

§ 1800.42

NACIC will be deemed a final decision by NACIC.

§ 1800.42 Right of appeal and appeal procedures.

(a) *Right of Appeal.* A right of administrative appeal exists whenever access to any requested record or any portion thereof is denied, no records are located in response to a request, or a request for a fee waiver is denied. NACIC will apprise all requesters in writing of their right to appeal such decisions to the Director, NACIC through the Coordinator.

(b) *Requirements as to time and form.* Appeals of decisions must be received by the Coordinator within forty-five (45) days of the date of NACIC's initial decision. NACIC may, for good cause and as a matter of administrative discretion, permit an additional thirty (30) days for the submission of an appeal. All appeals shall be in writing and addressed as specified in § 1800.3. All appeals must identify the documents or portions of documents at issue with specificity and may present such information, data, and argument in support as the requester may desire.

(c) *Exceptions.* No appeal shall be accepted if the requester has outstanding fees for information services at this or another federal agency. In addition, no appeal shall be accepted if the information in question has been the subject of a review within the previous two (2) years or is the subject of pending litigation in the federal courts.

(d) *Receipt, recording, and tasking.* NACIC shall promptly record each request received under this part, acknowledge receipt to the requester in writing, and thereafter effect the necessary taskings to the office(s) which originated or has an interest in the record(s) subject to the appeal.

(e) *Time for response.* NACIC shall attempt to complete action on an appeal within twenty (20) days of the date of receipt. The volume of requests, however, may require that NACIC request additional time from the requester pursuant to § 1800.33. In such event, NACIC will inform the requester of the right to judicial review.

32 CFR Ch. XVIII (7-1-05 Edition)

§ 1800.43 Determination(s) by Office Chief(s).

Each Office Chief in charge of an office which originated or has an interest in any of the records subject to the appeal, or designee, is a required party to any appeal; other interested parties may become involved through the request of the Coordinator when it is determined that some or all of the information is also within their official cognizance. These parties shall respond in writing to the Coordinator with a finding as to the exempt status of the information. This response shall be provided expeditiously on a "first-in, first-out" basis taking into account the business requirements of the parties and consistent with the information rights of members of the general public under the various information review and release laws.

§ 1800.44 Action by appeals authority.

(a) *Preparation of docket.* The Coordinator shall provide a summation memorandum for consideration of the Director, NACIC; the complete record of the request consisting of the request, the document(s) (sanitized and full text) at issue, and the findings of concerned Office Chiefs or designee(s).

(b) *Decision by the Director, NACIC.* The Director, NACIC shall personally decide each case; no personal appearances shall be permitted without the express permission of the Director, NACIC.

§ 1800.45 Notification of decision and right of judicial review.

The Coordinator shall promptly prepare and communicate the decision of the Director, NACIC to the requester. With respect to any decision to deny information, that correspondence shall state the reasons for the decision, identify the officer responsible, and include a notice of a right to judicial review.

PART 1801—PUBLIC RIGHTS UNDER THE PRIVACY ACT OF 1974

Subpart A—General

Sec.

1801.1 Authority and purpose.

1801.2 Definitions.