ARRB COMPLIANCE WITH THE FOIA

TEXT of SELECTED SECTIONS of FREEDOM of INFORMATION ACT at 5 U.S.C. §552

(a)(1) ARRB must publish in the Federal Register:

(A)
- description of central organization
- established places at which, employees from whom, and methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.

(B)
- statements of the general course and method by which our functions are channeled and determined, including nature & requirements of all formal & informal procedures available

(C)
- rules of procedure
- description of forms available and where to obtain forms
- instructions on scope/contents of all papers, reports, or examinations

(D)
- substantive rules of general applicability that have been adopted by ARRB
- statements of general policy

(E)
- amendments, revisions, and repeals in the material which the FOIA requires agencies to publish

(a)(2) ARRB must make available for public inspection and copying (reading room)

(A)
- final opinions and orders made in the adjudication of cases

(B)
- statements of policy and interpretations adopted by ARRB, but which are not yet in Federal Register

(C)
- administrative staff manuals that affect a member of the public
- instructions to staff that affect a member of the public

INDICES DATING BACK TO 7/4/67
- ARRB must maintain and make available for public inspection and copying current indices of such material, dating back to 7/4/67.
- ARRB shall promptly publish these indices *at least quarterly* and distribute them

(a)(3) no analysis - deals with specific requests

(a)(4)(A)

(i) ARRB must promulgate regulations, pursuant to notice and receipt of public comment, concerning:
- fee schedule
- procedures and guidelines for determine when to waive or reduce fees

THIS NEEDS TO BE UNIFORM WITH OMB's REGS

(ii) list of 7 items that need to be included in regs on fee schedules and waiver/reduction of fees.

(a)(4)(B) no analysis - outlines court enforcement procedures

(a)(5) ARRB must maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(a)(6) no analysis - outlines procedures for responding to FOIA requests

(b) no analysis - covers exemptions from the FOIA

(c) no analysis - elaborates on the (b)(7)(A) exemption

(d) no analysis

(e) YEARLY REPORT REQUIREMENT
On or before March 1 of each calendar year, ARRB must submit a report re: the previous year to Congress.

Include the following items in the report:
(1)-(4) information on the ARRB's denial of FOIA requests,
(5) copy of every rule made by ARRB on FOIA
(6) copy of fee schedule and total amt of fees ARRB collects for FOIA purposes
(7) any other information re: ARRB's efforts to administer fully the FOIA

POLICY ANALYSIS of the VARIOUS SECTIONS of the FOIA

(a)(1)
- Purpose of Publication Requirement: to guide the public in determining where it may secure information, make submissions and requests, and obtain decisions.
- Minimum Standard: Publication will satisfy (a)(1) as long as the published materials notifies the public of actions necessary to comply with agency policies and all agency procedures that might apply to a particular case.
- "Currently Published" Requirement : Publication must be made as soon as possible, with no delay other than that occasioned by the normal process of printing and production. Merrill v. Federal Open Mkt. Comm., 413 F. Supp. 494, 505 (D.D.C. 1976), *aff'd*, 565 F.2d 778 (D.C. Cir. 1977), *rev'd and remanded on other grounds,* 443 U.S. 340 (1979) (hereinafter cited as Merrill) (45 day delay before publication of policy was improper).

(A) Descriptions of Agency Organization
- The FOIA leaves to each agency "discretion to determine what delegations it should include in its description of agency organization."

(B) Methods of Operation
- Each agency must publish general descriptions of the manner in which agency functions are discharged, including a description of the nature and requirements of all formal and informal agency procedures.
- Purpose: to enable the public to discover what procedures must be followed in asserting rights before administrative agencies or seeking to

obtain action from them.

- If procedures are not published, persons cannot be required to follow them.

(C) Procedural Information

- Purpose: to prevent the existence of secret requirements regarding either the content or procedure for submission of forms and reports or the conduct of examinations.

(D) Rule of General Applicability

- Do not have to publish rules, statements, and interpretations that are announced by an agency in the course of making an individual determination of a person's rights.
- TEST: whether the rule or statement of policy affects the rights of a substantial number of persons outside the agency. The rule must have a direct and significant impact upon the substantive rights of the general public or a segment thereof.

Adopted Rules

- Only have to publish those rules, statements of policy, and interpretations that have been adopted by the agency. Materials that have not been adopted are disclosable, if at all, under § (a)(3) of the Act.