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TABLE 1 TO APPENDIX A TO SUBPART A—FOIA FEE SCHEDULE—Continued

Type of request	Type of charge	Price
Representatives of the News Media.	Duplication charges.	No charge for first 100 pages, then $0.05 per page When the component has to copy fragile records, the charge is $0.05 per page plus the copying time involved, which includes the actual hourly salary rate of the employee involved, plus 16% of the hourly salary rate.
	Search charges	Free.
	Review charges	Free.
All Other Requesters.	Duplication charges.	No charge for first 100 pages, then $0.05 per page. When the component has to copy fragile records, the charge is $0.05 per page plus the copying time involved, which includes the actual hourly salary rate of the employee involved, plus 16% of the hourly salary rate.
	Search charges	No charge for first two (2) hours of search time, then actual hourly salary rate of employee involved, plus 16% of the hourly salary rate.
	Review charges	Free.

Subpart B—Departmental Proceedings

§ 1.26 Representation before the Department of Agriculture.

(a) *Applicability*. This section applies to all hearings and other proceedings before the Department of Agriculture, except to the extent that any other regulation of the Department may specifically make this section, or any part of this section, inapplicable as to particular hearings or other proceedings.

(b) *Administrative provisions*. (1) In any hearing or other proceeding before the Department of Agriculture, the parties may appear in person or by counsel or other representative. Persons who appear as counsel or in a representative capacity in any hearing or proceeding must conform to the standards of ethical conduct required of practitioners before the U.S. District Court for the District of Columbia, and to any applicable standards of ethical conduct established by statutes, executive orders and regulations.

(2) Whenever the Secretary finds, after notice and opportunity for hearing, that a person who is acting or has acted as counsel or representative in any hearing or other proceeding before the Department has not conformed to any such standards of ethical conduct, the Secretary may order that such person be precluded from acting as counsel or representative in any hearing or other proceeding before the Department for such period of time as the Secretary deems warranted. Whenever the Secretary has probable cause to believe that any person who is acting or has acted as counsel or representative in any such hearing or other proceeding has not conformed to any such standards of ethical conduct, the Secretary may, by written notice to such person, suspend the person from acting as such a counsel or representative pending completion of the procedures specified in the preceding sentence.

(3) No employee or former employee of the Department shall be permitted to represent any person before the Department in connection with any particular matter as to which by reason of employment with the Department the employee or former employee acquired personal knowledge of such a nature that it would be improper, unethical, or contrary to the public interest for the employee or former employee so to act.

(4) This section shall not be construed to prevent an employee or former employee of the Department from appearing as a witness in any hearing or other proceeding before the Department.

(18 U.S.C. 203, 205, 207)

[32 FR 5458, Apr. 1, 1967, as amended at 60 FR 66480, Dec. 22, 1995]

§ 1.27 Rulemaking and other notice procedures.

(a) This section shall apply to:

(1) Notices of proposed rulemaking;

(2) Interim final rules;

(3) Advance notices of proposed rulemaking; and

(4) Any other published notice that solicits, or affords interested members of the public an opportunity to submit, written views with respect to any proposed action relating to any program administered in the Department regardless of the fact that the issuance of a rule may not be contemplated.

(b) Each notice identified in paragraph (a) of this section shall indicate the procedure to be followed with respect to the notice, unless the procedure is prescribed by statute or by published rule of the Department. Each notice shall contain a statement that advises the public of the policy regarding the availability of written submissions by indicating whether paragraph (c), (d), or (e) of this section is applicable to written submissions made pursuant to the notice.

(c) All written submissions made pursuant to the notice shall be made available for public inspection at times and places and in a manner convenient to the public business.

(d)(1) Any written submission, pursuant to a notice, may be held confidential if the person making the submission requests that the submission be held confidential, the person making the submission has shown that the written submission may be withheld under the Freedom of Information Act, and the Department official authorized to issue the notice determines that the submission may be withheld under the Freedom of Information Act.

(2) If a request is made in accordance with paragraph (d)(1) of this section for confidential treatment of a written submission, the person making the request shall be informed promptly in the event the request is denied and afforded an opportunity to withdraw the submission.

(3) If a determination is made to grant a request for confidential treatment under paragraph (d)(1) of this section, a statement of the specific basis for the determination that will not be susceptible of identifying the person making the request will be made available for public inspection.

(e) If the subject of the notice is such that meaningful submissions cannot be expected unless they disclose information that may be withheld under the Freedom of Information Act, the notice shall so indicate and contain a statement that written submissions pursuant to the notice will be treated as confidential and withheld under the Freedom of Information Act. *Provided*, That the policy regarding availability of written submissions set forth in this paragraph may only be used with the prior approval of the Secretary, or the Under Secretary or Assistant Secretary that administers the program that is the subject of the notice.

[60 FR 66480, Dec. 22, 1995]

§ 1.28 Petitions.

Petitions by interested persons in accordance with 5 U.S.C. 553(e) for the issuance, amendment or repeal of a rule may be filed with the official that issued or is authorized to issue the rule. All such petitions will be given prompt consideration and petitioners will be notified promptly of the disposition made of their petitions.

[11 FR 177A, Sept. 11, 1946. Redesignated at 13 FR 6703, Nov. 16, 1948, as amended at 60 FR 66481, Dec. 22, 1995]

§ 1.29 Subpoenas relating to investigations under statutes administered by the Secretary of Agriculture.

(a) *Issuance of subpoena.* (1) When the Secretary is authorized by statute to issue a subpoena in connection with an investigation being conducted by the Department, the attendance of a witness and the production of evidence relating to the investigation may be required by subpoena at any designated place, including the witness' place of business. Upon request of any representative of the Secretary involved in connection with the investigation, the subpoena may be issued by the Secretary, the Inspector General, or any Department official authorized pursuant to part 2 of this title to administer the program to which the subpoena relates, if the official who is to issue the subpoena is satisfied as to the reasonableness of the grounds, necessity, and scope of the subpoena. Except as provided in paragraph (a)(2) of this section, the authority to issue subpoenas