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the exemption applies to the record withheld, or a statement that, after diligent effort, the requested records have not been found or have not been adequately examined during the time allowed under §1610.9(a), and that the denial will be reconsidered as soon as the search or examination is complete; and

(3) A statement that the denial may be appealed to the Legal Counsel within 30 days of receipt of the denial or partial denial.

(c) When denying a request for records, the estimated volume of denied material shall be indicated, unless providing such estimate would harm an interest protected by the exemptions in 5 U.S.C. 522(b). When providing a reasonably segregable portion of a record, the amount of information deleted from the released portion, and to the extent technically feasible, the place in the record where such deletion was made shall be indicated.

(d) If a requested record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of, the person making the request shall be so notified.

[40 FR 8171, Feb. 26, 1975, as amended at 52 FR 4902, Feb. 18, 1987; 56 FR 29579, June 28, 1991; 63 FR 1342, Jan. 9, 1998]

§ 1610.11 Appeals to the Legal Counsel from initial denials.

(a) When the Legal Counsel's designee, the regional attorney, or the regional attorney's designee, has denied a request for records in whole or in part, the person making the request may appeal within 30 calendar days of its receipt. The appeal must be in writing addressed to the Legal Counsel or designee, Equal Employment Opportunity Commission, 1801 L Street NW., Washington DC 20507, and clearly labeled as a Freedom of Information Act appeal. Any appeal of a denial in whole or part by a regional attorney, or the regional attorney's designee, must include a copy of the regional attorney's, or the regional attorney's designee's determination.

(b) The Legal Counsel or designee shall act upon the appeal within 20 working days of its receipt, and more rapidly if practicable. If the decision is in favor of the person making the re-

quest, the decision shall order records promptly made available to the person making the request. The Legal Counsel or designee may extend the 20 day period in which to render a decision on an appeal for that period of time which could have been claimed and consumed by the Legal Counsel's designee, the regional attorney, or the regional attorney's designee, under §1610.9 but which was either not claimed or consumed in making the original determination.

(c) The decision on appeal shall be in writing and signed by the Legal Counsel or designee. A denial in whole or in part of a request on appeal shall set forth the exemption relied on, a brief explanation of how the exemption applied to the records withheld and the reasons for asserting it, if different from that described by the Legal Counsel's designee, the regional attorney, or the regional attorney's designee under §1610.10, and that the person making the request may, if dissatisfied with the decision on appeal, file a civil action in the district in which the person resides or has his principal place of business, in the district where the records reside, or in the District of Columbia.

(d) No personal appearance, oral argument or hearing will ordinarily be permitted in connection with an appeal to the Legal Counsel or designee.

(e) On appeal, the Legal Counsel or designee may reduce any fees previously assessed.

(f) In the event that the Commission terminates its proceedings on a charge after the regional attorney or the regional attorney's designee denies a request for the charge file but during consideration of the requester's appeal from that denial, the request may be remanded for redetermination. The requester retains a right to appeal to the Legal Counsel from the decision on remand.

[49 FR 48040, Dec. 10, 1984, as amended at 52 FR 4902, Feb. 18, 1987; 54 FR 32062, Aug. 4, 1989; 56 FR 29579, June 28, 1991; 63 FR 1342, Jan. 9, 1998]

§ 1610.13 Maintenance of files.

(a) The Legal Counsel or designee, and regional attorneys, shall maintain files containing all material required to be retained by or furnished to them

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under this subpart. The material shall be filed by individual request indexed according to the exemptions asserted, and, to the extent feasible, indexed according to the type of records requested.

(b) The Legal Counsel or designee, shall also maintain a file open to the public, which shall contain copies of all grants or denials of appeals by the Commission. The material shall be indexed as stated in paragraph (a) of this section.

[45 FR 40605, June 16, 1980, as amended at 47 FR 46275, Oct. 18, 1982; 52 FR 4092, Feb. 18, 1987; 56 FR 29578, June 28, 1991]

§ 1610.14 Waiver of user charges.

(a) Except as provided in paragraph (b) of this section the Legal Counsel or designee and regional attorneys or designees shall assess fees where applicable in accordance with §1610.15 for search, review and duplication of records requested. They shall also have authority to furnish documents without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(b) District directors, the Washington Field Office Director, area directors, and the librarian are hereby authorized to collect fees where applicable in accordance with §1610.15 for duplication of records which are to be made available for public inspection and copying in the district or area office, or in the headquarters library in accordance with §1610.4(b). District directors, the Washington Field Office Director, area directors, and the librarian are hereby authorized to duplicate such records without charge, or at a reduced charge in accordance with the criteria of paragraph (a) of this section.

[52 FR 13830, Apr. 27, 1987, as amended at 54 FR 32062, Aug. 4, 1989; 56 FR 29578, June 28, 1991; 63 FR 1342, Jan. 9, 1998]

§ 1610.15 Schedule of fees and method of payment for services rendered.

(a) Fees shall be assessed in accordance with the fee schedule set forth in paragraph (c) of this section as follows:

(1) When records are requested for commercial use, the Commission shall charge the full amount of its direct costs for document search, review and duplication. The Commission shall not charge for review at the administrative appeal level of an exemption already applied.

(2) When records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, or a representative of the news media, the Commission shall charge the direct costs of document duplication after the first 100 pages. The first 100 pages of duplication under paragraph (a)(2) shall be provided without charge.

(3) For all other record requests not falling under paragraph (a) (1) or (2) of this section, the Commission shall charge the direct costs for document search time after the first two hours and the direct costs for document duplication after the first 100 pages. The first two hours of search time and the first 100 pages of duplication under paragraph (a)(3) shall be provided without charge.

(b) When the Commission reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Commission shall aggregate any such requests and charge accordingly.

(c) Except as otherwise provided, the following specific fees for direct costs shall be applicable with respect to services rendered to members of the public under this subpart:

(1) For actual search and review time by clerical personnel—at the rate of \$7.00 per hour.

(2) For actual search and review time by professional personnel—at the rate of \$17.00 per hour.

(3) For copies made by photocopying machine—\$.15 per page (maximum of 10 copies).

(4) For attestation of such record as a true copy—\$.75 per document.

(5) For certification of each record as a true copy, under the seal of the agency—\$1.00.

(6) For each signed statement of negative result of search for record—\$1.00.