

§ 701.11 Publication, indexing, and public inspection of certain classes of records.

Secretary of the Navy Instruction 5720.45², "Indexing, Public Inspection, and Federal Register Publication of Department of the Navy Directives and other Documents Affecting the Public," assigns the heads of Department of the Navy components, Commanders of the Naval Systems Commands, and the Military Sealift Command responsibilities for executing the following additional requirements on records under their respective cognizance:

(a) Publication of certain classes of Department of the Navy organizational, regulatory, policy, procedural, interpretative, and substantive records on a current basis in the FEDERAL REGISTER, for the guidance of the public.

(b) Maintenance of current indexes of various classes of records which are precedential for decisions affecting members of the public, and publication of such indexes at least quarterly or making them available to the public by other authorized means.

(c) Making the above records and indexes regularly available for public inspection and copying at naval locations.

(b) Even though a document may contain information which qualifies for withholding under one or more FOIA exemptions, FOIA requires that all "reasonably segregable" information be provided to the requester, unless the segregated information would have no meaning. In other words, redaction is not required when it would reduce the balance of the text to "unintelligible gibberish."

(c) The decision to withhold information in whole or in part based on one or more of the FOIA exemptions requires the signature of an Initial Denial Authority (IDA). See paragraph (e) of § 701.5 for a listing of IDAs.

(d) The following types of records may be withheld in whole or in part from public disclosure under FOIA, unless otherwise prescribed by law. A discretionary release to one requester may preclude the withholding of the same records under a FOIA exemption if the record is subsequently requested by someone else. In applying exemptions, the identity of the requester and the purpose for which the record is sought are irrelevant with the exception that an exemption may not be invoked where the particular interest to be protected is the requester's interest.

Subpart B—FOIA Exemption Guidelines

SOURCE: 56 FR 66586, Dec. 24, 1991, unless otherwise noted.

EDITORIAL NOTE: At 56 FR 66586, 66590, Dec. 24, 1991, §§ 701.21-701.32 (subparts B and C) were revised. Section 701.31 appears at both subpart B and subpart C.

§ 701.21 General.

(a) The FOIA is a disclosure statute whose goal is an informed citizenry. Because of this records are considered to be releasable unless they contain information that qualifies for withholding under one or more of the nine FOIA exemptions. The exemptions are identified as 5 U.S.C. 552 number (b)(1) through (b)(9).

² Copies may be obtained if needed, from the Commanding Officer, U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120-5099.

§ 701.22 Exemption (b)(1).

Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under criteria established by Executive Order (i.e., Executive Order 12356) and implemented by regulations. Although material is not classified at the time of the FOIA request, a classification review may be undertaken to determine whether the information should be classified. The procedures in OPNAVINST 5510.1H, "Department of the Navy Information and Personnel Security Program Regulation" apply. In addition, this exemption shall be invoked when the following situations are apparent:

(a) The fact of the existence or non-existence of a record would itself reveal classified information. In that situation, naval activities shall neither confirm nor deny the existence or non-existence of the record being requested. A "refusal to neither confirm nor