

§ 2201.6

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§ 2201.6 Procedure for requesting records.

(a) *Obtaining procedural rules, press releases, hearing dates, etc.* Press releases, rules of procedure, published material other than decisions and their indices, information concerning the date, time and place of hearings, and other information of a general nature concerning operations of the Commission may be obtained free of charge by calling, writing or visiting the Freedom of Information Act Officer. See the address and telephone number in § 2201.5(a).

(b) *Other information.* Persons wishing to obtain copies of documents (including the hearing transcript filed in a case before the Review Commission or a Judge, and information that is freely available under paragraph (a) of this section), shall submit a request in writing to the Freedom of Information Act Officer at the address in § 2201.5(a). The request shall be clearly identified as a request for information under the Freedom of Information Act. The envelope or cover enclosing or covering the request shall have the phrase “INFORMATION REQUEST” in capital letters on it. The agency will make information available in any form or format requested by the person if the record is readily reproducible by the agency in that form or format.

(c) *Date of receipt.* A request that complies with the preceding paragraph is deemed received when received by the Commission. A request that does not comply with the preceding paragraph is deemed received when it is actually received by the Freedom of Information Act Officer. If the Freedom of Information Act Officer has required advance payment or satisfactory assurance of full payment under § 2201.8(f), the request will not be deemed received until the Freedom of Information Act Officer has received the payment or assurance.

(d) *Specificity required.* Requesters shall describe the records sought with reasonable specificity.

[53 FR 17930, May 19, 1988, as amended at 65 FR 24130, Apr. 25, 2000]

§ 2201.7 Responses to requests.

(a) *Responses within 20 working days.* The Review Commission Freedom of

Information Act Officer will either grant or deny a request for records within 20 working days after receiving the request.

(b) *Extensions of response time in unusual circumstances.* In unusual circumstances, the Review Commission may extend the time limit prescribed in paragraph (a) of this section by not more than 10 working days. The extension may be made by written or telephonic notice to the requester and will include an explanation of the reasons for the extension and will indicate the date on which a determination is expected to be made. “Unusual circumstances” exists, but only to the extent reasonably necessary to the proper processing of the particular request, when there is a need to:

(1) Search for and collect the requested records from field facilities or other establishments separate from the office processing the request;

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

(3) Consult, with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components within the Review Commission having substantial subject-matter interest therein.

(c) *Additional extension.* A requester shall be notified when it appears that a request cannot be completed within the allowable time (20 working days plus a 10 working day extension). In such instances, the requester will be provided an opportunity to limit the scope of the request so that it may be processed in the time limit, or to agree to a reasonable alternative time frame for processing.

(d) *Multitrack processing.* To ensure the most equitable treatment possible for all requesters, the Commission will process requests on a first-in, first-out basis using a two track processing system based upon the estimated time it will take to process the request.

(1) The first track is for requests of simple to moderate complexity that are expected to be completed within 20 working days.

(2) The second track is for requests involving “unusual circumstances”

that are expected to take between 21 to 30 working days to complete and those that, because of their unusual volume or other complexity, are expected to take more than 30 working days to complete.

(3) Requesters should assume, unless notified by the Review Commission, that their request is in the first track. The Review Commission will notify requesters when their request is placed in the second track for processing and that notification will include the estimated time for completion. Should subsequent information substantially change the estimated time to process a request, the requester will be notified telephonically or in writing. In the case of a request expected to take more than 30 working day for action, a requester may modify the request to allow it to be processed faster or to reduce the cost of processing. Partial responses may be sent to requesters as documents are obtained by the FOIA office from the supplying offices.

(e) *Expedited processing.* (1) The Commission may place a person's request at the front of the queue for the appropriate track for that request upon receipt of a written request that clearly demonstrates a compelling need for expedited processing. Requesters must provide detailed explanations to support their expedited requests. For purposes of determining expedited processing, the term compelling need means:

(i) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of any individual; or

(ii) That a request is made by a person primarily engaged in disseminating information, and that person establishes that there is an urgency to inform the public concerning actual or alleged Federal Government activity.

(2) A person requesting expedited processing must include a statement certifying the compelling need given to be true and correct to the best of his or her knowledge and belief. The certification requirement may be waived by the Review Commission as a matter of agency discretion.

(3) The FOIA Officer will make the initial determination whether to grant

or deny a request for expedited processing and will notify a requester within 10 calendar days after receiving the request whether its processing will be expedited.

(4) Administrative appeals of a denial of an expedited processing request will be handled with expeditious consideration.

(f) *Content of denial.* When the Freedom of Information Act Officer denies a request, the notice of the denial shall state the reason for it and that the denial may be appealed as specified in paragraph (g) of this section. A refusal by the Freedom of Information Act Officer to process the request because the requester has not made advance payment or given a satisfactory assurance of full payment required under §2201.8(f) may be treated as a denial of the request and appealed under paragraph (g) of this section. When release of entire records is denied in whole or in part, a reasonable effort will be made to estimate the volume of any requested matter that is denied, unless providing such an estimate would harm an interest protected by the exemption(s) under which the matter has been denied.

(g) *Appeal of denial.* A denial of a request may be appealed in writing to the Chairman of the Commission within 30 working days after the requester receives notice of the denial. The Chairman shall act on the appeal under 5 U.S.C. 552(a)(6)(ii) within 20 working days after the receipt of the appeal. If the Chairman wholly or partially upholds the denial of the request, he shall notify the requesting person that he may obtain judicial review of the Chairman's action under 5 U.S.C. 552(a)(4)(B)-(G).

(h) *Deletions.* The amount of information deleted from records shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where the deletion is made.

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