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Cadmium/Water Quality Criteria: Center for Biological Diversity Lawsuit Against The United States Environmental Protection Agency Alleging Freedom of Information Act Violations

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The Center for Biological Diversity (“CBD”) filed a June 28th Complaint for Declaratory and Injunctive Relief (“Complaint”) against the United States Environmental Protection Agency (“EPA”) alleging:

... failure of the United States Environmental Protection Agency (EPA) to provide public records related to its activities in revising the aquatic life water quality criteria for the heavy metal cadmium in 2015 and 2016 (FOIA Request), in violation of the Freedom of Information Act (FOIA), 5 U.S.C. § 552...

CBD’s Complaint states that the organization filed an FOIA Request on April 5, 2016. It further alleges that EPA failed to respond in a manner that complies with FOIA.

The Complaint describes in part EPA’s development of water quality criteria under the Clean Water Act. It further discusses EPA’s finalization of recommended ambient water quality criteria (AWQC) for the protection of aquatic life relating to effects of cadmium on aquatic organisms, based upon consideration of available information.

The Complaint further discusses in detail CBD’s request for certain records and EPA’s various records that were requested and EPA’s response. The claims for relief include:

- Improper withholding of agency records pursuant to 5 U.S.C. § 552(b)(5) and failure to provide reasonably segregable portions of records that are not exempt
- Failure to comply with the procedural requirements of the Freedom of Information Act
- Failure to comply with the procedural requirements of the Freedom of Information Act constitute agency action unlawfully withheld or unreasonably delayed
- Failure to comply with the procedural requirements of the Freedom of Information Act are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law

[A copy of the Complaint can be downloaded here.](#)