

TITLE 38
PROCEDURAL RULES
DEPARTMENT OF ENERGY

SERIES 9
RULES AND REGULATIONS GOVERNING REQUESTS FOR
INFORMATION (FREEDOM OF INFORMATION ACT)

FILED
1988 APR 27 PM 4:16
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

38-9-1 General

1.1 Scope - These rules and regulations establish procedures whereby any person may inspect and copy any public record prepared, owned, and retained by the West Virginia Department of Energy, except as provided in Section 4, Article 1, Chapter 29B of the Code of West Virginia.

1.2 Authority - West Virginia Code 29B-1-3

1.3 Filing Date - ~~October 21, 1987~~ *April 27, 1988*

1.4 Effective Date - May 1, 1988

1.5 Purpose This rule repeals and repromulgates existing Title 38, Series 9.

38-9-2 Definitions: As used in these regulations, unless used in a context that clearly requires a different meaning, the term:

2.1 Act means the "Freedom of Information Act" Chapter 29B-1-1 et seq.

2.2 Commissioner means the Commissioner of the West Virginia Department of Energy.

2.3 Department means the West Virginia Department of Energy.

2.4 Public Record means any books, papers, maps, photographs, cards, tapes, recordings, and other documentary material, regardless of physical form or characteristics, containing information relating to the conduct of the public's businesses which are proposed, owned, and retained by the West Virginia Department of Energy and which are not held in confidence pursuant to federal or state laws.

38-9-3 Form of Request

3.1 Each request to inspect or copy any public record of the Department of Energy shall be made, in writing, directly to the Commissioner and shall include the following:

- (a) The name of the person making the request.
- (b) The person's affiliation.
- (c) The address and telephone number where the person may be contacted.
- (d) A statement describing, with reasonable specificity, the information sought and whether or not the person will be requiring reproductions of the public record. The statement shall include a description of each document sought and if available, the title, date, and author of each such document.
- (e) A statement that the person is prepared to pay any fees covering the actual cost to the Department of Energy for making reproductions of the public record.

3.2 Requests may be filed either in person or by mail at the Office of the Commissioner, West Virginia Department of Energy, 1615 Washington Street East, Charleston, West Virginia 25311. Requests made in person shall only be made during the Department's regular business hours.

38-9-4 Responsibilities of the Department

4.1 The Department shall, upon receipt of a properly filed request, affix the date of receipt and initiate a search for the requested information.

4.2 The Department shall respond to each request, in writing, as soon as practicable but within a maximum of five (5) working days of receipt of the request. Such response shall:

- (a) Provide the requested information;
- (b) Advise the requester of the time and place at which he may inspect and/or copy the information;
- (c) Advise the requester that the description of the information sought is not sufficient to allow the Department to identify and locate the information and that the request cannot be further processed until additional identification is made available to the Department. Upon receipt by the Department of additional identification, the five (5) day time limit shall begin anew; or
- (d) Deny the request clearly stating in writing the reason for such denial and informing the requester that he

may appeal the agency's action in accordance with the provisions of Chapter 29B. The basis for denial shall include, but not be limited to, the following:

- (1) The requested record is not known to exist.
- (2) The record is not in the Department's possession.
- (3) The record is exempt from disclosure under Section 4 of the Act or other provisions of state and federal law.

4.3 The Department may decline to honor requests which require the creation of a record containing a compilation of records, extraction of information from other records, or any statistical analysis of records.

4.4 The Department is under no obligation to assure that requests received by offices other than that of the Commissioner will be responded to in a timely manner or that information received from offices other than the Commissioners are accurate or an official representation of the Department's records.

38-9-5 Exemptions. In addition to the exemptions described in Section 4 of the Act, any information required to be kept confidential under the provisions of Chapter 22, Chapter 22A, and Chapter 22b of the Code shall be exempt.

38-9-6 Fees

6.1 The Department shall establish fixed rate fees for reproduction of documents, records, and files on the basis of the actual cost of such reproduction and shall document such costs; provided, that where total costs are less than \$5.00, no fee shall be charged:

6.2 All fees shall be paid in advance by certified check, cashiers check, or money order made payable to the Department of Energy.



STATE OF WEST VIRGINIA
 DEPARTMENT OF ENERGY
 1615 WASHINGTON STREET, EAST
 CHARLESTON, WEST VIRGINIA 25311
 TELEPHONE: 348-3500

ARCH A. MOORE, JR.
 GOVERNOR

KENNETH R. FAERBER
 COMMISSIONER

RATE SCHEDULE

FREEDOM OF INFORMATION REQUESTS

Xerox	\$.20	per copy
Blueline.	\$ 5.00	per copy
Mylar	\$15.00	per copy
Computer Printouts.	\$15.00 + .15	per page
Microfilm:		
From Microfiche.	\$ 1.00	per copy
From Aperture Cards.	\$ 2.00	per copy
From 35mm or 16mm film	\$ 1.00	per copy
Transcripts	\$.25	per page
Certification of Copies	\$1.00	per document
Letter of Certification for copies.	\$10.00	per request
AML - Plans & Specifications.	\$25.00	per set
Search fee.	\$5.00	per hour

FILED
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 OFFICE OF THE SECRETARY OF STATE
 WEST VIRGINIA

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Secretary of State

MARY P. RATLIFF
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VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

TO: Roger Hill - Emergency

FROM: RICH O. HARTMAN, DIR. ADMIN. LAW DIV.

DATE: May 19, 1988

THE ATTACHED RULE(S) RECENTLY FILED BY YOUR AGENCY HAVE BEEN ENTERED INTO THE COMPUTER. PLEASE REVIEW AND PROOF AND RETURN WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS PLEASE SIGN THIS MEMO AND RETURN TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF YOUR RULE(S) FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

Series 9

THE ATTACHED RULE(S) HAVE BEEN REVIEWED AND ARE CORRECT.

SIGNED: Roger O. Hill

TITLE OF PERSON SIGNING: Emergency Administration 17A

DATE: Jun 27, 1988

THE ATTACHED RULE(S) HAVE BEEN REVIEWED AND NEEDS CORRECTED. THESE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____