

§ 16.8

EPA's General Counsel under this section; however, if the Counsel to the Inspector General has signed the initial adverse determination, the General Counsel, or his or her designee, will act on the appeal.

(b) EPA's General Counsel, or his or her designee, will make final decisions on PA appeals within 30 working days from the date on which the appeal is properly received in the Office of General Counsel, unless, for good cause shown, the 30-day period is extended and the requester is notified of the extension in writing. Such extensions will be utilized only in exceptional circumstances.

(c) In conducting PA appeals, the General Counsel, or his or her designee, will be guided by the requirements of 5 U.S.C. 552a(e)(1) and (e)(5).

(d) If an appeal is granted in whole or in part, the requester will be notified, in writing, and access to the record will be granted, or the correction or amendment of the record will be made. In all such cases, the Privacy Act Officer will ensure that § 16.7(d) is complied with.

(e) If the General Counsel or the Counsel to the Inspector General decides not to grant all or any portion of an appeal, the requester will be informed:

- (1) Of the decision and its basis;
- (2) Of the requester's right to file a concise statement of reasons for disagreeing with EPA's decision;
- (3) Of the procedures for filing such statement of disagreement;
- (4) That such statements of disagreements will be made available in subsequent disclosures of the record, together with an agency statement (if deemed appropriate) summarizing its refusal;
- (5) That prior recipients of the disputed record will be provided with statements as in paragraph (e)(4) of this section, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and
- (6) Of the requester's right to seek judicial review under 5 U.S.C. 552a(g).

§ 16.8 Special procedures: Medical Records.

Should EPA receive a request for access to medical records (including psy-

40 CFR Ch. I (7-1-10 Edition)

chological records) disclosure of which the system manager decides would be harmful to the individual to whom they relate, EPA may refuse to disclose the records directly to the individual and instead offer to transmit them to a physician designated by the individual.

§ 16.9 Fees.

No fees will be charged for providing the first copy of a record or any portion of a record to an individual to whom the record pertains. The fee schedule for reproducing other records is the same as that set forth in 40 CFR 21.07.

§ 16.10 Penalties.

The Act provides, in pertinent part: "Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000." (5 U.S.C. 552a(i)(3))

§ 16.11 General exemptions.

(a) *Systems of records affected.* EPA-17 OCEFT Criminal Investigative Index and Files.

EPA-40 Inspector General's Operation and Reporting (IGOR) System Investigative Files.

EPA-46 OCEFT/NEIC Master Tracking System.

(b) *Authority.* Under 5 U.S.C. 552a(j)(2), the head of any Federal agency may by rule exempt any PA system of records within the agency from certain provisions of the Act, if the system of records is maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws and which consists of:

- (1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;
- (2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or