



DEPARTMENT OF ENVIRONMENTAL QUALITY

RESCISSION OF DEPARTMENT POLICY AND PROCEDURE

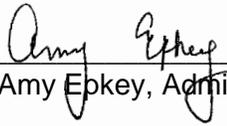
Subject: Disclosure of Public Records: Making a Freedom of
Information Act (FOIA) Request

Number: 01-006A

Rescinded Date: October 4, 2017

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DEQ Policy and Procedure No. 01-006A, Disclosure of Public Records: Making a Freedom of Information Act (FOIA) Request, dated June 7, 2016, is rescinded. The substance of Policy and Procedure No. 01-006A was added on the DEQ FOIA website, which makes Policy and Procedure No. 01-006A unnecessary.

Approved: 
Amy Epkey, Administration Deputy Director



DEPARTMENT OF ENVIRONMENTAL QUALITY
POLICY AND PROCEDURE

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

Number: 01-006A

Original Effective Date: July 1, 2015
Revised Date: June 7, 2016
Reformatted Date:

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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:

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

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

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

"Fee Appeal" – An appeal of the total estimated cost or the Good Faith estimate.

"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.

"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.

“FOIA Requester” – The person who submits a written request for information to the DEQ.

“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. Although a majority of the FOIA requests received by the DEQ pertain to records that may be considered as primarily benefitting the general public, the DEQ does not waive, reduce, or exempt the fee solely on the basis of benefit to the public. The DEQ must utilize our monies and resources, entrusted to us by the taxpayers, in the most efficient manner possible to carry out our mission.

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.

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 DEQFOIA@michigan.gov Additional information is located on the Web site below: www.michigan.gov/deqfoia . |
| 2 | 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. If appropriate, will indicate if a request for waiver of fees is approved or denied. |

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| Step | Who | Does What |
|------|----------------|---|
| 3 | 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, township, range, etc. |
| 4 | FOIA Requester | May cancel FOIA request at any time. To cancel, send an e-mail to DEQFOIA@michigan.gov , requesting the FOIA request be cancelled and must provide the FOIA tracking number. |
| 5 | FOIA Requester | May receive a "Records Don't Exist" denial letter or e-mail because the DEQ has no records. |
| 6 | FOIA Liaisons | If records exist and the estimated total cost is less than the minimum charge established by the division/office, sends records to requester in the most efficient and economical manner. It is expected that most of the responses will be sent in less than 10 business days. Notifies Central FOIA Liaison as appropriate. |
| 7 | FOIA Liaisons | Contact FOIA requester to schedule on-site file review of records if FOIA requester elects to review record(s) in person. 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. |
| 8 | FOIA Requester | Receives an e-mail from each division/office Central FOIA Liaison with the estimated total cost to fulfill request. Must respond to e-mail indicating whether estimated total cost is approved. OR Receives e-mail from each division/office Central FOIA Liaison indicating the estimated total cost requires a Good Faith Deposit. Must respond to e-mail indicating whether Good Faith Deposit is approved. |

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| Step | Who | Does What |
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| 9 | FOIA Requester | <p>May appeal the total estimated cost or the Good Faith Deposit estimate.</p> <p>Appeal this decision in writing to the Chief of the Office of Environmental Assistance, Department of Environmental Quality, P.O. Box 30457, Lansing, Michigan 48909-7957. The writing must specifically state "fee appeal" and identify how the fee exceeds the amount permitted under the FOIA. The Chief of the Office of Environmental Assistance must respond to the fee appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to the 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> |
| 10 | Chief, Office of Environmental Assistance | <p>Within 10 business days after receiving a "fee appeal," shall:</p> <ol style="list-style-type: none"> 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; or d. Issue a notice extending for not more than 10 business days the period to respond, including why the extension is necessary. |
| 11 | FOIA Requester | <p>As the FOIA requester approves each cost estimate, receives invoice from each respective division/office Central FOIA Liaison. May receive more than one invoice from the DEQ.</p> |
| 12 | FOIA Liaisons | <p>Upon receipt of notification from the cashier's office of final payment for a FOIA invoice, sends records within 10 business days in the most economical manner.</p> |
| 13 | FOIA Requester | <p>May receive one of the following denials:</p> <ol style="list-style-type: none"> a. Records do not exist. b. All records are exempt. c. Records do not exist for some sites. d. Some documents or portions of documents are exempt. |

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| 14 | FOIA Requester | <p>May appeal the denials by either of the following:</p> <p>Writing to the Chief of the Office of Environmental Assistance, Department of Environmental Quality, P.O. Box 30457, Lansing, Michigan 48909-7957. The writing must specifically state the word "appeal" and identify the basis for which the disclosure determination should be reversed. The Chief of the Office of Environmental Assistance, or his/her delegated 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>OR</p> <p>Commence a civil action in circuit court within 180 days after the date of the final determination to deny the request. If the FOIA requester prevails in such an action, the court is to award reasonable attorney fees, costs and disbursements, and possible damages.</p> |
| 15 | FOIA Coordinator and FOIA Liaisons | Shall retain the "official copy" of all FOIA requests on file for no less than one year. |

LINKS TO ADDITIONAL INFORMATION:

[DEQ FOIA Web site](#)

[DEQ Office Locations](#)

[DEQ FOIA Liaisons](#)

[DEQ FOIA costs](#)

Approved: _____



Keith Creagh, Director