

under the Freedom of Information Act and through the Commission's Public Disclosure Division. The fee schedules have been updated to reflect the actual cost of items listed. They have also been revised to set fees in a more general fashion by describing the costs of reproduction instead of listing each item for which a charge is made. In addition, these rules establish a new procedure for handling requests for duplication of microfilm and computer tapes. Under the new rules, the requester will pay the outside producer of the requested material directly, to eliminate the requirement of debiting the Commission's appropriation for these costs. Finally, the regulations contain a technical revision to Part 4, to clarify that the Commission does not charge for staff time spent on duplicating materials requested under the Freedom of Information Act. Further information on these revisions is provided in the supplemental information which follows.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 2 U.S.C. 436(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street NW., Washington, D.C. (202) 523-4143 or Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: On May 29, 1984, the Commission published a Notice of Proposed Rulemaking seeking comments on the text of proposed revisions to 11 CFR Parts 4 and 5. 49 FR 22335. The comment period ended on June 28, 1984. One comment was received in response to the Notice, from the Citizen's Research Foundation. This comment focused primarily on a draft fee waiver provision concerning schools and libraries which the Commission deleted from the proposed rules before the NPRM was published. It also endorsed the concept of direct payment to private producers of microfilm and computer tape duplicates.

2 U.S.C. 436(d) requires that any rule or regulation prescribed by the Commission to carry out the provisions of Title 2, U.S.C., be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. Since the revisions to 11 CFR Part 5 implement provisions of Title 2, these regulations were transmitted to Congress on July 28, 1984.

FEDERAL ELECTION COMMISSION

11 CFR Parts 4 and 5

[Notice 1984-11]

Public Records and the Freedom of Information Act; Access to Public Disclosure Division Documents; Amendment of Fee Provisions

AGENCY: Federal Election Commission.

ACTION: Final rule; transmittal to Congress.

SUMMARY: The Commission is publishing today revised regulations governing the fee schedules for reproduction of materials available

Explanation and Justification of 11 CFR 4.9 and 5.6

The revised regulations contain no changes from the proposed language published in the May notice.

The primary purpose of these rules is to update the fee schedules for materials requested under the Public Records and Freedom of Information Act, 11 CFR Part 4, and Access to Public Disclosure Division Documents, 11 CFR Part 5, which have not been modified since the Commission first promulgated the schedules in 1979-80. The revisions in the fee schedules reflect changes in the "direct" cost to the Commission, or only those costs directly attributable to the actual reproduction of documents. It should be noted that, in the case of computer indices, the Commission has continued its present practice of processing requests for indices involving 20 committee ID numbers or less without charge. The one exception remains requests for a name search, for which the requester will be charged based on the computer time used. Since this program searches all records on file for activity by a particular individual, it requires much greater resources to produce, often using several hours of computer time.

The format of the fee schedules has also been altered. In the previous regulations, the publications for which charges are made were listed. This approach restricted the Commission's ability to add new publications or to revise the charges made for documents when they become more voluminous. The fee schedules as revised describe instead the Commission's actual costs for different types of reproduction, eliminating the need to set forth the price of each document. An up-to-date fee schedule for particular publications will continue to be made available in the Commission's Public Records Office.

A second purpose is to modify the billing procedure for microfilm and computer tape requests. In fulfilling its duties under the Freedom of Information Act, and in exercising its Public Disclosure functions, the Commission receives numerous requests for copies of records which appear on microfilm and on computer tape. Since the Commission does not have the facilities to duplicate microfilm or computer tape, private companies perform that service. Previously, the public requester paid the Commission a copying fee equal to the price billed to the Commission by the private duplicating firm. See schedules set out in 11 CFR 4.9(a) and 5.6(a). These monies were deposited directly into the U.S. Treasury, and the Commission paid the outside duplicating firm from its

appropriation. The Commission therefore requested an opinion from the Comptroller General regarding a proposed change in procedures governing payment of fees for duplication of records. The Comptroller General approved the change in Commission billing arrangements. See Comp. Gen. Decision B-205151 (March 1, 1982).

Under the revised regulations, each time a member of the public requests information in the form of microfilm or computer tape copies, the Commission will arrange for a private firm to produce that information and forward it to the Commission. The Commission will collect from the requester the appropriate fee for the duplication; however, the requester will make that fee payable not to the Commission but to the private firm which performed the duplicating. The Commission, upon receipt of payment, will forward the records to the requester.

The cost of the requester will continue to be regulated by the contract between the Commission and the private company and will not exceed the fees which the Commission would have been authorized to charge if it had processed the request in-house.

All non-exempt Commission documents which are on microfilm will continue to be available for inspection and copying at the Commission's Public Disclosure Division located on the street level, 1325 K Street, N.W., Washington, D.C.

Lastly, 11 CFR 4.9(a) has been modified for grammatical purposes and to delete language which purported to authorize the Commission to assess a fee for staff time spent in duplicating Freedom of Information Act materials. The Commission does not assess a fee for such time.