

Delaware River Basin Commission

§ 401.109

(2) Every reasonable effort shall be made by the staff to assist in the identification and location of the records sought.

(3) In any situation in which it is determined that a request for voluminous records would unduly burden and interfere with the operations of the Commission, the person making the request will be asked to be more specific and to narrow the request, and to agree on an orderly procedure for the production of the requested records.

(c) Upon receipt of a request for records, the FOIA Officer shall enter it in a public log (which entry may consist of a copy of the request). The log shall state the date and time received, the name and address of the person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to §401.99(b), the date(s) any records are subsequently furnished, the number of staff-hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

(d) A denial of a request for records, in whole or in part, shall be signed by the FOIA Officer. The name and title or position of each person who participated in the denial of a request for records shall be set forth in a letter denying the request. This requirement may be met by attaching a list of such individuals to the letter.

§ 401.109 Time limitations.

(a) All time limitations established pursuant to this section shall begin as of the time at which a request for records is logged in by the FOIA Officer pursuant to §401.98(c). An oral request for records shall not begin any time requirement. A written request for records sent elsewhere within the Commission shall not begin any time requirement until it is redirected to the FOIA Officer and is logged in accordance with §401.98(c). A request that is expected to involve fees in excess of \$50 will not be deemed received until the requester is promptly notified and agrees to bear the cost or has so indicated on his request.

(b) Within ten (10) working days (excluding Saturdays, Sundays, and legal

public holidays) after a request for records is logged by the FOIA Officer, the record shall be furnished or a letter shall be sent to the person making the request determining whether, or the extent to which, the Commission will comply with the request, and, if any records are denied, the reasons therefor.

(1) If all of the records requested have been located and a final determination has been made with respect to disclosure of all of the records requested, the letter shall so state.

(2) If all of the records have not been located or a final determination has not yet been made with respect to disclosure of all of the records requested, the letter shall state the extent to which the records involved shall be disclosed pursuant to the rules established in this part.

(3) In the following unusual circumstances, the time for sending this letter may be extended by the Executive Director for up to an additional ten (10) working days by written notice to the person making the request setting forth the reasons for such extension and the time within which a determination is expected to be dispatched:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Commission's Headquarters.

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

(iii) 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 Commission having substantial subject-matter interest therein.

(c) If any record is denied, the letter shall state the right of the person requesting such records to appeal any adverse determination to the Executive Director of the Commission. Such an appeal shall be filed within thirty (30) days from receipt of the FOIA Officer's determination denying the requested information (where the entire request has been denied), or from the receipt of

§ 401.110

any information made available pursuant to the request (where the request has been denied in part). Within twenty (20) working days (excepting Saturdays, Sundays, and legal public holidays) after receipt of any appeal, or any authorized extension, the Executive Director or his designee shall make a determination and notify the appellant of his determination. If the appeal is decided in favor of the appellant the requested information shall be promptly supplied as provided in this part. If on appeal the denial of the request for records is upheld in whole or in part, the appellant shall be entitled to appeal to the Commission at its next regular meeting. In the event that the Commission confirms the Executive Director's denial the appellant shall be notified of the provisions for judicial review.

(d) If the request for records will result in a fee of more than \$25, determination letter under § 401.99 shall specify or estimate the fee involved and may require prepayment, as well as payment of any amount not yet received as a result of any previous request, before the records are made available. If the fee is less than \$25, prepayment shall not be required unless payment has not yet been received for records disclosed as a result of a previous request.

(e) Whenever possible, the determination letter required under § 401.99(b), relating to a request for records that involves a fee of less than \$25.00, shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter. For requests for records involving a fee of more than \$25.00, the records shall be forwarded as soon as possible after receipt of payment.

§ 401.110 Fees.

(a) Unless waived in accordance with the provisions of § 401.101, the following fees shall be imposed for disclosure of any record pursuant to this part.

(1) *Copying of records.* Fifteen cents per copy of each page.

(2) *Clerical searches.* \$1 for each one-quarter hour spent by clerical personnel searching for and producing a requested record, including time spent copying any record.

18 CFR Ch. III (4-1-00 Edition)

(3) *Nonclerical searches.* \$1.80 for each one-quarter hour spent by professional or managerial personnel searching for and producing a requested record, including time spent copying any record.

(4) *Forwarding material to destination.* Postage, insurance, and special fees will be charged on an actual cost basis.

(b) No charge shall be made for the time spent in resolving legal or policy issues or in examining records for the purpose of deleting nondisclosable portions thereof.

(c) Payment shall be made by check or money order payable to "Delaware River Basin Commission" and shall be sent to the FOIA Officer.

§ 401.111 Waiver of fees.

(a) No fee shall be charged for disclosure of records pursuant to this part where:

(1) The records are requested by a congressional committee or subcommittee or the General Accounting Office.

(2) The records are requested by an agency of a signatory party.

(3) The records are requested by a court of competent jurisdiction.

(4) The records are requested by a state or local government having jurisdiction thereof.

(b) No fee shall be charged if a record requested is not found or for any record that is totally exempt from disclosure.

§ 401.112 Exempt information.

The following materials and information covered by this part shall be exempt from disclosure; that is, information that is:

(a) Related solely to the internal personnel matters of the Commission;

(b) Specifically exempted from disclosure by statute;

(c) Trade secrets and commercial or financial information obtained from a person and privileged or confidential. (For purposes of this section a trade secret may consist of any formula, pattern, device, or compilation of information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. Commercial or financial information that is privileged or confidential means valuable data or information which is used in