



1555 Wilson Boulevard, Suite 307, Arlington, VA 22209

August 3, 2015

VIA EMAIL: secretary@fmc.gov

Ms. Karen V. Gregory
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, D.C. 20573-0001

Dear Ms. Gregory:

America Rising Advanced Research (“AR2”) submits these comments in response to a *Federal Register* notice published on July 2, 2015, in which the Federal Maritime Commission (“Commission”) proposed to amend the agency’s regulations that implement the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”).¹

AR2 is a nonprofit organization in Arlington, Virginia. AR2 was established in 2015 to promote conservative issues and help shape the public policy debate across the country. To that end, AR2 frequently uses the FOIA and State open records laws to inform the public about government operations and activities.

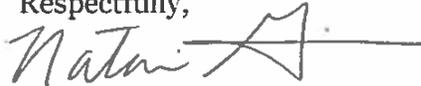
As a general matter, AR2 supports the Commission’s proposed amendments to its FOIA regulations. AR2’s foremost concern is the Commission’s administrative appeal deadline, which would change technically from 10 “working” days to 10 “business” days. Either time period is remarkably short. Indeed, of 102 federal agencies that AR2 has surveyed (see attached listing), none has an appeals deadline that is shorter than the Commission’s. Rather, the vast majority of federal agencies afford requesters at least 30 calendar days to submit an administrative appeal. Even agencies that typically receive no administrative appeals on a yearly basis have less draconian appeal deadlines than the Commission.²

¹ Amendments to Regulations Governing Access to Commission Information and Records; Freedom of Information Act, 80 Fed. Reg. 37997 (published July 2, 2015), available at <https://federalregister.gov/a/2015-16101>.

² See, e.g., INTER-AMERICAN FOUNDATION, *Freedom of Information Act Annual Report: Fiscal Year 2014* (reporting zero administrative appeals), <http://www.iaf.gov/modules/showdocument.aspx?documentid=474>; U.S. SEC. INT’L BOUNDARY & WATER COMM’N U.S. & MEX., *Freedom of Information Act Annual Report: Fiscal Year 2014* (reporting zero administrative appeals), http://ibwc.state.gov/Files/FOIA_Annual_Report_FY14.pdf.

In light of the foregoing, AR2 recommends that the Commission extend its proposed administrative appeals deadline to at least 30 days, in conformity with the regulations of most federal agencies.

Respectfully,



Natalie Gilliam
Deputy Communications Director & Research Director
America Rising Advanced Research



Allan Blutstein
Vice President FOIA Operations
America Rising LLC



FOIA appeal deadlines: a survey of 102 federal agencies

No deadline (8 agencies)

Election Assistance Commission: 11 C.F.R. §§ 9405.1-9405.12
Federal Election Commission: 11 C.F.R. §§ 4.1-4.9
Federal Open Market Committee: 12 C.F.R. §§ 271.1-271.9
Inter-American Foundation: 22 C.F.R. §§ 1002.1-1002.9
Marine Mammal Commission: 50 C.F.R. §§ 520.1-520.7
Office of Personnel Management: 5 C.F.R. §§ 294.101-294.112
Securities and Exchange Commission: 17 C.F.R. §§ 200.80 and 200.83 (30 days as of August 14, 2014; see 80 Fed. Reg. 41432)
Selective Service System: 32 C.F.R. §§ 1662.1-1662.6

12 Months (1 agency)

Postal Regulatory Commission: 39 C.F.R. Part 3004

120 calendar days (1 agency)

General Services Administration: 41 C.F.R. Part 105-60

90 calendar days (3 agencies)

Commission on Civil Rights: 45 C.F.R. §§ 704.1-704.4
Department of Labor: 29 C.F.R. Part 70
Legal Services Corporation: 45 C.F.R. §§ 1602.1-1602.14

60 calendar days (14 agencies)

Administrative Conference of the United States: 1 C.F.R. §§ 304.1-304.11
Council on Environmental Quality: 40 C.F.R. §§ 1515.1-1515.16
Corporation for National and Community Service: 45 C.F.R. §§ 2507.1-2507.12
Department of Defense: 32 C.F.R. Part 286
Department of Homeland Security: 6 C.F.R. Part 5
Department of Justice: 28 C.F.R. Part 16
Department of State: 22 C.F.R. Part 171
Department of Veterans Affairs: 38 C.F.R. Parts 1 and 2
National Archives and Records Administration: 36 C.F.R. Part 1250



Office of the United States Trade Representative: 15 C.F.R. §§ 2004.1-2004.11
Privacy and Civil Liberties Oversight Board: 6 C.F.R. §§ 1001.1-1001.10
Small Business Administration: 13 C.F.R. §§ 102.1-102.10
Special Inspector General for Afghanistan Reconstruction: 5 C.F.R. §§ 9031.1-9031.11
U.S. International Trade Commission: 19 C.F.R. §§ 201.17-201.21

45 calendar days (8 agencies)

Central Intelligence Agency: 32 C.F.R. §§ 1900.01-1900.45
Consumer Financial Protection Bureau: 12 C.F.R. §§ 1072.10-1072.22
Council of the Inspectors General on Integrity and Efficiency: 5 C.F.R. §§ 9800.1-9800.18
Federal Energy Regulatory Commission: 18 C.F.R. Part 388
Department of Agriculture: 7 C.F.R. §§ 1.1-1.25
Department of Transportation: 49 C.F.R. Part 7
Office of the Director of National Intelligence: 32 C.F.R. §§ 1700.1-1700.14
Office of Special Counsel: 5 C.F.R. §§ 1820.1-1820.10

30 business days (7 agencies)

Department of the Interior: 43 C.F.R. §§ 2.3-2.70
Federal Deposit Insurance Corporation: 12 C.F.R. Part 309
Millennium Challenge Corporation: 22 C.F.R. §§ 1304.1-1304.9
National Capital Planning Commission: 1 C.F.R. §§ 456.1-456.16
National Indian Gaming Commission: 25 C.F.R. §§ 517.1-517.9
Office of Science and Technology Policy: 32 C.F.R. §§ 2402.1-2402.11
Peace Corps: 22 C.F.R. §§ 303.1-303.13

35 calendar days (3 agencies)

Department of Education: 34 C.F.R. Part 5
Department of the Treasury: 31 C.F.R. Part 1
Financial Stability Oversight Council: 12 C.F.R. §§ 1301.1-1301.12

30 calendar days (43 agencies)

U.S. Agency for International Development: 22 C.F.R. Part 212
American Battle Monuments Commission: 36 C.F.R. §§ 404.1-404.10
Broadcasting Board of Governors: 22 C.F.R. §§ 503.1-503.9
Chemical Safety and Hazard Investigation Board: 40 C.F.R. §§ 1601.01-1601.33
Consumer Product Safety Commission: 16 C.F.R. §§ 1015.1-1015.19
Commission of Fine Arts: 45 C.F.R. 2105.1-2105.5



Committee for Purchase from People Who are Blind or Severely Disabled: 41 C.F.R.

Part 51-8

Commodity Futures Trading Commission: 17 C.F.R. Part 145

Court Services and Offender Supervision Agency: 28 C.F.R. §§ 802.2-802.10

Defense Nuclear Facilities Safety Board: 10 C.F.R. §§ 1703.101-1703.112

Department of Commerce: 15 C.F.R. §§ 4.1-4.11

Department of Energy: 10 C.F.R. §§ 1004.1-1004.12

Department of Health and Human Services: 45 C.F.R. Part 5

Department of Housing and Urban Development: 24 C.F.R. Part 15

Environmental Protection Agency: 40 C.F.R. Part 2

Equal Employment Opportunity Commission: 29 C.F.R. §§ 1610.1-1610.21

Export-Import Bank: 12 C.F.R. §§ 404.1-404.11

Farm Credit Administration: 12 C.F.R. §§ 602.1-602.16

Farm Credit System Insurance Corporation: 12 C.F.R. Part 1402

Federal Communications Commission: 47 C.F.R. §§ 0.441-0.470

Federal Housing Finance Agency: 12 C.F.R. §§ 1202.1-1202.12

Federal Labor Relations Authority: 5 C.F.R. §§ 2411.1-2411.15

Federal Mediation & Conciliation Service: 29 C.F.R. §§ 1401.20-1401.36

Federal Retirement Thrift Investment Board: 5 C.F.R. §§ 1631.1-1631.18

Federal Trade Commission: 16 C.F.R. §§ 4.8 and 4.11

Institute of Museum and Library Services: 45 C.F.R. §§ 1184.1-1184.10

International Boundary and Water Commission: 22 C.F.R. §§ 1102.1-1102.10

National Aeronautics and Space Administration: 14 C.F.R. Part 1206

National Credit Union Administration: 12 C.F.R. §§ 792.01-792.32

National Endowment for the Humanities: 45 C.F.R. §§ 1171.1-1171.13

National Mediation Board: 29 C.F.R. Part 1208

Nuclear Regulatory Commission: 10 C.F.R. §§ 9.11-9.45

Nuclear Waste Technical Review Board: 10 C.F.R. §§ 1303.101-1303.116

Office of Government Ethics: 5 C.F.R. Part 2604

Office of Management and Budget: 5 C.F.R. Part 1303

Office of National Drug Control Policy: 21 C.F.R. §§ 1401.1-1401.13

Pension Benefit Guaranty Corporation: 29 C.F.R. Part 4901

Recovery Accountability and Transparency Board: 4 C.F.R. §§ 201.1-201.17

Social Security Administration: 20 C.F.R. §§ 402.5-402.205

Surface Transportation Board: 49 C.F.R. Part 1001

Tennessee Valley Authority: 18 C.F.R. §§ 1301.1-1301.10

U.S. Copyright Office: 37 C.F.R. §§ 203.1-203.6

U.S. Postal Service: 39 C.F.R. §§ 265.1-265.12

28 calendar days (1 agency)

National Labor Relations Board: 29 C.F.R. § 102.117



20 business days (5 agencies)

Federal Mine Safety and Health Review Commission: 29 C.F.R. §§ 2702.1-2702.8

Occupational Safety and Health Review Commission: 29 C.F.R. §§ 2201.1-2201.10

Office of Navajo and Hopi Indian Relocation: 25 C.F.R. §§ 700.235-700.251

Overseas Private Investment Corporation: 22 C.F.R. Part 706

Railroad Retirement Board: 20 C.F.R. § 200.4

15 business days (1 agency)

African Development Foundation: 22 C.F.R. §§ 1502.1-1502.10

20 calendar days (1 agency)

National Transportation Safety Board: 49 C.F.R. Part 801

10 business days (6 agencies)

Board of Governors of the Federal Reserve System: 12 C.F.R. §§ 261-261.17

Federal Financial Institutions Examinations Council: 12 C.F.R. Part 1101

Federal Maritime Commission: 46 C.F.R. Part 503

Merit System Protection Board: 5 C.F.R. Part 1204

National Endowment for the Arts: 45 C.F.R. §§ 1184.1-1184.10

National Science Foundation: 45 C.F.R. §§ 612.1-612.11