

**POSTAL SERVICE****39 CFR Part 265****Procedures for Disclosure of Records Under the Freedom of Information Act****AGENCY:** Postal Service™.**ACTION:** Final rule.

**SUMMARY:** In August 2019, the Postal Service proposed to amend its Freedom of Information Act (“FOIA”) regulations regarding fee waivers. These changes would improve clarity and more closely align the regulations with both the relevant guidance from the Department of Justice’s Office of Information Policy and the relevant statute. The Postal Service did not receive any comments.

**DATES:** This rule is effective as of November 21, 2019.

**FOR FURTHER INFORMATION CONTACT:** Joshua J. Hofer, Attorney, Federal Compliance, [joshua.hofer@usps.gov](mailto:joshua.hofer@usps.gov), 202–268–6704.

**SUPPLEMENTARY INFORMATION:** In August 2019, the Postal Service proposed to amend 39 CFR part 265 (84 FR 44565). The purpose of the changes is to improve clarity and to more closely align the regulations with both the relevant guidance from the Department of Justice’s Office of Information Policy and the relevant statute, 5 U.S.C. 552(a)(4)(A)(iii). The portion of the regulations being amended concerns fee waivers. Generally speaking, fees for a FOIA request will be waived “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. 552(a)(4)(A)(iii). The guidance from the Department of Justice elucidates a six-factor test from this rule—two of which of which relate to the commercial interest of the requester. The amendment to 39 CFR 265.9(j)(3)(i) clarifies that the first commercial interest factor is to determine whether a commercial interest exists. The amendment to 39 CFR 265.9(j)(3)(ii) incorporates the balancing test from the statute as the second part of the commercial interest factor, along with adding a presumption concerning news media requesters. No comments were received in response to the proposed changes.

**List of Subjects in 39 CFR Part 265**

Administrative practice and procedure, Courts, Freedom of information, Government employees.

For the reasons stated in the preamble, the Postal Service amends 39 CFR chapter I as follows:

**PART 265—[AMENDED]**

■ 1. The authority citation for part 265 continues to read as follows:

**Authority:** 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601; Pub. L. 114–185.

■ 2. Amend § 265.9 by revising paragraphs (j)(3)(i) and (ii) to read as follows:

**§ 265.9 Fees.**

\* \* \* \* \*

(j) \* \* \*

(3) \* \* \*

(i) Whether there is a commercial interest, as defined in paragraph (b)(1) of this section, that would be furthered by the requested disclosure. If so, then the requester will be given an opportunity to provide explanatory information regarding this consideration.

(ii) Whether any identified commercial interest of the requester in disclosure outweighs the public interest, as defined in paragraph (j)(1)(i) of this section, in disclosure. If so, then the disclosure is primarily in the commercial interest of the requester. The component ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by the requested disclosure. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R03–OAR–2019–0044; EPA–R05–OAR–2015–0699; FRL–10001–26–Region 5]

**Approval of Air Quality Implementation Plans; Ohio and West Virginia; Attainment Plans for the Steubenville, Ohio-West Virginia 2010 Sulfur Dioxide Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), two State Implementation Plan (SIP) revision submittals, submitted by Ohio and West Virginia, respectively. The Ohio and West Virginia submittals include each State’s attainment demonstration for the Steubenville Ohio-West Virginia sulfur dioxide (SO<sub>2</sub>) nonattainment area (hereinafter “Steubenville Area” or “Area”). Each SIP contains an attainment demonstration, enforceable emission limits, control measures and other elements required under the CAA to address the nonattainment area requirements for the Steubenville Area. EPA concludes that the Ohio and West Virginia attainment plan submittals demonstrate that the provisions in the respective SIPs provide for attainment of the 2010 primary SO<sub>2</sub> national ambient air quality standard (NAAQS) in the entire Steubenville Area and meet the requirements of the CAA. EPA is also approving into the West Virginia SIP new emissions limits, operational restrictions, and associated compliance requirements for Mountain State Carbon, and approving into the Ohio SIP the limits on emissions from Mingo Junction Energy Center, JSW Steel, and the Cardinal Power Plant.

**DATES:** This final rule is effective on November 21, 2019.

**ADDRESSES:** EPA has established dockets for this action under Docket ID Nos. EPA–R03–OAR–2019–0044 and EPA–R05–OAR–2015–0699. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through [www.regulations.gov](http://www.regulations.gov), or please contact the applicable Region III or Region V person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers at EPA Region III, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, (215) 814–2308, [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov). John Summerhays at EPA Region V, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency,