

make regularly available for public inspection and copying. Each office is responsible for determining which of the records it generates are required to be made publicly available and for providing access by the public to them. The Agency will also maintain and make available for public inspection and copying a current subject matter index of such records and provide a copy or a link to the respective website for Headquarters or the Regions. Each index will be updated regularly, at least quarterly, with respect to newly-included records.

(c) All records created by EPA on or after November 1, 1996, which the FOIA requires an agency to make regularly available for public inspection and copying, will be made available electronically through EPA's website, located at <http://www.epa.gov>, or, upon request, through other electronic means. EPA will also include on its website the current subject matter index of all such records.

**§ 2.102 Procedures for making requests.**

(a) *General information.* EPA will consider a request received when the Agency receives a request by one of the methods identified in §2.101(a).

(b) EPA employees may attempt in good faith to comply with oral requests for inspection or disclosure of EPA records publicly available under § 2.201(a) and (b), but such requests are not subject to the FOIA or this Part.

(c) *Description of records sought.* A request should reasonably describe the records the requester seeks in a way that will permit EPA employees to identify and locate them. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, the requester should include any file designations or descriptions for the records that the requester wants. The more specific the requester is about the records or type of records that the requester wants, the more likely EPA will be able to identify and locate records responsive to the request. If EPA determines that the request does not reasonably describe the records, EPA will tell the requester ei-

ther what additional information the requester needs to provide or why the request is otherwise insufficient. EPA will also give the requester an opportunity to discuss and modify the request to meet the requirements of this Section.

(d) *Agreement to pay fees.* If the requester makes a FOIA request, EPA will consider the request to be an agreement that the requester will pay all applicable fees charged under § 2.107, up to \$25.00, unless the requester seeks a waiver of fees. The EPA office responsible for responding to the request ordinarily will confirm this agreement in writing. When making a request, the requester may specify a willingness to pay a greater or lesser amount.

**§ 2.103 Responsibility for responding to requests.**

(a) *In general.* Upon receipt of a FOIA request under §2.101(a) of this Subpart, the National FOIA Office will assign the request to an appropriate office within the Agency for processing. To determine which records are within the scope of a request, an office will ordinarily include only those records in the Agency's possession as of the date the request was received by one of the methods described in §2.101(a). The Agency will inform the requester if any other date is used.

(b) *Authority to issue final determinations.* The Administrator, Deputy Administrators, Assistant Administrators, Deputy Assistant Administrators, Regional Administrators, Deputy Regional Administrators, General Counsel, Deputy General Counsels, Regional Counsels, Deputy Regional Counsels, and Inspector General or those individuals' delegates, are authorized to make determinations required by 5 U.S.C. 552(a)(6)(A), including to issue final determinations whether to release or withhold a record or a portion of a record on the basis of responsiveness or under one or more exemptions under the FOIA, and to issue "no records" responses.

(c) *Authority to grant or deny fee waivers or requests for expedited processing.* EPA's Chief FOIA Officer or EPA's Chief FOIA Officer's delegates are authorized to grant or deny requests for

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fee waivers or requests for expedited processing.

(d) *Consultations and referrals.* When a request to EPA seeks records in its possession that originated with another Federal agency, the EPA office assigned to process the request shall either:

(1) In coordination with the National FOIA Office, consult with the Federal agency where the record or portion thereof originated and then respond to the request, or

(2) With the concurrence of the National FOIA Office, refer the request to the Federal agency where the record or portion thereof originated. The National FOIA Office will notify the requester whenever all or any part of the responsibility for responding to a request has been referred to another agency.

(e) *Law enforcement information.* Whenever a requester makes a request for a record containing information that relates to an investigation of a possible violation of law and the investigation originated with another agency, the assigned office, with the concurrence of the National FOIA Office, will refer the request to that other agency or consult with that other agency prior to making any release determination.

### § 2.104 Responses to requests and appeals.

(a) *Timing of response.* The EPA office assigned to process the FOIA request will initiate the search, collection, and review process, and respond to a request within 20 working days from the date the request was received by one of the methods identified in §2.101(a), unless unusual or exceptional circumstances exist as provided in paragraph (e) of this section. If EPA fails to respond to the request within the statutory time-period, or any authorized extension of time, the requester may seek judicial review to obtain the records without first making an administrative appeal.

(b) On receipt of a request, the National FOIA Office ordinarily will send a written acknowledgment advising the requester of the date the Agency received the request and of the proc-

essing number assigned to the request for future reference.

(c) *Multitrack processing.* The Agency uses three or more processing tracks by distinguishing between simple and complex requests based on the amount of work, time needed to process the request, or both, including limits based on the number of pages involved. The Agency will advise the requester of the processing track in which the Agency placed the request and the limits of the different processing tracks. The Agency may place the request in a slower track while providing the requester with the opportunity to limit the scope of the request to qualify for faster processing within the specified limits of a faster track. If the Agency places the request in a slower track, the Agency will contact the requester.

(d) *Tolling the request.* Once the request is received, the Agency shall not toll the processing time-period except:

(1) The Agency may toll the processing time-period one time while seeking clarification from the requester; or

(2) The Agency may toll the processing time-period as many times as necessary to resolve fee issues.

(e) *Unusual circumstances.* When the Agency cannot meet statutory time limits for processing a request because of "unusual circumstances," as defined in the FOIA, and the time limits are extended on that basis, the Agency will notify the requester in writing, as soon as practicable, of the unusual circumstances and of the date by which processing of the request should be completed. If the 20 working-day period is extended, EPA will give the requester an opportunity to limit the scope of the request, modify the request, or agree to an alternative time-period for processing, as described by the FOIA. EPA will also provide contact information for its FOIA Public Liaison to assist in the resolution of any disputes between the requester and the Agency, and the Agency will notify the requester of their right to seek dispute resolution services from the Office of Government Information Services within the National Archives and Records Administration.

(f) *Expedited processing.* (1) EPA will take requests or appeals out of order and give expedited treatment whenever