

Office of the Secretary, USDA

§ 1.8

of any fees associated with the request or appeal.

[65 FR 46337, July 28, 2000]

§ 1.6 Aggregating requests.

When an agency reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the agency may aggregate any such requests and charge accordingly. One element that may be considered in determining whether such a belief would be reasonable is the brevity of the time period during which the requests have been made.

[65 FR 46338, July 28, 2000]

§ 1.7 Agency response to requests for records.

(a) 5 U.S.C. 552(a)(6)(A)(i) provides that each agency of the Department to which a request for records is submitted in accordance with § 1.5(a) shall inform the requester of its determination concerning that request within 20 working days of its date of receipt (excepting Saturdays, Sundays, and legal public holidays), plus any extension authorized under § 1.16. If the agency determines to grant the request, it shall inform the requester of any conditions surrounding the granting of the request (e.g., payment of fees) and the approximate date upon which the agency will provide the requested records. If the agency grants only a portion of the request, it shall treat the portion not granted as a denial, and make a reasonable effort to estimate the volume of the records denied and provide this estimate to the requester, unless providing such an estimate would harm an interest protected by an exemption of the FOIA. If the agency determines to deny the request in part or in whole, it shall immediately inform the requester of that decision and provide the following:

- (1) The reasons for the denial;
- (2) The name and title or position of each person responsible for denial of the request;
- (3) The requester's right to appeal such denial and the title and address of the official to whom such appeal is to be addressed; and

(4) The requirement that such appeal be made within 45 days of the date of the denial.

(b) If the reason for not fulfilling a request is that the records requested are in the custody of another agency outside USDA, other than in the permanent custody of the National Archives and Records Administration ("NARA"), the agency shall inform the requester of this fact and shall forward the request to that agency or Department for processing in accordance with its regulations. If the records are in the permanent custody of NARA, the agency shall so inform the requester. Information about obtaining access to records at NARA may be obtained through the NARA Archival Information Locator (NAIL) Database at <http://www.nara.gov/nara.nail.html>, or by calling NARA at (301) 713-6800. If the agency has no knowledge of requested records or if no records exist, the agency shall notify the requester of that fact.

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§ 1.8 Multitrack processing.

(a) When an agency has a significant number of requests, the nature of which precludes a determination within 20 working days, the requests may be processed in a multitrack processing system, based on the date of receipt, the amount of work and time involved in processing the request, and whether the request qualifies for expedited processing.

(b) Agencies may establish as many processing tracks as appropriate; processing within each track shall be based on a first-in, first-out concept, and rank-ordered by the date of receipt of the request.

(c) Agencies may provide a requester whose request does not qualify for the fastest track an opportunity to limit the scope of the request in order to qualify for a faster track. This multitrack processing system does not lessen agency responsibility to exercise due diligence in processing requests in the most expeditious manner possible.

(d) Agencies shall process requests in each track on a "first-in, first-out" basis, unless there are unusual circumstances as set forth in § 1.16, or the