



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Council on Environmental Quality

Freedom of Information Act Handbook

“In our democracy, the Freedom of Information Act (FOIA), which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open Government. At the heart of that commitment is the idea that accountability is in the interest of the

Government and the citizenry alike.”

--President Barack Obama, January 21, 2009

Purpose of this Handbook

This Handbook provides the public with information about how to submit a request to the Council on Environmental Quality (CEQ) for agency records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. CEQ processes FOIA requests in accordance with its regulations for implementing FOIA (40 C.F.R. § 1515 et seq.). This Handbook explains some of the key provisions in CEQ’s FOIA regulations. A full version of CEQ’s FOIA regulations begin on page six of this Handbook.

About the Council on Environmental Quality

CEQ coordinates Federal environmental efforts and works closely with agencies and other White House offices in the development of environmental policies and initiatives. CEQ was established within the Executive Office of the President by Congress as part of the [National Environmental Policy Act of 1969 \(NEPA\)](#)¹ and additional responsibilities were provided by the Environmental Quality Improvement Act of 1970.

In enacting NEPA, Congress recognized that nearly all Federal activities affect the environment in some way and mandated that before Federal agencies make decisions, they must consider the effects of their actions on the quality of the human environment. Under NEPA, CEQ works to balance environmental, economic, and social objectives in pursuit of NEPA’s goal of “productive harmony” between humans and the human environment. 42 U.S.C. §4331(a).

NEPA assigns CEQ the task of ensuring that Federal agencies meet their obligations under the Act. CEQ oversees Federal agency implementation of the environmental impact assessment process and acts as a referee when agencies disagree over the adequacy of such assessments. The challenge of harmonizing our economic, environmental, and social aspirations has put NEPA and CEQ at the forefront of our nation’s efforts to protect the environment.

The Council’s Chair serves as the principal environmental policy adviser to the President. The Chair assists and advises the President in developing environmental policies and initiatives. Through interagency working groups and coordination with other EOP components, CEQ works to advance the President’s agenda. It also balances competing positions, and encourages

¹ www.nepa.gov



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

government-wide coordination, bringing Federal agencies, state and local governments, and other stakeholders together on matters relating to the environment, natural resources, and energy.

In addition, CEQ oversees the [Office of the Federal Environmental Executive](#).² The role of the Federal Environmental Executive is to promote sustainable environmental stewardship throughout the Federal government.

What is the Freedom of Information Act?

FOIA encourages Government accountability through transparency. It provides that any person has a right, enforceable in court, to obtain access to Federal agency records, except to the extent that such records (or portions thereof) are protected from public disclosure by one of nine exemptions or by one of three special law enforcement record exclusions. These exemptions are listed below.

How to Submit a FOIA Request to CEQ

Please state clearly that the request is being made under FOIA. Be as specific as you can when identifying the information you are seeking, and include your name, address, and contact information to enable us to contact you with any questions. We recommend that you submit requests electronically to efoia@ceq.eop.gov, and/or FAX them to (202) 456-0753. You may also submit requests by regular mail to Freedom of Information Officer, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, DC 20503. If you choose to submit your request by mail, please be aware that heightened security measures in force may delay mail delivery.

Please keep in mind that CEQ's FOIA requests and responses thereto may be made available for public inspection on request from third parties, to the extent appropriate under the FOIA, the Privacy Act, 5 U.S.C. § 552a, the Trade Secrets Act, 18 U.S.C. § 1905, and other statutory limitations on disclosure. To facilitate CEQ's compliance with the Trade Secrets Act, any trade secrets and confidential or proprietary commercial or financial information you submit as part of a FOIA request should be clearly labeled as such.

How much does it cost to make a FOIA request?

There is no charge to file a FOIA request; however, search and duplication costs may apply, depending on who you are and what you plan to do with the information you are seeking. For example, if you are requesting information on behalf of an educational or non-commercial scientific institution, or a representative of the media, CEQ shall provide the first 100 pages of responsive documents at no charge and, beginning with page 101, charge for reproduction costs only. On the other hand, documents requested for commercial use will incur the full direct cost of searching for, reviewing, and duplicating responsive records. Please see CEQ's FOIA Regulations for a detailed list of cost provisions.

² www.ofee.gov



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Do I need a special form to make a FOIA request?

No. Please see the section above entitled “How to Submit a FOIA Request to CEQ” for the information to include in a FOIA request.

What are FOIA exemptions?

FOIA’s nine exemptions are designed to strike a “workable balance” between what citizens need to know and the Government’s need to protect certain information. These exemptions provide for withholding all, or part, of records involving: national security information (1), records related solely to the internal personnel rules and practices of an agency (2), information that has been specifically exempted from disclosure by statute (3), trade secrets or commercial or financial information obtained from a person that is privileged or confidential (4), privileged information (5), personnel and medical files and similar files when disclosure would constitute a clearly unwarranted invasion of personal privacy (6), law enforcement information (7), bank records (8), and information about wells (9).

How long will it take to get an answer to my FOIA request?

In accordance with the FOIA, CEQ has 20 working days to process a FOIA request. The clock starts ticking when the request is delivered to the FOIA office. Under unusual circumstances, CEQ may take an additional ten days to respond; you will be notified should that be the case. Note that heightened security measures in force may delay CEQ’s receipt of a request that is sent through the regular mail.

What if I have questions about the status of my request?

CEQ provides a FOIA Requester Service Center to keep you apprised of the status of your request. You may email efoia@ceq.eop.gov or call (202) 456-6224 to speak with the CEQ FOIA Public Liaison.

May I ask for my request to be expedited?

Yes. You must specifically state in your FOIA request that you are seeking expedited processing of your FOIA request and explain why expedited processing is needed. For example, you may request expedition of your request if you can demonstrate that the lack of expedited processing will pose an imminent threat to the life or physical safety of an individual or cause the loss of substantial due process rights. Expedited processing also may be granted if you can show widespread and exceptional media interest in which there exists possible questions about the Government’s integrity which has direct bearing on public confidence or if you are in the business of disseminating information and urgently need to inform the public about an actual or alleged Federal Government activity. You will be notified if your request for expedited process is granted, and CEQ will process your response within ten working days.

How can I appeal CEQ’s response to my request?

CEQ’s FOIA Regulations provide for the appeal of an adverse determination within 60 days of the date of CEQ’s written communication of the determination. Submit written appeals to: [e-foia@ceq.eop.gov](mailto:efoia@ceq.eop.gov) or by fax to (202) 456-075. You may also submit appeals by regular mail to Freedom of Information Officer, Council on Environmental Quality, 722 Jackson Place, N.W.,



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Washington, DC 20503. However, if you choose to submit your appeal by mail, please be aware that heightened security measures in force may delay mail delivery.

When will I get a response to my appeal?

CEQ will respond to your appeal within 20 working days. Under unusual circumstances, CEQ may take an additional ten working days to respond. The clock begins to tick when the FOIA office receives your appeal in writing.

Does CEQ have records I can review without filing a FOIA request?

CEQ's [Proactive Disclosure Reading Room](#)³ provides a variety of information about environmental issues in general and CEQ activities in particular. It is regularly updated with new material of interest to the public, such as CEQ's Annual Chief FOIA Officer Report. You may also visit CEQ's [homepage](#)⁴ and [blog](#)⁵ to find up-to-date information on CEQ's activities.

What are CEQ's Major Information Systems and Record Locators?

The Office of Administration (OA), an office within the Executive Office of the President, provides comprehensive administrative support and business services to all components within the Executive Office of the President, including CEQ. OA manages the following major information systems and record locators for CEQ:

- Council on Environmental Quality's White House website: WhiteHouse.gov/administration/eop/ceq;
- Discoverer: a contracting system;
- PRISM: a contracting system;
- Epic: a security system;
- Citibank Web Interface: a Citibank payment system;
- EmailXtender: an email archiving system;
- SourceOne: an email archiving system;
- Clearwell: an electronic discovery system; and
- OMEGA: an electronic discovery system.

Additionally, CEQ uses the NEPA website, available at www.nepa.gov, to provide information about the Federal Government's Executive Branch responsibilities under the National Environmental Policy Act (NEPA). CEQ receives the support and service of the Department of Energy, Office of Health, Safety and Security in maintaining this website.

Key CEQ FOIA Contacts:

CEQ's **Chief FOIA Officer** is responsible for overseeing CEQ's administration of the Freedom of Information Act and for receiving, routing, and overseeing the processing of all Freedom of Information requests as set forth in CEQ's FOIA Regulations.

³ www.WhiteHouse.gov/administration/eop/ceq/foia/reading-room

⁴ www.WhiteHouse.gov/administration/eop/ceq/

⁵ www.WhiteHouse.gov/administration/eop/ceq/blog



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

CEQ's **FOIA Public Liaison** is the supervisory official to whom a FOIA requester can raise concerns about the service the FOIA requester has received from the CEQ FOIA Center. The FOIA Public Liaison shall assist, as appropriate, in reducing delays and increasing understanding of the status of requests.

CEQ's **FOIA Appeals Officer** is responsible for processing and acting upon any appeals and may designate one or more CEQ officials, as appropriate, as FOIA Officers authorized to oversee and process FOIA requests.

722 Jackson Place, N.W.
Washington, DC 20503

Phone: (202) 456-6224
Fax: (202) 456-0753
Email: efoia@ceq.eop.gov

Note: Heightened security measures in force may delay mail delivery; therefore, we suggest emailing or faxing your correspondence, in addition or instead of sending it by regular mail.

Other FOIA resources:

The Department of Justice, Office of Information Policy (OIP) is responsible for encouraging agency compliance with FOIA and for ensuring that the President's FOIA Memorandum and the Attorney General's FOIA Guidelines are fully implemented across the government. OIP has several online resources, including the text of the FOIA statute available at: www.doj.oip.gov.

FOIA.gov provides data on the various Federal agencies' FOIA compliance, including their annual FOIA reports. Available at: www.foia.gov.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Council on Environmental Quality FOIA Regulations

Purpose

§ 1515.1 FOIA procedures.

The Freedom of Information Act (5 U.S.C. 552), as amended, commonly known as FOIA, is a Federal law that creates a procedure for any person to request documents and other records from United States Government agencies. The law requires every Federal agency to make available to the public the material requested, unless the material falls under one of the limited exemptions stated in Section 552(b) of the Act. These procedures explain how the Council on Environmental Quality (CEQ)—one of several agencies in the Executive Office of the President—will carry out the FOIA. They are written from the standpoint of a FOIA requester and should be read together with the FOIA, which provides additional information about access to records maintained by CEQ. This information is furnished for the guidance of the public and in compliance with the requirements of Section 552 of title 5, United States Code, as amended.

Organization of CEQ

§ 1515.2 About the Council on Environmental Quality (CEQ).

The Council on Environmental Quality (“CEQ” or “the Council”) was created by the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 through 4347). The Council’s authority is primarily derived from that Act, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371–4374), Reorganization Plan No. 1 of 1977 (July 15, 1977), and Executive Order 11514, “Protection and Enhancement of Environmental Quality,” March 5, 1970, as amended by Executive Order 11991, May 24, 1977.

§ 1515.3 CEQ organization.

(a) The Council is made up of a Chair appointed by the President and subject to approval by the Senate who serves in a full-time capacity. Congress has allowed CEQ to consist of a Council of one member who serves as Chairman or Chair.

(b) The National Environmental Policy Act and the Environmental Quality Improvement Act give the Council the authority to hire any officers and staff that may be necessary to carry out responsibilities and functions specified in these two Acts. Also, the use of consultants and experts is permitted.

(c) In addition to the Chair, the Council has program and legal staff.

(d) The Council has no field or regional offices.

(e) The Council is located at 722 Jackson Place N.W., Washington, DC 20503. Office hours are 9 a.m.–5:30 p.m., Monday through Friday, except Federal holidays. To meet with any of the staff, please write or phone ahead for an appointment. The main number is 202–456–6224.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

§ 1515.4 CEQ FOIA Officials.

(a) The Chair shall appoint a Chief Freedom of Information Act Officer (Chief FOIA Officer) who is responsible for overseeing the Council's administration of the Freedom of Information Act and for receiving, routing and overseeing the processing of all Freedom of Information requests as set forth in these regulations. The Chair shall appoint an Appeals Officer, who is responsible for processing and acting upon any appeals and may designate one or more CEQ officials, as appropriate, as FOIA Officers authorized to oversee and process FOIA requests. The Chief FOIA Officer may serve as the Appeals Officer.

(b) The Chief FOIA officer shall designate a FOIA Public Liaison who is the supervisory official to whom a FOIA requester can raise concerns about the service the FOIA requester has received from the CEQ FOIA Center, described in Section 1515.5(a), following an initial response from the staff of the CEQ FOIA Center staff. The FOIA Public Liaison shall assist, as appropriate, in reducing delays and increasing understanding of the status of requests. The Chief FOIA officer shall also designate a CEQ FOIA Officer responsible for overseeing CEQ's day-to-day administration of the FOIA and for receiving, routing, and overseeing the processing of all FOIA requests.

Procedures for Requesting Records

§ 1515.5 Making a Freedom of Information Act request.

(a) *Availability of records.* The Council maintains a World Wide Web site, <http://www.whitehouse.gov/administration/eop/ceq>, and an online Freedom of Information Act Requester Service Center ("Center"), <http://www.whitehouse.gov/administration/eop/ceq/foia>. From the Center, a requester can find contact information regarding the CEQ's FOIA Public Liaison, as defined in Section 1515.4(b), and access CEQ's Online Reading Room where CEQ makes available records pertaining to matters within the scope of 5 U.S.C. 552(a)(2), as amended, and environmental issues and other documents that, because of the nature of their subject matter, are likely to be the subject of FOIA requests. To save both time and money, CEQ strongly urges requesters to review documents currently available from the Center's Online Reading Room before submitting a request.

(b) *Requesting information from the Council.* (1) Requesters must make a Freedom of Information Act request in writing. For quickest possible handling, it should be sent via e-mail to: efoia@ceq.eop.gov and must include in the subject line of the e-mail message: "Freedom of Information Act Request." Written requests may also be faxed to (202) 456-0753 or addressed and mailed to: Council on Environmental Quality, Executive Office of the President, 722 Jackson Place N.W., Washington, DC 20503. Requesters should mark both the request letter and the envelope "Freedom of Information Act Request" and include their name, address, and sufficient contact information to allow follow up regarding the scope and status of your request.

(2) The request should identify or reasonably describe the desired record. It should be as specific as possible, so that the item can be readily found. Blanket requests, such as requests for "all materials relating to" a specified subject are not recommended. Requesters should specify the preferred form or format (including electronic format) for the response. CEQ will accommodate



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

such requests, if the record is readily reproducible in that form or format. Please be aware that FOIA requests and responses may themselves be made available for public inspection.

(3) The CEQ FOIA Officer is responsible for acting on all initial requests; however, he or she may consult and refer, pursuant to Section 552(a)(6)(B)(iii)(III) of the FOIA, with another agency if he or she determines that that agency is better able to act on the request. Whenever the CEQ FOIA Officer refers all or any part of the responsibility for responding to a request to another agency, he or she will notify the requester of the referral, the name of the agency and agency official to whom it has been referred, and which portion of the request has been referred. Unless a request is deemed “expedited” as set forth in Section 1515.7 below, the CEQ FOIA Officer will respond to requests in order of receipt. CEQ may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of time and work needed to process the request. CEQ may provide requesters on a slower track an opportunity to limit the scope of their request in order to qualify for faster processing.

(4) The Council will make a reasonable effort to assist with defining the request to eliminate extraneous and unwanted materials and to keep search and copying fees to a minimum. If budgetary constraints exist, the requester should indicate the maximum fee he or she is prepared to pay to acquire the information. (*See also* §1515.11)

(5) The Freedom of Information Act does not require a government agency to create or research information; rather, it only requires that existing records be made available to the public.

§ 1515.6 CEQ’s response to a request.

(a) Upon receipt of any written request for information or records, under the Act, the CEQ FOIA Officer or his or her designee, will make an initial determination on the request within 20 days (excepting Saturdays, Sundays and Federal holidays) from the date CEQ receives the request unless unusual or exceptional circumstances exist. The CEQ FOIA Officer will provide written notification of the determination, including, if applicable, notification that the request has been referred to another agency for consultation as set forth above in §1515.5(b)(3). CEQ may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester. It may also toll the 20-day period if necessary to clarify with the requester issues regarding fee assessment. In either case, CEQ’s receipt of the requester's response to its request for information or clarification ends the tolling period.

(b) Requests received by the CEQ FOIA Officer or his or her designee will be assigned an individualized tracking number if they will take more than 10 days to process. Requesters may call the FOIA Public Liaison at (202) 456-6224 and, using the tracking number, obtain information about the request, including the date on which CEQ originally received the request and an estimated date on which CEQ will complete action on the request.

(c) If it is appropriate to grant the request, a staff member will immediately collect the requested materials in order to accompany, wherever possible, the Freedom of Information Officer's letter conveying decision.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

(d) If a request is denied in part or in full, the letter conveying the decision will be signed by the CEQ FOIA Officer, and will include: The reasons for any denial, including any FOIA exemption(s) applied by the FOIA Officer in denying the request; an estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided, if the volume is otherwise indicated through exemptions on records disclosed in part or, if providing an estimate would harm an interest protected by an applicable exemption; and the procedure for filing an appeal.

§ 1515.7 Expedited processing.

(a) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(1) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information.

(b) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(c) A requester who seeks expedited processing must submit a written statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category described in paragraph (a)(2) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category (a)(2) of this section must also establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. Formal certification may be waived as a matter of administrative discretion.

(d) Within 10 days of its receipt of a request for expedited processing, the CEQ FOIA Officer will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the request will be placed in the expedited processing track, given priority, and processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

§ 1515.8 Appeals.

(a) The requester may appeal an adverse determination, in any respect, to the CEQ FOIA Appeals Officer. Any appeal must be received by CEQ within 60 days of the date on the CEQ letter denying the request.

(b) Appeals must be in writing and may be sent via e-mail to: efoia@ceq.eop.gov . They may also be sent via facsimile to: (202) 456-0753 or via U.S. mail addressed to: FOIA Appeals



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Officer, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place N.W., Washington, DC 20503.

(c) The appeal letter should specify the records requested and ask the Appeals Officer to review the determination made by the Freedom of Information Officer. The letter should explain the basis for the appeal.

(d) The Appeals Officer will make a final determination on an appeal within 20 working days (excepting Saturdays, Sundays and Federal holidays) from the date CEQ receives the appeal. The Appeals Officer (or designee) will send a letter to the requester conveying the decision as soon as it is made. If an appeal is denied, in part or in whole, the letter will also include the provisions for judicial review.

§ 1515.9 Extending CEQ's time to respond.

(a) In unusual circumstances as defined in paragraph (c) of this section, the time limits for responding to a request (§§1515.6(a) and 1515.8(d)) may be extended by the Council for not more than 10 working days. Extensions may be granted by the CEQ FOIA Officer in the case of initial requests and by the Appeals Officer in the case of any appeals. The extension period may be split between the initial request and the appeal but may not exceed 10 working days overall. Extensions will be confirmed in writing and set forth the reasons for the extension and the date that the final determination is expected.

(b) With respect to a request for which a written notice under this section extends the time limits prescribed under §1515.6(a), the CEQ FOIA Officer will notify the requester, if the request cannot be processed within the time limit specified in §1515.6(a) and provide an opportunity to limit the scope of the request, so that it may be processed within that time limit or an opportunity to arrange an alternative time frame for processing the request or a modified request. A requester's refusal to reasonably modify the request or arrange such an alternative time frame will be considered as a factor in determining whether exceptional circumstances exist for purposes of 5 U.S.C. 552(a)(6)(C). When CEQ reasonably believes that a requester, or a group of requesters, has submitted a request constituting a single request that would otherwise satisfy the unusual circumstances specified under this section, CEQ may aggregate those requests for purposes of this paragraph. Multiple requests involving unrelated matters will not be aggregated.

(c) The term "unusual circumstances" means:

(1) The need to search for and collect the requested records from 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



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

(3) The need for consultation, which will 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.

Availability of Information

§ 1515.10 Obtaining available information.

(a) When a request for information has been granted in whole or in part, CEQ will notify the requester in writing, inform the requester in the notice of any fee charged under §1515.11 and will disclose records to the requester promptly on payment of any applicable fees. The requested material may be made available on CEQ's Online FOIA Center, <http://www.whitehouse.gov/administration/eop/ceq/foia>, and also in the form or format requested if the record is readily reproducible in that form or format with reasonable effort. When a form or format of the response is not requested, CEQ will respond in the form or format in which the document is most accessible to CEQ. "Readily reproducible" means, with respect to electronic format, that the requested record or records can be downloaded or transferred intact to a computer disk or other electronic medium using equipment currently in use by CEQ.

(b) Records disclosed in part will be marked or annotated to show information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted will also be indicated in the record, if technically feasible.

(c) The legislative history of the establishment of CEQ states that the Congress intended CEQ to be a confidential advisor to the President on matters of environmental policy. Therefore, members of the public should be aware that communications between CEQ and the President (including communications between their staff) may be confidential; they will usually fall, at a minimum, within Exemption 5 of the Act. The Freedom of Information Officer shall review each request to determine whether the record is exclusively factual or may have factual portions which may be reasonably segregated and made available to the requester. Furthermore, on the recommendation of the CEQ FOIA Officer or Appeals Officer, CEQ will consider the release of an entire record, even if it comes within an exemption or contains policy advice, if its disclosure would not impair Executive policymaking processes or CEQ's participation in decisionmaking.

Costs

§ 1515.11 Definitions.

For purposes of these regulations:

Commercial use request means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's or other person's commercial, trade, or profit interests.

Direct costs means those costs incurred in searching for and duplicating (and, in the case of commercial use requests, reviewing) documents to respond to a FOIA request. Direct costs



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

include, for example, salaries of employees who perform the work and costs of conducting large-scale computer searches.

Duplicate means to copy records to be released to the FOIA requester. Copies can take the form of paper, audio-visual materials, or electronic records, among others.

Educational institution means a school that operates a program of scholarly research.

Non-commercial scientific institution means an institution that is not operated on a commercial basis and that operates solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

Representative of the news media means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

Review means to examine a record to determine whether any portion of the record may be withheld and to process a record for disclosure, including by redacting it.

Search means to look for and retrieve records covered by a FOIA request, including by looking page-by-page or line-by-line to identify responsive material within individual records.

§ 1515.12 Fees in general.

CEQ shall charge fees that recoup the full allowable direct costs it incurs in responding to FOIA requests. CEQ may assess charges for time spent searching for records even if CEQ fails to locate the records or if the records are located and determined to be exempt from disclosure. In general, CEQ shall apply the following fee schedule, subject to §§1515.13 through 1515.15:

(a) *Manual searches.* Time devoted to manual searches shall be charged on the basis of the salary of the employee(s) conducting the search (basic hourly rate(s) of pay for the employee(s), plus 16 percent).

(b) *Electronic searches.* Fees shall reflect the direct cost of conducting the search. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for and printing records responsive to the FOIA request and operator/programmer salary attributable to the search.

(c) *Record reviews.* Time devoted to reviewing records shall be charged on the same basis as under paragraph (a) of this section, but shall only be applicable to the review of records located in response to commercial use requests.

(d) *Duplication.* Fees for copying paper records or for printing electronic records shall be assessed at a rate of \$.15 per page. For other types of copies such as disks or audio visual tapes, CEQ shall charge the direct cost of producing the document(s). If total costs are expected to



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

exceed \$25, the FOIA Officer shall provide the requester with an estimate in writing and, in return, obtain from the requester a commitment to pay the estimated fee. This does not apply if the requester has indicated in advance a willingness to pay fees as high as those anticipated. If a requester wishes to limit costs, the FOIA Officer shall provide the requester an opportunity to reformulate the request in order to reduce costs. If the requester reformulates a request, it shall be considered a new request and the 20-day period described in §1515.6(a) shall be deemed to begin when the FOIA Officer receives the request.

(e)(1) *Advance payments required.* The FOIA Officer may require a requester to make an advance deposit of up to the amount of the entire anticipated fee before the FOIA Officer begins to process the request if:

(i) The FOIA Officer estimates that the fee will exceed \$250; or

(ii) The requester has previously failed to pay a fee in a timely fashion.

(2) When the FOIA Officer requires a requester to make an advance payment, the 20-day period described in §1515.6(a) shall begin when the FOIA Officer receives the payment.

(f) *No assessment of fee.* CEQ shall not charge a fee to any requester if:

(1) The cost of collecting the fee would be equal to or greater than the fee itself; or

(2) After the effective date of these regulations CEQ fails to comply with a time limit under the Freedom of Information Act for responding to the request for records where no unusual or exceptional circumstances apply.

§ 1515.13 Fees for categories of requesters.

CEQ shall assess fees for certain categories of requesters as follows:

(a) *Commercial use requesters.* In responding to commercial use requests, CEQ shall assess fees that recover the full direct costs of searching for, reviewing, and duplicating records.

(b) *Educational and non-commercial scientific institutions.* CEQ shall provide records to requesters in this category for the cost of duplication alone, excluding charges for the first 100 pages. To qualify for inclusion in this fee category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scholarly research, not an individual goal.

(c) *Representatives of the news media.* CEQ shall provide records to requesters in this category for the cost of duplication alone, excluding charges for the first 100 pages.

(d) *All other requesters.* CEQ shall charge requesters who do not fall within paragraphs (a) through (c) of this section fees that recover the full direct cost of searching for and duplicating



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

records, excluding charges for the first 100 pages of reproduction and the first two hours of search time.

§ 1515.14 Other charges.

CEQ may apply other charges, including the following:

(a) *Special charges.* CEQ shall recover the full cost of providing special services, such as sending records by express mail, to the extent that CEQ elects to provide them in that manner.

(b) *Interest charges.* CEQ may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the FOIA Officer sent the billing. Interest shall be charged at the rate prescribed in *31 U.S.C. 3717* and will accrue from the date of billing.

(c) *Aggregating requests.* When the FOIA Officer reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a request into a series of requests for the purpose of avoiding fees, the FOIA Officer shall aggregate those requests and charge accordingly.

§ 1515.15 Payment and waiver.

(a) *Remittances.* Payment shall be made in the form of check or money order made payable to the Treasury of the United States. At the time the FOIA Officer notifies a requester of the applicable fees, the Officer shall inform the requester of where to send the payment.

(b) *Waiver of fees.* CEQ may waive all or part of any fee provided for in §§1515.12 and 1515.13 when the FOIA Officer deems that disclosure of the information is in the general public's interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. In determining whether a fee should be waived, the FOIA Officer may consider whether:

(1) The subject matter specifically concerns identifiable operations or activities of the government;

(2) The information is already in the public domain;

(3) Disclosure of the information would contribute to the understanding of the public-at-large as opposed to a narrow segment of the population;

(4) Disclosure of the information would significantly enhance the public's understanding of the subject matter;

(5) Disclosure of the information would further a commercial interest of the requester; and

(6) The public's interest is greater than any commercial interest of the requester.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

§ 1515.16 Other rights and services.

Nothing in this subpart will be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

§ 1515.17-1515.19 [Reserved]