

Defense other than those of the National Security Agency which are exempted by the provisions of Public Law 86-36.

Question 2. In what official or unofficial publication, and at what intervals, does your agency publish:

(a) Descriptions of its central field organization (see sec. 3(a)(1) of the APA);

(b) Statements of the general course and method by which its functions are channeled and determined (see sec. 3(a)(2) of statute);

(c) Substantive rules adopted as authorized by law (see sec. 3(a)(3) of statute);

(d) Statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public (see sec. 3(a)(3) of statute); and

(e) Rules addressed to and served upon named persons in accordance with law (see sec. 3(a)(3) of statute)?

Answer. Descriptions of the central and field organization of the various components of the Department of Defense are published annually in the Government Organization Manual, a special edition of the Federal Register, 1 CFR 31.1. In addition, various directives and regulations of the several components of the Department of Defense that contain descriptions of the organization and of the course and method by which its functions are channeled and determined, as well as substantive rules and statements of general policy, are published as the changes become effective. Most of these directives and regulations are available to the public upon request or inquiry unless they involve "any function of the United States requiring secrecy in the public interest or any matter relating solely to the internal management of an agency." Moreover, those directives and regulations which are formulated and adopted by the agency for the guidance of the public are normally published in the Federal Register and collected in title 32 of the Code of Federal Regulations.

Rules addressed to and served upon named persons in accordance with law are not published in accordance with section 3(a)(3) of the Administrative Procedure Act.

Question 3. Please describe the manner in which your agency publishes, or, in accordance with published rule, makes available to public inspection, all final and interim opinions or orders in the adjudication of cases, pursuant to section 3(b) of the APA or other authority.

Answer. Opinions and orders resulting from adjudication by the various components of the Department of Defense are found in the following publications:

(a) "Court-Martial Reports" (Lawyers' Cooperative Publishing Co.).

(b) "Digest of Opinions" (Lawyers' Cooperative Publishing Co.).

(c) "Contract Appeals Decisions" (Commerce Clearing House).

Rules which govern the availability of opinions and orders for public inspection are found in various sections of title 32, Code of Federal Regulations, where they are properly indexed in accordance with the function involved. Functions which may be considered adjudications include those of the disability and discharge review boards, the boards for the correction of military records, the boards of review (of court-martial decisions), and the boards for the evaluation of applications for security clearances submitted by employees of Defense/industry. The civil functions of the Corps of Engineers are governed by section 209.490 of title 33, Code of Federal Regulations.

Generally, such opinions and orders are made available only to persons properly and directly concerned or at the request or with the authorization of such persons. These adjudications normally involve matters that will be reflected in personnel records and, if made available for public inspection, could result in an invasion of the privacy of the individuals affected.

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 APA or other authority?

Answer. In accordance with section 3(b) of the Administrative Procedure Act, the Department does not publish opinions and orders which are made available pursuant to published rule; nor are opinions or orders published if they involve "any function of the United States requiring secrecy in the public interest or any matter relating solely to the internal management of an agency."

The "good cause" which most frequently precludes publication of opinions and orders is the protection of individual privacy (see the last sentence of the reply