



## PEACE CORPS

### 22 CFR Part 303

#### RIN 0420-AA29

Freedom of Information Act Administration

**AGENCY:** Peace Corps.

**ACTION:** Proposed rule.

**SUMMARY:** The proposed rule updates Peace Corps regulations on the Freedom of Information Act (FOIA) to implement guidance given by the President and the Attorney General regarding discretionary disclosures of records or information exempt from disclosure under the FOIA, whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption. The proposed rule is based on language used by Department of Justice in its FOIA regulations. Additionally, the proposed rule deletes unnecessary and superfluous language and ensures the rule is consistent with current law.

**DATES:** Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The proposed Disclosure of Information under the Freedom of Information Act 0420-AA29 will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the Peace Corps receives comments that require a different determination.

**ADDRESSES:** Written comments should be addressed to Anthony F. Marra, Associate General Counsel, Office of the General Counsel, Peace Corps, 1111 20th Street, NW, Washington, DC 20526. Comments may also be sent electronically to the following e-mail address: [amarra@peacecorps.gov](mailto:amarra@peacecorps.gov). Written comments should refer to Federal Register: Procedures for Disclosure of Information under the Freedom of Information Act 0420-AA29, and if sent electronically, should contain this reference on the subject line.

**FOR FURTHER INFORMATION CONTACT:** Anne Passmore, Office of the General Counsel, Policy and Program Analyst, 1111 20th Street NW, Washington, DC 20526, and 202-692-2164.

**SUPPLEMENTARY INFORMATION:** The revisions to the Peace Corps' FOIA regulations would incorporate the disclosure principles contained in President Obama's January 21, 2009 Memorandum regarding FOIA, the Attorney General's FOIA Guidelines to Favor Disclosure and Transparency dated March 19, 2009, and the Guide to the Freedom of Information Act promulgated by the Department of Justice's Office of Information Policy. The proposed rule deletes unnecessary and superfluous language and ensures the rule is consistent with current law. The proposed rule inserts additional contact information for the filing of initial Freedom of Information Act ("FOIA") requests; inserts additional contact information for the filing of

administrative appeals; and, adds two FOIA exemptions 5 USC 552(b)8, Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; and (b)9, Geological and geophysical information and data, including maps, concerning wells. The Peace Corps FOIA regulations were last revised May 14, 2007 (72 FR 27055).

### **Request for Comments**

The Peace Corps invites public comment on all aspects of this interim final rule and will take those comments into account before publishing a final rule.

### **Executive Order 12866**

This regulation has been determined to be non-significant within the meaning of Executive Order 12866.

### **Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))**

This regulatory action will not have a significant adverse impact on a substantial number of small entities.

### **Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104–4)**

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of \$100 or more in any one year.

### **Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)**

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

### **Federalism (Executive Order 13132)**

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 22 CFR Part 303

Administrative practice and procedure, Freedom of information.

**For the reasons set out in the preamble, the Peace Corps proposes to amend 22 CFR part 303 as follows:**

### **[PART 303—PROCEDURES FOR DISCLOSURE OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT](#)**

1. The authority citation for part 303 continues to read as follows:

Authority: 5 U.S.C. 552; 22 U.S.C. 2501, et. seq.; E.O. 12137, 44 FR 29023, 3 CFR, 1979 Comp., p. 389; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Amend § 303.2 by revising paragraph (e) to read as follows:

**§\_303.2\_Definitions.**

\* \* \* \* \*

(e) *OIG records* means those records as defined generally in this section which originated with or are in the possession and control of the Office of Inspector General (OIG) of the Peace Corps which have been compiled for law enforcement, audit, and investigative functions and/or any other purpose authorized under the Inspector General Act of 1978, as amended.

\* \* \* \* \*

3. Revise § 303.3 to read as follows:

**§\_303.3\_Policy.**

The Peace Corps will make its records concerning its operations, activities, and business available to the public consistent with the requirements of the FOIA. As a matter of policy, the Peace Corps makes discretionary disclosures of records or information exempt from disclosure under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court.

4. Amend § 303.5 by:

(a) Revising paragraphs (a), (b) introductory text, and (d) as set forth below; and

(b) Removing paragraph (e).

**§\_303.5\_Public reading room.**

(a) The Peace Corps maintains a public reading room at its headquarters at 1111 20th Street, NW, Washington D.C. 20526. This room is supervised and is open to the public during Peace Corps' regular business hours for inspecting and copying records described in paragraph (b) of this section.

(b) Subject to the limitation stated in paragraph (c) of this section, the Peace Corps makes the following records available in the public reading room:

\* \* \* \* \*

(d) Electronic reading room. Records required by the FOIA to be maintained and made available in the public reading room created by the Peace Corps on or after November 1, 1996, are made available electronically on the Peace Corps website at <http://www.peacecorps.gov>.

5. Amend § 303.8 by revising paragraphs (a), (b), (c), and (l)(1)(iv) to read as follows:

**§\_303.8\_Requests for records.**

(a) Except for records required by the FOIA to be published in the Federal Register or to be made available in the public reading room, the Peace Corps will make its records promptly available, upon request, to any person in accordance with this section, unless it is determined that such records should be withheld and are exempt from mandatory disclosure under the FOIA.

(b) Requests. Requests for records under this section shall be made in writing via regular mail, e-mail, facsimile, online web portal and, as applicable, the envelope and the letter shall be clearly marked "Freedom of Information Request." All requests shall be addressed to the FOIA Officer. Requests by letter shall use the address given in §303.5(a). Requests by e-mail must be sent to the FOIA electronic mailbox, [foia@peacecorps.gov](mailto:foia@peacecorps.gov). Request submitted via online web portal (accessible on the agency website, [www.peacecorps.gov](http://www.peacecorps.gov)), requesters shall fill in all of the fields as required. Any request not marked and addressed as specified in this paragraph will be so marked by Peace Corps personnel as soon as the request is properly identified. The request will be forwarded immediately to the FOIA Officer. A request improperly addressed will not be deemed to have been received for purposes of the time period set out in paragraph (h) of this section until it has been received by the FOIA Officer. Upon receipt of an improperly addressed request, the FOIA Officer shall notify the requester of the date on which the time period began. Requests by letter shall be stamped "received" on the date received by the FOIA Office. Requests by email shall be "received" on the date the email arrived, if a business day, or on the next business day. Requests by online web portal will be entered automatically in the FOIA tracking system. Requests sent via mail or email will be entered manually in the FOIA tracking system. Requesters may utilize the online web portal for purpose of checking status of requests (open/closed) for requests from all sources.

(c) A request must reasonably describe the records requested so that employees of the Peace Corps who are familiar with the subject area of the request are able, with a reasonable amount of effort, to determine which particular records are within the scope of the request. If it is determined that a request does not reasonably describe the records sought, the requester shall be so informed and provided an opportunity to confer with Peace Corps personnel in order to attempt to reformulate the request in a manner that will meet the needs of the requester and the requirements of this paragraph. If the Agency cannot identify the requested records after a 2 hour search, it may determine that the records were not adequately described and ask the requester to provide a more specific request.

\* \* \* \* \*

(l) \* \* \*

(1) \* \* \*

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the Peace Corps' or the Federal government's integrity which affect public confidence.

\* \* \* \* \*

6. Amend § 303.9 by adding paragraphs (e)(8) and (9) as follows:

**§\_303.9\_Exemptions for withholding records.**

\* \* \* \* \*

(e) \* \* \*

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

7. Amend § 303.10 by revising paragraphs (a), (c)(1)(i), (c)(1)(ii), and (c)(2)(ii) to read as follows:

**§\_303.10\_Responsibilities and authorities.**

(a) Legal counsel. The General Counsel (GC) shall furnish legal advice to Peace Corps officials and staff as to their obligations under this part and shall take such other actions as may be necessary or appropriate to assure a consistent and equitable application of the provisions of this part by and within the Peace Corps. The OIG Legal Counsel will coordinate with GC, as appropriate and necessary, when furnishing legal advice to the OIG FOIA Officer and Inspector General.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) Consult with the other agency before responding to the request; or

(ii) Refer the responsibility for responding to the request for the record to the other agency (but only if the agency is subject to FOIA). Ordinarily, the agency that originated a record will be

presumed to be best able to determine whether to disclose it.

(2) \* \* \*

(ii) Whenever a request is made for a record containing information that has been classified by another agency or may be appropriate for classification under Executive Order 13525 or any other executive order concerning the classification of records, the Peace Corps shall refer the responsibility for responding to the request regarding that information to the agency that classified the information, should consider the information for classification, or has the primary interest in the information, as appropriate.

\* \* \* \* \*

8. Amend § 303.12 by revising paragraph (a) to read as follows:

**§\_303.12\_Appeals.**

(a) Any person whose written request has been denied is entitled to appeal the denial within 20 business days by writing to the Associate Director of the Office of Management or, in the case of a denial of a request for OIG Records, the Inspector General, at the address given in 303.5(a). An appeal need not be in any particular form, but should adequately identify the denial, if possible, by describing the requested record, identifying the official who issued the denial, and providing the date on which the denial was issued. If the appeal is sent via mail, the envelope and the letter shall be clearly marked "Freedom of Information Appeal" and the appeal shall be addressed to the Associate Director, Office of Management. Appeals by letter shall use the address given in §303.5(a). Appeals are accepted via email. Appeals by e-mail must be sent to the FOIA electronic mailbox, [foia@peacecorps.gov](mailto:foia@peacecorps.gov). Appeals submitted via online web portal (accessible on the agency website, [www.peacecorps.gov](http://www.peacecorps.gov)), requesters shall fill in all of the fields as required. Appeals by online web portal will be entered automatically in the FOIA tracking system. Persons submitting an appeal may utilize the online web portal for purpose of checking status of requests (open/closed) for requests from all sources.

\* \* \* \* \*

9. Amend § 303.13 by revising paragraph (b) to read as follows:

**§\_303.13\_Fees.**

\* \* \* \* \*

(b) For each commercial use request, fees will be limited to reasonable standard charges for document search, review, and duplication.

\* \* \* \* \*

10. Amend § 303.14 by revising paragraphs (a)(5)(i) and (ii) to read as follows:

**§\_303.14\_Procedures for responding to a subpoena.**

(a) \* \* \*

(5) \* \* \*

(i) Congressional requests or subpoenas for testimony or documents;

(ii) Employees or former employees making appearances solely in their private capacity in legal or administrative proceedings that do not relate to the Agency (such as cases arising out of traffic accidents or domestic relations). Any question whether the appearance relates solely to the employee's or former employee's private capacity should be referred to the Office of the General Counsel.

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Dated: August 1, 2013.

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James Pimpedly, Chief, Administrative Services, Management.

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