in a private sector program, foreign nationals must be currently enrolled in and pursuing studies at an academic institution or a recent graduate (*i.e.*, within 12 months) from such institution. As an intern, the intern program participant enters the United States to pursue a structured and guided work-based internship program in his or her specific academic field. Prior work experience is not an eligibility requirement for participation.

Not wanting to limit the opportunity to offer internships to the private sector only, the Department published a proposed companion rule in the **Federal Register** (72 FR 31008) on June 5, 2007. This rule sought comment on a proposed program that would allow American colleges or universities to conduct internship programs. As noted in the rule, in significant areas the proposed regulations governing the new "student intern" category track the internship regulations already in place for private sector internship program sponsors. The primary difference is that the student internship—as its name implies—is available only to students and not graduates.

To be eligible to participate in the new student intern sub-category, a foreign national must be a student currently enrolled in an accredited post-secondary academic institution outside the United States. A student intern may participate in a student internship program for up to 12 months at each degree level. For example, an exchange visitor could enter the United States to participate in a student internship program while pursuing the equivalent of a baccalaureate degree program. This intern could participate in an internship program in the United States for up to 12 months. This same individual could also participate in yet another student internship program for up to 12 months if he or she later pursues the next higher degree level (*i.e.*, master's degree program). A student who changes majors at the baccalaureate level—and is pursuing a separate degree—may participate in an internship subsequent to an initial internship in the original field of study.

Foreign students may be selected to participate in the new student intern sub-category if they meet the following eligibility criteria: the post-secondary academic institution listed as the

sponsor on the Form DS-2019 has accepted the individual into an internship program; and the student seeks to enter the United States to engage primarily in a student internship program, rather than to engage in employment or provide services to an employer. Furthermore, a student intern must be in good academic standing with the post-secondary academic institution at which he or she is currently enrolled. Finally, the student intern will return to his or her prior academic studies following completion of the student internship program and fulfill his or her degree requirements, thus students that have completed their degree requirements will not be eligible for the student intern program.

These new regulations address the obligations of a sponsor and any third party—either domestic or overseas—with whom the sponsor contracts to assist in the recruiting, selecting, screening, orienting, placing, training, or evaluating of its program participants. Required is a written agreement with third parties outlining the full relationship between the parties on all matters involving the Exchange Visitor Program generally and the student internship specifically. For program integrity, third parties must provide their Dun & Bradstreet identification numbers, which will assist sponsors with their screening and vetting of all third parties with whom they have entered into a required written agreement.

We anticipate that a wide range of U.S. businesses and governmental or non-governmental entities will host foreign students in student internship programs arranged by academic sponsors. These regulations set baseline standards for this activity. Sponsors will be required to ensure that host organizations are legitimate entities, are appropriately registered or licensed to conduct their business, and possess and maintain the ability and resources to provide structured and guided work-based experience according to individualized Training and Internship Placement Plans (T/IPP—Form DS-7002). In some instances, a sponsor may be required to conduct a site visit of a host organization's facility. In vetting a potential host organization, a sponsor must collect sufficient evidence to support its finding that the potential host organization meets the standards necessary for a sponsor to properly place participants with them.

For each student internship, a sponsor must complete and obtain requisite signatures for the T/IPP. Each T/IPP must set forth the goals and objectives of the internship; the student internship