

H.R. 5012 through H.R. 5021, bills to amend section 161 of the Revised Statutes with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records.

The Commission supports the principle of public access to information and records held by a Federal agency. However, in terms of the statutory responsibility placed upon the Federal Maritime Commission, we believe that provisions of these bills are open to ambiguous interpretations which could adversely affect this Commission's maintaining certain information and records submitted by persons subject to the Commission's jurisdiction on a confidential basis. For example, in section 161(c) (5) and (7) the use of the words "solely" and "law enforcement" could raise serious problems in determining which records must be made available to the public. Additionally, particular care must be given to defining categories of information which would be made available to the public under the provisions of these bills in the light of the criminal penalty, for example, under section 1905 of title 18 applicable to Government employees who divulge certain information.

The bill would require any agency to sustain in the courts its withholding of information or records when a complaint is filed by a member of the public. It would seem more orderly to the administrative process if provisions were made for the complaint to specifically state the nature of the record desired and the reasons why the complainant believes it to be wrongfully withheld.

By statute, certain information and records must be filed with this Commission by parties subject to its jurisdiction. In many cases this information is of a confidential business nature involving competing carriers of waterborne commerce. Confidential information is also received in connection with the Commission's investigatory functions. The Commission has no choice but to continue to withhold this information from public scrutiny.

Under these bills, if the Commission were not to have the authority to define the material to be withheld within the Commission, then further classification and definition of the types of records to be withheld would be needed. We would desire to furnish specific language necessary to clear up these ambiguities so that the intent of the bills could be accomplished.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the administration's program.

We call to your attention that the comments herein contained are applicable to similar requests of your committee on H.R. 5237, 5406, 5520, and 5583.

Sincerely yours,

JOHN HARLEE,
Rear Admiral, U.S. Navy (Retired), Chairman.

REPLY FROM FEDERAL POWER COMMISSION

FEDERAL POWER COMMISSION,
Washington, D.C., March 30, 1965.

Re H.R. 5012 through H.R. 5021; H.R. 5237; H.R. 5406; H.R. 5520; H.R. 5583;
H.R. 6172, amend section 161 of the Revised Statutes * * *.

Hon. WILLIAM L. DAWSON,
Chairman, Committee on Government Operations, House of Representatives.

DEAR MR. CHAIRMAN: In response to your requests for comments on the subject bills, there are enclosed copies of the report of the Federal Power Commission.

It is contemplated that this report may be released by the Commission to the public within 3 working days from the date of this letter unless there is a request that its release be withheld.

Sincerely,

JOSEPH C. SWIDLER, *Chairman.*

FEDERAL POWER COMMISSION REPORT ON H.R. 5012, ET AL., 89TH CONGRESS

A BILL To amend section 161 of the Revised Statutes with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records

The purpose of H.R. 5012 is to amend Rev. Stat. 161 (5 U.S.C. 22) to make agency records and information more readily available to the public and to