

23. President's Foreign Intelligence Advisory Board.
24. U.S. Advisory Commission on International Educational and Cultural Affairs.
25. Veterans Day National Committee.
26. Washington Metropolitan Area Transit Commission.
27. Corregidor-Bataan Memorial Commission.
28. National Capital Housing Authority—Asserts that its functions fall within second exception to 5 U.S.C. 1002.

In contradiction of the Attorney General's statement that every agency whether or not it has rulemaking or adjudicating functions, must comply with the act, these selected boards, committees, and commissions exempt themselves on the basis that they are not a rulemaking, ratemaking, license-issuing agency within the objectives of the Administrative Procedure Act.

In the Executive Office of the President the Bureau of the Budget states that 5 U.S.C. 1002 is not applicable because they are covered by exception No. 2 of the act. The Office of Emergency Planning states that the act applies to them with the exception of section 3(b). Furthermore, the Office of Science and Technology stated that the act applies where applicable (except published reports of advisory studies and congressional communication).

QUESTION 4

In what types of cases does your agency refrain from publishing interim and final opinions or orders where, in the opinion of your agency, good cause requires they be held confidential, pursuant to section 3(b) of the Administrative Procedure Act or other authority?

The agencies and departments which described limitations pursuant to question 4 fall into a basic pattern of three areas:

Inimical to the public interest: The disclosure of information may cause prejudice, undue hardship, injurious to applicant or enrollee, discredit or injure innocent people, internal advisory opinions, protecting individual privacy.

Required by statute or involving national security: Negotiations with foreign countries, involving any function of the United States requiring secrecy in the public interest or relating solely to internal management.

Confidential treatment: Pending matters, security of department's functions, information of a commercially confidential nature publication of which gives undue advantage of a private business nature.

QUESTION 5

In what circumstances are unpublished opinions and orders cited or used as precedents in other proceedings?

Of those agencies and departments which stated that the act applies to them, all but the following, answered question 5 as "none."

A. Department of Commerce:

1. *Patent Office.*—35 U.S.C. 122, requires pending patent cases to be exempted from publication and inspection.

B. Department of Defense.—Opinions and orders that are unpublished and are not available for public inspection are not cited or used as precedents in other proceedings.

C. Department of the Interior.—In opinions or orders in adjudication of cases, there may be cited as precedents unpublished opinions or orders; however, they are made available for inspection.

D. Department of Labor.—Guidance in responding to requests for information and interpretations.

E. Department of State.—Applicable only to the issuance of U.S. passports.

1. *Peace Corps.*—The Office of General Counsel does from time to time cite its prior opinions. All opinions are unpublished and almost all unclassified and hence available to persons properly and directly concerned. Most of these opinions relate to internal management.

F. Department of the Treasury:

1. *Office of Foreign Assets Control.*—As policy precedents in the process of determining the disposition of related or similar applications; are not disclosed to persons other than the particular applicants.

2. *Bureau of Customs.*—Generally none; however, may serve as precedents in arriving at a decision in a matter before it; may be aided by results of its previous consideration of similar matters.