

§ 1.117

(3) A description of the nature (e.g., modification, addition or deletion) and substance of the correction or amendment requested; and

(4) Any other information specified in the system notice.

(b) Any individual submitting a request pursuant to paragraph (a) of this section shall include sufficient information in support of that request to allow the agency to which it is addressed to apply the standards set forth in 5 U.S.C. 552a(e) (1) and (5).

(c) Any individual whose request under paragraph (a) of this section is denied may appeal that denial to the head of the agency which maintains the system of records to which the request relates.

(d) In the event that an appeal under paragraph (c) of this section is denied, the requester may bring a civil action in federal district court to seek review of the denial.

[40 FR 39519, Aug. 28, 1975, as amended at 62 FR 33981, June 24, 1997]

§ 1.117 Agency review of request for correction or amendment of record.

(a) Any agency which receives a request for amendment or correction under § 1.116 shall acknowledge that request within 10 days of its receipt (excluding Saturdays, Sundays and legal public holidays). The agency shall also promptly, either:

(1) Make any correction, deletion or addition with regard to any portion of a record which the requester believes is not accurate, relevant, timely or complete; or

(2) Inform the requester of its refusal to amend the record in accordance with the request; the reason for the refusal; the procedures whereby the requester can appeal the refusal to the head of the agency; and the title and business address of that official. If the agency informs the requester of its determination within the 10-day deadline, a separate acknowledgement is not required.

(b) If an agency is unable to comply with either paragraphs (a)(1) or (2) of this section within 30 days of its receipt of a request for correction or amendment, (excluding Saturdays, Sundays and legal public holidays), it should inform the requester of that fact, the reasons for the inability to

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comply with paragraphs (a)(1) or (a)(2) of this section within 30 days, and the approximate date on which a determination will be reached.

(c) In conducting its review of a request for correction or amendment, each agency shall be guided by the requirements of 5 U.S.C. 552a(e)(1) and (5).

(d) If an agency determines to grant all or any portion of a request for correction or amendment, it shall:

(1) Advise the individual of that determination;

(2) Make the requested correction or amendment; and

(3) Inform any person or agency outside USDA to whom the record has been disclosed, if an accounting of that disclosure is maintained in accordance with 5 U.S.C. 552a(c), of the occurrence and substance of the correction or amendments.

(e) If an agency determines not to grant all or any portion of a request for correction or amendment, it shall:

(1) Comply with paragraph (d) of this section with regard to any correction or amendment which is made;

(2) Advise the requester of its determination and the reasons for the determination not to grant all or a portion of the request for a correction or amendment;

(3) Inform the requester that he or she may appeal this determination to the head of the agency which maintains the system of records; and

(4) Describe the procedures for making such an appeal, including the title and business address of the official to whom the appeal is to be addressed.

(f) In the event that an agency receives a notice of correction or amendment to information in a record contained in a system of records which it maintains, it shall comply with paragraphs (d)(2) and (3) of this section in the same manner as if it had made the correction or amendment itself.

[40 FR 39519, Aug. 28, 1975, as amended at 62 FR 33981, June 24, 1997]

§ 1.118 Appeal of initial adverse agency determination on correction or amendment.

(a) Any individual whose request for correction or amendment under § 1.116 is denied, and who wishes to appeal

that denial, shall address such appeal to the head of the agency which maintains the system of records to which the request relates, in accordance with the procedures set forth in the agency's initial denial of the request.

(b) The head of each agency shall make a final determination with regard to an appeal submitted under paragraph (a) of this section not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests a review, unless, for good cause shown, the head of the agency extends this 30-day period and so notifies the requester, together with an estimate of the date on which a final determination will be made. Such extension should be utilized only in exceptional circumstances and should not normally exceed 30 days. The delegation of authority set forth in this paragraph may not be redelegated.

(c) In conducting a review of an appeal submitted under paragraph (a) of this section, the head of an agency shall be guided by the requirements of 5 U.S.C. 552a(e)(1) and (5).

(d) If the head of an agency determines to grant all or any portion of an appeal submitted under paragraph (a) of this section, the head of the agency shall inform the requester and the agency shall comply with the procedures set forth in § 1.117(d)(2) and (d)(3).

(e) If the head of an agency determines in accordance with paragraph (c) of this section not to grant all or any portion of an appeal submitted under paragraph (a) of this section, the head of the agency shall inform the requester:

(1) Of this determination and the reasons for the determination;

(2) Of the requester's right to file a concise statement of the requester's reasons for disagreeing with the agency's decision;

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

(4) That such statements of disagreements will be made available to anyone to whom the record is subsequently disclosed, together with (if the agency deems it appropriate) a brief statement by the agency summarizing its reasons for refusing to amend the record;

(5) That prior recipients of the disputed record will be provided with a copy of the statement of disagreement, together with (if the agency deems it appropriate) a brief statement of the agency's reasons for refusing to amend the record, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and

(6) Of the requester's right to seek judicial review of the agency's determination in accordance with 5 U.S.C. 552a(g). The agency shall insure that any statements of disagreement submitted by a requester are handled in accordance with paragraphs (e)(4) and (5) of this section.

[40 FR 39519, Aug. 28, 1975, as amended at 62 FR 33981, June 24, 1997]

§ 1.119 Disclosure of record to person other than the individual to whom it pertains.

No agency shall disclose any record which is contained in a system of records it maintains, by any means of communication to any person, or to another agency outside USDA, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless the disclosure is authorized by one or more provisions of 5 U.S.C. 552a(b).

§ 1.120 Fees.

Any agency which provides copies of records pursuant to a request under this subpart may charge fees for the direct costs of producing such copies in accordance with appendix A to subpart A of this part. No agency, however, shall charge any fee for searches necessary to locate records. Nor shall an agency charge any fees for copies or searches, when the requester sought to make a personal inspection but was provided copies instead at the discretion of the agency.

§ 1.121 Penalties.

The criminal penalties which have been established for violations of the Privacy Act of 1974 are set forth in 5 U.S.C. 552a(i). These penalties are applicable to any officer or employee of an agency who commits any of the acts enumerated in 5 U.S.C. 552a(i). These penalties also apply to contractors and