



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-1570

Appeal P-9700343

Ministry of Health



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NATURE OF THE APPEAL:

The Ministry of Health (the Ministry) received a request for all documents relating to the consideration, drafting and approval of Ontario Regulation 119/97 made under The Drug and Pharmacies Regulation Act and Ontario Regulation 121/97 made under The Pharmacy Act. These regulations provide for the advertising of prescription services by pharmacy operators and pharmacists. They were drafted following consultations between various branches of the Ministry and the Ontario College of Pharmacists.

The requester indicated that his request was to include but not be limited to the following:

- (a) all correspondence (written, electronic or otherwise) between the Ministry and the Ontario College of Pharmacists which may include any discussion relating to the perceived need for such advertising regulations, as far back as those documents can be found;
- (b) any other correspondence (written, electronic or otherwise) between the Ontario College of Pharmacists and the Ministry, or any other parties, relating to the perceived need for advertising regulations, the drafting and content of the regulations, any comments on draft regulations, etc.
- (c) any internal documents in the possession of the Ministry, prepared by the Ontario College of Pharmacists or the Ministry, or anyone else, including internal e-mail, which in any way discuss or comment upon the proposed or finalized regulations, or the perceived need for such regulations;
- (d) all drafts, including marked-up drafts, of the proposed or finalized regulations;
- (e) any memoranda or advice relating to the legality of such regulations, and
- (f) any other documents or records whatsoever which touch upon the proposed or finalized regulations.

The Ministry identified 158 records as responsive to the request. Records A-1 to A-83 were located in the Legal Services Branch; Records B-1 to B-67 in the Drug Program Branch, and Records C-1 to C-8 in the Professional Relations Branch. Records A-35, A-55, A-57, B-7, B-8, B-29, B-32, B-33, B-47, B-48, B-49, B-59, B-67, C-3, C-6, C-7 and C-8 were disclosed in full. The Ministry denied access to the remaining records, in whole or in part, based on the following exemptions in the Act:

- Cabinet records - section 12(1)
- advice or recommendations - section 13(1)
- third party information - section 17(1)
- solicitor-client privilege - section 19.

The Ministry also informed the requester that certain portions of some of the records were not responsive to his request.

The requester, now the appellant, appealed the Ministry's decision.

During mediation, the Appeals Officer advised the appellant that some of the records consist of facsimile cover pages, but that the documents which were originally attached to them are to be found elsewhere in the records.

The Appeals Officer also informed the appellant that an identifiable individual was mentioned by name in Record B-21. The appellant indicated that he was not interested in the name of this individual and this information is not, therefore, at issue in this appeal.

A Notice of Inquiry was sent to the appellant, the Ministry and three organizations who had provided submissions to the Ministry about the proposed regulations (the affected parties). A Notice of Inquiry was later forwarded to the Ontario College of Pharmacists (hereafter referred to as the OCP), as well. Representations were received from the appellant, the Ministry and the OCP. One of the affected parties who responded, consented to the disclosure of its submissions to the Ministry, which are contained in Record B-22.

In its representations, the Ministry addressed whether there were additional responsive records which were not identified in the original decision letter. The appellant agreed that this question is no longer an issue in this appeal.

The Ministry also claimed the application of the mandatory exemption in section 17(1) of the Act to additional records beyond those addressed in its original decision letter. In his representations, the appellant raised the possible application of section 23 of the Act, the so-called "public interest override". A Supplementary Notice of Inquiry was subsequently sent to the Ministry, the OCP and the affected parties soliciting their submissions with respect to the application of section 17(1) to a number of records and section 23 generally. Submissions in response to the Supplementary Notice of Inquiry were received from the Ministry, the appellant and the OCP.

RECORDS:

The records which remain at issue were categorized by the Ministry as follows:

1. Draft regulations: A-1 to A-7, B-3, B-10, B-11, B-15 to B-17, B-27, B-40, B-42, B-44 to B-46 and B-61 to B-63;
2. Draft Cabinet submissions: A-8 to A-25 and B-2;
3. Documentation from Ministry Program employees' working files: A-26 to A-34, A-36 to A-54, A-58 to A-83, B-1, B-4 to B-6, B-9, B-12 to B-14, B-19 to B-21, B-23 to B-26, B-28, B-31, B-34 to B-39, B-41, B-50 to B-58, B-60, B-64 to B-66, C-1, C-2, C-4 and C-5.

DISCUSSION:

CABINET RECORDS

The Ministry has claimed the application of various subsections of section 12(1) of the Act, as well as the introductory wordings contained in the section, to a number of the records at issue. Section 12(1) provides, in part, that:

A head shall refuse to disclose a record where the disclosure would reveal the substance of deliberations of the Executive Council or its committees, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing policy options or recommendations submitted, or prepared for submission, to the Executive Council or its committees;
- (c) a record that does not contain policy options or recommendations referred to in clause (b) and that does contain background explanations or analyses of problems submitted, or prepared for submission, to the Executive Council or its committees for their consideration in making decisions, before those decisions are made and implemented;
- ...
- (e) a record prepared to brief a minister of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council or its committees, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation or regulations.

Section 12(1)(a)

The Ministry submits that section 12(1)(a) applies to Record A-77 since it is an agenda of the Cabinet Committee on Legislation and Regulations. In its original decision, it did not claim the application of this exemption to Record A-77. However, since section 12(1) is a mandatory exemption, I am required to consider whether it properly applies in the circumstances. I have carefully examined this record, which consists of a fax cover page (in duplicate) and an agenda of the Cabinet Committee on Legislation and Regulations (in duplicate). I find that the agenda, but not the facsimile cover sheet, is exempt from disclosure under section 12(1)(a) as it represents an agenda of the Cabinet Committee on Legislation and Regulations, a Committee of the Executive Council.

Section 12(1)(b)

The Ministry has claimed the application of section 12(1)(b) to Records A-8 to A-25 and Record B-2, which are Approval Forms/Information Sheets for Regulations. The Ministry must satisfy two criteria in order to exempt a record under section 12(1)(b). They are:

1. the record must contain policy options or recommendations; and
2. the record must have been submitted or prepared for submission to the Executive Council or one of its committees.

[Order 73]

The Ministry submits that Records A-8 to A-25 and B-2 contain policy options or recommendations submitted, or prepared for submission, to the Executive Council or its committees. The Ministry relies on the decisions in Orders P-771 and P-1205 in which draft and final versions of similar such records were found to be exempt under section 12(1)(b). The Ministry explains that "Information Sheets for Regulations" are now called "Approval Forms for Regulations". The Ministry states that the final version of the Approval Form for Regulations was submitted along with the draft Regulations on April 14, 1997 to the Cabinet Committee on Legislation and Regulations, and to Cabinet on April 16, 1997.

I have carefully examined Records A-8 to A-25 and B-2. Records A-8 to A-18, A-21 to A-24 and B-2 are all Information Sheets for Regulations/Approval Forms for Regulations. I find that these records contain policy options or recommendations. I accept that they were prepared for submission to the Executive Council or its committees. Therefore, section 12(1)(b) applies to exempt them from disclosure.

Record A-19 is a three-page document explaining the new information form for regulations (the Approval Form for Regulations), with some handwritten notations at the top of the first page. Record A-20 consists of two fax cover sheets which refer to the attachment of the draft regulations. Record A-25 is a blank Approval Form for Regulations. I find that these records do not contain "policy options or recommendations submitted or prepared for submission to the Executive Council or its committees." Therefore, they do not qualify for exemption under section 12(1)(b).

Section 12(1)(c)

To meet the requirements of section 12(1)(c), the Ministry must establish that:

1. the record contains background explanations or analyses of problems to be considered; **and**
2. the record itself was submitted or prepared for submission to the Executive Council or its committees for their consideration in making decisions; **and**

3. the matter at issue is actively under consideration or is clearly scheduled for consideration by Cabinet or one of its committees; **and**
4. the decision at issue has not been made or implemented.

[Order 60]

The Ministry submits that Records A-21, A-22, A-24, B-4 to B-6, B-9, B-12, B-13, B-19, B-20, B-23 to B-26, B-28, B-31, B-34 to B-39, B-41, B-50 to B-57, B-64 and B-65 “all contain background explanations and analyses of the problem which have been submitted or prepared for submission to the Executive Council or its committees for their consideration before the decisions are made or implemented.” The Ministry submits that these records are exempt under section 12(1)(c) because “it was originally intended that they be attached to the submission to Cabinet.”

The Ministry further submits that Record B-31 is an internal mail action document which makes reference to Record B-26 and should, therefore, be similarly exempted. The Ministry states that both Records B-39 and B-57 are facsimile cover sheets which refer to the regulations and should likewise be exempted under section 12(1)(c).

I have carefully examined the records to which the Ministry has applied the exemption in section 12(1)(c). I have already determined that section 12(1)(b) applies to records A-21, A-22 and A-24. Because these records do not contain “policy options or recommendations”, section 12(1)(c) has no application to them.

With respect to the remaining records, I find that Records B-12, B-19, B-20, B-26, B-31, B-34, B-35, B-36, B-50, B-51, B-52, B-54, B-57 and B-65 do not contain “background information and analysis of the problem” relating to the advertising regulations and therefore, they do not meet the first requirement outlined above. Accordingly, they are not exempt from disclosure under section 12(1)(c).

I find that the remaining records do, however, contain “background information and analysis of the problem” with respect to either the draft or final regulations. However, I have not been provided with any evidence that these records were put before the Executive Committee or one of its Committees, or prepared for submission to one of these bodies. The Ministry states that the records were **intended** to be attached to the submission to Cabinet. Therefore, the second requirement listed above has not been met and section 12(1)(c) also does not apply to them.

Section 12(1)(e)

To qualify for an exemption under section 12(1)(e), the Ministry must establish that the record itself has been prepared to brief a Minister in relation to matters that are either:

- (a) before or proposed to be brought before the Executive Council or its committees; or

- (b) the subject of consultations among ministers relating to government decisions or the formulation of government policy.

[Order 131]

The Ministry submits that Record B-58 was a briefing note to prepare the Minister for a meeting with the OCP regarding the draft regulation. I find that it is a briefing note for the Minister about the proposed advertising regulations, a matter which has already been discussed by Cabinet. Previous orders have held that section 12(1)(e) is prospective in that the use of the present tense in this section precludes its application to matters that have already been considered by the Executive Council or its committees. The subject matter of the responsive portion of Record B-58 was discussed by the Cabinet Committee on Legislation and Regulations on April 14, 1997 and the full Cabinet on April 16, 1997.

I find, therefore, since the matter in the briefing note which comprises the responsive portion of Record B-58 has already been presented to and discussed by Cabinet and one of its committees, section 12(1)(e) does not apply to it.

Section 12(1)(f)

The Ministry submits that Records A-1 to A-7, A-26, A-28, A-31, A-36, A-38, A-41, A-42, A-80, B-1, B-3, B-10, B-11, B-15 to B-17, B-27, B-40, B-42 to B-46 and B-60 to B-63 are exempt under section 12(1)(f) because they consist of, either in part or in whole, draft regulations, such that their disclosure would reveal the substance of deliberations of the Executive Council or its committees.

I have carefully reviewed these records and find that Records A-1 to A-7, the attachment to Record A-26, Records A-28, A-31, A-32, A-36, A-38, A-39, A-41, A-42, A-72, the Draft Regulation attached to Record A-80, Records B-2, B-3, B-10, B-11, B-15 to B-17, B-27, B-39, B-42, B-44 to B-46, B-61, as well as the Draft Regulations contained in Records B-62 and B-63 are comprised of Draft Regulations within the meaning of section 12(1)(f).

Further, in my view, the disclosure of the draft regulations would reveal the substance of deliberations of the Cabinet, which took place on April 16, 1997 or its Committee on Legislation and Regulations which met on April 14, 1997. Accordingly, I find that section 12(1)(f) applies to exempt these records, or parts of records. I also find that the section 12(1)(f) exemption does not apply to Records B-1, B-43 and B-60, or to page 1 of Record B-63.

Introductory wording

It has been determined in a number of previous orders that the use of the term "including" in the introductory wording of section 12(1) means that the disclosure of any record which would reveal the substance of deliberations of the Executive Council or its committees, not just the types of records listed under the various parts of section 12(1), qualifies for exemption under section 12(1). The Ministry has claimed the application of the introductory wording to a number of records, some of which I have already determined to be exempt under one of the subsections to section 12(1).

Following an assessment of these records, I find that the disclosure of the following records or parts of records would reveal the substance of deliberations of Cabinet or its committees respecting the regulations:

Records A-20, the letter in Record A-26 (which is the same as Records B-5 and B-9), Record A-30 (which is the same as Record B-12), the Request for Preparation of a Regulation in Record A-80, Record B-6, B-13, B-28 and B-64.

While other records may refer to the process of consultation which surrounded the promulgation of these regulations, in my view, their disclosure would not reveal the **substance** of the Cabinet or Cabinet committee's deliberations. Rather, these records reveal the process whereby consultation occurred and the regulations were prepared. It cannot be said that the substance of the Cabinet's deliberations would be revealed by the disclosure of this information alone.

In summary, I find that the following records, or parts of records, are exempt from disclosure under section 12(1):

Records A-1 to A-18, A-20 to A-24, A-26 (which is the same as Records B-5 and B-9), Record A-28, Record A-30 (which is the same as Record B-12), Records A-31 to A-32, A-36, A-38 to A-39, A-41 to A-42, the agenda in Record A-77, the Draft Regulation and Request for Preparation of a Regulation in Record A-80, Record B-2, B-6, B-10, B-11, B-13, Records B-15 to B-17, B-27, B-28, B-40, B-42, B-44 to B-46, B-61, the Draft Regulations in Record B-62, B-63 and B-64.

Section 12(2)(b)

I must now determine whether section 12(2)(b) applies to those records which are properly exempt under section 12(1). Section 12(2)(b) states:

Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record where,

the Executive Council for which, or in respect of which, the record has been prepared consents to access being given.

In Order 24, former Commissioner Sidney B. Linden stated that while section 12(2)(b) does not impose a mandatory requirement for the head to seek the consent of Cabinet, the head must address the issue of whether or not consent should be sought.

The Ministry states that it decided not to refer this matter to Executive Council for consent to grant access because:

1. none of the information contained in these records, except for the gazetted regulation, is available elsewhere in the public domain;
2. the records are not discreet documents which may be easily separated;

3. there is no indication that this information is of significant interest or any interest to a significant portion of the public;
4. many of the drafts of the regulations were never seen by the OCP; and
5. that seeking consent for subsequent disclosure could undermine the working relationship between the Ministry and the OCP with respect to the promulgation of regulations in the future.

Based on the submissions of the Ministry, I am satisfied that the head considered all of the relevant factors present in the circumstances of this case in deciding not to seek the consent of Cabinet. I also find it significant that the draft regulations were not circulated to stakeholders other than the OCP.

SOLICITOR-CLIENT PRIVILEGE

The Ministry submits that section 19 applies to exempt the following records:

A-19, A-25, A-27, A-29, A-33, A-34, A-37, A-40, A-43 to A-76, the facsimile cover pages in Records A-77, A-78, the facsimile cover pages in Record A-80, Records A-81 to A-83, B-1, B-4, B-13, B-14, B-19, B-20, B-25, B-26, B-31 to B-39, B-41, B-43, B-50 to B-58, B-60, the facsimile page of Record B-62, Records B-65 to B-66, C-1, C-4 and C-5.

I have found above that a number of the records to which the Ministry has applied section 19 are exempt under the provisions of section 12(1). Accordingly, I need not address the possible application of the solicitor-client exemption to these documents.

Section 19 states:

A head may refuse to disclose a record that is subject to solicitor-client privilege or that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation.

This section consists of two branches, which provide a head with the discretion to refuse to disclose:

1. a record that is subject to the common law solicitor-client privilege; (Branch 1) and
2. a record which was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation (Branch 2).

In order for a record to be subject to the common law solicitor-client privilege (Branch 1), the Ministry must provide evidence that the record satisfies either of the following tests:

1. (a) there is a written or oral communication, **and**

- (b) the communication must be of a confidential nature, **and**
- (c) the communication must be between a client (or his agent) and a legal advisor, **and**
- (d) the communication must be directly related to seeking, formulating or giving legal advice;

OR

- 2. the record was created or obtained especially for the lawyer's brief for existing or contemplated litigation.

[Order 49]

Two criteria must be satisfied in order for a record to qualify for exemption under Branch 2:

- 1. the record must have been prepared by or for Crown counsel; and
- 2. the record must have been prepared for use in giving legal advice, or in contemplation of litigation, or for use in litigation.

[Order 210]

The Ministry submits that the Legal Services Branch represents the Ministry in the draft regulation process and that the responsive records are in the custody of the Legal Services Branch, in the files maintained by various Ministry counsel and a student-at-law who provided legal advice to the Drug Programs and the Professional Relations Branches. It also suggests that these program areas were the clients and, accordingly, a solicitor-client relationship existed. The Ministry submits that a solicitor-client relationship also existed between Ministry counsel and the legislative counsel who was responsible for drafting the regulations. Accordingly, it argues that communications between them are also exempt from disclosure under Branch 1 of the section 19 exemption.

The Ministry further submits that communications between Ministry counsel, Legislative counsel, the Drug Programs Branch, the Professional Relations Branch, and the office of the Assistant Deputy Minister are exempt under both branches of the section 19 exemption. It also submits that communications with the OCP are exempted under Branch 1 only.

Record A-19

Record A-19 is a three-page Information Sheet containing instructions as to how the process of enacting a regulation has been amended. I find that this document is not subject to exemption under either Branch 1 or 2 of the section 19 exemption as it does not represent a confidential communication between solicitor and client; nor was it prepared by or for Crown counsel for use in giving legal advice or for use in litigation.

At the top of page 1 of Record A-19, are notes which appear to have been made by counsel while reviewing the new procedures. In my view, these notes are properly exempt under Branch 2 as

they were prepared by Crown counsel for her own use in giving legal advice to the Ministry's program areas on the issue of the implementation of the new regulations. This portion of page 1 of Record A-19 qualifies for exemption and should **not** be disclosed.

Record A-25

This document is a seven-page form entitled "Approval Form for Regulations". In my view, it does not qualify for exemption under either branch of section 19. Record A-25 is not a communication between solicitor and client, was not obtained or created especially for a lawyer's brief for litigation and was not prepared by or for counsel for use in giving legal advice. Nor was it prepared for use in litigation. As no other exemptions have been applied to this document, and no mandatory exemptions apply to it, it should be disclosed.

Record A-27

This is a letter from the OCP dated March 10, 1995 and addressed to the Ministry's counsel. The Ministry submits that this record is exempt under Branch 2 as it was prepared for Ministry counsel by the OCP for counsel's use in giving legal advice to her internal clients.

I cannot agree with the argument of the Ministry that this document was created for counsel's use in giving legal advice. In my view, the dominant purpose for the creation of Record A-27 was to communicate the fact that the OCP Registrar and President had executed copies of certain regulations. The record was not provided to counsel by the OCP for her use in giving legal advice. Accordingly, I find that the information contained in Record A-27 is not exempt under section 19. As no other exemptions have been applied to this document and no mandatory exemptions apply, it should be disclosed to the appellant.

Records A-29, A-40, A-44, A-50, A-52, A-53, A-58, A-61, A-69 and A-73

Each of these records consist of notes made by Crown counsel for her own use in giving legal advice to the Ministry's program areas in the course of the drafting of the regulations. As such, they fall within the ambit of Branch 2 of section 19 and are exempt from disclosure.

The memorandum dated January 9, 1997 which forms part of Record A-50 is exempt under Branch 1 as it represents a confidential communication between solicitor and client which is directly related to the seeking of legal advice.

Records A-33, A-34 and B-37

Record A-33 is a draft of Record A-34, which is a letter sent from the Ministry's Assistant Deputy Minister (the ADM) to the OCP's Registrar on May 10, 1996. Record A-34 is identical to Record B-37. Both the draft and the letter were copied to Ministry counsel. The Ministry claims that these records are exempt under Branch 2 of the section 19 exemption.

In my view, the dominant purpose for the creation of these documents was to communicate information to the OCP about the enactment of the regulations. It was not prepared by or for

Crown counsel for use in giving legal advice or in contemplation of or for use in litigation. As such, these records do not qualify for exemption under Branch 2 of section 19.

Records A-37, Page 2 of Record A-45, Records A-46 and A-82

These documents are communications from Ministry counsel to Legislative counsel entitled "Request for Preparation of a Regulation". I find that they represent a confidential communication between Crown counsel and are directly related to the seeking of legal advice regarding the drafting and enactment of the regulations. As such, they are exempt from disclosure under Branch 1 of section 19.

Record A-43, Page 1 of Record A-45, Records A-47, A-48, A-49, A-51, A-54, A-56, A-60, A-63, A-64, A-65, A-66, A-67, Pages 1 and 2 of Record A-77, Records B-14, B-39, B-43 and B-60

Each of these documents are facsimile communications between counsel and a student-at-law in the Ministry's Legal Services Branch and other Ministry program areas, as well as Legislative counsel. I find that each qualifies as a confidential communication between a solicitor and her client which is directly related to the giving, seeking or formulation of legal advice. Accordingly, each qualifies for exemption under Branch 1 of section 19.

Records A-59 and A-71

Record A-59 is a memorandum dated August 30, 1996 prepared by the Ministry's Health Policy Branch and was copied widely throughout the Ministry, including to counsel with carriage of the drafting of the subject regulations. The attached document describes in detail the upcoming dates and times for meetings of the Legislation and Regulations Committee but does not refer to the specific items which will appear on the agenda for that committee. The memorandum also refers to other items which will be considered by the Ministry's Senior Management Committee on certain specified dates.

Similarly, Record A-71 is a summary of relevant dates for the proposed regulations. I have not been provided with any information as to who created this document or its purpose. Again, dates for meetings of the Ministry's Senior Management Committee and Legislation and Regulations Committee are listed, but no reference is made to the specific agenda items for these meetings. Based on the information contained in the record, and in the absence of more detailed submissions as to its origins and purpose, I am unable to find that this document represents a confidential communication between solicitor and client or that it was prepared by or for counsel for use in giving legal advice or for use in litigation. Accordingly, Record A-71 does not qualify for exemption under either branch of section 19 and should be disclosed to the appellant.

Record A-62

Record A-62 is a facsimile cover page sent to Ministry counsel from staff at the Drug Program Branch to which is attached a letter dated September 4, 1996 from the Ministry's ADM to the Registrar of the OCP. In my view, neither the cover page nor the letter qualify for exemption

under Branch 1 as claimed by the Ministry. The facsimile may qualify as a confidential communication and is clearly between a solicitor and client but it does not relate directly to the giving, seeking or formulating of legal advice. The letter is not between a solicitor and client and, accordingly, does not qualify under Branch 1. As no other exemptions have been claimed for these documents, and no mandatory exemptions apply to them, Record A-62 does not qualify for exemption and should be disclosed to the appellant.

Records A-68 and A-78

These documents are one-page facsimile transmission cover pages sent by Ministry counsel to the Registrar of the OCP on December 23, 1996 and April 18, 1997, respectively. The Ministry submits that these records are exempt under Branch 2 as the information which they contain was prepared by Crown counsel for use in giving legal advice. In my view, the dominant purpose behind the creation of Records A-68 and A-78 was to communicate information to the OCP about the Ministry's progress in promulgating the regulations. As such, I find that they do not qualify for exemption under Branch 2 and should be disclosed to the appellant.

Record A-70

Record A-70 consists of three versions of a document entitled "Submission Review/Approval" which appears to have originated with the Ministry's counsel. It describes the names of those Ministry officials, including the Minister and his Deputy, who have "signed off" on the subject matter of the proposed regulations. The record does not contain any information about the subject matter of the regulations, nor does it contain any legal advice. I find that it does not qualify as a "confidential communication between solicitor and client" and does not fall within the ambit of Branch 1 of section 19.

Similarly, based on my review of the record and in the absence of any detailed submissions with respect to the application of Branch 2 to it, I find that it cannot be said that Record A-70 was prepared by or for Crown counsel for use in giving, seeking or formulating legal advice or for use in litigation. As such, Record A-70 is not exempt under either branch of section 19 and should be disclosed to the appellant.

Records A-74 and A-75

These are letters to and from the Ministry's counsel and the OCP dated February 26, 1997 and February 27, 1997, respectively. The Ministry submits that they are exempt from disclosure under Branch 2 of section 19. I find that they do not qualify under Branch 2 as they were not prepared by or for Crown counsel for use in giving legal advice or for contemplated litigation.

Paragraph 4 of Page 1 of Records A-76 and B-66

The Ministry submits that this paragraph, which is contained in a submission made to it on March 26, 1997 by the OCP is exempt from disclosure under Branch 2 of section 19. It argues that this portion of Records A-76 and B-66 is based on information prepared by the OCP "for use by Ministry counsel in giving advice to her clients". I cannot agree that advice provided by

counsel to the OCP which is communicated to the Ministry qualifies for exemption under Branch 2 of section 19. Again, the dominant purpose for which the information was prepared by the OCP's counsel was to advise the OCP and not the Ministry on issues relating to the implementation of the proposed regulations. As this portion of Records A-76 and B-66 is not exempt under Branch 2 of section 19, it should be disclosed to the appellant.

Records A-79 and A-83

Records A-79 and A-83 consist of 37 and 45 pages of e-mails, respectively, transmitted between the Ministry's counsel responsible for preparing the proposed regulations and various program areas within the Ministry. I find that they qualify for exemption under Branch 1 of section 19 as they are confidential communications between a solicitor and her clients which relate directly to the giving, seeking and formulating of legal advice.

Record A-81

This document is a one-page memorandum dated January 11, 1995 from Ministry counsel to Legislative counsel with respect to the draft regulations. I find that this record qualifies for exemption under Branch 1 of section 19 as it is a confidential communication between solicitor and client (in this case the Ministry's counsel) which relates directly to the seeking of legal advice.

Record B-1

Record B-1 is a memorandum dated March 13, 1995 from Ministry counsel to the Deputy Minister of Health with respect to the finalization of the regulations. I find that this document qualifies for exemption under Branch 1 of section 19 as a confidential communication between solicitor and client which relates directly to the giving of legal advice.

Record B-4

Record B-4 is a memorandum dated July 5, 1995 from counsel to the OCP to the OCP's Registrar which the Ministry claims to be exempt under Branch 2 of section 19. I find that this document does not qualify for exemption under this branch. I have not been provided with any information as to the use which this document was put to or how it came to be located in the Ministry's files. I cannot, accordingly, find that it meets the criteria for Branch 2 and it should be disclosed to the appellant.

Record B-19

Record B-19 is a letter dated January 8, 1996 from the Ministry's ADM to the Registrar of the OCP. The Ministry submits that this record is exempt under both branches of section 19. I find that it does not qualify under Branch 1 as it is not a communication between a solicitor and client. In addition, it does not qualify under Branch 2 as I have been provided with no evidence to demonstrate that it was prepared by or for Crown counsel for use in giving legal advice or for

use in litigation. As no other exemptions have been claimed for Record B-19 and no mandatory exemptions apply, it should be disclosed to the appellant.

Records B-20, B-31 and B-54

Record B-20 is an action memo dated January 30, 1996 from a Ministry official to the office of the ADM. Record B-31 is an action memo dated April 3, 1996 with respect to a requested response to a letter addressed to the ADM from the Registrar of the OCP. Record B-54 consists of an action memo and a mail action document requesting that a response be prepared for the ADM to a letter received on September 26, 1996 from the OCP.

I have not been provided with any evidence as to the position held by the official in Record B-20 and cannot, therefore, determine whether her relationship with the ADM is that of a solicitor and client. For this reason, I am unable to find that Record B-20 qualifies for exemption under Branch 1 of section 19. The same holds true for the officials referred to in Records B-31 and B-54.

Similarly, the Ministry has not provided any information as to how these communications may have been relied upon or made use of by a Crown counsel in the process of advising a client or for use in litigation. For this reason, I find that Records B-20, B-31 and B-54 do not qualify for exemption under either branch of section 19.

Records B-25, B-26, B-52, B-53 and B-55

These records are letters dated February 2, 21 and 26 and September 12 and 24, 1996 from the Registrar of the OCP to the Ministry's ADM and the Minister. Again, the Ministry has failed to provide any information as to how these records fall within the ambit of Branches 1 and 2 of section 19, beyond simply stating that they do. In the absence of any such submissions, I am unable to determine simply from a review of the records that they meet the criteria for either branch of section 19. As no other exemptions, and no mandatory exemptions apply, they should be disclosed to the appellant.

Records B-34, B-35, B-36 and B-38

Each of these documents are e-mails between Ministry counsel and various Ministry program area staff. I find that they may properly be characterized as confidential communications between a solicitor and her clients which relate directly to the giving, seeking or formulating of legal advice. As a result, they qualify for exemption under Branch 1 of section 19.

Record B-41

Record B-41 is an e-mail sent by an official with the Drug Programs Branch to other Ministry staff within that branch. The e-mail refers to a draft of the advertising regulations which had been prepared by Legislative counsel. As such, I find that the disclosure of this document would reveal the contents of a confidential communication between Drug Program Branch staff and Legislative counsel which relates directly to the giving and seeking of legal advice. Accordingly, I find that Record B-41 is exempt from disclosure under Branch 1 of section 19.

Record B-50

This is an e-mail from a Ministry student-at-law to another Ministry official dated August 16, 1996. I find that this record is exempt under Branch 1 as it is a confidential communication between a legal advisor and client which relates directly to the giving of legal advice.

Records B-51 and B-65

Record B-51 consists of letters dated February 16 and September 4, 1996 from the ADM to the Registrar of the OCP along with two action memos requesting the preparation of a written response to the September letter. For the reasons set forth in my discussion above under Records B-18, B-19 and B-31, I find that they do not qualify for exemption under either branch of section 19.

Record B-56

Record B-56 appears to be a draft of a report of the OCP's Executive Committee meeting held in September 1996. The Ministry has simply submitted that this record is exempt under either Branch 1 or Branch 2 of section 19 and has failed to address the specific criteria set forth for either branch of the exemption. On its face, it is clear that the record is not subject to exemption under Branch 1 and I have not been provided with any information to indicate that this record was prepared by or for Crown counsel for use in giving legal advice. It would appear that the dominant purpose for the creation of this record was to document the proceedings of the OCP's Executive Committee.

Record B-56 does not, therefore, qualify for exemption under either branch of section 19.

Record B-57

Record B-57 is a facsimile cover page from a Ministry official to an employee of the OCP. It is clear that this record does not qualify for exemption under either branch of section 19.

The Undisclosed Portions of Record C-1

The portion of Record C-1 to which the Ministry has applied section 19 is a statement which was contained in Records A-76 and B-66. This assertion was made first by legal counsel for the OCP and was later communicated to the Ministry. It was then included in the briefing memo which comprises Record C-1. In my view, solicitor and client privilege has never attached to this statement, at least as far as the Ministry is concerned. I find that section 19 has no application to this portion of Record C-1.

Record C-4

Record C-4 is an e-mail dated July 2, 1996 from Ministry counsel to another Ministry official. I find that this document represents a confidential communication between a solicitor and a client

relating directly to the provision of legal advice. As such, this record is exempt under Branch 1 of section 19.

Undisclosed Portion of Record C-5

The information contained in the undisclosed portions of Record C-5 does not relate to a communication between solicitor and client and as such, are not exempt under Branch 1 of section 19. Likewise, I have not been provided with any information to assist me in finding that Branch 2 might apply to this portion of the document. Accordingly, I find that it is not exempt from disclosure under section 19.

ADVICE OR RECOMMENDATIONS

Section 13(1) of the Act provides that a head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.

The Ministry states that the information exempted in Record C-5 consists of “comments advising on the substantive content of the regulations” and that the information exempted in Records C-1 and C-2:

represents advice with respect to the process, from the perspective of the Ministry which should be followed with respect to the passing of the regulations. All of these are suggested courses of action that will ultimately be accepted or rejected during the deliberative process.

I have carefully examined these records and have come to the following conclusions:

- the undisclosed information at the bottom of Page 2 of Record C-1 and Record C-2 is more appropriately characterized as the opinion of its author, rather than advice to a specific decision maker who has been charged with making a determination on an issue. Accordingly, I find that this information does not qualify for exemption under section 13(1).

As no other exemption have been claimed for this information and no mandatory exemptions apply, it should be disclosed to the appellant.

- the undisclosed information in paragraph 3 of Record C-5 reflects a recommendation made by the Ministry's ADM with respect to the scope of the proposed regulations. I find that this information qualifies for exemption under section 13(1).

THIRD PARTY INFORMATION

For a record to qualify for exemption under sections 17(1)(a), (b) or (c), the Ministry and/or the affected parties who are resisting disclosure must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the Ministry in confidence, either implicitly or explicitly; **and**
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of subsection 17(1) will occur.

[Order 36]

The Ministry originally claimed the application of this exemption to Records B-21 to B-24 which are comprised of documents relating to correspondence from three parties with a potential interest in the proposed regulations.

In its original representations, the Ministry also applied the section 17(1) exemption to Page 2 of Record A-21, Page 2 of Record A-22, Page 2 of Record A-24, and Records A-26 to A-28, A-31, A-32, A-33, A-34, A-36, A-38, A-39, A-41, A-42, A-45, A-54, A-75, A-80, B-4, B-5, B-6, B-9 to B-11, B-15, B-25 to B-27, B-37, B-52, B-53, B-55, B-56 and B-57 in their entirety.

I have found above that many of these records are exempt under sections 12(1) or 19. I will not address the possible application of section 17(1) to those records which I have already found to be exempt. Accordingly, I will only review the possible application of section 17(1) to Records A-27, A-33, A-34, A-75, B-4, B-21 to B-26, B-37, B-52, B-53, B-55, B-56 and B-57. The organization which submitted Record B-22 to the Ministry has consented to its disclosure to the appellant. This record is, therefore, no longer at issue and should be disclosed.

The Ministry submits that the remaining records are composed of correspondence and other documents which would reveal the contents of the information supplied to the Ministry by the OCP and other third parties. It further indicates that these records outline the concerns of the OCP and several individual pharmacy chains with respect to the proposed advertising and pricing regulations. Accordingly, the Ministry submits that these records contain commercial information, as their disclosure would reveal information relating to the buying, selling or exchange of merchandise or services. The Ministry argues that the records contain specific information on various aspects of the proposed legislation and that their disclosure would directly impact on the commercial activities of the organization members.

A recent decision, Order 98-006, of the Alberta Information and Privacy Commissioner addressed the application of section 15(1) of the Alberta Freedom of Information and Protection of Privacy Act, which is the equivalent provision to section 17(1) of the Ontario Act, to what are described as “presentation documents” submitted by companies in the gas business to Alberta Energy. In that decision, Commissioner Robert C. Clark found that none of the information contained in these documents could properly be characterized as “commercial information” within the meaning of section 15(1). Commissioner Clark relied upon several decisions of this office (Orders 16, P-400 and P-489) to find that in determining what constitutes “commercial

information” for the purposes of the Act, “consideration must be given to the content of the records” (his emphasis).

Commissioner Clark further held that:

Simply because the records are authored by a commercial enterprise, does not in itself mean that they are of a commercial nature. If this were the case, any document written on company letterhead would be considered “commercial”. I do not think the section 15(1) exemption was intended to have such a wide-ranging application.

He then went on to find that the records did not contain information which specifically relate to the buying, selling or exchange of merchandise or services and that it did not, therefore, qualify as commercial information within the meaning of the exemption.

I adopt the approach taken by Commissioner Clark for the purposes of this appeal.

Order 98-006 went on to address the application of the section 15(1) exemption to information provided by a “lobby group” to a public body. Commissioner Clark refers with approval to Order P-946 of this office in which former Inquiry Officer Anita Fineberg held that information provided to the Ministry of Consumer and Commercial Relations by a “lobby group” did not qualify as “commercial information”. She found that:

In essence, the Federation is a lobby group which supports the development and implementation of franchise legislation in the province. To this end it has provided the Ministry with information, including Record (1)16, to advance this position. The contents of this document are not based on any commercial information related to the Federation itself. That is to say, information related to the buying, selling or exchange of goods or services undertaken by the Federation. Rather, it sets out the views and opinions of this group with respect to the position of the government on a particular issue.

In my view, the information provided to the Ministry by the OCP and the other third parties on the proposed regulations does not relate to the buying, selling or exchange of goods or services within the meaning of section 17(1). I find that these documents simply set out the pharmacy industry’s concerns about the impact of the proposed regulations and attempt to make its views known to the Ministry in order to influence the outcome of its decision-making on this issue.

Adopting the approach taken by Commissioner Clark and former Inquiry Officer Fineberg, I find that this information cannot, therefore, be characterized as “commercial information” within the meaning of section 17(1). As all three parts of the test set out above must be satisfied, I find that Records A-27, A-33, A-34, A-75, B-4, B-21 to B-26, B-37, B-52, B-53, B-55, B-56 and B-57 are not exempt from disclosure under section 17(1).

PUBLIC INTEREST IN DISCLOSURE

The appellant submits that section 23 of the Act applies to those records which I have found to

be exempt. The section provides that:

An exemption from disclosure of a record under sections 13, 15, 17, 18, 20 and 21 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

Records found to be exempt under sections 12(1) and 19 are not, however, subject to the “public interest override” contained in section 23, however. All of the records which I have found to be exempt in this appeal, with the exception of paragraph 3 of Record C-5, fell within the ambit of either sections 12(1) or 19.

In my view, there does not exist any compelling public interest in the disclosure of the information contained in paragraph 3 of Record C-5 such as to clearly outweigh the purpose of the section 13(1) exemption. Accordingly, I find that section 23 has no application in the present circumstances.

ORDER:

1. I order the Ministry to disclose to the appellant Records A-19 (with the exception of the notes at the top of the page), A-25, A-27, A-33, A-34, A-59, A-62, A-68, A-70, A-71, A-74, A-75, A-76, A-78, B-4, B-19, B-20, B-21, B-22, B-23, B-24, B-25, B-26, B-31, B-37, B-51, B-52, B-53, B-54, B-55, B-56, B-57, B-58, B-65, B-66, C-1 and C-2 by providing him with a copy by **June 30, 1998** but not before **June 25, 1998**.
2. I uphold the Ministry's decision to deny access to the remaining records.
3. I reserve the right to require the Ministry to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 1.

Original signed by:
Donald Hale
Adjudicator
(formerly Inquiry Officer)

May 26, 1998

APPENDIX

INDEX OF RECORDS AT ISSUE

RECORD # 'S - PAGES		DESCRIPTION	EXEMPTION(S) CLAIMED	DISPOSITION
A-1	2	Draft Regulation and Order-in-Council	12(1), 19	Exempt under section 12(1)(f)
A-2	11	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-3	11	Order-in-Council and Regulation	12(1), 19	Exempt under section 12(1)(f)
A-4	80	Order-in-Council, Regulation and Draft Regulations	12(1), 19	Exempt under section 12(1)(f)
A-5	69	Draft Regulations	12(1), 19	Exempt under section 12(1)(f)
A-6	67	Draft Regulations	12(1), 19	Exempt under section 12(1)(f)
A-7	5	Order-in-Council, Regulation	12(1), 19	Exempt under section 12(1)(f)
A-8	6	Cabinet Submission Review/Approval Form, Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-9	6	Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-10	5	Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-11	5	Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-12	5	Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-13	5	Approval form for Regulations	19	Exempt under section 12(1)(b)
A-14	6	Cabinet Submission Review/Approval Form, Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-15	5	Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-16	5	Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-17	6	Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-18	5	Approval form for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-19	3	New Regulation Information Sheet	12(1), 19	Note at top of page 1 exempt under section 19, remainder to be disclosed
A-20	2	Facsimiles dated February 27, 1997	12(1), 19	Exempt under introductory wording to section 12(1)
A-21	3	Information Sheet for Regulations	12(1), 19	Exempt under section 12(1)(b)

RECORD # 'S - PAGES		DESCRIPTION	EXEMPTION(S) CLAIMED	DISPOSITION
A-22	5	Information Sheet for Regulations with attachment	12(1), 19	Exempt under section 12(1)(b)
A-23	2	Information Sheet for Regulations	12(1), 19	Exempt under section 12(1)(b)
A-24	4	Information Sheet for Regulations with attachments	12(1), 19	Exempt under section 12(1)(b)
A-25	7	Blank Approval form for Regulations	12(1), 19	Disclose
A-26	16	Letter to Ministry dated July 10, 1995 with draft Regulation	12(1), 19	Draft regulation exempt under section 12(1)(b), Letter exempt under section 12(1) introductory wording
A-27	1	Letter to Ministry dated March 10, 1995	17(1), 19	Disclose
A-28	3	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-29	1	Notes	19	Exempt under Branch 2 of section 19
A-30	1	Internal Memo dated December 8, 1995	19	Exempt under introductory wording in section 12(1)
A-31	3	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-32	6	Correspondence re Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-33	1	Draft letter	17(1), 19	Disclose
A-34	2	Letter dated May 10, 1996	17(1), 19	Disclose
A-36	6	Facsimile and Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-37	1	Request for Preparation of a Regulation	19	Exempt under Branch 1 of section 19
A-38	4	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-39	2	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-40	1	Notes	19	Exempt under Branch 2 of section 19
A-41	4	Facsimile and Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-42	4	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
A-43	1	Facsimile	19	Exempt under Branch 1 of section 19
A-44	1	Note	19	Exempt under Branch 2 of section 19
A-45	2	Facsimile and Draft Regulation	19	Exempt under Branch 1 of section 19

RECORD # 'S - PAGES		DESCRIPTION	EXEMPTION(S) CLAIMED	DISPOSITION
A-46	1	Request for the Preparation of a Regulation	19	Exempt under Branch 1 of section 19
A-47	1	Facsimile	19	Exempt under Branch 1 of section 19
A-48	1	Facsimile	19	Exempt under Branch 1 of section 19
A-49	1	Facsimile	19	Exempt under Branch 1 of section 19
A-50	2	Notes and Memorandum dated January 9, 1997	19	Notes exempt under Branch 2, memo under Branch 1 of section 19
A-51	1	Facsimile	19	Exempt under Branch 1 of section 19
A-52	1	Notes	19	Exempt under Branch 2 of section 19
A-53	1	Notes	19	Exempt under Branch 2 of section 19
A-54	3	Facsimile with attachments	19	Exempt under Branch 1 of section 19
A-56	8	Facsimile with attachments	19	Exempt under Branch 1 of section 19
A-58	1	Notes	19	Exempt under Branch 2 of section 19
A-59	11	Memorandum with Regulations Futures List	19	Disclose
A-60	1	Facsimile	19	Exempt under Branch 1 of section 19
A-61	2	Notes	19	Exempt under Branch 2 of section 19
A-62	2	Facsimile with letter dated September 4, 1996	19	Disclose
A-63	1	Facsimile	19	Exempt under Branch 1
A-64	1	Facsimile	19	Exempt under Branch 1
A-65	1	Facsimile	19	Exempt under Branch 1
A-66	1	Facsimile	19	Exempt under Branch 1
A-67	1	Facsimile	19	Exempt under Branch 1
A-68	1	Facsimile	19	Disclose
A-69	14	Notes	19	Exempt under Branch 2
A-70	3	Submission Review/Approval	19	Disclose
A-71	2	Summary of Relevant Dates for Proposed Regulations	19	Disclose

RECORD # 'S - PAGES		DESCRIPTION	EXEMPTION(S) CLAIMED	DISPOSITION
A-72	4	Regulations	12(1), 19	Exempt under section 12(1)(f)
A-73	1	Notes	19	Exempt under Branch 1
A-74	1	Letter dated February 26, 1997	19	Disclose
A-75	1	Letter dated February 27, 1997	17(1), 19	Disclose
A-76	3	Undisclosed portion of Issue Sheet	19	Disclose
A-77	5	Facsimile coverand Cabinet Committee Agenda	19, 12(1)	Agenda exempt under section 12(1)(a),1 and 2 exempt under Branch 1
A-78	1	Facsimile	19	Disclose
A-79	37	Facsimiles, memos, draft correspondence, e-mails	13(1) in part, 19	Exempt under Branch 1
A-80	7	Request for Preparation of a Regulation, Draft Regulation	12(1), 19	Draft regulation exempt under section 12(1)(f), RFPR exempt under introductory wording to section 12(1)
A-81	1	Memorandum dated January 11, 1995	19	Exempt under Branch 1
A-82	1	Request for Preparation of a Regulation	19	Exempt under Branch 1
A-83	45	Inter-office e-mails	19	Exempt under Branch 1
B-1	1	Memorandum dated March 13, 1995	12(1), 19	Exempt under Branch 1
B-2	2	Information Sheet for Regulations	12(1) and 19	Exempt under section 12(1)(b)
B-3	4	Regulation	12(1), 19	Exempt under section 12(1)(f)
B-4	1	Memorandum dated July 5, 1995	12(1), 17(1) and 19	Disclose
B-5	2	Draft letter dated July 5, 1995	12(1), 19	Exempt under introductory wording to section 12(1)
B-6	1	Letter dated July 31, 1995	12(1), 19	Exempt under introductory wording to section 12(1)
B-9	2	Letter dated July 10, 1995	12(1), 19	Exempt under introductory wording to section 12(1)
B-10	3	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-11	11	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)

RECORD # 'S - PAGES		DESCRIPTION	EXEMPTION(S) CLAIMED	DISPOSITION
B-12	1	Memorandum dated December 8, 1995	12(1), 19	Exempt under introductory wording to section 12(1)
B-13	2	E-mail dated December 10, 1995	12(1), 19	
B-14	1	Facsimile	12(1), 19	
B-15	3	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-16	3	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-17	1	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-18	1	Ontario College of Pharmacists - Agenda	Not Responsive to Request	
B-19	1	Draft letter	12(1), 19	Disclose
B-20	1	Action Request dated January 30, 1996	12(1), 19	Disclose
B-21	1	Mail Action Document dated January 22, 1996	12(1), 17(1)	Disclose
B-22	3	Letter to Minister from CACDS dated January 18, 1996	12(1), 17(1)	Disclose
B-23	3	Letter to ADM dated January 23, 1995 (sic)	12(1), 17(1)	Disclose
B-24	2	Letter to Minister dated January 24, 1996	12(1), 17(1)	Disclose
B-25	2	Letter to ADM dated February 2, 1996	12(1), 17(1) and 19	Disclose
B-26	1	Letter to ADM dated February 26, 1996	12(1), 17(1) and 19	Disclose
B-27	2	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-28	2	Review of Draft Regulation	12(1), 19	Exempt under introductory wording to section 12(1)
B-30	2	Steps for Review of Regulation	Not Responsive to the Request	
B-31	1	Mail Action Document dated April 3, 1996	12(1), 19	Disclose
B-34	1	E-mail dated April 30, 1996	12(1), 19	Exempt under Branch 1
B-35	2	E-mail dated May 3, 1996	12(1), 19	Exempt under Branch 1

RECORD # 'S - PAGES		DESCRIPTION	EXEMPTION(S) CLAIMED	DISPOSITION
B-36	1	E-mail dated May 3, 1996	12(1), 19	Exempt under Branch 1
B-37	2	Letter from ADM to OCP dated May 10, 1996	12(1), 19	Disclose
B-38	2	E-mail dated June 17, 1996	12(1), 19	Exempt under Branch 1
B-39	1	Facsimile	12(1), 19	Exempt under Branch 1
B-40	1	Regulation	12(1), 19	Exempt under section 12(1)(f)
B-41	1	E-mail dated July 24, 1996	12(1), 19	Exempt under Branch 1
B-42	5	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-43	1	Facsimile	12(1), 19	Exempt under Branch 1
B-44	8	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-45	6	Facsimile and Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-46	11	Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-50	1	E-mail dated August 16, 1996	12(1), 19	Exempt under Branch 1
B-51	3	Letter from ADM to OCP dated September 4, 1996, Action Request and Mail Action Document	12(1), 19	Disclose
B-52	1	Letter to ADM from OCP dated September 12, 1996	12(1), 17(1) and 19	Disclose
B-53	1	Letter to Minister from OCP dated February 21, 1996	12(1), 17(1) and 19	Disclose
B-54	1	Action Request dated October 7, 1996	12(1), 19	Disclose
B-55	1	Letter to ADM from OCP dated September 24, 1996	12(1), 17(1) and 19	Disclose
B-56	2	Executive Committee Report dated September 1996	12(1), 17(1) and 19	Disclose
B-57	1	Facsimile	12(1), 17(1) and 19	Disclose
B-58	6	Undisclosed portions of Meeting minutes dated October 30, 1996	12(1)(e), other portions not responsive to the request	Disclose

RECORD # 'S - PAGES		DESCRIPTION	EXEMPTION(S) CLAIMED	DISPOSITION
B-60	1	Facsimile	12(1), 19	Exempt under Branch 1
B-61	11	Draft Regulations	12(1), 19	Exempt under section 12(1)(f)
B-62	23	Facsimile with Draft Regulations	12(1), 19	Draft regulations exempt under section 12(1)(f)
B-63	11	Facsimile with Draft Regulation	12(1), 19	Exempt under section 12(1)(f)
B-64	1	Memorandum dated January 9, 1997	12(1), 19	Exempt under introductory wording to section 12(1)
B-65	1	Letter dated February 16, 1996 from ADM to ACP	12(1), 19	Disclose
B-66	3	Undisclosed portion of Issue Sheet dated March 26, 1997	19	Disclose
C-1	2	Undisclosed portions of Briefing Note dated January 13, 1996	13(1), 19	Disclose
C-2	1	Undisclosed portions of e-mail dated May 31, 1996	13(1)	Disclose
C-4	1	E-mail dated July 2, 1996	19	Exempt under Branch 1
C-5	1	Undisclosed portions of E-mail dated November 29, 1996	13(1), 19 Other portion not responsive to the request	Undisclosed portions exempt under sections 13(1) and 19