

to the public but is not considered as technically within the scope of the term "official record."

Sincerely,

HAROLD W. GRANT,
Lieutenant General, U.S. Air Force,
Deputy Administrator.

REPLY FROM FEDERAL COAL MINE SAFETY BOARD OF REVIEW

FEDERAL COAL MINE SAFETY BOARD OF REVIEW,
Washington, D.C., February 23, 1965.

HON. JOHN E. MOSS,
Chairman, Foreign Operations and Government Information Subcommittee,
Committee on Government Operations, House of Representatives.

DEAR MR. MOSS: Reference your letter dated February 12, 1965, relating to the public information policies and practices of this agency, the following answers to your questions are submitted:

1. The proceedings of the Board are specifically exempted from the application of the Administrative Procedure Act under section 213 of the Federal Coal Mine Safety Act (66 Stat. 709). However, as a matter of comity, the Board uniformly adheres to the provisions of the Administrative Procedure Act, including section 3 thereof, to the extent that the Administrative Procedure Act is not inconsistent with the express statutory requirements of the Federal Coal Mine Safety Act. (There are no subordinate divisions, bureaus, branches, or other constituent units in this agency.)

2. The Board publishes in the Federal Register its statement of organization and rules of procedure, and amendments thereto, as required by section 3 (a) (1), (a) (2), and (a) (3) of the Administrative Procedure Act. (The Board does not issue statements of general policy or interpretations, or rules addressed to and served upon named persons.) Moreover, the Board furnishes copies of these statements and rules, without charge, to all interested persons and to any other member of the public who so requests. Also, all interested persons are promptly advised by information circular, or other notification, when amendments to the statement of organization or rules of procedure are issued. These materials are published at such intervals as the need therefor demands.

3. Pursuant to sections 205(f) and 207(i) of the Federal Coal Mine Safety Act (66 Stat. 698, 702), and sections 401.34 and 401.38 of the Board's rules of procedure (30 CFR 401.34, 401.38), which are consonant with section 3(b) of the Administrative Procedure Act, all final and interim opinions and orders of the Board are served upon the parties and their representatives, and are entered upon the official record, which is open to the public at the Board's offices. Moreover, copies of all substantive decisions of the Board are distributed, without charge, to all interested persons and to any other member of the public who requests a copy.

4. In no case does the Board refrain from publishing interim and final opinions or orders.

5. No unpublished opinions or orders of the Board are cited or used as precedents in other proceedings.

6. Any person who desires may examine the transcripts and complete official records in all cases at the Board's offices. In addition, as already indicated, the Board's decision in each case is supplied to any person who requests a copy thereof.

7. The general public has access to all records and files of the Board, except internal documents, such as intra-agency memorandums relating to the determination of particular Board cases; executive communications which have been designated as "privileged"; documents relating to personnel security, received from and stamped "confidential" by Government investigative agencies; and other personnel records on file with this agency.

8. Under no circumstances are private parties dealing with the Board required in any manner to resort to organization or procedure not published in the Federal Register.

9. There are no types of cases in which the Board has refrained from publishing rules where there is involved any function of the United States requiring secrecy in the public interest.