

§ 5.51 (a) through (c) as a precedent for action against a person unless we have published the record or have made it available electronically or by other means, or unless the person has timely notice of the record.

Subpart F—Predisclosure Notification for Certain Kinds of Commercial/ Financial Records

§ 5.61 General.

(a) *Designation of commercial information as confidential.* A person who submits records to the government may designate part or all of the information in such records as information that the person claims is exempt from disclosure under exemption 4 of the FOIA. The person may make this designation either at the time the records are submitted to the government or within a reasonable time thereafter. The designation must be in writing. Where a legend is required by a request for proposals or request for quotations, pursuant to 48 CFR 352.215-12, then that legend is necessary for this purpose. Any such designation will expire ten years after the records were submitted to the government.

(b) *Predisclosure notification.* The procedures in this paragraph apply to records on which the submitter has designated information as provided in paragraph (a) of this section. They also apply to records that were submitted to the government where we have substantial reason to believe that the information in the records could reasonably be considered exempt under exemption 4 of the FOIA. Certain exceptions to these procedures are stated in paragraph (c) of this section.

(1) When we receive a request for such records, and we determine that we may be required to release them, we will make reasonable efforts to notify the submitter about these facts. The notice will include a copy of the request, and it will inform the submitter about the procedures and time limits for submission and consideration of objections to disclosure. If we must notify a large number of submitters, we may do this by posting or publishing a notice in a place where the submitters are reasonably likely to become aware of it, or by sending the notice to a person or persons who we reasonably expect will give appropriate notification to the submitters or who will act on their behalf.

(2) The submitter will have five working days from receipt of the notice to object to disclosure of any part of the records and to state all bases for the objections. At the discretion of the FOIA

Officer, extensions of the time within which to respond may be granted, when requested by the submitter. These extensions shall not exceed an additional five working days.

(3) We will give consideration to all bases that have been timely stated by the submitter. If we decide to disclose the records, we will notify the submitter in writing. This notice will briefly explain why we did not sustain his/her objections. We will include with the notice a copy of the records about which the submitter objected, as we propose to disclose them. The notice will state that we intend to disclose the records five working days after the submitter receives the notice unless we are ordered by a United States District Court not to release them.

(4) When a requester files suit under the FOIA to obtain records covered by this subsection, we will promptly notify the submitter.

(5) Whenever we send a notice to a submitter under paragraph (b)(1) of this section, we will notify the requester that we are giving the submitter a notice and an opportunity to object. Whenever we send a notice to a submitter under paragraph (b)(3) of this section, we will notify the requester of this fact.

(c) *Exceptions to predisclosure notification.* The notice requirements in paragraph (b) of this section do not apply in the following situations:

(1) We decide not to disclose the records;

(2) The information has previously been published or made generally available;

(3) Disclosure is required by a regulation, issued after notice and opportunity for public comment, that specifies certain narrow categories of records that are to be disclosed upon request. However, a submitter may still designate such records as described in paragraph (a) of this section, and in exceptional cases, we may, at our discretion, follow the notice procedures in paragraph (b) of this section.

(4) The designation appears to be obviously frivolous. We will still, however, give the submitter the written notice as described in paragraph (b)(3) of this section (although this notice need not explain our decision or include a copy of the records), and we will notify the requester as described in paragraph (b)(5) of this section.

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 381

[Docket No. MARAD-99-5038]

RIN 2133-AB37

Regulations To Be Followed by All Departments and Agencies Having Responsibility To Provide a Preference for U.S.-Flag Vessels in the Shipment of Cargoes on Ocean Vessels

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Advance notice of proposed rulemaking; Extension of deadline for comments.

SUMMARY: On January 28, 1999, the Maritime Administration (MARAD) Advance Notice of Proposed Rulemaking (ANPRM) soliciting public comment concerning whether MARAD should amend its cargo preference regulations governing the carriage of agricultural exports was published in the *Federal Register* [64 FR 4382].

DATES: The deadline for submitting comments concerning this ANPRM is extended to April 28, 1999.

FOR FURTHER INFORMATION CONTACT: Thoms W. Harrelson, Director, Office of Cargo Preference 202-366-5515.

By order of the Maritime Administrator.

Dated: March 19, 1999.

Joel C. Richard,

Secretary.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF56

Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Alabama Sturgeon as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to list the Alabama sturgeon (*Scaphirhynchus suttkusi*) as endangered under the authority of the Endangered Species Act of 1973, as amended (Act). The Alabama sturgeon's historic range once included about 1,600 kilometers (km) (1,000 miles (mi)) of the Mobile River system