

## 40 C.F.R. § 2.104

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### Responses to requests.

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- (a) *Timing of response.* (1) Consistent with 5 U.S.C. 552(a)(6)(A) and upon any request for records made pursuant to this subpart, EPA shall determine within 20 working days after receipt of any such request whether to comply with such request and shall immediately notify the person according to this section.
- (2) A requester submitting a request electronically must do so before 5:00 p.m. Eastern Time for the Agency to consider the request as received on that date, and a request submitted electronically at or after 5 p.m. Eastern Time will be considered received by the National FOIA Office on the next business day.
- (3) The timeframe for response may be extended if unusual circumstances exist per paragraph (f) of this section, including when EPA asserts unusual circumstances and arranges an alternative timeframe with the requester, or exceptional circumstances exist per paragraph (g) of this section. The timeframe for response may be tolled per paragraph (e) of this section.
- (b) *Agency failure to respond.* If EPA fails to respond to the request within the statutory time-period, or any authorized extension of time, the requester may seek judicial review to obtain the records without first making an administrative appeal.
- (c) *Acknowledgment of request.* On receipt of a request, the National FOIA Office ordinarily will send a written acknowledgment advising the requester of the date the Agency received the request and of the processing number assigned to the request for future reference.
- (d) *Multitrack processing.* The Agency uses three or more processing tracks by distinguishing between simple and complex requests based on the amount of work, time needed to process the request, or both, including limits based on the number of pages involved. The Agency will advise the requester of the processing track in which the Agency placed the request and the limits of the different processing tracks. The Agency may place the request in a slower track while providing the requester with the opportunity to limit the scope of the request to qualify for faster processing within the specified limits of a faster track. If the Agency places the request in a slower track, the Agency will contact the requester.

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