

(3) Manager/Senior Professional—\$72.00 per hour (or fraction thereof).

(g) *Document review.* (1) Professional/Supervisory—\$40.00 per hour (or fraction thereof).

(2) Manager/Senior Professional—\$72.00 per hour (or fraction thereof).

(3) CIA will not charge review fees for time spent resolving general legal or policy issues regarding the responsive information.

#### **§ 1908.22 [Removed and Reserved]**

■ 9. Remove and reserve § 1908.22.

■ 10. In § 1908.23, revise paragraph (b) to read as follows:

#### **§ 1908.23 Determination by originator or interested party.**

\* \* \* \* \*

(b) *Required determinations:* These parties shall respond in writing to the Coordinator with a finding as to the classified status of the information, including the category of protected information as set forth in section 1.4 of the Order, and, if older than ten years, the basis for the extension of classification time under sections 1.5 and 3.3 of the Order. These parties shall also indicate whether withholding is otherwise authorized and warranted in accordance with sections 3.5(c) and 6.2(d) of the Order.

\* \* \* \* \*

#### **§ 1908.24 [Removed and Reserved]**

■ 11. Remove and reserve § 1908.24.

■ 12. Revise § 1908.33 to read as follows:

#### **§ 1908.33 Designation of authority to hear appeals.**

(a) *Appeals:* Appeals of initial denial decisions under the Mandatory Declassification Request provisions of Executive Order 13526 shall be reviewed by the Agency Release Panel, which shall issue the final Agency decision.

(b) *Membership:* The Agency Release Panel (ARP) is chaired by the Chief, Information Review and Release Group and composed of the Information Review Officers from the various Directorates and the Director, Central Intelligence Agency area, as well as the representatives of the various release programs and offices. The Information and Privacy Coordinator also serves as Executive Secretary of the ARP.

(c) *Decisions:* The ARP shall meet on a regular schedule and may take action when a simple majority of the total membership is present. Issues shall be decided by a majority of the members present. Any member of the ARP disagreeing with the results of a vote may appeal the decision in writing to

the Director, Information Management Services (D/IMS). The appeal shall set forth clearly and concisely the reasons D/IMS should reverse the ARP's decision. Upon receiving the written appeal, D/IMS shall have ten business days to affirm or reverse, in writing the ARP's decision and shall so notify the appellant. In the event of a disagreement with any declassification and release decision by D/IMS, Directorate heads may appeal to the Associate Deputy Director of CIA (ADD) for resolution. The final Agency decision shall reflect the vote of the ARP, unless changed by the D/IMS or the ADD.

#### **§ 1908.35 [Removed and Reserved]**

■ 13. Remove and reserve § 1908.35.

■ 14. Revise § 1908.36 to read as follows:

#### **§ 1908.36 Notification of decision and right of further appeal.**

The Executive Secretary of the Agency Release Panel shall promptly prepare and communicate the final Agency decision to the requester, NARA, or the particular Presidential Library. That correspondence shall include a notice, if applicable, that an appeal of the decision may be made to the Interagency Security Classification Appeals Panel (ISCAP) established pursuant to section 5.3 of the Order.

■ 15. Revise § 1908.41 to read as follows:

#### **§ 1908.41 Right of Further Appeal.**

A right of further appeal may be available to the Interagency Security Classification Appeals Panel established pursuant to section 5.3 of the Order. Action by that Panel will be the subject of rules to be promulgated by the Information Security Oversight Office.

Dated: August 10, 2011.

Joseph W. Lambert,  
Director, Information Management Services.  
[FR Doc. 2011-21572 Filed 9-22-11; 8:45 am]  
BILLING CODE 6310-02-P

## **CENTRAL INTELLIGENCE AGENCY**

### **32 CFR Part 1909**

#### **Access by Historical Researchers and Certain Former Government Personnel**

**AGENCY:** Central Intelligence Agency.

**ACTION:** Final rule.

**SUMMARY:** Consistent with Executive Order 13526, the Central Intelligence Agency (CIA) has undertaken and completed a review of its public regulations on access by historical researchers and certain former

government personnel. As a result of this review, the Agency has revised its access regulations to more clearly reflect the current CIA organizational structure and policies and practices, and to eliminate ambiguous, redundant and obsolete regulatory provisions. This rule is being issued as a final rule without prior notice of proposed rulemaking as allowed by the Administrative Procedure Act for rules of agency procedure and interpretation.

**DATES:** Effective September 23, 2011.

**FOR FURTHER INFORMATION CONTACT:** Joseph W. Lambert, (703) 613-1379.

**SUPPLEMENTARY INFORMATION:** Consistent with Executive Order 13526, the CIA has undertaken and completed a review of its public regulations on access by historical researchers and certain former government personnel. As a result of this review, the Agency has revised its access regulations to more clearly reflect the current CIA organizational structure and policies and practices, and to eliminate ambiguous, redundant and obsolete regulatory provisions. This rule is being issued as a final rule without prior notice of proposed rulemaking as allowed by the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A) for rules of agency procedure and interpretation.

#### **List of Subjects in 32 CFR Part 1909**

Access by historical researchers and certain former government personnel, Classified information.

Accordingly, the CIA is amending 32 CFR part 1909 as follows:

#### **PART 1909—ACCESS BY HISTORICAL RESEARCHERS AND CERTAIN FORMER GOVERNMENT PERSONNEL PURSUANT TO SEC. 4.4 OF EXECUTIVE ORDER 13526**

■ 1. The authority citation for part 1909 is revised to read as follows:

**Authority:** Executive Order 13526, 75 FR 707, 3 CFR 2010 Comp., p. 298-327 (or successor Orders).

■ 2. Revise the part heading to read as set forth above.

■ 3. Revise § 1909.01 to read as follows:

#### **§ 1909.01 Authority and purpose.**

(a) *Authority.* This part is issued under the authority of and in order to implement section 4.4 of E.O. 13526 (or successor Orders); the CIA Information Act of 1984, as amended (50 U.S.C. 431); section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403); and section 6 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403g).

(b) *Purpose*. This part prescribes procedures for:

(1) Requesting access to CIA records for purposes of historical research, or

(2) Requesting access to CIA records as a former Presidential or Vice Presidential appointee or designee.

■ 4. In § 1909.02, revise paragraphs (e), (g), (h), (i), (j), (k), (l), (m), (n), and add paragraphs (o) and (p) to read as follows:

**§ 1909.02 Definitions.**

\* \* \* \* \*

(e) *Coordinator* means the CIA Information and Privacy Coordinator who serves as the Agency manager of the historical access program established pursuant to section 4.4 of the Order.

\* \* \* \* \*

(g) *Director of Security* means the Agency official responsible for making all security and access approvals and for affecting the necessary secrecy, non-disclosure, and/or pre-publication agreements as may be required.

(h) *Director, Information Management Services* means the Senior Agency Official as defined in Section 6.1(mm) of the Order.

(i) *Federal agency* means any executive department, military department, or other establishment or entity included in the definition of agency in 5 U.S.C. 552(f).

(j) *Former Presidential or Vice Presidential appointee or designee* means any person who has previously occupied a senior policy-making position in the executive branch of the United States Government to which they were appointed by the current or a former President or Vice President.

(k) *Historical researcher* means any individual with professional training in the academic field of history (or related fields such as journalism) engaged in a research project leading to publication (or any similar activity such as academic course development) reasonably intended to increase the understanding of the American public into the operations and activities of the United States government. The term includes anyone serving as a research associate of a former Presidential or Vice Presidential appointee or designee.

(l) *Information* means any knowledge that can be communicated or documentary material, regardless of its physical form that is owned by, produced by or for, or is under the control of the United States Government.

(m) *Interested party* means any official in the executive, military, congressional, or judicial branches of

government, United States or foreign, or U.S. Government contractor who, in the sole discretion of the CIA, has a subject matter or physical interest in the documents or information at issue.

(n) *Originator* means the CIA officer who originated the information at issue, or successor in office, or a CIA officer who has been delegated classification authority for the information at issue in accordance with the provisions of the Order.

(o) *Agency Release Panel (ARP)* refers to the Agency's forum for reviewing information review and release policy, the adequacy of resources available to all Agency declassification and release programs, and hearing requests in accordance with this section.

(p) *The Order* means Executive Order 13526 of December 29, 2009 and published at 75 FR 707 (or successor Orders).

■ 5. Revise § 1909.04 to read as follows:

**§ 1909.04 Suggestions and complaints.**

The Agency welcomes suggestions, comments, or complaints with regard to its administration of the historical access program established pursuant to Executive Order 13526. Members of the public shall address all such communications to the CIA Information and Privacy Coordinator. The Agency will respond as determined feasible and appropriate under the circumstances.

■ 6. In § 1909.11, revise paragraphs (a)(2) and (b) to read as follows:

**§ 1909.11 Requirements as to who may apply.**

(a) \* \* \*

(2) *Additional considerations*. In light of the very limited Agency resources, it is the policy of the Agency to consider applications for historical research privileges only in those instances where the researcher's needs cannot be satisfied through requests for access to reasonably described records under the Freedom of Information Act or the mandatory declassification review provisions of Executive Order 13526, and where issues of internal resource availability and fairness to all members of the historical research community militate in favor of a particular grant.

(b) *Former Presidential and Vice Presidential appointees or designees*. Any former Presidential or Vice Presidential appointee or designee as defined herein may also submit a request to be given access to any items which they originated, reviewed, signed, or received while serving in that capacity. Such appointees may also request approval for a research associate but there is no entitlement to such

enlargement of access and the decision in this regard shall be in the sole discretion of the Agency. Requests from appointees shall be in writing to the Coordinator and shall identify the records of interest.

■ 7. Revise § 1909.12 to read as follows:

**§ 1909.12 Designation of authority to grant requests.**

(a) *The Agency Release Panel (ARP)* is designated to hear requests and shall issue the final Agency decision granting requests for access by historical researchers and access by former Presidential and Vice Presidential appointees and designees under Executive Order 13526 (or successor Orders) and these regulations.

(b) *ARP Membership*. The ARP is chaired by the Chief, Information Review and Release Group, Information Management Services, and composed of the Information Review Officers from the various Directorates and the D/CIA areas, as well as the representatives of the various release programs and offices. The Information and Privacy Coordinator also serves as Executive Secretary of the ARP.

■ 8. Revise § 1909.14, revise the section heading and paragraph (a) to read as follows:

**§ 1909.14. Determinations on requests for access by Historical Researchers.**

*Required determinations*. The Agency shall make the following determinations in writing:

(a) That a serious professional or scholarly research project by the requester is contemplated;

(b) That such access is clearly consistent with the interests of national security;

(c) That a non-disclosure agreement has been or will be executed by the requester (and research associate, if any) and other appropriate steps are taken to assure that classified information will not be disclosed or otherwise compromised;

(d) That a pre-publication agreement has been or will be executed by the requester (and research associate, if any) which provides for a review of notes and any resulting manuscript;

(e) That the information requested be reasonably accessible and can be located and compiled with a reasonable effort;

(f) That it is reasonably expected that substantial and substantive government documents and/or information will be amenable to declassification and release and/or publication;

(g) That sufficient resources are available for the administrative support of the historical researcher given current requirements; and

(h) That the request cannot be satisfied to the same extent through requests for access to reasonably described records under the Freedom of Information Act or the mandatory declassification review provisions of Executive Order 13526.

**§ 1909.15 [Removed]**

- 9. Remove § 1909.15.

**§ 1909.16 [Amended]**

- 10. Revise § 1909.16 to read as follows:

**§ 1909.16 Action by Agency Release Panel (ARP).**

The ARP shall meet on a regular schedule and may take action when a simple majority of the total membership is present. Issues shall be decided by a majority of the members present. In all cases of a divided vote, before the decision of the ARP becomes final, any member of the ARP may by written memorandum to the Executive Secretary of the ARP, refer such matters to the Director, Information Management Services (D/IMS) for decision. In the event of a disagreement with any decision by D/IMS, Directorate heads may appeal to the Associate Deputy Director, CIA (ADD) for resolution. The final Agency decision shall reflect the vote of the ARP, unless changed by the D/IMS or the ADD.

- 11. Revise § 1909.17 as follows:

**§ 1909.17 Notification of decision.**

The Executive Secretary shall inform the requester of the final Agency decision and, if favorable, shall manage the access for such period as deemed required but in no event for more than two years unless renewed by the Panel or Board in accordance with the requirements of this Part.

- 12. Revise § 1909.18 to read as follows:

**§ 1909.18 Termination of access.**

The Coordinator shall cancel any authorization and deny any further access whenever the Director of Security cancels the security clearance of a requester (or research associate, if any); or whenever the Agency Release Panel determines that continued access would no longer be consistent with the requirements of this Part; or at the conclusion of the authorized period of up to two years.

Dated: August 10, 2011.

**Joseph W. Lambert,**  
Director, Information Management Services.

[FR Doc. 2011-21576 Filed 9-22-11; 8:45 am]

BILLING CODE 6310-02-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG-2011-0788]

**Drawbridge Operation Regulations; Hutchinson River, Bronx, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Amtrak Pelham Bay Railroad Bridge at mile 0.5, across the Hutchinson River at the Bronx, New York. The deviation is necessary to facilitate scheduled maintenance at the bridge. This deviation allows the bridge to remain in the closed position for two days followed by a two hour advance notice requirement for 20 days.

**DATES:** This deviation is effective from September 6, 2011 through September 29, 2011.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2011-0788 and are available online at <http://www.regulations.gov>, inserting USCG-2011-0788 in the "Keyword" and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, [judy.k.leung-yee@uscg.mil](mailto:judy.k.leung-yee@uscg.mil), or telephone (212) 668-7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The Amtrak Pelham Bay Railroad Bridge, across the Hutchinson River at mile 0.5, at the Bronx, New York, has a vertical clearance in the closed position of 8 feet at mean high water and 15 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.793.

The waterway users are mostly commercial operators.

The owner of the bridge, National Railroad Passenger Company (Amtrak), requested a temporary deviation from the regulations to facilitate scheduled

maintenance, replace track ties, at bridge.

Under this temporary deviation the Amtrak Pelham Bay Railroad Bridge may remain in the closed position between September 6, 2011 and September 8, 2011, and from September 9, 2011 through September 29, 2011, a two hour advance notice shall be required for bridge openings. Vessels that can pass under the bridge in the closed position may do so at any time.

The commercial users were notified. No objections were received.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 6, 2011.

**Gary Kassof,**

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2011-24417 Filed 9-22-11; 8:45 am]

BILLING CODE 9110-04-P

**DEPARTMENT OF EDUCATION**

**34 CFR Subtitle B, Chapter II**

[Docket ID ED-2011-OS-0010]

RIN 1894-AA03

**State Fiscal Stabilization Fund Program**

**AGENCY:** Department of Education.

**ACTION:** Interim final requirement; request for comments.

**SUMMARY:** On November 12, 2009, the Secretary of Education (Secretary) published in the **Federal Register** a notice of final requirements, definitions, and approval criteria for the State Fiscal Stabilization Fund (SFSF) program (November 2009 Notice). In that notice, the Secretary established September 30, 2011 as the deadline by which States had to collect and publicly report data and other information on various SFSF indicators and descriptors. Since publication of the November 2009 notice, States have faced many challenges and competing priorities in trying to meet the requirements of some of the SFSF indicators by the September 30, 2011 deadline. As a result, a number of States will be unable to comply fully with the SFSF requirements by the September 30, 2011 deadline. Accordingly, in this interim final requirement, the Secretary extends that deadline to January 31, 2012.

**DATES:** This interim final requirement is effective September 23, 2011. We must