

Environmental Protection Agency

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the Headquarters Freedom of Information Office, Attention: Privacy Act Officer, Environmental Protection Agency, (MC-2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 or via e-mail to <http://www.epa.gov/privacy> or by fax, (202) 566-1639.

§ 16.4 Times, places, and requirements for identification of individuals making requests.

(a) If an individual requesting access under § 16.3 asks for personal inspection of records, and if EPA grants the request, the individual may appear at the time and place specified in EPA's response or arrange another time with the appropriate Agency official.

(b) Before conducting a personal inspection of his or her records, an individual must present sufficient identification (*e.g.*, driver's license, employee identification card, social security card, or credit card) to establish that he or she is the subject of the records. EPA reserves the right to determine the adequacy of the identification. An individual who is unable to provide such identification described under paragraph (b) of this section will complete and sign, in the presence of an agency official, a statement declaring his or her identity and stipulating that he or she understands it is a misdemeanor punishable by fine up to \$5,000 to knowingly and willfully seek or obtain access to records about another individual under false pretenses.

(c) An individual may have another person accompany him or her during inspection of the records, and the system manager may require the requesting individual to sign a statement authorizing disclosure of the record in the presence of that other person.

(d) An individual may request a copy of the requested record.

(e) No verification of identity will be required where the records sought have been determined to be publicly available under the Freedom of Information Act.

§ 16.5 Request for correction or amendment of record.

An individual may request correction or amendment of any record pertaining to him or her in a system of records maintained by EPA by submitting a re-

quest in writing to the Freedom of Information Office, or via the Agency's Privacy Act Web site at <http://www.epa.gov/privacy> or by fax, (202) 566-1639. The following information must be provided:

(a) The name and signature of the individual making the request;

(b) The name of the system of records;

(c) A description of the information sought to be corrected or amended and the specific reasons for the correction or amendment; and

(d) Sufficient documentation of identity as described under § 16.4(b). (An individual who is unable to provide the identification under § 16.4(b) or is submitting a request on line, must provide a statement declaring his or her identity and stipulating that he or she understands it is a misdemeanor punishable by fine up to \$5,000 to knowingly and willfully seek or obtain access to records about another individual under false pretenses).

§ 16.6 Initial decision on request for access to, or correction or amendment of, records.

(a) Within 10 working days of receipt of a request, the Agency Privacy Act Officer will send a letter to the requester acknowledging receipt of the request and promptly forward it to the manager of the system of records where the requested record is located with instructions to:

(1) Make a determination whether to permit access to the record, or to make the requested correction or amendment;

(2) Inform the requester of that determination and, if the determination is to deny access to the record, or to not correct or amend it, the reason for that decision and the procedures for appeal.

(b) If the system manager is unable to decide whether to grant a request of access to, or amendment or correction of a record within 20 working days of the Agency's receipt of the request, he or she will inform the requester reasons for the delay, and an estimate of when a decision will be made.

(c) In reviewing a request for the correction or amendment of a record, the system manager will be guided by the

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requirements of 5 U.S.C. 552a(e)(1) and (e)(5).

(d) A system manager who decides to grant all or any portion of a request to correct or amend a record will inform any person or entity outside EPA that was provided the record of the correction or amendment, and, where there is an accounting of that disclosure, make a note of the action taken in the accounting.

(e) If a request pursuant to § 16.3 for access to a record is in a system of records which is exempted, the records system manager or designee will decide whether any information will nonetheless be made available. If the decision is to deny access, the reason for denial and the appeal procedure will be given to the requester.

(f) A person whose request for access is initially denied may appeal that denial to EPA's Privacy Act Officer. EPA's General Counsel will decide the appeal within 30 working days. If an appeal concerns a system of records maintained by the Office of Inspector General, the Privacy Act Officer will forward the appeal to the Counsel to the Inspector General who will decide on the appeal in accordance with § 16.7. The Counsel to the Inspector General will carry out all responsibilities with respect to the appeal that are otherwise assigned to EPA's General Counsel under § 16.7.

(g) If the appeal under § 16.7(e)(6) is denied, the requester will be notified of the right to seek judicial review in accordance with subsection (g) of the Privacy Act.

§ 16.7 The appeal process.

(a) An individual whose request for access to, or correction or amendment of a record is initially denied and who wishes to appeal that denial may do so by sending a letter to EPA's Privacy Act Officer within 30 days of the receipt of the initial denial. The appeal must identify and restate the initial request. If an appeal concerns an adverse decision by the Office of Inspector General, the Privacy Act Officer will forward it to the Counsel to the Inspector General, or his or her designee, who will then act on the appeal. The Counsel to the Inspector General, or his or her designee, will carry out all

responsibilities with respect to PA appeals that are otherwise assigned to EPA's General Counsel under this section; however, if the Counsel to the Inspector General has signed the initial adverse determination, the General Counsel, or his or her designee, will act on the appeal.

(b) EPA's General Counsel, or his or her designee, will make final decisions on PA appeals within 30 working days from the date on which the appeal is properly received in the Office of General Counsel, unless, for good cause shown, the 30-day period is extended and the requester is notified of the extension in writing. Such extensions will be utilized only in exceptional circumstances.

(c) In conducting PA appeals, the General Counsel, or his or her designee, will be guided by the requirements of 5 U.S.C. 552a(e)(1) and (e)(5).

(d) If an appeal is granted in whole or in part, the requester will be notified, in writing, and access to the record will be granted, or the correction or amendment of the record will be made. In all such cases, the Privacy Act Officer will ensure that § 16.7(d) is complied with.

(e) If the General Counsel or the Counsel to the Inspector General decides not to grant all or any portion of an appeal, the requester will be informed:

- (1) Of the decision and its basis;
- (2) Of the requester's right to file a concise statement of reasons for disagreeing with EPA's decision;
- (3) Of the procedures for filing such statement of disagreement;
- (4) That such statements of disagreements will be made available in subsequent disclosures of the record, together with an agency statement (if deemed appropriate) summarizing its refusal;
- (5) That prior recipients of the disputed record will be provided with statements as in paragraph (e)(4) of this section, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and
- (6) Of the requester's right to seek judicial review under 5 U.S.C. 552a(g).