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40 CFR Ch. V (7-1-02 Edition)

(c) *Council's response to a request.* (1) Upon receipt of any request under the Act, the Freedom of Information Officer shall direct the request to the appropriate staff member at the Council, who will review the request and advise the Freedom of Information Officer as soon as possible.

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

(3) If your request is denied, in part or in full, the letter notifying you of the decision will be signed by the Freedom of Information Officer, and will include the names of any other individuals who participated in the decision. The letter will include the reasons for any denial and the procedure for filing an appeal.

(d) *Appeals.* (1) If you are not satisfied with the response you have received from the Freedom of Information Officer, you may ask the Council to reconsider the decision. You should explain what material you still wish to receive, and why you believe the Council should disclose this to you. This is called an "appeal." You must make your appeal within 45 days of the date on the letter which denied your request.

(2) You can make an appeal by writing a letter to:

FOIA Appeals Officer, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, DC 20006.

(3) Your letter should specify the records being 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.

(4) The Appeals Officer shall decide the appeal—or "make a final determination"—within 20 working days from the date the Officer receives the appeal. The Appeals Officer (or designee) will send you a letter informing you of the decision as soon as it is made. If the Appeals Officer denies your request, in part or in whole, the letter will also notify you of the provisions for judicial review and the names

of any persons who participated in the final determination of the appeal.

(e) *Extending the Council's time to respond.* In unusual circumstances, the time limits for response to your request (paragraphs (b) and (d) of this section) may be extended by the Council for not more than 10 working days. Extensions may be granted by the Freedom of Information 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. Any extension will be made or confirmed to you in writing and will set forth the reasons for the extension and the date that the final determination is expected. The term "unusual circumstances" means:

(i) The need to search for and collect the requested records from * * * establishments that are separate from the office processing the request;

(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; or

(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 agency having substantial subject-matter interest therein.

(5 U.S.C. 552(a)(6)(B))

AVAILABILITY OF INFORMATION

§ 1515.10 What information is available, and how can it be obtained?

(a) When a request for information has been approved, in whole or in part, you may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Freedom of Information Officer at the address or phone number given in § 1515.3(f). You may be charged reasonable fees for copying materials, as explained by § 1515.15. The Council on Environmental Quality will permit copying of any available material but will reserve the right to limit the number of copies

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made with the Council's copying facilities.

(b) In general, all records of the Council are available to the public, as required by the Freedom of Information Act. The Council claims the right, where it is applicable, to withhold material under the provisions specified in the Freedom of Information Act as amended (5 U.S.C. 552(b)).

(c) The legislative history of the establishment of the Council states that the Congress intended the Council to be a confidential advisor to the President on matters of environmental policy. Therefore, members of the public should presume that communications between the Council and the President (and their staffs) are confidential and ordinarily will not be released; they will usually fall, at a minimum, within Exemption 5 of the Act. The Freedom of Information Officer shall review each request, however, 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 FOIA Officer or Appeals Officer, the Council 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 the Council's participation in decision-making.

COSTS

§ 1515.15 What fees may be charged, and how should they be paid?

(a) Following is the schedule of fees you may be charged for the search and reproduction of information available under the Freedom of Information Act, 5 U.S.C. 552, as amended.

(1) *Search for records.* Five dollars per hour when the search is conducted by a clerical employee. Eight dollars per hour when the search is conducted by a professional employee. There will be no charge for searches of less than one hour.

(2) *Duplication of records.* Records will be duplicated at a rate of \$0.10 per page for copying of 10 pages or more. There will be no charge for duplicating 9 pages or less.

(3) *Other.* When no specific fee has been established for a service, or the request for a service does not fall under categories (1) and (2), the Administrative Officer is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act. Examples of services covered by this provision include searches involving computer time or special travel, transportation, or communication costs.

(b) If the Council anticipates that the fees chargeable under this section will amount to more than \$25, or the maximum amount specified in your request, you shall be promptly notified of the amount of the anticipated fee or the closest estimate of the amount. In such instances you will be advised of your option to consult with Council personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet your needs. A reformulated request shall be considered a new request, thus beginning a new 10 working day period for processing.

(c) Fees must be paid in full prior to issuance of the requested copies. In the event you owe money for previous request, copies of records will not be provided for any subsequent request until the debt has been paid in full.

(d) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the FOI Officer determines that a record which has been requested is exempt under the Freedom of Information Act as amended and is to be withheld.

(e) Payment shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Checks shall be made payable to General Services Administration. You should mail or deliver any payment for services to the Administrative Office, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006.

(f) A receipt for fees paid will be given upon request. Refunds of fees paid for services actually rendered will not be made.

(g) The Council may waive all or part of any fee provided for in this section