

agencies within USDA into a Departmental report, and shall arrange for submission of this report to the President of the Senate and the Speaker of the House of Representatives by March 1 of each year in accordance with 5 U.S.C. 552(d).

§ 1.19 Compilation of new records.

Nothing in 5 U.S.C. 552 or this subpart requires that any agency compile a new record in order to fulfill a request for records. Such compilation may be undertaken voluntarily if the agency determines this action to be in the public interest or the interest of USDA.

§ 1.20 Authentication.

When a request is received for an authenticated copy of a document which the agency determines to make available to the requesting party, the agency shall cause a correct copy to be prepared and sent to the Office of the General Counsel which shall certify the same and cause the seal of the Department to be affixed, except that the Hearing Clerk in the Office of Administrative Law Judges may authenticate copies of documents in the records of the Hearing Clerk and that the Director of the National Appeals Division may authenticate copies of documents in the records of the National Appeals Division.

[60 FR 67308, Dec. 29, 1995]

§ 1.22 Records in formal adjudication proceedings.

Records in formal adjudication proceedings are on file in the Hearing Clerk's office, Office of Administrative Law Judges, U.S. Department of Agriculture, Washington, DC 20250, and shall be made available to the public.

§ 1.23 Preservation of records.

Agencies shall preserve all correspondence relating to the requests it receives under this subpart, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to title 44 of the United States Code, and to the General Records Schedule. Under no circumstances shall records be de-

stroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

APPENDIX A—FEE SCHEDULE

Section 1. General.

This schedule sets forth fees to be charged for providing copies of documents—including photographic reproductions, microfilm, maps and mosaics, and related services—under the Freedom of Information Act (FOIA). Records and related services are available at the locations specified by agencies in their FOIA implementing regulations. The fees set forth in this schedule are applicable to all agencies of the Department of Agriculture, and are based upon guidelines prescribed by the Office of Management and Budget (OMB) issued at 52 FR 10012 (March 27, 1987). No higher fees or charges in addition to those provided for in this schedule may be charged a party requesting services under the Freedom of Information Act.

Section 2. Types of services for which fees may be charged.

Subject to the criteria set forth in section 5, fees may be assessed under the Freedom of Information Act on all requests involving such services as document search, duplication, and review. Fees may also be charged in situations involving special service to a request, such as in certifying that records requested are true copies, or in sending records by special methods mail such as express mail, etc. For services not covered by the FOIA or by this schedule, agencies may set their own fees in accordance with applicable law, or costs incurred will be assessed the requester at the actual cost to the Government. For example, where records are required to be shipped from one office to another by commercial carrier in order to timely answer a request, the actual freight charge will be assessed the requester.

Section 3. Instances in which fees will not be charged.

(a) Except for requests seeking documents for a commercial use (as specified below in section 5), no charge shall be made for either: (1) The first 100 pages of duplicated information (8½" x 14" or smaller-size paper); or (2) The first two hours of manual search time, or the equivalent value of computer search time as defined in section 4(e).

(b) Also, no charge shall be made—even to commercial use requesters—if the cost of collecting a fee would be equal to or greater than the fee itself. For USDA, this figure has been calculated to be \$25.00.

(c) In addition, fees may not be charged for time spent by an agency employee in resolving legal or policy issues, or in monitoring a requester's inspection of agency records. No