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Office Of The Administrator (1105)

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# **Your Responsibilities As EPA Employees Under The Freedom Of Information Act (FOIA)**

## ◎ INTRODUCTION

The Freedom of Information Act (FOIA) was first enacted in 1966; with major amendments in 1974, 1986, and recently 1996, which changed the citation of the Act to the "Electronic Freedom of Information Act Amendments of 1996 (EFOIA)." The purposes of the Act are to (1) foster democracy by ensuring public access to agency records and information; (2) improve public access to agency records and information; (3) ensure agency compliance with statutory time limits; and (4) maximize the usefulness of agency records and information collected, maintained, used, retained, and disseminated by the Federal Government. The FOIA places responsibilities on the Environmental Protection Agency for disclosing information that the public has a "right to know".

Given the Agency's emphasis on open government, it is essential that each EPA employee/contractor is aware of his/her responsibilities under the FOIA. It is the Agency's policy to make the fullest possible disclosure of information without unjustifiable expense or unnecessary delay to any requester. In addition, we should ensure information is accurate, relevant, timely and complete, avoiding unauthorized disclosures either orally or in writing. The Environmental Protection Agency must be responsive to the public's interest in Government to foster public trust.

## ◎ THE FREEDOM OF INFORMATION ACT

The Freedom of Information Act (FOIA), 5 U.S.C. § 552, provides access to all Federal agency records except those which are protected from release by exemptions (reasons an agency may deny access to a requester). The Agency's implementing regulations for the Freedom of Information Act are located at 40 CFR Part 2. The FOIA requires the Government to respond to requests for information within 20-working days after receipt of

the request. The FOIA can be used by anyone, regardless of citizenship, to access government records. The FOIA only applies to the Executive Branch of the Federal government and includes information stored in computers as well as paper files. It does not apply to Congress, the courts, local governments or private organizations.

The public can inspect and copy Public Reading Room records on demand. However, requests for any other Agency records must be submitted in writing under the provisions of the FOIA.

## **○ RESPONSIBILITY**

Your responsibility is to forward all requests for records to the Agency or Regional FOI Officer. If you receive a request for records via telephone, you should (1) transfer the caller to the Agency or Regional FOI Office, or (2) instruct the caller to submit a written request to your Agency or Regional FOI Officer and provide the mailing address or fax number, if known.

If you are a FOIA Contact/Coordinator, it is your responsibility to ensure that a thorough and adequate search is conducted for the responsive records and determine if some or all of the information can be withheld under any of the nine statutory (FOIA) exemptions. Note: President Clinton's "openness initiative" establishes an overall "presumption of disclosure" and calls on agencies to provide discretionary disclosures unless foreseeable harm can be clearly articulated. All records that are responsive to a request should be brought to the attention of the FOIA Contact/Coordinator. This will preclude the Agency from being held responsible for improper withholding by a court.

## ● ACCOUNTABILITY

Administrative, technical, and physical safeguards are required for records, and employees/contractors who handle records must adhere to rules of conduct to protect information from the possibility of unwarranted disclosure or access by unauthorized persons. Agency employees will be held accountable for their decisions with respect to the release or withholding of information, the waiver of payment, and/or the appeal process.

Whenever a court orders the production of EPA records improperly withheld from the complainant and issues a written finding that the circumstances surrounding the withholding raise questions of whether the responsible employees acted arbitrarily or capriciously, the Special Counsel of the Merit Systems Protection Board will promptly initiate a proceeding to determine whether disciplinary action is warranted against the employee primarily responsible for the withholding.

The Whistleblower Protection Act of 1989 also provides that the Special Counsel of the Merit Systems Protection Board will investigate arbitrary and capricious withholding under the FOIA. This provision does not require an administrative or court decision prior to investigation. Sanctions for violation of this provision may include removal, reduction in grade, debarment from Federal employment for a period not to exceed five (5) years, suspension, reprimand, or an assessment of a civil penalty not to exceed \$1,000.

## ● ADDITIONAL INFORMATION

If you need assistance in the handling of a FOIA request, contact your local Regional FOI Office or the Agency FOI Office listed below:

<b>Agency FOI Office, EPA-HQ</b>	<b>(202) 260-4048</b>
<b>Office of General Counsel</b>	<b>(202) 260-5465</b>

### **Regional FOI Offices:**

<b>1</b>	<b>(617) 565-1859</b>
<b>2</b>	<b>(212) 637-3668</b>
<b>3</b>	<b>(215) 814-5553</b>
<b>4</b>	<b>(404) 562-9891</b>
<b>5</b>	<b>(312) 886-6686</b>
<b>6</b>	<b>(214) 665-6597</b>
<b>7</b>	<b>(913) 551-7764</b>
<b>8</b>	<b>(303) 312-6940</b>
<b>9</b>	<b>(415) 744-1593</b>
<b>10</b>	<b>(206) 553-8665</b>

### ***Other References:***

- (1) EPA 1550, Freedom of Information Act Manual**
- (2) Freedom of Information Act Guide & Privacy Act Overview,  
published by US Dept. of Justice, Office of Information &  
Privacy**