

§ 1301.12

that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters will be given an opportunity to provide explanatory information regarding this consideration.

(B) If there is an identified commercial interest, TVA must determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (k)(2)(i) and (ii) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. TVA ordinarily will presume that when a news media requester has satisfied factors paragraphs (k)(2)(i) and (ii), the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver must be granted for those records.

(4) Requests for a waiver or reduction of fees should be made when the request is first submitted to TVA and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester must pay any costs incurred up to the date the fee waiver request was received.

§ 1301.12 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

Subpart B—Privacy Act

AUTHORITY: 16 U.S.C. 831–831ee, 5 U.S.C. 552a.

SOURCE: 40 FR 45313, Oct. 1, 1975, unless otherwise noted. Redesignated at 44 FR 30682, May 29, 1979.

18 CFR Ch. XIII (4–1–20 Edition)

§ 1301.21 Purpose and scope.

(a) The regulations in §§1301.21 to 1301.34 implement section 3 of the Privacy Act of 1974, 5 U.S.C. 552a, with respect to systems of records maintained by TVA. They provide procedures by which an individual may exercise the rights granted by the Act to determine whether a TVA system contains a record pertaining to him; to gain access to such records; to have a copy made of all or any portion thereof; and to request administrative correction or amendment of such records. They prescribe fees to be charged for copying records; establish identification requirements; list penalties provided by statute for certain violations of the Act; and establish exemptions from certain requirements of the Act for certain TVA systems or components thereof.

(b) Nothing in §§1301.21 to 1301.34 entitles an individual to any access to any information or record compiled in reasonable anticipation of a civil action or proceeding.

(c) Certain records of which TVA may have physical possession are the official records of another government agency which exercises dominion and control over the records, their content, and access thereto. In such cases, TVA's maintenance of the records is subject to the direction of the other government agency. Except for a request for a determination of the existence of the record, when TVA receives requests related to these records, TVA will immediately refer the request to the controlling agency for all decisions regarding the request, and will notify the individual making the request of the referral.

[40 FR 45313, Oct. 1, 1975. Redesignated at 44 FR 30682, May 29, 1979, and further redesignated and amended at 82 FR 51757, Nov. 8, 2017]

§ 1301.22 Definitions.

For purposes of §§1301.21 to 1301.34:

(a) The *Act* means section 3 of the Privacy Act of 1974, 5 U.S.C. 552a;

(b) The terms *individual*, *maintain*, *record*, *system of records*, *statistical record*, and *routine use* have the meaning provided for by the Act;

(c) The term *TVA system* means a system of records maintained by TVA;