**BOARD OF DIRECTORS**

**MARYLAND ENVIRONMENTAL SERVICE**

**RESOLUTION**

**(96-03-1R)**

**A RESOLUTION** approving

Public Information Act regulations for the Maryland Environmental Service (the "Service").

**R E C I T A L S**

The Service was created by, exists under, and exercises the powers contained in Sections 3-101 to 3-130, inclusive, of the Natural Resources Article of the Annotated Code of Maryland (the "Act") including (among others) the power to adopt, formulate, revise and enforce rules and regulations.

The Maryland Public Information Act, State Government Article, Sections 10-611 through 10-630, Annotated Code of Maryland, requires each official custodian of public records to adopt reasonable rules or regulations that govern timely production and inspection of public records.

The Service considers the adoption of Public Information Act regulations to be in furtherance of the purposes of the Act and the Service.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE, THAT:**

1. The Service hereby adopts the Public Information Act regulations attached hereto as Exhibit "A".

2. The Director is hereby authorized and directed to submit the regulations for adoption in accordance with the

Maryland Administrative Procedure Act, State Government Article, Title 10, Subtitle 1, Annotated Code of Maryland for review and for publication in the Maryland Register.

3. The Director is hereby authorized to make such stylistic or other changes as are required to be made by the Maryland Division of State Documents or the Joint Committee on Administrative, Executive and Legislative Review of the General Assembly, and such changes shall be deemed to be approved and adopted by this Board without any further action or approval.

4. This Resolution shall take effect immediately.

**ADOPTED, this 28th day of March, 1996.**

**SEAL**

**MARYLAND ENVIRONMENTAL SERVICE**

**BY:** _____
**JAMES W. PECK, DIRECTOR**

**BY:** Annette Anselmi
**ANNETTE ANSELMI, TREASURER**

**BY:** Carolyn D. Davis
**CAROLYN D. DAVIS, SECRETARY**

**EXHIBIT "A"**

**Maryland Environmental Service**

**Public Information Requests**

**.01 General**

These regulations establish procedures for submitting requests to the Maryland Environmental Service for the inspection or copying of public records under State Government Article, §§10-611--10-630, Annotated Code of Maryland.

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Applicant" has the meaning stated in State Government Article, §10-611(b), Annotated Code of Maryland.

(2) "Custodian" has the meaning stated in State Government Article, §10-611(c), Annotated Code of Maryland.

(3) "Director" means the Director of the Maryland Environmental Service, or the Director's designee.

(4) "Official custodian" means the Secretary of the Maryland Environmental Service, or the Secretary's designee.

(5) "Person in interest" has the meaning stated in State Government Article, §10-611(e).

(6) "Public Information Act" means State Government Article, §§10-611--10-630, Annotated Code of Maryland.

(7) "Public record" has the meaning stated in State Government Article, §10-611(f), Annotated Code of Maryland.

(8) "Service" means the Maryland Environmental Service.

(9) "Working day" means each day between the hours of 9 a.m. and 4 p.m. except Saturdays, Sundays, and holidays.

**.03 Requests for Records.**

A. A person may request to inspect or copy a public record that is in the custody of the Service and which, under the provisions of the Public Information Act, the Service is required to make available to the public.

B. Requests for public records shall:

(1) Be made in writing;

(2) Be addressed to the custodian;

(3) Contain the applicant's name, address and phone number; and

(4) Reasonably identify by brief description the specific public record sought.

**.04 Response to Request.**

A. If the custodian grants a written request for inspection, the custodian shall produce the record, or a copy, for inspection within a reasonable time, not to exceed 30 days from the date the Custodian receives the request.

B. If the custodian denies the request, the custodian shall do so within 30 days of receipt of the written request and, immediately upon denying the request, shall notify the applicant of the denial. Any reasonable severable portion of a public record shall be provided after deletion of those portions which may be withheld from disclosure. Within 10 working days of the denial, the custodian shall give the applicant a written statement that gives the reasons and legal authority for the denial and contains a notice of the remedies for review of the denial.

C. If a requested public record is not in the custody of the individual to whom the written application is made, the individual shall, within 10 working days of the receipt of the request, notify the applicant. If the individual knows the name of the custodian of the public record or the location or possible location of the public record, this information shall also be given to the applicant.

D. With the consent of the applicant, any time limit imposed by §§ A-C of this regulation may be extended for not more than 30 days.

E. The custodian shall deny inspection of a public record in accordance with State Government Article, §§10-615 - 10-617, Annotated Code of Maryland.

F. The custodian may deny inspection of a public record in accordance with State Government Article, §10-618, Annotated Code of Maryland.

**.05 Notification of Person In Interest.**

A. The custodian, unless otherwise prohibited by law, may notify a person in interest prior to disclosing the public record. If the custodian may deny inspection in accordance with Regulation

.04F., the custodian may consider the views of the person in interest before granting or denying the request to inspect the public record.

**.06 Review of Denial.**

A. If a written request is denied by the custodian, the applicant may, within 30 days after receipt of the denial, submit a request to the Director for an administrative hearing on the denial.

B. The hearing shall be conducted by a hearing officer designated by the Director. If the custodian who denied the request is not the Director, the hearing officer shall prepare a recommended decision which shall be submitted to the Director, and the Director shall make the final decision. If the custodian who denied the request is the Director, the hearing officer shall make final decision.

C. An applicant may also file an action for judicial review under §10-623 of the State Government Article, Annotated Code of Maryland.

**.07 Disclosure Against Public Interest.**

A. If the official custodian believes that inspection of a public record will cause substantial injury to the public interest, the official custodian may:

(1) Temporarily deny the request in writing; and

(2) Petition, within 10 working days after the denial, the appropriate circuit court for an order permitting the continued denial of inspection.

B. Notice of the petition filed in the circuit court shall be served upon the applicant in the same manner provided for service of process by the Maryland Rules of Procedure.

**.08 Fees.**

A. The Service may charge reasonable fees for services provided under this chapter, as determined from time to time by a resolution of the Service's Board of Directors. As of April 1, 1996 the fees to be charged under this chapter are:

(1) Copies. The fee for each copy is 25 cents per page for every page in excess of 25 pages if reproduction can be made by a photocopying machine within the Service' headquarters. There is no charge for copying the first 25 total pages. When public records are not amenable to photocopying (for example, punch cards, magnetic tapes, large documents, and microfilm), the fee for reproducing the public record shall be based on the actual cost of reproduction. If the public records total more than 25 pages the

Service shall charge the applicant for the actual cost of labor expenses incurred by the Service for each employee photocopying the public records, including overhead costs at the Service's standard overhead rate.

(2) Certification of Copies. The Service shall charge a fee of $5.00 for each public record certified as a true copy, plus 50 cents per page.

(3) Search and Record Preparation Fees. The Service shall charge the applicant for the actual cost of labor expenses, including overhead costs at the Service's standard overhead rate, incurred by the Service for searching or preparing public records for inspection or copying. The Service may not charge for any labor expenses for the first 2 hours of official or employee time needed to respond to a request for public records or to search or prepare the public records.

(4) Exception to Fee. The Service shall not charge any fee under this regulation if the total amount of the fee due under the request is $10 or less.

(5) Returned Check Fee. The Service may charge a fee of not less than $25 for any dishonored check returned to the Service.

B. Notwithstanding §A of this regulation, if any fees for copies, printouts, photographs, or certified copies of any public record are specifically prescribed by law other than the Public Information Act or this regulation the specific fee contained in that law shall determine the amount charged for that record.

C. If the custodian is unable to copy a public record within the Service, the custodian shall make arrangements for the reproduction of the public record at public or private facilities outside the Service. The custodian shall either collect from the applicant a fee which is sufficient to pay the actual cost of reproduction or direct the applicant to pay the cost of reproduction directly to the facility making the copy.

D. Before copying a public record, the custodian shall estimate the cost of copying and obtain the agreement of the applicant that the cost shall be paid. The custodian may demand prepayment of any estimated fee before copying a public record. If the custodian requires prepayment, then the time limitations in these regulations may not commence until the applicant makes full payment.

F. If the applicant requests that copies be mailed or delivered to the applicant, the Director may charge the applicant for the cost of postage or delivery to the applicant.

**.09 Waiver or Reduction of Fees**

A. The Director may waive or reduce any fee charged under this regulation if the Director determines that:

(1) The public record requested is promotional in nature or is routinely distributed by the Service to the public; or

(2) After consideration of the ability of the applicant to pay all or a portion of the fee and other relevant factors, the Director determines that a waiver or reduction is of the fee is in the public interest.

B. The decision of the Director to waive or reduce any fee is within the sole discretion of the Director and the Director's decision is final.

**.10 Time and Location of Inspection**

An applicant may inspect any public record which the Custodian has determined the applicant is entitled to inspect during a working day. Unless the applicant and the custodian otherwise agree, the public records shall be inspected at the Service's headquarters.