

**SUBCHAPTER A—NATIONAL ENVIRONMENTAL POLICY ACT
IMPLEMENTING REGULATIONS**

PARTS 1500–1508 [RESERVED]

SUBCHAPTER B—ADMINISTRATIVE PROCEDURES AND OPERATIONS

PART 1515—FREEDOM OF INFORMATION ACT PROCEDURES

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AUTHORITY: 5 U.S.C. 552; E.O. 13392, 70 FR 75373, 3 CFR, 2005 Comp., p. 216; Pres. Mem., 74 FR 4685, 3 CFR, 2009 Comp., p. 338.

Section 1515.41 also issued under E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

SOURCE: 75 FR 48590, Aug. 11, 2010, as amended at 90 FR 6832, Jan. 21, 2025, unless otherwise noted.

Subpart A—The Council on Environmental Quality's FOIA Program

§ 1515.1 What is the purpose of the rules in this part?

(a) This part explains how you, a member of the public, may request copies of records from the Council on Environmental Quality (CEQ) under the Freedom of Information Act (FOIA). You can find the text of the FOIA at 5 U.S.C. 552.

(b) Nothing in this part entitles you to any service or to the disclosure of any record to which you are not entitled under the FOIA.

§ 1515.2 What kind of records does CEQ maintain?

CEQ carries out responsibilities under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347); the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371–4375); Reorganization Plan No. 1 of 1977 (July 15, 1977); and various Executive orders, among other authorities. CEQ maintains certain records on these subjects, among others.

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§ 1515.3 Are there any CEQ records that CEQ proactively discloses and for which I do not have to make a request?

Yes. The FOIA requires CEQ to proactively disclose—that is, to make certain records available for public inspection online—records that have been or are likely to become the subject of repeated requests. You can find those records, together with an index, at <https://www.whitehouse.gov/ceq/foia/>.

§ 1515.4 Who is responsible for processing FOIA requests and appeals to CEQ?

(a) CEQ's Chief FOIA Officer oversees the administration of requests made to CEQ under the FOIA. The Chief FOIA Officer, or the Chief FOIA Officer's designee, is responsible for processing and granting or denying FOIA requests. The Chair of CEQ appoints the Chief FOIA Officer.

(b) The Chief FOIA Officer may appoint a FOIA Appeals Officer. If the Chief FOIA Officer does so, the FOIA Appeals Officer or the FOIA Appeals Officer's designee is responsible for processing and granting or denying FOIA appeals. Otherwise, the Chief FOIA Officer or the Chief FOIA Officer's designee is responsible for processing FOIA appeals.

§ 1515.5 Who can help me with my FOIA request to CEQ?

(a) You may contact CEQ's FOIA Public Liaison for assistance with your FOIA request, including help in formulating your request and information about the status of your request, or to submit concerns about CEQ's handling of your request. You can contact CEQ's FOIA Public Liaison by email at efoia@ceq.eop.gov or by phone at 202-395-5750. For additional contact information, visit <https://www.foia.gov> and choose "Council on Environmental Quality" in the index of Government agencies.

(b) If you have a dispute with CEQ over its handling of your FOIA request, you may contact the National Archives and Records Administration's Office of Government Information Services for assistance or dispute resolution services by calling (202) 741-5770 or visiting <https://archives.gov/ogis>. If CEQ agrees to

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participate in the voluntary dispute resolution services provided by the Office of Government Information Services, CEQ will actively engage as a partner to the process in an attempt to resolve the dispute.

(c) If you are an individual with a disability, CEQ will provide you with access to and use of information and data through its FOIA program that is comparable to the access to and use of the information and data by members of the public who are not individuals with disabilities, unless doing so would impose an undue burden on CEQ.

(d) If your proficiency in English is limited, CEQ will take steps as appropriate to provide you with meaningful access to CEQ's FOIA program.

§ 1515.6 What are CEQ's procedures for preserving records?

(a) CEQ preserves records pursuant to title 44 of the United States Code and the Records Schedules issued by the Archivist of the United States.

(b) CEQ will not dispose of or destroy agency records that are the subject of a pending request, appeal, or lawsuit under the FOIA.

Subpart B—Making a FOIA Request and Receiving a Response

§ 1515.11 How do I make a FOIA request to CEQ?

(a) You must make your request by email to efoia@ceq.eop.gov or by completing the request form at <https://www.foia.gov>. If you are not able to make your request by either of these methods, please contact CEQ's FOIA Public Liaison for assistance.

(b) When making a request to CEQ, you must:

(1) Clearly indicate that you are making a request for records, such as by including "Freedom of Information Act Request" in the subject line if you are submitting your request by email. If your email includes attachments, you must enter your request in the body of the email in addition to the attachment.

(2) Identify or reasonably describe the records you are requesting in sufficient detail to enable CEQ personnel to locate them with a reasonable amount

of effort. Make your request as specific as you can. If possible, include the date (or a range of dates), title or name, author, recipient, subject matter, case number, file designation, or reference number for the records you seek.

(3) Explain if you need CEQ to provide the records in a particular form or format. CEQ ordinarily provides records in Portable Document Format (PDF), but CEQ will provide its response in the format you request if it is reasonably practicable to do so.

(4) Provide your contact information, such as your phone number, your email address, or both, so that CEQ is able to contact you, as necessary, regarding the status of your request and to clarify matters related to your request.

(5) Indicate the maximum amount you are willing to pay in fees, as described in subpart E of this part. If you are requesting a fee waiver as part of your initial request, include the statement described at § 1515.34(a).

(6) If applicable, include a signed letter on your institution's official letterhead, stating that you believe you qualify for a reduction of fees, as described in § 1515.33, because you are a representative of a non-commercial scientific institution, a representative of an educational institution, or a member of the news media.

(c) If you are requesting information that is subject to the Privacy Act of 1974 (*i.e.*, records about you that CEQ maintains in a system of records), you must follow the procedures under part 1516 of this chapter, instead of the procedures in this part.

(d) If you are requesting copies of ethics-related documents that CEQ makes available pursuant to section 105 of the Ethics in Government Act of 1978 (such as CEQ employees' public financial disclosure reports), you must follow the procedures at 5 CFR 2634.603, instead of the procedures in this part. For more information, visit the U.S. Office of Government Ethics website at <https://www.oge.gov>.

(e) If CEQ determines that your request does not reasonably describe the records you are seeking, such that CEQ would not be able to locate the records you have requested with a reasonable amount of effort, CEQ will notify you and explain what additional informa-

tion you need to provide regarding the records that you seek.

(1) For example, if you request all records related to a broad subject or all communications between CEQ and a third party, we will generally ask you to clarify the scope of your request.

(2) Furthermore, your request must seek existing records of CEQ; we will not create new records or compile new information in order to respond to a FOIA request.

(3) If you have not provided a way to contact you, or you do not respond to our inquiry within 30 working days (*i.e.*, excepting Saturdays, Sundays, and Federal holidays), CEQ will administratively close your request. If possible, we will notify you of the closure.

§ 1515.12 Will CEQ keep my request confidential?

No. CEQ generally will not keep your request confidential. A FOIA request, including the requester's identity, is generally a matter of public record. CEQ publishes logs of requests and requesters at <https://www.whitehouse.gov/ceq/foia/>.

§ 1515.13 When will CEQ respond to my request?

(a) CEQ's Chief FOIA Officer or the Chief FOIA Officer's designee will make an initial determination of how CEQ will respond to your request within 20 working days from the date that CEQ received your request, except as provided in this section.

(b) If CEQ is unable to make a determination within the 20-day period because of "unusual circumstances," we may extend the period of time in which we will respond to your request.

(1) "Unusual circumstances" exist when, in order to properly process your request, CEQ must search for, collect, and appropriately examine a voluminous amount of separate and distinct records, CEQ must consult with another agency or another component of the Executive Office of the President, or CEQ must search at separate facilities.

(2) In determining whether "unusual circumstances" are present, CEQ may aggregate and treat multiple requests on clearly related matters from you (or

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from other persons acting in concert with you) as a single request.

(3) Before the conclusion of the 20-day period, CEQ will notify you of the “unusual circumstances” that apply and the date by which we estimate we will complete processing your request.

(4) When the extension will exceed 10 working days, CEQ will provide you the opportunity to modify the request or arrange an alternative time period for processing the original or modified request.

(c) If CEQ reasonably requires additional information from you to clarify your request or to resolve fee-related matters, we may toll (*i.e.*, pause) the 20-day period, or any extension of that period, from the date we request information from you until the date you respond. We will only toll the response period one time for the purpose of clarifying your request, but we may toll the response period more than once to resolve fee-related matters.

§ 1515.14 What if my request is urgent?

(a) You may ask CEQ to expedite the processing of your FOIA request or appeal. If CEQ agrees to expedite processing of your request or appeal, we will process it with priority over non-expedited requests and appeals and respond to you as quickly as possible.

(b) CEQ will expedite requests or appeals if:

(1) Failing to expedite the request or appeal could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) You are primarily engaged in disseminating information (*e.g.*, you are a member of the news media), and you have an urgent need to inform the public about an actual or alleged Federal Government activity, beyond the public’s right to know about Government activity generally.

(c) You may ask for expedited processing when you make your initial request or appeal, or at any later time.

(d) In order to ask for expedited processing, you must submit a statement, certified to be true and correct, that explains in detail why your request or appeal satisfies the requirements of paragraph (b)(1) or (2) of this section. If you believe that you have an urgent need to inform the public about an ac-

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tual or alleged Federal Government activity, you should provide examples of other coverage of the same or related subjects, if possible. CEQ may waive the formal certification requirement at its discretion.

(e) CEQ will notify you within 10 calendar days whether we will grant or deny you expedited processing.

(f) If CEQ denies you expedited processing, you may appeal that determination using the procedures in subpart C of this part. We will process your appeal as promptly as we can.

§ 1515.15 How will CEQ process my request?

(a) If your request does not reasonably describe the records you seek; the information you have requested is not a record subject to FOIA; CEQ has already published the information you are requesting; or your request does not follow the procedures described in the regulations in this part, we will deny your request in accordance with § 1515.19.

(b) If your request reasonably describes the records you seek and otherwise comports with the procedures described in this part, CEQ will process your request as follows:

(1) CEQ will acknowledge your request in writing and assign it an individualized tracking number. The written acknowledgment may include CEQ’s estimate of the date on which we will respond to your request.

(2) CEQ will search for agency records that respond to your request. CEQ ordinarily will search records in our possession as of the date that we begin our search. We will notify you if we use a different date.

(3) If CEQ finds records that you have requested, we will determine whether to grant your request (*i.e.*, provide you with the records you have requested) or to deny it (*i.e.*, withhold the relevant records from disclosure in accordance with § 1515.16).

(4) Once CEQ has determined whether to grant your request in full, grant it in part and deny it in part, or deny it in full, we will notify you of our determination in writing.

(c) If CEQ determines that it has a voluminous amount of records responsive to your request, or if your request

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requires CEQ to search for records in multiple locations (electronic or physical), CEQ may provide you with one or more interim responses, releasing responsive records to you on a rolling basis.

§ 1515.16 How does CEQ determine when to withhold records or portions of a record?

(a) If CEQ finds records that are responsive to your request, we will review the records to determine whether to withhold any of the records or portions of individual records.

(b) The FOIA identifies nine exemptions to the requirement that agencies provide agency records upon request. CEQ will only withhold a record or a portion of a record under one of these exemptions to the FOIA if CEQ reasonably foresees that disclosing it would harm an interest that the exemption protects. In determining the interests at stake in disclosing or withholding CEQ records, we bear in mind that Congress, in creating CEQ, intended for the CEQ Chair to serve as a confidential advisor to the President and the President's immediate advisors on matters of environmental policy.

(c) CEQ will also withhold a record, or a portion of a record, if disclosing it would violate another provision of the FOIA or a law other than the FOIA.

(d) If the record concerns another government agency, CEQ generally will involve the other agency in determining whether to withhold the record or portions of the record, using the procedures at § 1515.17.

§ 1515.17 What if I request records that involve another Government office or agency?

(a) If CEQ determines that any of the CEQ records you have requested involve another agency in the Federal Government, including another component of the Executive Office of the President, we generally will involve the other agency in reviewing that record in either of two ways.

(1) CEQ may consult with the other agency regarding the record to obtain the other agency's views on whether the record or portions of the record are exempt from disclosure under the FOIA. We will take the other agency's

views into consideration when making a final determination of whether to withhold the record or any portions of the record.

(2) CEQ may refer the record to the other agency, in which case the other agency will determine whether the record or portions of the record are exempt from disclosure under the FOIA, and will respond directly to you regarding your request for the record. If CEQ determines to refer records you have requested to another agency, we will notify you of the referral and explain how to contact the other agency's FOIA officials.

(b) CEQ will choose between consulting with another agency about a record and referring the record to the other agency according to the following principles:

(1) Ordinarily, CEQ will use consultation procedures for records that originated with CEQ but that contain information of interest to another agency or office, and CEQ will refer records that originated with another agency to that agency.

(2) CEQ will typically refer a classified record (or a portion of a record) or a record that may be appropriate for classification to the agency that either classified the information or should consider the information for classification.

(c) CEQ may make agreements with other agencies about how CEQ will handle records involving that agency or how that agency will handle records involving CEQ. Any agreement we make will comply with the FOIA and this part.

§ 1515.18 What happens if CEQ grants my request in full or in part?

Once you have paid the fees that are due under subpart E of this part (if any), CEQ will promptly provide you with a copy of the records you requested, except for the records or portions of records we have determined to withhold under § 1515.16. We will follow the procedures in § 1515.19 with respect to those records or portions of records.

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§ 1515.19 What happens if CEQ denies my request in full or in part?

(a) CEQ may deny your request in full or in part for these reasons, among others:

(1) CEQ determines to withhold all or a portion of the records you requested under § 1515.16;

(2) Your request does not reasonably describe the records you seek;

(3) The information you requested is not a record subject to the FOIA;

(4) CEQ has already published the records you are requesting;

(5) The records you requested do not exist, cannot be located, or have been destroyed;

(6) The records you requested are not readily reproducible in the form or format you seek; or

(7) Your request does not comport with the procedures set forth in this part.

(b) If CEQ denies your request regarding expedited processing or fee-related matters, we will also treat that as a denial of your request in part and follow the procedures in this section.

(c) If CEQ determines to deny your request in full or in part, we will notify you of the basis for the denial. The notification will include the following information:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reasons for the denial, including any FOIA exemption CEQ applied in determining to withhold records (or portions thereof) under § 1515.16;

(3) An estimate of the volume of the records CEQ is withholding, unless the volume is indicated by markings we have made on the records we are providing;

(4) A statement that you may appeal the denial to CEQ, under subpart C of this part, and an explanation of what you must do to appeal; and

(5) A reminder that you can obtain assistance from CEQ's FOIA Public Liaison and dispute resolution services from the National Archives and Records Administration's Office of Government Information Services.

(d) For each record CEQ discloses in part, we will mark the record clearly to show which portions we are withholding and the FOIA exemptions we

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applied in determining to withhold those portions, unless doing so would harm an interest protected by an applicable FOIA exemption. If technically feasible, we will mark the record to indicate the location of the portions we are withholding.

Subpart C—Appealing a FOIA Request

§ 1515.21 Can I appeal CEQ's response to my request?

(a) Yes. You may appeal CEQ's response if you disagree with any determination that CEQ made in responding to your request, including CEQ's determination to deny your request in whole or in part, CEQ's determination to deny you expedited processing, CEQ's determination of how to conduct the search for records, and fee-related determinations.

(b) CEQ must receive your appeal within 90 calendar days of the date on which CEQ notified you of the relevant determination in writing.

(c) You must make your appeal by email to efoia@ceq.eop.gov. If you are not able to make your appeal by email, please contact CEQ's FOIA Public Liaison for assistance.

(1) Clearly indicate that you are making an appeal, such as by including "Freedom of Information Act Appeal" in the subject line. If your email includes attachments, you also must explain your request in the body of the email, in addition to the attachment.

(2) If you are not able to make your appeal by email, please contact CEQ's FOIA Public Liaison for assistance.

(d) Your appeal must include your request's individualized tracking number and must identify the specific CEQ determinations you are appealing.

(e) If you fail to properly appeal a determination that CEQ made in processing your request, you may lose your right to challenge that determination in Federal court.

§ 1515.22 How will CEQ process my appeal?

(a) CEQ will review the determinations you have appealed and determine if they are consistent with applicable law and policy. CEQ will conduct this review *de novo*, which means that CEQ