

§0.468

of revising or clarifying the request. See §0.465(c)(2) and §470(d).

(2) The time for processing a request for inspection shall be tolled while conferring with the requester about his or her willingness to pay the fees required to process the request. See §0.461(e).

(f) When the search has been completed, the custodian of the records will give notice of the charges incurred to the person who made the request.

(g) The fee shall be paid to the Financial Management Division, Office of Managing Director, or as otherwise directed by the Commission.

(h) Records shall be inspected within seven days after notice is given that they have been located and are available for inspection. See §0.461(n). After that period, they will be returned to storage, and additional charges may be imposed for again producing them.

[74 FR 14078, Mar. 30, 2009, as amended at 76 FR 24390, May 2, 2011]

§0.468 Interest.

Interest shall be charged those requesters who fail to pay the fees charged. The agency will begin assessing interest charges on the amount billed starting on the 31st day following the day on which the billing was sent. The date on which the payment is received by the agency will determine whether and how much interest is due. The interest shall be set at the rate prescribed in 31 U.S.C. 3717.

§0.469 Advance payments.

(a) The Commission may not require advance payment of estimated FOIA fees except as provided in paragraph (b) or where the Commission estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250.00 and the requester has no history of payment. Where allowable charges are likely to exceed \$250.00 and the requester has a history of prompt payment of FOIA fees the Commission may notify the requester of the estimated cost and obtain satisfactory assurance of full payment. Notification that fees may exceed \$250.00 is not, however, a prerequisite for collecting fees above that amount.

(b) Where a requester has previously failed to pay a fee charged in a timely

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fashion (*i.e.*, within 30 days of the date of the billing), the Commission may require the requester to pay the full amount owed plus any applicable interest as provided in §0.468, and to make an advance payment of the full amount of the estimated fee before the Commission begins to process a new request or a pending request from that requester.

(c) When the Commission acts under paragraph (a) of this section, the administrative time limits prescribed in §§0.461(g) and (k) (*i.e.*, twenty business days from receipt of initial requests and twenty business days from receipt of appeals from initial denials, plus permissible extensions of these time limits (see §0.461(g)(1)(i) through (iii) and §0.461(k)(1)(i) through (iii)) will begin only after the agency has received the fee payments described in this section. See §0.461(e)(2)(ii) and §0.467(e)(2).

§0.470 Assessment of fees.

(a)(1) *Commercial use requesters.* (i) When the Commission receives a request for documents for commercial use, it will assess charges that recover the full direct cost of searching for, reviewing and duplicating the records sought pursuant to §0.466 and §0.467, above.

(ii) Commercial use requesters shall not be assessed search fees if the Commission fails to comply with the time limits under §0.461(g)(1), if no unusual or exceptional circumstances (§0.461(g)(1)(i) through (iii)) apply to the processing of the request.

(2) *Educational and non-commercial scientific institution requesters and requesters who are representatives of the news media.* (i) The Commission shall provide documents to requesters in these categories for the cost of reproduction only, pursuant to §0.465 above, excluding reproduction charges for the first 100 pages, provided however, that requesters who are representatives of the news media shall be entitled to a reduced assessment of charges only when the request is for the purpose of distributing information.

(ii) Educational requesters or requesters who are representatives of the news media shall not be assessed fees