

(ii) Commission personnel identifying a communication from the public not bearing the legend "FREEDOM OF INFORMATION REQUEST" as a request otherwise meeting the requirements of this section shall immediately (A) mark the communication with the legend "FREEDOM OF INFORMATION REQUEST." (B) date the request to reflect the date on which it was identified, and (C) take steps to assure proper processing of the request under the procedures in this subpart.

(d) *Categorical requests.* (1) A request for all records falling within a reasonably specific category shall be regarded as conforming to the statutory requirement that records be reasonably described if (i) it can be determined which particular records are covered by the request and (ii) the records can be searched for, collected and produced without unduly burdening or interfering with Commission operations because of the staff time consumed or the resulting disruption of the files.

(2) If a categorical request is determined under paragraph (d)(1) of this section not to reasonably describe the records requested, the response denying the request on that ground shall specify the reasons why and shall extend to the requester an opportunity to confer with knowledgeable Commission personnel in an attempt to reduce the request to manageable proportions by reformulation and by agreeing on an orderly procedure for the production of the records.

**§ 700.243 Action on initial requests.**

(a) *Granting of requests.* (1) A requested record shall be made available if (i) the record is not exempt from disclosure or (ii) the record is exempt from disclosure, but its withholding is neither required by statute or Executive order nor supported by sound grounds.

(b) *Form of grant.* (1) When a requested record has been determined to be available, the official processing the request shall immediately notify the person requesting the record as to where and when the record is available for inspection or as the case may be, where and when copies will be available. If fees are due under § 700.251, the responsible official shall also state the

amount or, if the exact amount cannot be determined, the approximate amount of fees due.

(2) If the record was obtained by the Commission from a person or entity outside of the Government, the responsible official shall, when it is administratively feasible to do so, notify that person or entity that the record has been made available.

(c) *Denial of requests.* (1) A request for a record may be denied only if it is determined that (i) the record is exempt from disclosure and (ii) that withholding of the record is required by statute or Executive order or supported by sound grounds.

(2) A request to inspect or copy a record shall be denied only by the Freedom of Information Act Officer or by an official whom the Executive Director has in writing designated.

(d) *Form of denial.* A reply denying a request shall be in writing and shall include:

(1) A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record;

(2) The sound ground for withholding;

(3) A listing of the names and titles or positions of each person responsible for the denial;

(4) A statement that the denial may be appealed to the Commission pursuant to § 700.247 and that such appeal must be in writing and be received by this official within twenty (20) days (Saturdays, Sundays, and public legal holidays excepted) after the date of the denial, in the case of the denial of an entire request, or within twenty (20) days (Saturdays, Sundays, and public legal holidays excepted) of records being made available, in the case of a partial denial, by writing to the Freedom of Information Act Officer, Navajo-Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002.

(e) *Exception.* The requirements of paragraphs (c), (d), and (e) of this section do not apply to requests denied under § 2.14 on the ground that the request did not reasonably describe the records requested or to requests for records which do not exist.

## § 700.245

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(f) *Filing of denials.* Copies of all replies denying, in whole or part, a request for a record which are issued under this section of §700.243 shall be promptly submitted by the Freedom of Information Act Officer, denials to the Executive Director and the Commission's legal counsel.

### § 700.245 Time limits on processing of initial requests.

(a) *Basic limit.* Requests for records shall be processed promptly. A determination whether to grant or deny a request shall be made within no more than ten (10) days (excepting Saturdays, Sundays, and legal public holidays) after receipt of a request. This determination shall be communicated immediately to the requester.

(b) *Running of basic time limit.* For purposes of paragraph (a) of this section, the time limit commences to run when a request is received at the Commission's office in Flagstaff, Arizona.

(c) *Extensions of time.* In the following unusual circumstances, the time limit for acting upon an initial request may be extended to the extent reasonably necessary to the proper processing of the particular request, but in no case may the time limit be extended for more than ten (10) working days:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

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

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(d) *Authority to make extensions.* (1) An extension of time under paragraph (c) of this section may be made only by the Freedom of Information Act Officer or such higher authority as the Commission has in writing designated.

(2) The person requesting the records shall be notified in writing of the ex-

ension. The written notice shall state the reason for the extension and the date on which a determination on the request is expected to be dispatched.

(3) The Freedom of Information Act Officer shall be responsible for promptly furnishing copies of such notices to the Executive Director and the Commission's legal counsel.

(e) *Treatment of delay as denial.* (1) If no determination has been reached at the end of the ten (10) day period for deciding an initial request, or the last extension thereof, the requester may deem his request denied and may exercise a right of appeal in accordance with the provisions of §700.247.

(2) When no determination can be reached within the applicable time limit, the responsible official shall nevertheless continue to process the request. On expiration of the time limit, the responsible official shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to treat the delay as a denial for purposes of appeal to the Commission in accordance with §700.247. The requester may be asked to consider delaying use of his right to appeal until the date on which the determination is expected to be dispatched. If the requester so agrees, he is deemed not to have treated the failure to respond within the applicable time limit as a denial for purposes of the running of the twenty (20) working-day appeal period set out in §700.247. If a determination of the request is not issued by the new agreed upon date, or if the request is denied in whole or part, the requester will have available his full right of appeal under §700.247, including the entire twenty (20) working-day period for filing of the appeal.

### § 700.247 Appeals.

(a) *Right of appeal.* Where a request for records has been denied, in whole or part, the person submitting the request may appeal the denial to the Commission.

(b) *Time for appeal.* An appeal must be received no later than twenty (20) days (Saturdays, Sundays, and public legal holidays excepted) after the date of the initial denial, in the case of a denial of an entire request, or twenty (20) days