



DEPARTMENT OF ENVIRONMENTAL QUALITY  
POLICY AND PROCEDURE

Subject: Disclosure of Public Records:  
Making a Freedom of Information Act Request

Number: 01-006A

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Category:  Internal/Administrative  External/Non-Interpretive  External/Interpretive  
Type:  Policy  Procedure  Policy and Procedure

*A Department of Environmental Quality (DEQ) Policy and Procedure cannot establish regulatory requirements for parties outside of the DEQ. This document provides direction to the public and DEQ staff regarding the implementation of rules and laws administered by the DEQ. It is merely explanatory; does not affect the rights of, or procedures and practices available to, the public; and does not have the force and effect of law. DEQ staff shall follow the directions contained in this document.*

**ISSUE:**

Michigan's [Freedom of Information Act, 1976 PA 442, as amended](#) (FOIA), regulates and prescribes how and when state government must respond to requests for the disclosure of public records. The DEQ, as a public body, is subject to this statute. The DEQ will follow this policy and procedure when processing FOIA requests.

**AUTHORITY:**

Michigan's Freedom of Information Act, 1976 PA 442, as amended.

**DEFINITIONS:**

**“Correspondence”** – Any written communication, regardless of transmission, such as a letter, fax, or e-mail.

**“Fee Appeal”** – An appeal of the total estimated cost or the good faith estimate.

**“FOIA”** – The Freedom of Information Act, 1976 PA 442, as amended.

**“FOIA Coordinator”** – The individual designated by a public body in accordance with Section 6 of Michigan's FOIA (MCL 15.236) to accept and process requests for public records.

**“Central FOIA Liaison”** – Lansing staff within each division/office responsible for the overall coordination of the FOIA request response.

**“Denial Appeal”** – An appeal of a denial or partial denial letter or e-mail issued by the FOIA Coordinator.

**“FOIA Liaison”** – The person who fulfills the FOIA requests.

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**“FOIA Request”** – A written document requesting information, regardless of transmission. The written document must describe a public record sufficiently to enable the public body to find the public record.

**“Public Record”** – Any writing prepared, owned, used, in the possession of, or retained by the DEQ in the performance of its official functions. Records may be in any form, including typewritten, handwritten, e-mail, photocopies, tape recorded, video recorded, maps, pictures, symbols, and any other means of recording or retaining meaningful content. Under the FOIA, a public record does not include computer software.

**“Waiver of Fee”** – The FOIA Coordinator will issue a fee waiver for the first \$20 of the fee for each request to an individual who submits an affidavit stating that the individual receives public assistance, or if not receiving public assistance, stating facts showing the inability to pay.

### POLICY:

The DEQ encourages public participation in, and knowledge of, its decision-making processes. This includes providing public access to DEQ records as required under the FOIA. To ensure accurate and timely responses to FOIA requests, all FOIA requests must be sent to the FOIA Coordinator for processing. The FOIA requests must be sent by U.S. mail or by e-mail .

### PROCEDURES:

Step	Who	Does What
1	FOIA Requester	Submits a written FOIA request to the DEQ FOIA Coordinator:  DEQ FOIA Coordinator P.O. Box 30457 Lansing, Michigan 48909-7957 <a href="mailto:DEQFOIA@michigan.gov">DEQFOIA@michigan.gov</a>
2	FOIA Requester	May receive an “Insufficient Information Denial” letter or e-mail because the DEQ cannot search for records based on the description provided. Must submit new FOIA request containing additional information, i.e., facility name, street address, city, county, section, town, range, etc.
3	FOIA Requester	Receives notification confirming receipt of the FOIA request. The notification shall contain a FOIA tracking number, division(s)/office(s) that will respond, and a due date for the response.
4	FOIA Requester	May receive a “Records Don’t Exist” denial letter or e-mail because the DEQ has no records.

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Step	Who	Does What
5	FOIA Liaisons	<p>Contact FOIA requester to schedule on-site file review of records.</p> <p>File reviews will be scheduled at the Lansing Central Office, located in Constitution Hall, and/or the district/field office. Records will not be shipped between locations.</p>
6	FOIA Requester	<p>May cancel FOIA request at any time. To cancel, the FOIA Requestor must send an e-mail to <a href="mailto:DEQFOIA@michigan.gov">DEQFOIA@michigan.gov</a>, requesting the request be cancelled, and provide the FOIA tracking number and reason for cancellation.</p>
7	FOIA Requester	<p>Receives an e-mail from Central FOIA Liaison with the estimated total cost to fulfill request.</p> <p>Must respond to e-mail indicating estimated total cost is approved.</p> <p><b>OR</b></p> <p>Receive e-mail from Central FOIA Liaison indicating the estimated total cost requires a good faith deposit.</p> <p>Must respond to e-mail indicating good faith deposit is approved.</p>

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Step	Who	Does What
8	FOIA Requester	<p>May appeal the total estimated cost or the good faith estimate.</p> <p>Appeal this decision in writing to the Chief of the Administration Division, Department of Environmental Quality, P.O. Box 30473, Lansing, Michigan 48909-7973. The writing must specifically state "fee appeal" and must identify how the estimated fee exceeds the amount permitted under the FOIA. The Chief of the Administration Division must respond to the fee appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to your fee appeal may be extended by 10 business days.</p> <p>If an action is commenced against the DEQ, the DEQ will not complete the processing of the FOIA request until the fee appeal has been resolved.</p> <p><b>OR</b></p> <p>Commence a civil action in the circuit court within 45 days after receiving the notice of the required fee. If an action is commenced against the DEQ, the DEQ will not complete the processing of the FOIA request until the court resolves the fee dispute.</p>
9	FOIA Requester	<p>An action <u>shall not</u> be filed under this subdivision unless one of the following applies:</p> <ol style="list-style-type: none"> <li>a. The head of the public body failed to respond to a written appeal; and/or</li> <li>b. The head of the public body issued a determination to a written appeal.</li> </ol>
10A	Chief, Administration Division	<p>Within 10 business days after receiving a "fee appeal", shall (a) waive the fee; (b) reduce the fee and indicate the specific basis that supports the remaining fee; (c) uphold the fee and indicate the specific basis that supports the fee; (d) issue a notice extending the period to respond for not more than 10 business days, including why the extension is necessary.</p>
11A	FOIA Requester	<p>Receives invoice from Central FOIA Liaison. May receive more than one invoice from the DEQ.</p>
12A	FOIA Liaisons	<p>Sends records in the most economical manner within 10 business days after receipt of notification of final payment.</p>

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13A	FOIA Requester	May receive one of the following denials: <ol style="list-style-type: none"> <li>a. Records do not exist.</li> <li>b. All records are exempt.</li> <li>c. Records do not exist for some sites.</li> <li>d. Some documents or portions of documents are exempt.</li> </ol>
14	FOIA Requester	May appeal the denials by either of the following: <p>Writing to the Director of the Department of Environmental Quality, P.O. Box 30473, Lansing, Michigan 48909-7973. The writing must specifically state the word "appeal," and must identify the reason or reasons you believe the denial should be reversed. The Director of the DEQ, or his designee, must respond to the appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to the appeal may be extended by 10 business days.</p> <p><b>OR</b></p> <p>Commence a civil action in the circuit court within 180 days after the date of the final determination to deny the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, and disbursements, and possible damages.</p>
15	FOIA Coordinator	Shall retain the "official copy" of all FOIA requests on file for no less than one year.

**APPENDICES:**

[DEQ FOIA Web site](#)

[DEQ Office Locations](#)

[DEQ FOIA Liaisons](#)

[DEQ FOIA costs](#)

Approved: \_\_\_\_\_  
Dan Wyant, Director