

§ 2105.36

(2)(i) If the Agency has determined that unusual circumstances apply (as the term is defined in §2105.67) and the Agency provided you a timely written notice to extend the basic time limit in accordance with §2105.17, the non-compliance is excused for an additional 10 workdays.

(ii) If the Agency has determined that unusual circumstances exist and more than 5,000 pages are necessary to respond to the request, the noncompliance is excused if the Agency has provided you a timely written notice in accordance with §2105.17 and has discussed with you via written mail, email, or telephone (or made not less than 3 good-faith attempts to do so) how you could effectively limit the scope of the request.

(iii) If a court has determined that exceptional circumstances exist (as that term is defined in §2105.67), the noncompliance is excused for the length of time provided by the court order.

(g) If the fee for processing your request is less than \$50, you will not be charged unless multiple requests are aggregated under §2105.52 to an amount that is \$50 or more.

(h) If you fail to pay any FOIA-related fee within 30 calendar days of the date of billing, the processing of any new or ongoing requests and/or appeals from you shall ordinarily be suspended.

(i) If you would like to reformulate your request so it will meet your needs at a lower cost, you may wish to seek

45 CFR Ch. XXI (10–1–23 Edition)

assistance from the Agency's designated FOIA contact or its FOIA Public Liaison (*see* §2105.63).

§ 2105.36 What are the requester fee categories?

(a) There are three categories of requesters for the purposes of determining fees:

(1) Commercial-use;

(2) Educational and noncommercial scientific institutions and representatives of news media; and

(3) All others.

(b) If you do not submit sufficient information in your FOIA request for the Agency to determine your proper fee category, the Agency may ask you to provide additional information (*see* §2105.49). If you request placement in a particular fee category but the Agency places you in a different fee category, the Agency will provide you with an explanation of why you were not placed in the fee category you requested (for example, if you were placed in the commercial use requester category rather than the category you requested, the Agency will describe how the records would further your commercial, trade, or profit interests).

(c) See §2105.67 for the definitions of each of these fee categories.

§ 2105.37 How does your requester category affect the fees you are charged?

You will be charged as shown in the following table:

TABLE 1 TO §2105.37

Requester category	Search fees	Review fees	Duplication fees
Commercial use requester	Yes	Yes	Yes.
Educational and noncommercial scientific institutions and representative of news media requester.	No	No	Yes (first 100 pages, or equivalent volume, free).
All other requesters	Yes (first two hours free)	No	Yes (first 100 pages, or equivalent volume, free).

§ 2105.38 How will fee amounts be determined?

(a) The Agency will charge the types of fees discussed in this subpart unless a waiver of fees is required under §2105.37 or has been granted under §2105.43.

(b) Because the types of fees discussed in this subpart already account for the overhead costs associated with a given fee type, the Agency should not add any additional costs to those charges.