

Answer. Private parties are not required to deal with NASA pursuant to procedures not published in the Federal Register. NASA's programs come into contact with the public most frequently in the area of procurement. All applicable procurement regulations are published in the Federal Register. Other procedures formulated with a view to guidance of the public, e.g., settlement of tort claims, procedures before NASA boards, and patent waiver regulations are also published in the Federal Register. In instances where a member of the public wishes information or otherwise desires to deal with NASA for a purpose not covered by a formally established procedure, his request will be channeled to the cognizant office. However, in no instance will the request of a private individual be refused for failure to comply with a procedure not published in the Federal Register.

Question 9. In what types of cases has your agency refrained from publishing rules where there is involved any function of the United States requiring secrecy in the public interest, pursuant to section 3(1) of the Administrative Procedure Act or other authority?

Answer. The only circumstances under which NASA has refrained from publishing regulations, pursuant to section 3(1) of the Administrative Procedure Act, are those related primarily to the national defense and security.

Question 10. In what circumstances has your agency refrained from publishing rules where there is involved any matter relating solely to internal agency management, pursuant to section 3(2) of the Administrative Procedure Act or other authority?

Answer. All regulations established by NASA are published as part of the NASA issuance system regardless of whether they affect only the actions of NASA employees or whether, in addition, they may have a direct effect upon members of the public. Thus, regulations on personnel, financial management, security, administrative operations, programs, etc., are published in the NASA Management Manual or other NASA publications concerned specifically with a particular subject matter. Publication in the Federal Register has heretofore been selective on the ground that the bulk of regulations concerned solely with administrative operations is of little concern to the general public. However, regulations of greater interest to the public or which affect private rights and obligations have been published in the Federal Register, e.g., procurement, tort claims, patent waivers, procedures before NASA boards, real property management, etc.

Question 11. What is your agency's definition of "official record" as used in section 3(c) of the Administrative Procedure Act?

Answer: No guidelines are established in the Administrative Procedure Act for determining what is meant by "official record." However, NASA is subject, along with other agencies, to the statutes governing the disposition of public records which appear in chapter 10 of title 44 of the United States Code. 44 U.S.C. 366 defines "records" to include "all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the U.S. Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein." NASA would apply the same definition to the term "official record" as used in section 3(c) of the Administrative Procedure Act.

Enclosed herewith are two copies of a memorandum by the Administrator, NASA, and a policy directive specifying uniform criteria for the publication of materials within the NASA issuance system. These enclosures do not cover the subject of policies and procedures for the publication of regulations in the Federal Register, which will be the subject of a forthcoming issuance, a copy of which will be forwarded.

Sincerely yours,

RICHARD L. CALLAGHAN,
Assistant Administrator for Legislative Affairs.