

§ 1.1 Purpose and scope.

This subpart establishes policy, procedures, requirements, and responsibilities for administration and coordination of the Freedom of Information Act (FOIA), 5 U.S.C. 552, pursuant to which official records may be obtained by any person. It also provides rules pertaining to the disclosure of records pursuant to compulsory process. This subpart also serves as the implementing regulations (referred to in § 1.3, “Agency implementing regulations”) for the Office of the Secretary (the immediate offices of the Secretary, Deputy Secretary, Under Secretaries and Assistant Secretaries) and for the Office of Governmental and Public Affairs. The Office of Governmental and Public Affairs has the primary administrative responsibility for the FOIA in the Department of Agriculture (USDA). The term “agency” or “agencies” is used throughout this subpart to include both USDA program agencies and staff offices.

§ 1.2 Policy.

(a) Agencies of USDA shall comply with the time limits set forth in the FOIA for responding to and processing requests and appeals for agency documents, unless there are exceptional circumstances within the meaning of 5 U.S.C. 552(a)(6)(B). An agency shall notify a requester in writing whenever it is unable to respond to or process a request or appeal within the time limits established by the FOIA.

(b) All agencies of the Department shall comply with the fee schedule provided as appendix A of this subpart, with regard to the charging of fees for providing copies of documents and related services to requesters.

§ 1.3 Agency implementing regulations.

(a) Each agency of the Department shall promulgate regulations setting forth the following:

(1) The location and hours of operation of the agency office or offices where members of the public may gain access to those materials required by § 1.5 to be made available for public inspection and copying;

(2) Information regarding the publication and distribution (by sale or oth-

erwise) of indexes and supplements thereto which are maintained in accordance with the requirements of 5 U.S.C. 552(a)(2) and § 1.5(b);

(3) The title(s) and mailing address(es) of the official(s) of the agency who is/are authorized to receive requests for records submitted in accordance with § 1.6(a), and to make determinations regarding whether to grant or deny such requests. Authority to make such determinations includes authority to:

(i) Extend the 10-day administrative deadline for reply pursuant to § 1.14;

(ii) Make discretionary releases pursuant to § 1.17(b); and

(iii) Make determinations regarding the charging of fees pursuant to appendix A of this subpart;

(4) The title and mailing address of the official of the agency who is authorized to receive appeals submitted in accordance with § 1.6(e) and to make determinations regarding whether to grant or deny such appeals. Authority to determine appeals includes authority to:

(i) Extend the 20-day administrative deadline for reply pursuant to § 1.14 (to the extent the maximum extension authorized by § 1.14(c) was not used with regard to the initial request);

(ii) Make discretionary releases pursuant to § 1.17(b); and

(iii) Make determinations regarding the charging of fees pursuant to appendix A of this subpart; and

(5) Other information which would be of concern to a person wishing to request records from that agency in accordance with this subpart.

§ 1.4 Implementing regulations for the Office of the Secretary.

(a) For the Office of the Secretary and for the Office of Governmental and Public Affairs, the information required by § 1.3 is as follows:

(1) Records available for public inspection and copying may be obtained in room 536-A, Administration Building, USDA, Washington, DC 20250 during the hours of 9:00 a.m. to 5:00 p.m.;

(2) Any indexes and supplements which are maintained in accordance with the requirements of 5 U.S.C. 552(a)(2) and § 1.5(b) will also be available in Room 536-A, Administration

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Building, USDA, Washington, DC 20250 during the hours of 9:00 a.m. to 5:00 p.m.;

(3) The person authorized to receive FOIA requests and to determine whether to grant or deny such requests is the Director of Information, Office of Governmental and Public Affairs, USDA, Washington, DC 20250;

(4) The official authorized to receive appeals from denials of FOIA requests and to determine whether to grant or deny such appeals is the Assistant Secretary for Governmental and Public Affairs, USDA, Washington, DC 20250.

(b) The organization and functions of the Office of the Secretary and the Office of Governmental and Public Affairs (OGPA) is as follows:

(1) The Office of the Secretary provides the overall policy guidance and direction of the activities of the Department of Agriculture. Overall policy statements and announcements are made from this office.

(2) The Office of the Secretary consists of the Secretary, Deputy Secretary, Under Secretaries, Assistant Secretaries, and other staff members.

(3) In the absence of the Secretary and the Deputy Secretary, responsibility for the operation of the Department of Agriculture is as delegated at 7 CFR part 2, subpart A.

(4) The Office of Governmental and Public Affairs provides policy direction, review, and coordination of all information programs of the Department of Agriculture. The Office is assigned responsibility for maintaining the flow of information and providing liaison between the Department of Agriculture and the Congress, the mass communication media, State and local governments, and the public.

(5) OGPA is headed by the Assistant Secretary for Governmental and Public Affairs. In the Assistant Secretary's absence, the agency is headed by the Assistant Secretary's designee.

(6) OGPA consists of three offices: The Office of Information, Office of Congressional Relations, and the Office of Intergovernmental Affairs. Each of the offices is headed by a director.

(i) The Office of Information is responsible for maintaining the flow of information and providing the liaison between USDA and the mass commu-

nication media and the public at large. The office directs and coordinates public affairs work with the various USDA agencies and has final review of all national news releases, broadcast materials, publications, visuals, and other information materials involving Departmental policy. The office provides leadership and facilities in the production of radio and video tapes, film, still photography, exhibits, and other design materials. The office provides Departmental coordination of responses under the Freedom of Information Act and the Privacy Act.

(ii) The Office of Congressional Relations is responsible for liaison with the Congress and the White House on legislative matters of concerns to USDA and the public.

(iii) The Office of Intergovernmental Affairs is responsible for liaison with State Departments of Agriculture and other State and local government agencies interested in agricultural programs and policies.

§ 1.5 Public access to certain materials.

(a) In accordance with 5 U.S.C. 552(a)(2), each agency within the Department shall make the following materials available for public inspection and copying (unless they are promptly published and copies offered for sale):

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted by the agency and are not published in the FEDERAL REGISTER; and

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) Each agency of the Department shall also maintain and make available current indexes providing identifying information regarding any matter issued, adopted, or promulgated after July 4, 1967, and required by paragraph (a) of this section to be made available or published. Each agency shall publish and make available for distribution copies of such indexes and supplements thereto at least quarterly, unless it determines by notice published in the FEDERAL REGISTER that publication