

(A) The PA Officer's name, title and position;

(B) The date of denial;

(C) The reasons for the denial, including citation to the appropriate sections of the Act and these rules;

(D) The procedures for appeal of the denial as set forth in §1101.14.

The term promptly in this paragraph means within thirty (30) days (excluding Saturdays, Sundays and holidays). If the PA Officer cannot make the determination within thirty (30) days, the individual will be advised in writing of the reason therefor and of the estimated date by which the determination will be made.

(b) Whenever an individual's record is corrected or amended pursuant to a request by that individual, the PA Officer shall notify all persons and agencies to which copies of the record had been disclosed prior to its correction or amendment, if an accounting of such disclosure required by the Act was made. The notification shall require a receipt agency maintaining the record to acknowledge receipt of the notification, to correct or amend the record, and to apprise any agency or person to which it has disclosed the record of the substance of the correction or amendment.

(c) The following criteria will be considered by the PA Officer in reviewing a request for correction or amendment.

(1) The sufficiency of the evidence submitted by the individual;

(2) The factual accuracy of the information;

(3) The relevance and necessity of the information in terms of purpose for which it was collected.

(4) The timeliness and currency of the information in light of the purpose for which it was collected;

(5) The completeness of the information in terms of the purpose for which it was collected;

(6) The degree of possibility that denial of the request could unfairly result in determinations adverse to the individual;

(7) The character of the record sought to be corrected or amended; and

(8) The propriety and feasibility of complying with the specific means of correction or amendment requested by the individual.

(d) The Section will not undertake to gather evidence for the individual, but does reserve the right to verify the evidence which the individual submits.

(e) Correction or amendment of a record requested by an individual will be denied only upon a determination by the PA Officer that:

(1) The individual has failed to establish, by a preponderance of the evidence, the propriety of the correction or amendment in light of the criteria set forth in paragraph (c) of this section;

(2) The record sought to be corrected or amended was compiled in a terminated judicial, quasi-judicial or quasi-legislative proceeding to which the individual was a party or participant;

(3) The record sought to be corrected or amended is the subject of a pending judicial, quasi-judicial or quasi-legislative proceeding to which the individual is a party or participant;

(4) The correction or amendment would violate a duly enacted statute or promulgated regulation; or

(5) The individual unreasonably has failed to comply with the procedural requirements of these rules.

(f) If a request is partially granted and partially denied, the PA Officer shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 1101.14 Appeal of agency decision not to correct or amend a record.

(a) An appeal of the initial refusal to amend a record under §1101.13 may be requested by the individual who submitted the request. The appeal must be requested in writing, and state that the appeal is being made under the Privacy Act of 1974, it should identify the denial that is being appealed and the records that were withheld, it should include the requester's name and address and telephone number (optional), and it should be signed by the individual making the request. It should be received by the Section within sixty (60) calendar days of the date the individual is informed of the PA Officer's refusal to amend a record in whole or in part. The request should be addressed and sent via certified mail to

the Commissioner, United States Section, International Boundary and Water Commission, 4171 North Mesa, suite C-310, El Paso, TX 79902-1422. The processing of appeals will be facilitated if the words "PRIVACY APPEAL" appear in capital letters on both the envelope and the top of the appeal papers. An appeal not addressed and marked as provided herein will be marked by Section personnel when it is so identified and will be forwarded immediately to the Commissioner.

(b) The time for decision on the appeal begins on the date the appeal is received by the Commissioner. The appeal should include any documentation, information or statements advanced for the amendment of the record.

(c) There shall be a written record of the reason for the final determination. The final determination will be made not later than thirty (30) days (excluding Saturdays, Sundays and holidays) from the date the Commissioner receives the appeal; unless, for good cause shown, the Commissioner extends such determination beyond the thirty (30) day period.

(d) When the final determination is that the record should be amended in accordance with the individual's request, the Commissioner shall direct the office responsible for the record to comply. The office responsible for the record shall:

(1) Amend the record as directed;

(2) If a distribution of the record has been made, advise all previous recipients of the record of the amendment and its substance;

(3) So advise the individual in writing.

(e) When the final decision is that the request of the individual to amend the record is refused, the Commissioner shall advise the individual:

(1) Of the refusal and the reasons for it;

(2) Of his or her right to file a concise statement of the reasons for disagreeing with the decision of the Section;

(3) Of the procedures for filing the statement of disagreement;

(4) That the statement which is filed will be made available to anyone to whom the record is subsequently dis-

closed together with, at the discretion of the Section, a brief statement by the Section summarizing its reasons for refusing to amend the record;

(5) That prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained; and

(6) Of his or her right to seek judicial review of the Section's refusal to amend the record.

(f) When the final determination is to refuse to amend a record and the individual has filed a statement under paragraph (e)(2) of this section, the Section will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to use or disclose it. When information that is the subject of a statement of dispute filed by an individual is subsequently disclosed, the Section will note that the information is disputed and provide a copy of the individual's statement. The Section may also include a brief summary of the reasons for not making a correction when disclosing disputed information. Such statements will normally be limited to the reasons given to the individual for not amending the record. Copies of the Section's statement shall be treated as part of the individual's record for granting access; however, it will not be subject to amendment by the individual under these rules.

(g) An appeal will be decided on the basis of the individual's appeal papers and the record submitted by the PA officer. No personal appearance or hearings on appeals will be allowed.

§ 1101.15 Judicial review.

After having exhausted all administrative remedies set forth in § 1101.7(g)(3) or § 1101.14, a requester may bring a civil action against the Section, in a United States District Court of proper venue, within two years of the final administrative decision which the requester seeks to challenge.

§ 1101.16 Criminal penalties.

(a) Under the provisions of the Act, it is a Federal crime for any person to