

§ 1701.5 Prompt response.

(a) Within ten days (excluding Saturdays, Sundays and legal public holidays) of the receipt of a request, the Associate Director shall determine whether to comply with or deny such request and shall dispatch such determination to the requester, unless an extension is made under paragraph (c) of this section.

(b) Only the Associate Director may deny a request and is the “person responsible for the denial” within the meaning of 5 U.S.C. 552(a). When a denial is made at the behest of another agency, the person in that agency responsible for urging the denial may also be a “person responsible for the denial” if he is so advised before the Associate Director informs the requester that his request is denied.

(c) In unusual circumstances as specified in this paragraph, the Associate Director may extend the time for the initial determination of a request up to a total of ten days (excluding Saturdays, Sundays and legal public holidays). Extensions shall be made by written notice to the requester setting forth the reason for the extension and the date upon which a determination is expected to be dispatched. As used in this paragraph “unusual circumstances” means, but only to the extent necessary to the proper processing of the request—

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

(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 substantial interest in the determination of the request.

(d) If no determination has been dispatched at the end of the ten-day period, or the last extension thereof, the requester may deem his request denied, and exercise a right of appeal in accordance with § 1701.7. When no determination can be dispatched within the applicable time limit, the Associate Director shall nevertheless continue to process the request. On expiration of the time limit he 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 rights to treat the delay as a denial and appeal to the Executive Director in accordance with § 1701.7. He may also ask the requester to forgo appeal until a determination is made.

[40 FR 7653, Feb. 21, 1975]