

**§ 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 maintain and make available for public inspection and copying 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 to such indexes at least quarterly, unless it determines by notice published in the FEDERAL REGISTER that publication would be unnecessary and impracticable. After issuance of such notice, the agency shall provide copies of any index upon request at a cost not to exceed the direct cost of duplication.

[52 FR 49386, Dec. 31, 1987, as amended at 62 FR 33978, June 24, 1997]

**§ 1.6 Requests for records.**

(a) Any person who wishes to inspect or obtain copies of any record of any agency of the Department shall submit a request in writing and address the request to the official designated in regulations promulgated by the agency. The requester may ask for a fee waiver. To inspect or obtain copies of records of the Office of the Secretary or the Office of Communications, requesters should submit their requests to the Director of Communications, Office of Communications, U.S. Department of Agriculture, Washington, DC 20250. All such requests for records shall be deemed to have been made pursuant to

the Freedom of Information Act, regardless of whether the Freedom of Information Act is specifically mentioned. To facilitate processing of a request, the phrase "FOIA REQUEST" should be placed in capital letters on the front of the envelope.

(b) A request must reasonably describe the records to enable agency personnel to locate them with reasonable effort. Where possible, a requester should supply specific information regarding dates, titles, names of individuals, names of offices, and names of agencies or other organizations that may help identify the records. If the request relates to a matter in pending litigation, the court and its location should be identified.

(c) If an agency determines that a request does not reasonably describe the records, the agency shall inform the requester of this fact and extend the requester an opportunity to clarify the request or to confer promptly with knowledgeable agency personnel to attempt to identify the records the requester is seeking. The "date of receipt" in such instances, for purposes of § 1.12(a), shall be the date of receipt of the amended or clarified request.

(d) Nothing in this subpart shall be interpreted to preclude an agency from honoring an oral request for information, but, if the requester is dissatisfied with the response, the agency official involved shall advise the requester to submit a written request in accordance with paragraph (a) of this section. The "date of receipt" of such a request for purposes of § 1.12(a) shall be the date of receipt of the written request. For recordkeeping purposes, an agency responding to an oral request for information may ask the requester to also submit his or her request in writing.

(e) If a request for records or a fee waiver, made under this subpart, is denied, the requester shall have the right to appeal the denial. Requesters also may appeal agency determinations of a requester's status for purposes of fee levels under section 5 of appendix A of this subpart. All appeals must be in writing and addressed to the official designated in regulations promulgated by the agency which denied the request. To facilitate processing of an appeal, the phrase "FOIA APPEAL"