

thereto would be unnecessary and impracticable. Accordingly, it shall provide copies of such index on request but shall not publish and distribute it quarterly or more frequently.

[39 FR 39879, Nov. 12, 1974, as amended at 40 FR 7652, Feb. 21, 1975]

#### § 1701.3 Requests.

(a) A member of the public may request records from the National Commission on Libraries and Information Science by writing to the Associate Director, National Commission on Libraries and Information Science, Suite 601, 1717 K Street, NW, Washington, DC 20036.

(b) A request for access to records should reasonably describe the records requested such that Commission personnel will be able to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester.

(c) Records or materials will be available for inspection and copying at the offices of the Commission during the normal business hours of regular business days or they may be obtained by mail.

[39 FR 39879, Nov. 12, 1974, as amended at 40 FR 7652, Feb. 21, 1975]

#### § 1701.4 Fees.

(a) A fee may be charged for direct costs of document search and duplication at the rate of \$0.10 per page for copying and \$5.00 per hour for time expended in identifying and locating records.

(b) A fee may be waived in whole or in part where it is determined that it is in the public interest because furnishing the information can be considered as primarily benefiting the general public or where other circumstances indicate that a waiver is appropriate.

(c) The Commission may limit the number of copies of any document provided to any person.

[40 FR 7653, Feb. 21, 1975]

#### § 1701.5 Prompt response.

(a) Within ten days (excluding Saturdays, Sundays and legal public holidays) of the receipt of a request, the Associate Director shall determine whether to comply with or deny such request and shall dispatch such determination to the requester, unless an extension is made under paragraph (c) of this section.

(b) Only the Associate Director may deny a request and is the "person responsible for the denial" within the meaning of 5 U.S.C. 552(a). When a denial is made at the behest of another agency, the person in that agency responsible for urging the denial may also be a "person responsible for the denial" if he is so advised before the Associate Director informs the requester that his request is denied.

(c) In unusual circumstances as specified in this paragraph, the Associate Director may extend the time for the initial determination of a request up to a total of ten days (excluding Saturdays, Sundays and legal public holidays). Extensions shall be made by written notice to the requester setting forth the reason for the extension and the date upon which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the request—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Commission;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request.

(d) If no determination has been dispatched at the end of the ten-day period, or the last extension thereof, the requester may deem his request denied, and exercise a right of appeal in accordance with §1701.7. When no determination can be dispatched within the applicable time limit, the Associate Director shall nevertheless continue to

## § 1701.6

process the request. On expiration of the time limit he shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his rights to treat the delay as a denial and appeal to the Executive Director in accordance with § 1701.7. He may also ask the requester to forgo appeal until a determination is made.

[40 FR 7653, Feb. 21, 1975]

### § 1701.6 Form of denial.

A reply denying a request shall be in writing, signed by the Associate Director, and shall include: (a) A specific reference to the exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record, (b) brief explanation of how the exemption(s) applies to the record(s) withheld, (c) a statement that the denial may be appealed under § 1701.7 within thirty days by writing to the Executive Director, National Commission on Libraries and Information Science, Suite 601, 1717 K Street NW., Washington, DC 20036, and (d) that judicial review will thereafter be available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated, or in the District of Columbia.

[40 FR 7653, Feb. 21, 1975]

### § 1701.7 Appeals.

(a) When the Associate Director has denied a request for records in whole or in part, the requester may, within thirty days of receipt of the letter notifying him of the denial, appeal to the Commission. Appeals to the Commission shall be in writing, addressed to the Executive Director, National Commission on Libraries and Information Science, 1717 K Street NW., Washington, DC 20036.

(b) The Commission will act upon an appeal within twenty days (excepting Saturdays, Sundays or legal public holidays) of its receipt, unless an extension is made under paragraph (c) of this section.

(c) In unusual circumstances as specified in this paragraph, the time for action on an appeal may be extended up to ten days (excluding Saturdays, Sun-

## 45 CFR Ch. XVII (10–1–23 Edition)

days, and legal public holidays) minus any extension granted at the initial request level pursuant to § 1701.5(c). Such extension shall be made by written notice to the requester setting forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph “unusual circumstances” means, but only to the extent necessary to the proper processing of the appeal—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Commission;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request.

(d) If no determination of the appeal has been dispatched at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed. On expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the records are situated, or the District of Columbia. The requester may be asked to forgo judicial review until determination of the appeal.

(e) The Commission's determination on appeal shall be in writing. An affirmance in whole or in part of a denial on appeal shall include: (1) A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record,