

(B) Obtain the laboratory analysis for each selected batch.

(C) Determine whether the importer analyzed the test sample for each selected batch, and report as a finding any batch where the importer failed to perform the analysis using the methods specified in subpart N of this part.

(D) Obtain and review any terminal test results corresponding to the time of collecting the quality assurance test samples.

(E) Compare the terminal test results to the test results from the quality assurance program. Report as a finding any test result with a difference that is greater than the reproducibility of the applicable method specified in subpart N of this part.

[85 FR 78469, Dec. 4, 2020, as amended at 90 FR 4368, Jan. 15, 2025]

§ 1090.1820 Additional procedures for GTAB.

In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer that imports GTAB under § 1090.1615.

(a) *Listing of GTAB imports.* An auditor must review a listing of GTAB imports as follows:

(1) Obtain a detailed listing of GTAB imports from the importer.

(2) Foot the import volumes from the importer.

(3) Obtain a detailed listing of GTAB imports directly from the third-party customs broker.

(4) Foot the import volumes from the third-party customs broker.

(5) Compare the total volume from the listing of imports supplied by the importer to the listing of imports supplied by the third-party customs broker and report any variances.

(6) Report the total imported volume of GTAB and the corresponding facilities at which the GTAB was blended.

(b) *Listing of GTAB batches.* An auditor must review a listing of GTAB batches as follows:

(1) Obtain the GTAB batch reports submitted by the importer under subpart J of this part.

(2) Foot the batch volumes.

(3) Compare the total volume from the batch reports to the listing of im-

ports supplied by the importer under paragraph (a) of this section and report any variances.

(c) *Detailed testing of GTAB imports.* An auditor must review a detailed listing of GTAB imports as follows:

(1) Select a representative sample of GTAB imports from the listing of imports supplied by the importer under paragraph (a) of this section.

(2) Obtain the associated U.S. Customs Entry Summary for each selected import.

(3) Using a unique identifier, confirm that the correct U.S. Customs Entry Summaries are obtained for the selected imports.

(4) Compare the volume and location the import arrived in the United States on the listing for each selected import to the associated U.S. Customs Entry Summary and report any exceptions.

(d) *Detailed testing of GTAB batches.* An auditor must review a detailed listing of GTAB batches as follows:

(1) Select a representative sample of GTAB batches from the batch reports obtained under paragraph (b) of this section.

(2) Obtain the volume inspection report for each selected batch.

(3) Compare the reported volume for each selected batch to the volume inspection report and report any exceptions.

(e) *GTAB tracing.* An auditor must trace and review the movement of GTAB from importation to gasoline production as follows:

(1) Compare the total volume from the batch reports obtained under paragraph (b) of this section to the inventory reconciliation analysis obtained under § 1090.1810(b).

(2)(i) Obtain tank activity records that describe the movement of each selected batch under paragraph (d) of this section from importation to gasoline production.

(ii) Identify each selected batch in the tank activity records and trace each selected batch to subsequent reported batches of BOB or finished gasoline and report any exceptions.

(iii) Match the location of the facility where gasoline was produced from each selected batch to the location where each selected batch arrived in

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the United States, or to the facility directly receiving the selected batch from the import facility.

(iv) Determine the status of the tank(s) before receiving each selected batch (*e.g.*, empty tank, tank containing blendstock, tank containing GTAB, tank containing PCG).

(v) If the tank(s) contained PCG before receiving the selected batch, take the following additional steps:

(A) Obtain and review a copy of the documented tank mixing procedures.

(B) Determine the volume and properties of the tank bottom that was PCG before adding GTAB.

(C) Confirm that the gasoline manufacturer determined the volume and properties of the BOB or finished gasoline produced using GTAB by excluding the volume and properties of any PCG, and that the gasoline manufacturer separately reported the PCG volume and properties under subpart J of this part and report any discrepancies.

[85 FR 78469, Dec. 4, 2020, as amended at 90 FR 4370, Jan. 15, 2025]

§ 1090.1825 Additional procedures for PCG used to produce gasoline.

In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer that produces gasoline from PCG under § 1090.1320.

(a) *Listing of PCG batches.* An auditor must review a listing of PCG batches as follows:

(1) Obtain the PCG batch reports submitted by the gasoline manufacturer under subpart J of this part.

(2) Foot the batch volumes.

(3) Compare the total volume from the batch reports to the inventory reconciliation analysis obtained under § 1090.1810(b) and report any variances.

(b) *Detailed testing of PCG batches.* An auditor must review a detailed listing of PCG batches as follows:

(1) Select a representative sample of PCG batches from the batch reports obtained under paragraph (a) of this section.

(2) Obtain the volume documentation, laboratory analysis, associated PTD, and tank activity records for each selected batch.

(3) Identify each selected batch in the tank activity records and trace each selected batch to subsequent reported batches of BOB or finished gasoline and report any exceptions.

(4) For each selected batch, report as a finding any instance where the reported volume was adjusted from the original receipt volume, such as for exported PCG.

(5) Compare the reported volume for each selected batch to the volume documentation and report any exceptions.

(6) Compare the reported gasoline type for each selected batch to the associated PTD and report any exceptions.

(7) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(8) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

[85 FR 78469, Dec. 4, 2020, as amended at 90 FR 4370, Jan. 15, 2025]

§ 1090.1830 Alternative procedures for certified butane blenders.

An auditor must perform the procedures specified in this section instead of or in addition to the applicable procedures in § 1090.1810 for a certified butane blender that blends certified butane into PCG under § 1090.1320(b).

(a) *Registration and reports.* An auditor must review registration and reports as follows:

(1) Obtain copies of the certified butane blender's registration information submitted under subpart I of this part and all reports submitted by the certified butane blender under subpart J of this part, including the batch reports for the certified butane received and blended.

(2) For each butane blending facility, confirm that the facility's registration is accurate based on the activities reported during the compliance period, including that the registration for the facility and any related updates were completed prior to conducting regulated activities at the facility and report any discrepancies.

(3) Confirm that the certified butane blender submitted all reports required

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under subpart J of this part for activities they performed during the compliance period and report any exceptions.

(4) Obtain a written statement from the certified butane blender's RCO that the submitted reports are complete and accurate.

(5) Report the name of any commercial computer program used to track any data required under this part.

(b) *Inventory reconciliation analysis.* An auditor must review an inventory reconciliation analysis as follows:

(1) Obtain an inventory reconciliation analysis from the certified butane blender for each butane blending facility related to all certified butane movements, including the inventory at the beginning and end of the compliance period, receipts, blending/production volumes, shipments, transfers, and gain/loss.

(2) Foot and cross-foot the volumes.

(3) Compare the beginning and ending inventory to the certified butane blender's inventory records and report any variances.

(4) Compare the total volume of certified butane received from the inventory reconciliation analysis to the batch reports obtained under paragraph (a) of this section and report any variances.

(5) Compare the total volume of certified butane blended from the inventory reconciliation analysis to the batch reports obtained under paragraph (a) of this section and report any variances.

(6) Report the total volume of certified butane received and blended.

(c) *Listing of certified butane receipts.* An auditor must review a listing of certified butane receipts as follows:

(1) Obtain a detailed listing of certified butane receipts for certified butane received at each butane blending facility from the certified butane blender.

(2) Foot the receipt volumes.

(3) Compare the total volume from the receipts to the batch reports obtained under paragraph (a) of this section and report any variances.

(d) *Detailed testing of certified butane batches.* An auditor must review a detailed listing of certified butane batches as follows:

(1) Select a representative sample of certified butane batches from the batch reports obtained under paragraph (a) of this section.

(2) Obtain the volume documentation and laboratory analysis for each selected batch.

(3) Compare the reported volume for each selected batch to the volume documentation and report any exceptions.

(4) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(5) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

(6) Report as a finding any batch with a reported value that does not meet a standard for certified butane in subpart C of this part.

(e) *Quality assurance program review.* An auditor must review a certified butane blender's quality assurance program as follows:

(1) Obtain a detailed listing of the certified butane blender's quality assurance program sampling and testing results.

(2) Determine whether the frequency of sampling and testing meets the requirements in §1090.1320(b)(4) and report any discrepancies.

[85 FR 78469, Dec. 4, 2020, as amended at 88 FR 44593, July 12, 2023; 90 FR 4370, Jan. 15, 2025]

§ 1090.1835 Alternative procedures for certified pentane blenders.

(a) An auditor must perform the procedures specified in this section instead of or in addition to the applicable procedures in §1090.1810 for a certified pentane blender that blends certified pentane into PCG under §1090.1320(b).

(b) An auditor must apply the procedures in §1090.1830 by substituting "pentane" for "butane" in all cases.

[85 FR 78469, Dec. 4, 2020, as amended at 90 FR 4371, Jan. 15, 2025]

§ 1090.1840 Additional procedures related to compliance with gasoline average standards.

In addition to any other procedure required under this subpart, an auditor must perform the procedures specified

in this section for a gasoline manufacturer that complies with the standards in subpart C of this part using the procedures specified in subpart H of this part.

(a) *Annual compliance demonstration review.* An auditor must review annual compliance demonstrations as follows:

(1) Obtain the annual compliance reports for sulfur and benzene and associated batch reports submitted by the gasoline manufacturer under subpart J of this part.

(2)(i) For a gasoline refiner or gasoline blending manufacturer, compare the total volume of gasoline produced at each facility from the annual compliance report to the inventory reconciliation analysis obtained under § 1090.1810(b) and report any variances.

(ii) For a gasoline importer, compare the total volume of gasoline imported from the annual compliance report to the listing of imports supplied by the importer under § 1090.1815(b) and report any variances.

(3) For each facility, recalculate and report the following values:

(i) Compliance sulfur value, per § 1090.700(a)(1), and compliance benzene value, per § 1090.700(b)(1)(i).

(ii) Unadjusted average sulfur concentration, per § 1090.745(b), and average benzene concentration, per § 1090.700(b)(3).

(iii) Number of credits generated during the compliance period, or number of banked or traded credits needed to meet standards for the compliance period.

(iv) Number of credits from the preceding compliance period that are expired or otherwise no longer available for the compliance period being reviewed.

(v) Net average sulfur concentration, per § 1090.745(c), and net average benzene concentration, per § 1090.745(d).

(4) Compare the recalculated values under paragraph (a)(3) of this section to the reported values in the annual compliance reports and report any exceptions.

(5) Report whether the gasoline manufacturer had a deficit for both the compliance period being reviewed and the preceding compliance period.

(b) *Credit transaction review.* An auditor must review credit transactions as follows:

(1) Obtain the credit transaction reports submitted by the gasoline manufacturer under subpart J of this part and contracts or other information that documents all credit transfers. Also obtain records that support intracompany transfers.

(2) For each reported transaction, compare the supporting documentation with the credit transaction reports for the following elements and report any exceptions:

(i) Compliance period of creation.

(ii) Credit type (*i.e.*, sulfur or benzene) and number of times traded.

(iii) Quantity.

(iv) The name of the other company participating in the credit transfer.

(v) Transaction type.

(c) *Facility-level credit reconciliation.* Except as specified in paragraph (c)(4) of this section, an auditor must perform a facility-level credit reconciliation separately for each gasoline manufacturing facility as follows:

(1) Obtain the credits remaining or the credit deficit from the previous compliance period from the credit transaction reports obtained under paragraph (b) of this section.

(2) Calculate and report as a finding the net credits remaining at the end of the compliance period.

(3) Compare the ending balance of credits or credit deficit recalculated under paragraph (c)(2) of this section to the corresponding value from the annual compliance report obtained under paragraph (a) of this section and report any variances.

(4) For an importer, the procedures of this paragraph (c) apply at the company level.

(d) *Company-level credit reconciliation.* An auditor must perform a company-level credit reconciliation as follows:

(1) Obtain a credit reconciliation listing company-wide credits aggregated by facility for the compliance period.

(2) Foot and cross-foot the credit quantities.

(3) Compare and report the beginning balance of credits, the ending balance of credits, the associated credit activity at the company level in accordance with the credit reconciliation listing,

and the corresponding credit balances and activity submitted by the gasoline manufacturer under subpart J of this part.

(e) *Procedures for gasoline manufacturers that recertify BOB.* An auditor must perform the following procedures for a gasoline manufacturer that recertifies BOB under §1090.740 and incurs a deficit:

(1) Perform the procedures specified in §1090.1810(a) to review the gasoline manufacturer's registration and reports.

(2)(i) Obtain the recertified BOB batch reports submitted by the gasoline manufacturer under subpart J of this part.

(ii) Select a representative sample of recertified BOB batches from the batch reports.

(iii) Obtain supporting documentation (e.g., PTDs, bills of lading, etc.) for each selected batch.

(iv) Compare the information on the batch reports to the supporting documentation and report any exceptions.

(v) Recalculate the deficits in accordance with the provisions of §1090.740 and report any discrepancies.

(vi) Confirm that the deficits are included in the annual compliance report and report any exceptions.

[85 FR 78469, Dec. 4, 2020, as amended at 90 FR 4371, Jan. 15, 2025]

§ 1090.1845 Procedures related to meeting performance-based measurement and statistical quality control for test methods.

(a) *General provisions.* (1) In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer.

(2) The auditor performing the procedures in this section must meet the laboratory experience requirements specified in §1090.55(b)(2).

(3) In cases where the auditor employs, contracts, or subcontracts an external specialist, all the requirements in §1090.55 apply to the external specialist. The auditor is responsible for overseeing the work of the specialist, consistent with applicable professional standards specified in §1090.1800.

(4) In the case of quality control testing at a third-party laboratory, the

auditor may perform a single attestation engagement on the third-party laboratory for multiple gasoline manufacturers if the auditor directly reviewed the information from the third-party laboratory. The third-party laboratory may also arrange for the auditor to perform a single attestation engagement on the third-party laboratory and make that available to gasoline manufacturers that have testing performed by the third-party laboratory.

(b) *Non-referee method qualification review.* For each test method used to measure a gasoline parameter as specified in a report submitted under subpart J of this part that is not one of the referee procedures listed in §1090.1360(d), the auditor must review the following:

(1) Obtain supporting documentation showing that the laboratory has qualified the alternative test method by meeting the precision and accuracy criteria specified under §1090.1365.

(2) Report a list of the alternative test methods used.

(3) Confirm that the gasoline manufacturer supplied the supporting documentation for each alternative test method and report any exceptions.

(4) If the auditor has previously reviewed supporting documentation under this paragraph (b) for an alternative test method at the laboratory, the auditor does not have to review the supporting documentation again.

(c) *Reference installation review.* For each reference installation used by the gasoline manufacturer during the compliance period, the auditor must review the following:

(1) Obtain supporting documentation demonstrating that the reference installation followed the qualification procedures specified in §1090.1370(c)(1) and (2) and the quality control procedures specified in §1090.1370(c)(3).

(2) Confirm that the laboratory completed the qualification procedures and report any exceptions.

(d) *Instrument control review.* For each test instrument used to measure gasoline parameters for batches selected as part of a representative sample under §1090.1810, the auditor must review whether test instruments were in control as follows:

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(1) Obtain a listing from the laboratory of the instruments and period when the instruments were used to measure gasoline parameters during the compliance period for batches selected as part of the representative sample under § 1090.1810.

(2) Obtain statistical quality assurance data and control charts demonstrating ongoing quality testing to meet the accuracy and precision requirements specified in § 1090.1375 or 40 CFR 80.47, as applicable.

(3) Confirm that the laboratory performed statistical quality assurance monitoring of its instruments under § 1090.1375 and report any exceptions.

(4) Report as a finding any test result that was excluded for being out of control and the laboratory did not have an assignable cause with appropriate supporting justification.

(5) Report as a finding the listing of instruments obtained under paragraph (d)(1) of this section and the compliance period when the instrument control review was completed.

[85 FR 78469, Dec. 4, 2020, as amended at 90 FR 4372, Jan. 15, 2025]

§ 1090.1850 Procedures related to in-line blending waivers.

In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer that relies on an in-line blending waiver under § 1090.1315.

(a)(1) Obtain a copy of the gasoline manufacturer's in-line blending waiver submission and EPA's approval letter.

(2) Confirm that the sampling procedures and composite calculations conform to the specifications in § 1090.1315(a)(2).

(3) Review the gasoline manufacturer's procedure for defining a batch for compliance purposes. Review available test data demonstrating that the test results from in-line blending correctly characterize the fuel parameters for the designated batch.

(4) Confirm that the gasoline manufacturer corrected their operations because of previous audits, if applicable.

(5) Confirm that the equipment and procedures have not materially changed from the gasoline manufacturer's in-line blending waiver. In cases of material change in equipment or procedure, confirm that the gasoline manufacturer updated their in-line blending waiver and report any exceptions.

(6) Perform any additional procedures unique to the blending operation, as specified in the in-line blending waiver, and report any findings, variances, or exceptions, as applicable.

(7) Confirm that the gasoline manufacturer has complied with all provisions related to their in-line blending waiver and report any exceptions.

(b)(1) Obtain test data, including head, middle, and tail results, for each batch produced under the gasoline manufacturer's in-line blending waiver.

(2) Review the alternative sampling plan to meet requirements to test head, middle, and tail samples for small batches under § 1090.1315(a)(9).

(3) Report as a finding any instance where only a single sample was taken for a small batch involving more than 8 hours of blending or more than 1 million gallons of fuel.

(4) Report as a finding any instance where two samples were unevenly distributed for a small batch or where only two samples were taken for a small batch involving more than 16 hours of blending or up to 2 million gallons of fuel.

(5) Determine and report the percentage of in-line blending batches where the gasoline manufacturer failed to perform the required head, middle, and tail samples due to unforeseen circumstances. Report as a finding if this percentage is greater than 10 percent of in-line blending batches for the calendar year.

(6) Determine and report each instance where a contingency plan for alternative sampling was utilized under § 1090.1315(a)(12).

[85 FR 78469, Dec. 4, 2020, as amended at 90 FR 4372, Jan. 15, 2025]

PARTS 1091–1099 [RESERVED]

CHAPTER IV—ENVIRONMENTAL PROTECTION AGENCY AND DEPARTMENT OF JUSTICE

SUBCHAPTER A—ACCIDENTAL RELEASE PREVENTION REQUIREMENTS;
RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT SECTION
112(r)(7); DISTRIBUTION OF OFF-SITE CONSEQUENCE ANALYSIS INFOR-
MATION

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SUBCHAPTER A—ACCIDENTAL RELEASE PREVENTION REQUIREMENTS; RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT SECTION 112(r)(7); DISTRIBUTION OF OFF-SITE CONSEQUENCE ANALYSIS INFORMATION

PART 1400—DISTRIBUTION OF OFF-SITE CONSEQUENCE ANALYSIS INFORMATION

Subpart A—General

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AUTHORITY: 42 U.S.C. 7412(r)(7)(H)(ii).

SOURCE: 65 FR 48131, Aug. 4, 2000, unless otherwise noted.

Subpart A—General

§ 1400.1 Purpose.

Stationary sources subject to the Chemical Accident Prevention Provisions of 40 CFR part 68 are required to analyze the potential harm to public health and welfare of hypothetical chemical accidents and submit the results of their analyses to the U.S. Environmental Protection Agency as part of risk management plans. This part governs access by the public and by

government officials to the portions of risk management plans containing the results of those analyses and certain related materials. This part also restricts dissemination of that information by government officials.

§ 1400.2 Definitions.

For the purposes of this part:

(a) *Accidental release* means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(b) *Administrator* means the Administrator of the U.S. Environmental Protection Agency or his or her designated representative.

(c) *Attorney General* means the Attorney General of the United States or his or her designated representative.

(d) *Federal government official* means—

(1) An officer or employee of the United States; and

(2) An officer or employee of an agent or contractor of the Federal government.

(e) *State or local government official* means—

(1) An officer or employee of a State or local government;

(2) An officer or employee of an agent or contractor of a State or local government;

(3) An individual affiliated with an entity that has been given, by a state or local government, responsibility for preventing, planning for, or responding to accidental releases, such as a member of a Local Emergency Planning Committee (LEPC) or a State Emergency Response Commission (SERC), or a paid or volunteer member of a fire or police department; or

(4) An officer or employee or an agent or contractor of an entity described in paragraph (e)(3) of this section.

(f) *LEPC* means a Local Emergency Planning Committee created under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001 *et seq.*

(g) *Member of the public or person* means an individual.

(h) *Official use* means an action of a Federal, State, or local government agency or an entity described in paragraph (e)(3) of this section intended to carry out a function relevant to preventing, planning for, or responding to accidental releases.

(i) *Off-site consequence analysis (OCA) information* means sections 2 through 5 of a risk management plan (consisting of an evaluation of one or more worst-case release scenarios or alternative release scenarios) for an identified facility and any electronic database created by the Administrator from those sections.

(j) *Off-site consequence analysis (OCA) data elements* means the results of the off-site consequence analysis conducted by a stationary source pursuant to 40 CFR part 68, subpart B, when presented in a format different than sections 2 through 5 of a risk management plan or any Administrator-created electronic database.

(k) *Off-site consequence analysis (OCA) rankings* means any statewide or national rankings of identified stationary sources derived from OCA information.

(l) *Qualified researcher* means a researcher who receives OCA information pursuant to 42 U.S.C. 7412(r)(7)(H)(vii).

(m) *Related local government agencies* means local government agencies, such as police, fire, emergency management, and planning departments, that are involved in chemical emergency planning, prevention, or response.

(n) *Related state government agencies* means State government agencies, such as emergency management, environmental protection, health, and natural resources departments, that are involved in chemical emergency planning, prevention, or response.

(o) *Risk management plan (RMP)* means a risk management plan submitted to the Administrator by an owner or operator of a stationary source pursuant to 40 CFR part 68, subpart G.

(p) *SERC* means a State Emergency Response Commission created under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001 *et seq.*

(q) *State* has the same meaning as provided in 42 U.S.C. 7602(d) (a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

(r) *Stationary source* has the same meaning as provided in 40 CFR part 68 subpart A, § 68.3.

(s) *Vulnerable zone* means the geographical area that could be affected by a worst-case or alternative scenario release from a stationary source, as indicated by the off-site consequence analysis reported by the stationary source in its risk management plan pursuant to the applicable requirements of 40 CFR Part 68. It is defined as a circle, the center of which is the stationary source and the radius of which is the “distance-to-endpoint,” or the distance a toxic or flammable cloud, overpressure, or radiant heat would travel after being released and before dissipating to the point that it no longer threatens serious short-term harm to people or the environment.

Subpart B—Public Access

§ 1400.3 Public access to paper copies of off-site consequence analysis information.

(a) *General.* The Administrator and the Attorney General shall ensure that any member of the public has access to a paper copy of OCA information in the manner prescribed by this section.

(b) *Reading-room access.* Paper copies of OCA information shall be available in at least 50 reading rooms geographically distributed across the United States and its territories. The reading rooms shall allow any person to read, but not remove or mechanically reproduce, a paper copy of OCA information, in accordance with paragraphs (c) through (g) of this section and procedures established by the Administrator and Attorney General.

(c) *Limited number.* Any person shall be provided with access to a paper copy of the OCA information for up to 10 stationary sources located anywhere in the country, without geographical restriction, in a calendar month.

(d) *Additional access.* Any person also shall be provided with access to a paper

copy of the OCA information for stationary sources located in the jurisdiction of the LEPC where the person lives or works and for any other stationary source that has a vulnerable zone that extends into that LEPC's jurisdiction.

(e) *Personal identification for access to OCA information without geographical restriction.* Reading rooms established under this section shall provide a person with access to a paper copy of OCA information under paragraph (c) of this section only after a reading room representative has

(1) Ascertained the person's identity by viewing photo identification issued by a Federal, State, or local government agency to the person; and

(2) Obtained the person's signature on a sign-in sheet and a certification that the person has not received access to OCA information for more than 10 stationary sources for that calendar month.

(f) *Personal identification for access to local OCA information.* Reading rooms established under this section shall provide a person with access to a paper copy of OCA information under paragraph (d) of this section only after a reading room representative has

(1) Ascertained where the person lives or works by viewing appropriate documentation; and

(2) Obtained the person's signature on a sign-in sheet.

(g) *Record keeping.* Reading room personnel shall keep records of reading room use and certifications in accordance with procedures established by the Administrator and the Attorney General. These records shall be retained for no more than three years. Federal reading rooms will not index or otherwise manipulate the sign-in sheets according to individuals' names, except in accordance with the Privacy Act.

§ 1400.4 Vulnerable zone indicator system.

(a) *In general.* The Administrator shall provide access to a computer-based indicator that shall inform any person located in any state whether an address specified by that person might be within the vulnerable zone of one or more stationary sources, according to

the data reported in RMPs. The indicator also shall provide information about how to obtain further information.

(b) *Methods of access.* The indicator shall be available on the Internet or by request made by telephone or by mail to the Administrator to operate the indicator for an address specified by the requestor. SERCs, LEPCs, and other related state or local government agencies are authorized and encouraged to operate the indicator as well.

§ 1400.5 Internet access to certain off-site consequence analysis data elements.

The Administrator shall include only the following OCA data elements in the risk management plan database available on the Internet:

(a) The concentration of the chemical (RMP Sections 2.1.b; 3.1.b);

(b) The physical state of the chemical (RMP Sections 2.2; 3.2);

(c) The statistical model used (RMP Sections 2.3; 3.3; 4.2; 5.2);

(d) The endpoint used for flammables in the worst-case scenario (RMP Section 4.5);

(e) The duration of the chemical release for the worst-case scenario (RMP Section 2.7);

(f) The wind speed during the chemical release (RMP Sections 2.8; 3.8);

(g) The atmospheric stability (RMP Sections 2.9; 3.9);

(h) The topography of the surrounding area (RMP Sections 2.10; 3.10);

(i) The passive mitigation systems considered (RMP Sections 2.15; 3.15; 4.10; 5.10); and

(j) The active mitigation systems considered (RMP Sections 3.16; 5.11).

§ 1400.6 Enhanced local access.

(a) *OCA data elements.* Consistent with 42 U.S.C. 7412(r)(7)(H)(xii)(II), members of LEPCs and SERCs, and any other State or local government official, may convey to the public OCA data elements orally or in writing, as long as the data elements are not conveyed in the format of sections 2 through 5 of an RMP or any electronic database developed by the Administrator from those sections. Disseminating OCA data elements to the public

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in a manner consistent with this provision does not violate 42 U.S.C. 7412(r)(7)(H)(v) and is not punishable under federal law.

(b) *OCA information.* (1) LEPCs and related local government agencies are authorized and encouraged to allow any member of the public to read, but not remove or mechanically copy, a paper copy of the OCA sections of RMPs (i.e., sections 2 through 5) for stationary sources located within the jurisdiction of the LEPC and for any other stationary source that has a vulnerable zone that extends into that jurisdiction.

(2) LEPCs and related local government agencies that provide read-only access to the OCA sections of RMPs under this paragraph (b) are not required to limit the number of stationary sources for which a person can gain access, ascertain a person's identity or place of residence or work, or keep records of public access provided.

(3) SERCs and related state government agencies are authorized and encouraged to allow any person to read, but not remove or mechanically copy, a paper copy of the OCA sections of RMPs for the same stationary sources that the LEPC in whose jurisdiction the person lives or works would be authorized to make available to that person under paragraph (b)(1) of this section.

(4) Any LEPC, SERC, or related local or State government agency that allows a person to read the OCA sections of RMPs in a manner consistent with this paragraph (b) shall not be in violation of 42 U.S.C. 7412(r)(7)(H)(v) or any other provision of federal law.

Subpart C—Access to Off-Site Consequence Analysis Information by Government Officials.

§ 1400.7 In general.

The Administrator shall provide OCA information to government officials as provided in this subpart. Any OCA information provided to government officials shall be accompanied by a copy of the notice prescribed by 42 U.S.C. 7412(r)(7)(H)(vi).

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§ 1400.8 Access to off-site consequence analysis information by Federal government officials.

The Administrator shall provide any Federal government official with the OCA information requested by the official for official use. The Administrator shall provide the OCA information to the official in electronic form, unless the official specifically requests the information in paper form. The Administrator may charge a fee to cover the cost of copying OCA information in paper form.

§ 1400.9 Access to off-site consequence analysis information by State and local government officials.

(a) The Administrator shall make available to any State or local government official for official use the OCA information for stationary sources located in the official's state.

(b) The Administrator also shall make available to any State or local government official for official use the OCA information for stationary sources not located in the official's state, at the request of the official.

(c) The Administrator shall provide OCA information to a State or local government official in electronic form, unless the official specifically requests the information in paper form. The Administrator may charge a fee to cover the cost of copying OCA information in paper form.

(d) Any State or local government official is authorized to provide, for official use, OCA information relating to stationary sources located in the official's state to other State or local government officials in that state and to State or local government officials in a contiguous state.

Subpart D—Other Provisions

§ 1400.10 Limitation on public dissemination.

Except as authorized by this part and by 42 U.S.C. 7412(r)(7)(H)(v)(III), Federal, State, and local government officials, and qualified researchers are prohibited from disseminating OCA information and OCA rankings to the public. Violation of this provision subjects the violator to criminal liability as provided in 42 U.S.C. 7412(r)(7)(H)(v).

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and civil liability as provided in 42 U.S.C. 7413.

§ 1400.11 Limitation on dissemination to State and local government officials.

Except as authorized by this part and by 42 U.S.C. 7412(r)(7)(H)(v)(III), Federal, State, and local government officials, and qualified researchers are prohibited from disseminating OCA information to State and local government officials. Violation of this provision subjects the violator to civil liability as provided in 42 U.S.C. 7413.

§ 1400.12 Qualified researchers.

The Administrator is authorized to provide OCA information, including facility identification, to qualified re-

searchers pursuant to a system developed and implemented under 42 U.S.C. 7412(r)(7)(H)(vii), in consultation with the Attorney General.

§ 1400.13 Read-only database.

The Administrator is authorized to establish, pursuant to 42 U.S.C. 7412(r)(7)(H)(viii), an information technology system that makes available to the public off-site consequence analysis information by means of a central database under the control of the Federal government that contains information that users may read, but that provides no means by which an electronic or mechanical copy of the information may be made.

PARTS 1401–1499 [RESERVED]

CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

SUBCHAPTER A—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING REGULATIONS

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**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

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

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Subpart E—Confidential Commercial Information and Preservation of Records

1515.41 How does CEQ handle confidential commercial information?

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

will not presume that its prior determinations were correct. Whenever reasonably possible, CEQ will assign your appeal to a different official than the one who was responsible for processing your original request.

(b) CEQ will respond to your appeal within 20 working days from the date that CEQ received your appeal.

(c) If CEQ determines to uphold a determination that you have appealed, CEQ's response will:

(1) Include a statement that identifies our reasons for affirming the decision, including any FOIA exemption CEQ applied in determining to affirm our determination to withhold a record or a portion of a record; and

(2) Explain how to challenge our determination by filing a lawsuit in Federal court and how to seek dispute resolution services from the National Archives and Records Administration's Office of Government Information Services.

(d) If CEQ determines to reverse or modify a determination that you have appealed, we will reprocess your request in accordance with the reversed or modified determination, using the procedures set forth at § 1515.15.

(e) CEQ ordinarily will not adjudicate an appeal if the appealed request becomes the subject of litigation.

Subpart D—Fees for FOIA Requests and Appeals

§ 1515.31 Can CEQ charge fees for processing FOIA requests and appeals?

(a) Yes. CEQ may charge fees for processing your FOIA request.

(b) CEQ will determine whether to charge a fee and the amount of the fee by using the rules in this subpart and the Office of Management and Budget's Uniform Freedom of Information Act Fee Schedule and Guidelines, as amended.¹

(c) CEQ will not charge fees for deciding whether to grant or deny your appeal. If CEQ grants your appeal, we will charge fees for any additional searching, reviewing, or duplication that we carry out as a result of your appeal. For instance, if you appeal our deter-

mination of how to conduct the search for records, and we grant your appeal, we will conduct a new search in the manner you requested and will charge you fees accordingly.

§ 1515.32 What is the amount of the fee for processing a request?

(a) CEQ will charge fees equal to:

(1) The basic hourly rate of pay for each employee who participates in searching for records, reviewing records, or duplicating records (including contract employees), multiplied by the total number of hours that the employee worked on your request (rounded to the nearest quarter of an hour), plus 16 percent (to account for employee benefits); plus

(2) The total direct costs that CEQ incurs in searching for, reviewing, or duplicating records, such as the cost of operating computers and other electronic equipment, but excluding overhead expenses such as the cost of office space, heating, and lighting; plus

(3) An additional fee equal to the total direct costs of any additional services that you and CEQ agree upon, such as providing multiple copies of a record.

(b) In determining the fee under paragraph (a) of this section, CEQ will use the following guidelines:

(1) "Searching for records" is the process of looking for and retrieving the records you requested (including by electronic search) and determining whether individual records contain the information that you seek. CEQ will charge fees for searching for records even if we do not locate any records that respond to your request, or even if we determine not to disclose any of the records that we locate.

(2) "Reviewing records" is the process of examining records to determine whether to withhold them, in accordance with § 1515.16, and preparing records for disclosure (for instance, by marking records to indicate which portions CEQ is withholding).

(i) "Reviewing records" also includes the time CEQ spends obtaining and considering the views of other government agencies under § 1515.17 and the time CEQ spends obtaining and considering formal objections to disclosure under § 1515.41.

¹52 FR 10016 (Mar. 27, 1987).

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(ii) “Reviewing records” does not include time CEQ spends resolving general legal or policy questions regarding the application of exemptions.

(iii) CEQ will charge fees for reviewing records even if we determine not to disclose any of the records that we review.

(3) “Duplicating records” is the process of reproducing records, including scanning or printing records as necessary, in order to provide you with a copy.

(4) CEQ may include employee costs and direct costs that another component of the Executive Office of the President incurs in assisting CEQ with your request.

(c) CEQ will not charge fees if the total is less than \$25.00, or if we determine that the cost of collecting the fee would exceed the amount of the fee.

(d) If CEQ reasonably determines that you (or other persons acting in concert with you) have submitted multiple requests on related matters for the purpose of avoiding fees, we may aggregate those requests and charge fees accordingly.

§ 1515.33 Are there any exceptions for special requesters?

(a) Yes. CEQ makes the following exceptions for special requesters:

(1) CEQ will not charge you fees for searching for records if you are an educational institution, a noncommercial scientific institution, or a representative of the news media. Otherwise, CEQ will not charge you fees for the first 2 hours of searching for records, unless you are a commercial requester.

(2) CEQ will not charge you fees for reviewing records, unless you are a commercial requester.

(3) CEQ will not charge you fees for the first 100 pages of duplication (or an equivalent cost for duplication in other media), unless you are a commercial requester.

(b) For purposes of applying the exceptions in this section:

(1) You are a representative of a non-commercial scientific institution if your institution operates solely for the purpose of conducting scientific research the results of which are not intended to promote any particular prod-

uct or industry, and your request is in furtherance of scientific research.

(2) You are a representative of an educational institution if you work for or study at a school that operates a program of scholarly research and your request is in furtherance of scholarly research.

(3) You are a representative of the news media if you or your employer gathers information of potential interest to a segment of the public, uses editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience, and your request is in furtherance of these activities. For the purposes of this paragraph (b), *news* means information that is about events of current interest to the public.

(i) If you are a freelance journalist, CEQ will consider you a representative of the news media if you can demonstrate that you have a solid basis to expect that a news media entity will publish the work to which your request relates, such as a publishing contract or a strong record of past publications.

(ii) If you are a representative of the news media, CEQ will ordinarily presume that your request does not primarily further a commercial interest for purposes of this section and § 1515.34.

(4) You are a commercial requester if you do not qualify as a special requester under paragraph (b)(1), (2), or (3) of this section and your request furthers a commercial, trade, or profit interest or supports litigation in furtherance of those interests.

(c) If you claim to be a representative of a non-commercial scientific institution, an educational institution, or the news media, CEQ may require you to verify your status by providing reasonable documentation, such as a signed letter on official letterhead. If you claim that your request is non-commercial for another reason, CEQ may require you to explain why it is non-commercial.

§ 1515.34 Can I apply for a fee waiver?

(a) Yes. You can apply for a waiver of fees (or a reduction of fees) by submitting a written statement that explains why disclosing the information will

meet the conditions in paragraph (c) of this section.

(b) You can apply for a fee waiver at any time before CEQ completes processing your request or an appeal of your request. You can apply for a fee waiver with respect to a part of the records you seek or with respect to all of them.

(c) CEQ will grant you a fee waiver if all of the following conditions are met:

(1) Disclosure of the requested information would shed light on the operations or activities of the Government. The connection between the subject matter of your request, on the one hand, and identifiable operations or activities of the Federal Government, on the other, must be direct and clear, not remote or attenuated.

(2) Disclosure of the requested information would likely contribute significantly to public understanding of those operations or activities, because it would satisfy both of the following criteria:

(i) Disclosure of the requested records would be meaningfully informative about Government operations or activities. (The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.)

(ii) The disclosure would contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to your own individual understanding. (CEQ will presume that your request satisfies this criterion if you are a representative of the news media; otherwise, we will consider your expertise in the subject area as well as your ability and intention to effectively convey information to the public.)

(3) Disclosure of the requested information would not primarily advance your commercial, trade, or profit interests.

(d) CEQ will determine whether to grant or deny your request for a fee waiver if and when we would otherwise charge you fees. If we determine prior to that time that we are unlikely to grant your request for a fee waiver, we

may notify you of our determination so that you may modify your request.

§ 1515.35 When will CEQ contact me about fee-related matters?

(a) If CEQ determines or estimates that we will charge you more than \$25.00 in fees, we will notify you of our determination or estimate, unless you have already told us that you are willing to pay fees equal to or in excess of the amount we have determined or estimated.

(1) If CEQ can only estimate a part of the fee, we will explain that in the notice.

(2) If you are entitled to 2 hours of searching and 100 pages of duplication for free for the reasons described in §1515.33, CEQ will advise you of this and explain whether we have already provided these entitlements.

(3) CEQ may ask you to tell us the maximum amount you are willing to pay in fees in writing, in which case we will toll the period for processing your request until you respond.

(b) If CEQ determines or estimates that the fee will exceed the maximum amount you previously told us you were willing to pay, we will inquire with you about modifying your request or increasing the maximum, and we will toll the period for processing your request until you respond.

(c) If you have not provided a way to contact you regarding fee matters, or you do not respond to a fee-related inquiry within 30 calendar days, CEQ will deny your request.

§ 1515.36 Do I have to pay fees if CEQ misses the deadline for responding to my request?

CEQ will not charge search fees or duplication fees if we have failed to grant or deny your request within the period described in §1515.13, unless:

(a) CEQ determines that unusual circumstances are present, as described in §1515.13; and

(1) CEQ finishes processing your request within 10 working days of the original deadline; or

(2) Your request seeks more than 5,000 pages of records; CEQ has provided you timely written notice of the unusual circumstances; and we have

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discussed with you how you could effectively limit the scope of your request (or we made at least three attempts in good faith to do so); or

(b) A court grants CEQ additional time to process your request due to exceptional circumstances, and we finish processing your request within the period set forth in a court order.

§ 1515.37 When are fees due and how do I pay them?

(a) Ordinarily, CEQ will bill you for fees at the time we respond to your FOIA request.

(b) When CEQ determines or estimates that the total fee for your request will exceed \$250, we may require that you pay all or part of the anticipated fee in advance before we will process (or continue to process) your request.

(c) If you have previously failed to pay a FOIA fee that was due to any Government agency within 30 calendar days of the billing date, CEQ may require you to pay the outstanding fee (including interest) and make an advance payment of the anticipated fee for your current request before we will process (or continue to process) your request.

(d) If CEQ requires you to make an advance payment under this section, we will toll the period for processing your request until we receive the payment. If you do not pay within 30 calendar days, we will deny your request.

(e) CEQ will inform you of how to make a payment at the time that we bill you or require you to make an advance payment.

§ 1515.38 What will CEQ do if I do not promptly pay the fee?

If you do not pay a fee within 30 calendar days of the date of the bill:

(a) CEQ may charge interest, at the rate provided for in 31 U.S.C. 3717, from the 31st day following the date of billing through the date we receive your payment; and

(b) CEQ will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749), as amended, including its administrative procedures, which provide for the use of consumer reporting agencies, collection agencies, and offset.

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Subpart E—Confidential Commercial Information and Preservation of Records

§ 1515.41 How does CEQ handle confidential commercial information?

(a) At the time that a person or entity outside the Federal Government (a submitter) directly or indirectly provides information to CEQ, the submitter must mark or otherwise designate any part of its submission that it considers in good faith to be confidential commercial information.

(1) *Confidential commercial information* means commercial or financial information that comes within the scope of Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

(2) *In good faith* means not frivolously.

(3) The submitter also must explain how long CEQ should consider the information to be confidential commercial information, or else CEQ will presume that the designation expires after 10 years.

(b) Prior to disclosing information in response to a FOIA request, CEQ will provide written notice to the submitter if:

(1) The submitter has properly designated the information as confidential commercial information pursuant to paragraph (a) of this section; or

(2) CEQ requires the submitter's views on whether the information is confidential commercial information.

(c) Each notice under paragraph (b) of this section will either describe the information in question or include a copy of the requested records (or portions of records) containing the information. If the matter involves a large number of submitters, CEQ may post or publish the notice in a place or manner reasonably likely to inform the submitters of the potential disclosure, instead of sending individual notifications.

(d) CEQ will not provide a notice under paragraph (b) of this section if:

(1) CEQ has determined to withhold the information under § 1515.16;

(2) Someone other than CEQ has already lawfully published the information; or

(3) A law other than the FOIA requires CEQ to disclose the information.

(e) When CEQ provides a notice under paragraph (b) of this section:

(1) CEQ will give the submitter a reasonable period in which to reply.

(2) If the submitter objects to CEQ disclosing the information (in whole or in part), the submitter must reply to CEQ with a detailed explanation of which FOIA exemptions it believes apply to the information and why the information comes within the scope of those FOIA exemptions. CEQ will consider the submitter's reply, if any, in determining whether to disclose the information in question in response to a FOIA request.

(3) If the submitter does not reply to CEQ during the period stated in the notice, CEQ will deem the submitter to have no objection to CEQ's disclosure of the information, except that CEQ may consider late replies in its discretion.

(f) If CEQ determines to disclose information over a submitter's objection, CEQ will notify the submitter in writing.

(1) The notice will explain why CEQ disagreed with the submitter's objections and describe the information CEQ will disclose (or include a copy of the relevant agency records in the form in which CEQ will release them).

(2) The notice will indicate the date on which CEQ will disclose the information, which will be a reasonable number of calendar days following the date of the notice unless the FOIA requires us to disclose the information more promptly.

(3) CEQ will also provide the notice described in this paragraph (f) when CEQ determines to disclose information that a submitter designated as confidential commercial information not in good faith.

(g) CEQ will notify a submitter who has designated confidential commercial information pursuant to paragraph (b) of this section if a requester files a lawsuit seeking to compel CEQ to disclose the information under the FOIA.

(h) CEQ will notify the relevant FOIA requester whenever it provides a notice under paragraph (b) or (f) of this section, and whenever a submitter files a lawsuit to prevent the disclosure of information.

PART 1516—PRIVACY ACT IMPLEMENTATION

Sec.

1516.1 What is the purpose of this part?

1516.2 What records does this part cover?

1516.3 When will CEQ disclose records about me?

1516.4 How can I obtain access to CEQ's records about me?

1516.5 How can I get information about how CEQ has used its records about me?

1516.6 How can I ask CEQ to correct my records?

1516.7 How can I appeal CEQ's decision to deny my request to access or correct records about me?

1516.8 Will CEQ charge me a fee for a copy of my records?

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 42 FR 32537, June 27, 1977, as amended at 90 FR 6832, Jan. 21, 2025, unless otherwise noted.

§ 1516.1 What is the purpose of this part?

(a) This part explains how the Council on Environmental Quality (CEQ) manages certain records about individuals under the Privacy Act of 1974 (the Privacy Act). You can find the text of the Privacy Act at 5 U.S.C. 552a.

(b) This part explains how you, a citizen or lawful permanent resident of the United States, can request access to records about yourself, request that CEQ amend or correct those records, or request that CEQ inform you about how it has used those records.

§ 1516.2 What records does this part cover?

(a) This part covers any records about you that CEQ maintains in a system of records.

(b) A record is any item, collection, or grouping of information about you that contains your name or another piece of information that identifies you (for example, your social security number).

(c) CEQ maintains your record in a system of records if CEQ:

(1) Maintains, collects, uses, or disseminates the record as part of a larger group of records; and

(2) Organizes the group by individuals' names or by another piece of information that identifies individuals

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(such as their Social Security numbers).

§ 1516.3 When will CEQ disclose records about me?

CEQ will only disclose records about you that it maintains in system of records if:

(a) You or your authorized representative submit a request for your own records or agree in writing that CEQ may disclose the records to someone else;

(b) CEQ is making the disclosure as part of one of CEQ's routine uses of the records, which CEQ must have previously established in a written public notice; or

(c) The disclosure qualifies for one of the other exceptions described in section 3 of the Privacy Act, which you can find at 5 U.S.C. 552a(b).

§ 1516.4 How can I obtain access to CEQ's records about me?

(a) You can obtain access to CEQ's records about you by submitting a request by email to efoia@ceq.eop.gov. If you are not able to make your request by email, please contact CEQ's Office of the General Counsel for assistance by calling 202–395–5750.

(b) Your request must describe the records that you want, in enough detail to enable CEQ to locate them with a reasonable amount of effort.

(1) You should name or describe the system of records you want CEQ to search.

(2) If you are not sure which system of records you are interested in, you may request that CEQ inform you which of its systems of records, if any, contain records about you.

(c) To protect the privacy of your records, CEQ will require you to verify your identity before processing your request. CEQ may require you to:

(1) Provide a statement that contains your name, your current address, and your date and place of birth, and sign the statement before a notary public;

(2) Verify your identity using an electronic authentication process; or

(3) Supply additional information as necessary in order to verify your identity.

(d) CEQ may deny your request if:

(1) CEQ prepared the records you are seeking in reasonable anticipation of a civil action or proceeding (that is, a lawsuit or a similar proceeding); or

(2) The Privacy Act exempts the system containing your records from the requirement that CEQ provide those records upon request.

(e) If CEQ grants your request, you may arrange to review your records in person, obtain a copy from CEQ, or both. If you choose to review your records in person, you may choose one person to accompany you, except that CEQ may first require you to authorize CEQ to discuss your records in that person's presence.

(f) If CEQ denies your request in whole or in part, CEQ will give you the reason for its decision in writing and explain how you can challenge the denial.

§ 1516.5 How can I get information about how CEQ has used its records about me?

You can request information about how CEQ has used its records about you—called an “accounting of disclosures”—using the same procedures you would use to make a request for access to your records under § 1516.4.

§ 1516.6 How can I ask CEQ to correct my records?

(a) You can request that CEQ correct or update its records about you using the same procedures you would use to make a request for access to your records under § 1516.4.

(b) In your request, you must explain exactly what change you are requesting and point out specific pieces of information in your CEQ records that are inaccurate, irrelevant, outdated, or incomplete.

(c) CEQ will review your request, decide whether to grant or deny it, and inform you of the decision within 10 working days (*i.e.*, excepting Saturdays, Sundays, and Federal holidays).

(d) If CEQ denies your request, CEQ will give you the reason for its decision in writing and explain how you can appeal the denial.

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§ 1516.7 How can I appeal CEQ's decision to deny my request to access or correct records about me?

(a) If CEQ denies your request to access or correct CEQ's records about you, you can appeal the decision using the same procedures you would use to make a request for access to your records under § 1516.4.

(b) In your appeal, you must include a copy of CEQ's decision denying your request and explain exactly why you believe the decision was wrong.

(c) The General Counsel of CEQ (or the General Counsel's designee) will review your appeal, decide whether to grant or deny it, and inform you of the decision within 30 working days. If it is necessary to extend the time for making a decision, the Chair of CEQ (or the Chair's designee) will explain why in writing.

(d) If CEQ's General Counsel (or designee) denies your appeal, you may provide CEQ with a concise statement that explains your disagreement with the decision, and you may bring a civil lawsuit against CEQ.

(1) If CEQ subsequently discloses the disputed record under § 1516.4, we will clearly identify the disputed portion of the record and attach a copy of your statement of disagreement.

(2) For more information about filing a civil lawsuit, see 5 U.S.C. 552a(g)(1).

§ 1516.8 Will CEQ charge me a fee for a copy of my records?

If you request a copy of CEQ's records about you, CEQ may charge you a fee of no more than 10 cents per page, which you must pay before CEQ provides you with a copy of your records.

PART 1517—PUBLIC MEETING PROCEDURES OF THE COUNCIL ON ENVIRONMENTAL QUALITY

Sec.

- 1517.1 Policy and scope.
- 1517.2 Definitions.
- 1517.3 Open meeting requirement.
- 1517.4 Exceptions.
- 1517.5 Procedure for closing meetings.
- 1517.6 Notice of meetings.
- 1517.7 Records of closed meetings.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 94-409.

SOURCE: 42 FR 20818, Apr. 22, 1977, unless otherwise noted.

§ 1517.1 Policy and scope.

Consistent with the policy that the public is entitled to the fullest information regarding the decisionmaking processes of the Federal Government, it is the purpose of this part to open the meetings of the Council on Environmental Quality to public observation while protecting the rights of individuals and the ability of the Council to carry out its primary responsibility of providing advice to the President. Actions taken by the Chairman acting as Director of the Office of Environmental Quality and Council actions involving advice to the President when such advice is not formulated collegially during a meeting are outside the scope of this part. In addition to conducting the meetings required by this part, it is the Council's policy to conduct, open to public observation, periodic meetings involving Council discussions of Council business, including where appropriate, matters outside the scope of this part. This part does not affect the procedures set forth in part 1515 pursuant to which records of the Council are made available to the public for inspection and copying, except that the exemptions set forth in § 1517.4(a) shall govern in the case of any request made to copy or inspect the transcripts, recording or minutes described in § 1517.7.

[47 FR 6277, Feb. 11, 1982]

§ 1517.2 Definitions.

For the purpose of this part:

(a) The term *Council* shall mean the Council on Environmental Quality established under title II of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 through 4347).

(b) The term *meeting* means the deliberations of at least two Council members where such deliberations determine or result in the joint conduct or disposition of official collegial Council business, but does not include deliberations to take actions to open or close a meeting under §§ 1517.4 and 1517.5 or to release or withhold information under §§ 1517.4 and 1517.7. "Meeting" shall not be construed to prevent Council members from considering individually

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Council business that is circulated to them sequentially in writing.

(c) *Director* means the Chairman of the Council on Environmental Quality acting as the head of the Office of Environmental Quality pursuant to the Environmental Quality Improvement Act of 1970, Pub. L. 91-224, 42 U.S.C. 4371 through 4374.

[44 FR 34946, June 18, 1979, as amended at 47 FR 6277, Feb. 11, 1982]

§ 1517.3 Open meeting requirement.

(a) Every portion of every meeting of the Council is open to public observation subject to the exemptions provided in § 1517.4. Members of the Council may not jointly conduct or dispose of the business of the Council other than in accordance with this part.

(b) The Council will conduct open to public observation periodic meetings involving Council discussions of Council business including where appropriate matters outside the scope of this part. Such meetings will be noticed pursuant to § 1517.6.

(c) Members of the public may attend open meetings of the Council for the sole purpose of observation and may not participate in or photograph any meeting without prior permission of the Council. Members of the public who desire to participate in or photograph an open meeting of the Council may request permission to do so from the General Counsel of the Council before such meeting. Members of the public may record open meetings of the Council by means of any mechanical or electronic device unless the Council determines such recording would disrupt the orderly conduct of such meeting.

[44 FR 34946, June 18, 1979, as amended at 47 FR 6277, Feb. 11, 1982]

§ 1517.4 Exceptions.

(a) A meeting or portion thereof may be closed to public observation, and information pertaining to such meeting or portion thereof may be withheld from the public, if the Council determines that such meeting or portion thereof or disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be

kept secret in the interest of national defense or foreign policy and (ii) in fact properly classified pursuant to that Executive order;

(2) Relate solely to the internal personnel rules and practices of the Council;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that the statute: (i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of those records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or,

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating,

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or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Council. This exception shall not apply in any instance where the Council has already disclosed to the public the content or nature of the proposed action, or where the Council is required by law to make such disclosure on its own initiative prior to taking final action on the proposal; or

(10) Specifically concern the issuance of a subpoena by the Council, or the participation of the Council in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Council of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Before a meeting is closed to public observation the Council shall determine whether or not the public interest requires that the meeting be open. The Council may open a meeting to public observation which could be closed under paragraph (a) of this section, if the Council finds it to be in the public interest to do so.

§ 1517.5 Procedure for closing meetings.

(a) A majority of the entire membership of the Council may vote to close to public observation a meeting or a portion or portions thereof, or to withhold information pertaining to such meeting. A separate vote of the members of the Council shall be taken with respect to each meeting of the Council, a portion or portions of which are proposed to be closed to the observation of the public or with respect to any information concerning such meetings or portion thereof. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to information concerning such series of meetings, so long as each meeting in such series involves the

same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each member of the Council participating in a vote shall be recorded and no proxies shall be allowed.

(b) Whenever any person whose interest may be directly affected by a portion of a meeting requests that the Council close that portion to public observation for any of the reasons referred to in § 1517.4(a) the Council, upon request of any of the members of the Council, shall decide by recorded vote whether to close that portion of the meeting.

(c) For every meeting or portion thereof closed under this part, the General Counsel of the Council before such meeting is closed shall publicly certify that, in his or her opinion, the meeting may properly be closed to the public stating each relevant exemptive provision. The Council shall retain a copy of the General Counsel's certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and listing the persons present.

(d) Within one day of any vote taken on a proposal to close a meeting, the Council shall make publicly available a record reflecting the vote of each member on the question. In addition, within one day of any vote which closes a portion or portions of a meeting to the public, the Council shall make publicly available a full written explanation of its closure action together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.

(e) Following any announcement that the Council intends to close a meeting or portion thereof, any person may make a request that the meeting or portion thereof be opened. Such request shall be made of the Chairman of the Council who shall ensure that the request is circulated to all members of the Council on the same business day on which it is received. The request shall set forth the reasons why the requestor believes the meeting should be open. The Council upon the request of

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any member or its General Counsel, shall vote on the request.

§ 1517.6 Notice of meetings.

(a) Except as otherwise provided in this section, the Council shall make a public announcement at least one week before a meeting, to include the following:

(1) Time, place, and subject matter of the meeting;

(2) Whether the meeting is to be open or closed; and

(3) Name and telephone number of the official who will respond to requests for information about the meeting.

(b) A majority of the members of the Council may determine by recorded vote that the business of the Council requires a meeting to be called with less than one week's notice. At the earliest practicable time, the Council shall publicly announce the time, place and subject matter of the meeting, and whether or not it is to be open or closed to the public.

(c) If announcement of the subject matter of a closed meeting would reveal the information that the meeting itself was closed to protect, the subject matter shall not be announced.

(d) Following the public announcement required by paragraph (a) or (b) of this section:

(1) A majority of the members of the Council may change the time or place of a meeting. At the earliest practicable time, the Council shall publicly announce the change.

(2) A majority of the entire membership of the Council may change the subject matter of a meeting, or the determination to open or close a meeting to the public, if it determines by a recorded vote that the change is required by the business of the Council and that no earlier announcement of the change was possible. At the earliest practicable time, the Council shall publicly announce the change, and the vote of each member upon the change.

(e) Individuals or organizations having a special interest in activities of the Council may request the Council to place them on a mailing list for receipt of information available under this section.

(f) Following public announcement of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time. The subject matter of a meeting or the determination to open or close a meeting may be changed following public announcement of a meeting only if both of the following conditions are met:

(1) There must be a recorded vote of a majority of the Council that the business of the Council requires the change and that no earlier announcement of such change was possible; and

(2) There must be a public announcement of the change and of the individual Council members' votes at the earliest practicable time.

(g) Immediately following each public announcement required by this section, the following information, as applicable, shall be submitted for publication in the FEDERAL REGISTER.

(1) Notice of the time, place, and subject matter of a meeting;

(2) Whether the meeting is open or closed;

(3) Any change in one of the preceding; and

(4) The name and telephone number of the official who will respond to requests for information about the meeting.

§ 1517.7 Records of closed meetings.

(a) A record of each meeting or portion thereof which is closed to the public shall be made and retained for two years or for one year after the conclusion of any Council proceeding involved in the meeting whichever occurs later. The record of any portion of a meeting closed to the public shall be a verbatim transcript or electronic recording. In lieu of a transcript or recording, a comprehensive set of minutes may be produced if the closure decision was made pursuant to §1517.4(a) (8) or (10).

(b) If minutes are produced, such minutes shall fully and clearly describe all matters discussed, provide a full and accurate summary of any actions taken and the reasons expressed therefor, and include a description of each of the views expressed on any item. The minutes shall also reflect the vote of each member of the Council on any roll

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call vote taken during the proceedings and identify all documents produced at the meeting.

(c) The following documents shall be retained by the Council as part of the transcript, recording, or minutes of the meeting:

(1) Certification by the General Counsel that the meeting may properly be closed; and

(2) Statement from the presiding officer of the meeting setting forth the date, time, and place of the meeting and listing the persons present.

(d) The Council shall make promptly available to the public at its offices at 722 Jackson Place, NW., Washington, DC the transcript, electronic recording, or minutes maintained as a record of a closed meeting, except for such information as may be withheld under one of the provisions of §1517.5. Copies of such transcript, minutes, or transcription of an electronic recording, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(e) [Reserved]

(f) Requests to review or obtain copies of records other than transcripts, electronic recordings or minutes of a meeting will be processed under the Freedom of Information Act (5 U.S.C. 552) or, where applicable, the Privacy Act of 1974. (5 U.S.C. 552a). Nothing in these regulations authorizes the Council to withhold from any individual any record, including the transcripts or electronic recordings described in §1517.8, to which the individual may have access under the Privacy Act of 1974 (5 U.S.C. 552a).

PART 1518—OFFICE OF ENVIRONMENTAL QUALITY MANAGEMENT FUND

1518.1 Purpose.

1518.2 Definitions.

1518.3 Policy and general requirements.

1518.4 Charters.

1518.5 Finances and accounting.

AUTHORITY: 42 U.S.C. 4375.

SOURCE: 67 FR 62189, Oct. 4, 2002, as amended at 90 FR 3705, Jan. 15, 2025, unless otherwise noted.

§ 1518.1 Purpose.

(a) The purpose of the Office of Environmental Quality Management Fund is to finance:

(1) Study contracts that the Office of Environmental Quality and at least one other Federal agency jointly sponsor; and

(2) Federal interagency environmental projects (including task forces) in which the Office of Environmental Quality participates.

(b) The purpose of the regulations in this part is to set forth policies and procedures for operation of the Management Fund, in order to support its effective administration and to set forth the Office of Environmental Quality's internal procedures and practices with respect to the Management Fund.

§ 1518.2 Definitions.

Council on Environmental Quality, as used in this part, includes the Office of Environmental Quality.

Director means the Director of the Office of Environmental Quality (or delegate). The Environmental Quality Improvement Act, 42 U.S.C. 4372(a), specifies that the Chair of the Council on Environmental Quality serves as the Director of the Office of Environmental Quality.

Environmental project means an official activity pertaining to the environment that requires coordination by or the involvement of the Council on Environmental Quality and other Federal agencies, such as an interagency task force.

Interagency agreement means a document jointly executed by the Office of Environmental Quality and at least one other Federal agency that sets forth the details of a jointly sponsored study contract or environmental project and the funding arrangements for such a study or project.

Management Fund means the Office of Environmental Quality Management Fund.

Payment means a transfer of funds from an agency or another account to the Management Fund.

Personnel costs include an employee's salary or wages and benefits and other direct expenses of employment, such as administrative costs associated with

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an official background investigation of the employee.

Project Officer means the Federal employee responsible for direct supervision of a study contract or environmental project that receives support from the Management Fund.

Reallocation means a transfer of funds from the Management Fund to another account or between subaccounts of the Management Fund.

Study contract means an agreement with a public or private agency, institution, organization, or individual (including, without limitation, an agency, committee, or official of the Federal Government) to prepare or support the development of a report, analysis, or recommendation.

§ 1518.3 Policy and general requirements.

(a) To receive support from the Management Fund, an environmental project or study contract must advance the purposes and goals of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, or the Environmental Quality Improvement Act, 42 U.S.C. 4371 *et seq.*

(b) When the Director accepts agency funds for payment into the Management Fund, the interagency agreement must specify the permissible uses of the funds, and any restrictions relating thereto, such as a limitation on the funds' period of availability, consistent with § 1518.5 of this part.

(c) The Director may authorize the Project Officer to make expenditures to support Management Fund study contracts and environmental projects, including:

(1) Acquisition of office space, equipment, supplies, and other goods and services, whether by purchase, lease, or otherwise;

(2) Personnel costs;

(3) Official travel;

(4) Publication of documents;

(5) Services of consultants, experts, or contractors;

(6) Conferences, public meetings, and events;

(7) Access to information, such as scientific and technical data;

(8) Public engagement activities; and

(9) Other necessary expenses.

(d) The Director must not authorize expenditures from the Management Fund that would solely benefit the Council on Environmental Quality or another Federal agency or that would reimburse the Council on Environmental Quality or another Federal agency for expenses not related to an environmental project or a study contract. For example:

(1) The Director may authorize expenditures pursuant to paragraph (c)(2) of this section for the personnel costs of an employee whose duties are limited to carrying out the objectives of a study contract or an environmental project, but not for the personnel costs of an employee who carries out duties unrelated to a study contract or an environmental project.

(2) If a portion of an employee's duties will carry out the objectives of an environmental project or a study contract, the Director may authorize expenditures pursuant to paragraph (c)(2) of this section for a proportional share of the employee's personnel costs.

(e) In carrying out the purposes of the Management Fund, 42 U.S.C. 4372(e) authorizes the Director to contract with public or private agencies, institutions, organizations and individuals, by negotiation, without regard to 31 U.S.C. 3324(a) and (b), 41 U.S.C. 6101.

§ 1518.4 Charters.

(a) The Director must not authorize expenditures from the Management Fund for an environmental project or a study contract until the Director has approved a charter for the environmental project or study contract.

(b) The Project Officer must prepare a charter for each environmental project or a study contract and obtain the Director's approval of the charter.

(c) The charter must:

(1) Describe the environmental project or study contract;

(2) Clearly explain how the environmental project or study contract is consistent with the goals, purposes, and statutory authority of the Office of Environmental Quality;

(3) Identify the Federal agency or agencies (and any State, Tribal, or local agencies) participating in the environmental project or study contract; and

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(4) Provide the names, titles, and contact information of the Project Officer and an administrative point of contact.

(d) The Project Officer may amend a charter in writing with the Director's approval of the amended charter.

(e) The Office of Environmental Quality must provide the Office of Administration in the Executive Office of the President with a copy of each charter and amendment that the Director approves.

§ 1518.5 Finances and accounting.

(a) The Project Officer for each environmental project or study contract receiving support from the Management Fund must prepare a budget estimate as part of the charter and update the budget estimate annually following the charter's approval. The Office of Environmental Quality must provide copies of these budget estimates to the Office of Administration.

(b) The Council on Environmental Quality may make a payment into the Management Fund by a letter of transmittal that specifies the particular environmental project or study contract it is funding. The Office of Environmental Quality will provide a copy of each such transmittal letter to the Office of Administration.

(c) Agencies other than the Council on Environmental Quality may make advance payments to the Management Fund using the following procedure:

(1) The Director must provide the agency with a letter that specifies the particular environmental project or study contract to which the Director will apply the payment.

(2) The Director and the agency must enter an interagency agreement for the payment. The interagency agreement should indicate any statutory authority appropriate to the transaction, including 42 U.S.C. 4375(a).

(d) The Management Fund is a no-year appropriations account, which can accept funds with any period of availability or funds that remain available until expended (*i.e.*, "one-year," "multiple-year," or "no-year" funds). Appropriated funds that an agency pays into the Management Fund expire under the terms of the appropriation under which they originated. The Of-

fice of Environmental Quality must account separately for each payment of funds into the Management Fund and track when each such payment will expire.

(e) In addition to or in lieu of an advance payment into the Management Fund, any agency, including the Council on Environmental Quality, may support an environmental project or study contract by providing technical expertise, physical resources, facilities, equipment, or other assets; performing support or administrative services; or assigning detailees or agency representatives.

(f) The Office of Environmental Quality must maintain a separate sub-account within the Management Fund for each environmental project or study contract.

(g) The Director or the Project Officer must approve all of the expenditures for a particular environmental project or study contract. The Management Fund may only accept payments in advance of expenditure; accordingly, the Director or the Project Officer may only approve expenditures for which the Management Fund has received adequate payments in advance.

(h) The Director may approve the reallocation of funds from the Management Fund to another Federal account (or from one Management Fund sub-account to another) provided that:

(1) The agency that originally made the payment of the funds in question to the Management Fund approves the reallocation in writing;

(2) The reallocation would promote the statutory mission of the Office of Environmental Quality; and

(3) The Director determines the reallocation is in the best interest of the Federal Government.

(i) The Office of Environmental Quality must classify each financial transaction involving a Management Fund subaccount in sufficient detail to meet the Office of Environmental Quality's management planning, fiscal control, and financial audit requirements.

(ii) [Reserved]

PARTS 1519–1599 [RESERVED]

CHAPTER VI—CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

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PART 1600—ORGANIZATION AND FUNCTIONS OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

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AUTHORITY: 5 U.S.C. 301, 552(a)(1); 42 U.S.C. 7412(r)(6)(N).

SOURCE: 68 FR 65403, Nov. 20, 2003, unless otherwise noted.

§ 1600.1 Purpose.

This part describes the organization, functions, and operation of the Chemical Safety and Hazard Investigation Board (CSB). The CSB is an independent agency of the United States created by the Clean Air Act Amendments of 1990 [Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7412(r)(6) *et seq.*]. Information about the CSB is available from its Web site, <http://www.csb.gov>.

§ 1600.2 Organization.

(a) The CSB's Board consists of five Members appointed by the President with the advice and consent of the Senate. The President designates one of the Members as Chairperson with the advice and consent of the Senate. The Members exercise various functions, powers, and duties set forth in the Clean Air Act Amendments of 1990 (42 U.S.C. 7412(r)(6) *et seq.*).

(b) The CSB's staff is comprised of the following administrative units and such other units as established by the CSB Board:

- (1) The Office of Administration;
- (2) The Office of Investigations and Recommendations;
- (3) The Office of the General Counsel;
- (4) The Office of Financial Operations; and
- (5) The Office of Equal Employment Opportunity.

[68 FR 65403, Nov. 20, 2003, as amended at 88 FR 36256, June 2, 2023]

§ 1600.3 Functions.

(a) The CSB investigates chemical accidents and hazards, recommending actions to protect workers, the public, and the environment. The CSB is responsible for the investigation and determination of the facts, conditions, and circumstances and the cause or probable cause or causes of any accidental release resulting in a fatality, serious injury, or substantial property damages.

(b) The CSB makes safety recommendations to Federal, State, and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration and private organizations to reduce the likelihood of recurrences of chemical incidents. It initiates and conducts safety studies and special investigations on matters pertaining to chemical safety.

(c) The CSB issues reports pursuant to its duties to determine the cause or probable cause or causes of chemical incidents and to report the facts, conditions, and circumstances relating to such incidents; and issues and makes available to the public safety recommendations, safety studies, and reports of special investigations.

§ 1600.4 Operation.

In exercising its functions, duties, and responsibilities, the CSB utilizes:

(a) The CSB's staff, consisting of specialized offices performing investigative, administrative, legal, and financial work for the Board.

(b) Rules published in the FEDERAL REGISTER and codified in this title of the Code of Federal Regulations.

(c) Meetings of the Board Members conducted pursuant to the Government in the Sunshine Act and part 1603 of this title (CSB Rules Implementing the Government in the Sunshine Act) or voting by notation as provided in § 1600.5(b).

(d) Public hearings in connection with incident or hazard investigations.

(e) Board Orders and other policies and procedures adopted by the Board.

[68 FR 65403, Nov. 20, 2003, as amended at 88 FR 36256, June 2, 2023]