

U.S. Nuclear Regulatory Commission
Chief FOIA Officer Report
March 2013-March 2014

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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

The U.S. Nuclear Regulatory Commission (NRC) is committed to protecting the health and safety of the public, and understands that an open and transparent regulatory process is critical to achieving its safety goals. Prior to the issuance of the President's Freedom of Information Act (FOIA) Memorandum, the NRC had its own, un-mandated program to make discretionary releases of information of interest to the public. The NRC program allowed requests, in the absence of a FOIA request, and demonstrates that the NRC understands that openness should be the guiding principle of FOIA releases.

The NRC is currently centralizing its FOIA administrative process to increase transparency by improving efficiency and increasing the communication between the FOIA staff and the subject matter experts in program offices during the processing of FOIA requests.

Additionally, the NRC is developing FOIA instruction and training for the program offices to support the transition to centralization. The NRC believes that the training will improve the staff's ability to process cases appropriately and in a timely manner.

Finally, the NRC has also procured technology to enable the public to immediately obtain the status of a FOIA request via an electronic portal, including status of the FOIA staff's electronic processing and review of responsive records.

FOIA Training:

- 1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?**

Yes, the NRC conducted agency-wide training on FOIA processing and exemptions. In addition, NRC held an agency-wide training event featuring Melanie Pustay, the Director of the Office of Information Policy (OIP) in the Department of Justice (DOJ).

- 2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.**

Enclosure

The NRC conducted two agency-wide trainings. Specifically, on February 13, 2013, NRC conducted training entitled “Everything you wanted to know about FOIA” explaining the basic FOIA procedures and legal requirements for NRC staff, in person and by video-conference. An estimated 120 individuals attended this training. Additionally, on June 18, 2013, NRC hosted a live presentation (video-conferenced to remote locations) by Melanie Pustay, Director of DOJ’s OIP, entitled “FOIA Belongs to Everyone” emphasizing the obligations of all NRC staff and management in responding to FOIA requests and enhancing transparency. An estimated 145 individuals attended this training.

3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

The NRC FOIA staff attended multiple training events. These events included the following DOJ events:

An Overview of the FOIA—February 19, 2013, May 7-8, 2013

Procedural Requirements and Exemptions—July 25, 2013

The NRC FOIA staff also participated in the following training events:

AINS (Vendor) Annual FOIA user Conference

Office of Inspector General (OIG) FOIA Guidance

American University Freedom of Information Day Celebration

NRC Web-Based FOIA training, “Controlled Unclassified Information (CUI) and FOIA”

Records and Information Management Training at Department of Transportation on FOIA Exemptions

Sunshine Week Celebration

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

100%

5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency’s plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

NRC is expanding existing substantive FOIA training based on best-practice FOIA procedures, scope of exemptions and exclusions, and up-to-date legal developments in tandem with FOIA Centralization. This will be required for all FOIA Professionals and available to all program office staff. NRC is further summarizing FOIA processing in a quick reference guide for all program office subject matter experts to use when working on a FOIA request.

Outreach:

- 6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.**

NRC has created blog postings regarding the improvements to the FOIA program. Additionally, NRC is including a web-based interface for requesters to access and track the progress of their request online. NRC was recognized by the Center for Effective Government for the recent improvements to its FOIA procedures and increased transparency. These improvements have opened a positive dialogue with requesters who have called or emailed about the status of their cases. NRC indicated that an effective, forward facing link for requesters to track the status of their cases would be forthcoming.

NRC also maintains an ongoing interaction with the requester community, and the public generally, through multiple media outreach initiatives. These include a public blog with posting contributions from across the agency, including FOIA. NRC also maintains a Twitter account, posts YouTube videos, and manages a Flickr account. The public is actively engaged with the NRC in a responsive dialogue and comments through these outreach efforts. The public has provided extensive comments to the blog and the NRC has thousands of followers to the Twitter account, tens of thousands of YouTube viewings, and nearly 1 million Flickr views.

Discretionary Disclosures:

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

- 7. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.**

The NRC has a formal process for discretionary releases outlined in 10 Code of Federal Regulations (CFR) Part 9.25(f). Although NRC is currently centralizing the FOIA processes, it already has a prompt for discretionary releases in the check-lists used by every program office responding to the FOIA staff on all requests.

8. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

Yes, the NRC made discretionary releases in response to a total of six separate FOIA requests.

9. What exemptions would have covered the information that was released as a matter of discretion?

Information that otherwise would have been withheld under FOIA Exemptions 2 and 5.

10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

The types of information that the NRC released as a matter of discretion included pre-decisional discussions, recommendations, and drafts, as well as internal personnel-related information.

11. If your agency was not able to make any discretionary releases of information, please explain why.

N/A

Other Initiatives:

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

Yes, the NRC posted all of the required quarterly FOIA reports for Fiscal Year (FY) 2013.

13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

The NRC has proactively posted all FOIA requests, closures, and responsive records online that do not contain Privacy-related information within its web-based records system, ADAMS.

The NRC has also taken the initiative to examine the current authority to increase the ability of Program Offices to release discretionary information that would otherwise be considered exempt from disclosure.

**Section II: Steps Taken to Ensure that Your Agency
Has an Effective System in Place for Responding to Requests**

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

The NRC's FOIA, Information Collection and Privacy branch chief conducts weekly staff meetings wherein FOIA professionals are routinely asked what processes and procedures can be implemented or improved to streamline the FOIA system. As a result of these meetings and initiatives, at least four significant efficiency improvements have been suggested and implemented.

Personnel:

During Sunshine Week 2012 OPM announced the creation of a new job series entitled the Government Information Series, to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

Yes

2. If not, what proportion of personnel has been converted to the new job series?

N/A

3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

N/A

Processing Procedures:

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Yes, the average number of days to adjudicate a request for Expedited Processing was less than one day.

- 5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.**

The NRC has purchased licenses from an external vendor that will allow remote processing of records by the agency Program Offices so that they can submit the records electronically for referral by email without the FOIA staff needing to re-scan physical documents sent from the Program Office. This is expected to reduce the response time for all consultations and referrals both received and sent by the agency. The internal electronic transmittal and processing of records will increase the efficiency of the consult and referral process by eliminating the internal mailing time of the records between offices, as the additional time saved to manually process responsive records. The NRC also continues to regularly liaise with outside agencies and follow up throughout the FOIA referral and consultation process to expedite a response to the requester.

Requester Services:

- 6. Do you use e-mail or other electronic means to communicate with requesters when feasible?**

Yes, and we recently have included multiple notices, estimates, and other communications in the standard correspondence issued by email when possible. These communications include notices, payment forms, fee estimates, acknowledgment letters, fee categorizations, fee waiver determinations, and regular correspondence.

- 7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?**

Yes, NRC notifies all requesters of the mediation services, and has recently participated in successful mediation activities utilizing OGIS' services. The NRC has also successfully used these mediation services to increase transparency and provide responsive records to requesters during FY2013.

- 8. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc.**

The NRC is currently conducting a case-by-case review to determine any trends in disclosure delays, and areas of focus where the FOIA backlog can be reduced.

Additionally, NRC Office of Inspector General is currently conducting an audit of the FOIA procedures to ensure compliance with the FOIA and transparency.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2013 to March 2014). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

- 1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?**

Yes.

- 2. If so, describe the system that is in place.**

Utilizing our case tracking system, FOIAXpress, NRC has the capability of linking requests of a common nexus, so that any time a request seeking information similar to another request previously received, the records sought will be reviewed to determine if the records can be posted proactively. Additionally, the agency routinely posts records that are of significant public interest for public availability. These records are constantly posted to ADAMS across a broad spectrum of topics. Some of these topics include:

- Responses to FOIA Requests
- Reactor Licenses
- License Amendments
- Licensee Requests for Additional Information
- Notices of Violations
- License Renewal Applications
- Environmental Impact Statements
- Testing Programs
- Inspection Reports
- Risk Assessments
- Evaluation and Audit Reports
- Integrated Plans in Response to Evaluation and Audit Reports

This list is not comprehensive, and hundreds of new full-text records are proactively disclosed publicly in ADAMS daily to inform the public of agency activities.

- 3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.**

- [Sharing Information through Social Media](#)
- [NRC Blog](#)
- [NRC Twitter Feed](#)

- [NRC YouTube Channel](#)
- [NRC Flickr Gallery](#)
- [What's New On Our Site](#)
- [Site Index](#)
- [Site Map](#)
- [Index of All Contact Pages](#)
- [Subscribe to E-mail Updates](#)
- [Operating Reactor Correspondence](#)
- [Electronic Submittals](#)
- [Licensee Event Report Search \(LERSearch\)](#)
- [Freedom of Information Act & Privacy Act Requests](#)
- [NRC Actions in Response to the Japan Nuclear Accident](#)
- [FOIAs Related to Japan's Emergency](#)
- [Public Meeting Schedule](#)
- [Meeting Archives](#)
- [NRC Webcast Portal](#)
- [Conferences & Symposia](#)
- [Commission Meeting Schedule](#)
- [Commission Speeches](#)
- [News Releases](#)
- [NRC Federal Register Notices](#)
- [Congressional Documents](#) (testimony, reports, and correspondence)
- [Documents for Comment](#)
- [FAQ Index](#)
- [Generic Communications](#)
- [Generic Issues](#)
- [Facility Locator](#)
- [Radiation Dispersion Maps and Information](#)
- [Power Reactor Status Reports](#) (and related [dataset](#))
- [Reactor Inspection Reports](#) (and related [dataset](#))
- [Reports Associated with Events](#) (and related [dataset](#))
- [Issued Significant Enforcement Actions](#) (and related [dataset](#))
- [Sanctions for Discrimination Against Employees Who Raise Safety Concerns](#)
- [U.S. Commercial Nuclear Power Reactors](#) (dataset Appendix A)
- [U.S. Commercial Nuclear Power Reactors Formerly Licensed to Operate](#)
- [\(permanently shutdown\)](#) (dataset Appendix B)
- [Canceled U.S. Commercial Nuclear Power Reactors](#) (dataset Appendix C)
- [U.S. Nuclear Research and Test Reactors \(Operating\) Regulated by the NRC](#) (dataset Appendix I)
- [Dry Spent Fuel Storage Designs: NRC-Approved for Use by General Licensees](#) (dataset Appendix N)
- [Dry Spent Fuel Storage Licensees](#) (dataset Appendix O)
- [Native American Reservations or Trust Land Within 50-Mile Radius of a Nuclear](#)

- [Power Plant](#) (dataset Appendix U)
- [NRC Ethics](#)
- [Civil Rights Program](#)
- [Waste Confidence](#)
- [Tribal Protocol Manual](#)
- [NUREG-Series Publications](#)
- [Rulemaking Documents](#) (dockets, petitions, and activities)
- [Potential Rulemakings](#)
- [Regulatory Information Conference \(RIC\)](#)
- [Personal Identity Verification](#)

Making Posted Material More Useful:

- 4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?**

Yes. The agency is continuing with its review of a customer satisfaction survey under OMB-3150-0197 as it relates to the Agency's interactions with its customers and stakeholders. Additionally, the agency maintains accessibility links, reference guides, contact information, and indexed electronic filing systems to guide visitors through its public website for increased search capability and document review.

- 5. If so, provide examples of such improvements.**

Within the Agency-wide Documents Access and Management System (ADAMS), the official recordkeeping system, the agency provides access to two complete libraries of information.

First, the Publicly Available Records System (PARS) Library, which contains more than 730,000 full-text documents that the NRC has released since November 1, 1999, and several hundred new documents are added each day.

Second, the Public Legacy Library contains more than 2 million bibliographic citations (some with abstracts and full text) for earlier documents with the majority dating back to 1980.

- 6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?**

Yes. The NRC currently maintains a public blog to increase public awareness of agency activities, and to increase transparency. To date, there have been 417 blog postings informing the public of the efforts of the agency. There have been 165,221 views of this blog from March 2013 to the present. Additionally, there have been 1265 comments on

the blog from March 2013 to the present. Most importantly, the blog has proven to be an especially useful way to communicate quickly with the public during and after Hurricane Sandy, the Palisades' Nuclear Power Plant shutdown, earthquakes in California, and other events that affected areas near nuclear power plants in the United States during the past year. Some of the recent notable blogs that kept the public apprised during 2013 addressed the following issues:

- The Government Shutdown
- San Onofre and Vermont Yankee Announcement of Plans to Shut Down and Decommission
- The Arkansas One Industrial Accident
- Posts Regarding Nor'Easter Nemo

The NRC also maintains a Twitter account that has issued 1322 tweets to date, with a total of 4669 total followers.

The NRC also has had 45,533 YouTube views to date, with 421 subscribers across 99 total videos posted.

Additionally, the agency has posted a total of 1450 total images to its Flickr account, which has had a total of 915,603 total views to date, with 618,237 total visitors.

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

With records that pre-date digitization, and are in physical format or microfiche, in order to post those records with the availability of the ADAMS library, they must be digitized, and individually reviewed prior to release.

8. Describe any other steps taken to increase proactive disclosures at your agency.

The agency maintains a Rich Site Summary (RSS) Feed to publish frequently updated information. This has had 43,518 unique visitors, with 551,083 total visits, and 25,191,064 views as of January 2, 2014.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. Over the past several years agencies have reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2014, as we have done over the past years, the questions have been further refined and now also address different, more innovative aspects of technology use.

Online tracking of FOIA requests:

1. Can a FOIA requester track the status of his/her request electronically?

No. However, the NRC currently provides the requester with the name and telephone number of the FOIA specialist assigned to the request, and NRC has obtained software to use in the near future to allow online tracking of their FOIA requests. This software will be a forward facing interface with the public that will allow real-time tracking of requests, agency responses, and processing status within the agency.

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

When the software application is operational, it will be done by linking the case tracking system with the concurrent updates of our internal case management system to provide real time status information to our requesters.

3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

N/A. The tracking system is not yet operational. However, yes, the system is expected to provide the requester with the status of the case.

4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?

When the tracking system is operational, it is expected that the requester will receive an estimated completion date.

5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

The agency has procured a new system that will be compatible with the online tracking system, which we expect to be operational within two months. At that time, the online tracking system will be functionally tested for immediate use with our current case tracking system.

Use of technology to facilitate processing of requests:

6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Yes.

7. If so, describe the technological improvements being made.

NRC has procured a license for an advanced document review module which utilizes logarithmic record analysis capability to de-duplicate voluminous record sets. This module will be used in conjunction with the new server to reduce the processing time of voluminous requests. This application will especially be useful for the processing of requests seeking emails, as parent-chain relationships will be maintained during processing. Also, the records de-duplicated in this procedure will be able to retain their initial format, without the need of printing and re-scanning. This will create a much more efficient processing methodology for future voluminous requests.

Additionally, NRC has procured processing software licenses to allow the program offices to electronically review and submit their release recommendations for FOIA processing. This will eliminate the need for hand-marked pages, and will eliminate the mailing time of physical records from the program office.

8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

Yes. A system that is capable of auto-generating notifications to the requester after the statutory passage of time for a requester response, such as when clarification of scope, a fee estimate, or a request for identity verification has been sent to the requester requiring requester response. This would remove the necessity for analysts to have to track each of these overlapping timeframes for response.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2013 Annual FOIA Report and, when applicable, your agency's 2012 Annual FOIA Report.*

Simple Track Requests:

- 1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.**
 - a. Does your agency utilize a separate track for simple requests?**

Yes.

- b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

Yes, the average processing time was 12 days.

- c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

N/A

Backlogs and "Ten Oldest" Requests, Appeals and Consultations:

2. Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

- a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

Yes

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

No

Ten Oldest Requests

- c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

No

- d. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2012 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

4 out of 10 oldest requests

Ten Oldest Appeals

- e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

N/A

- f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

N/A

Ten Oldest Consultations

- g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

N/A

- h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

N/A

Reasons for Any Backlogs:

3. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog

- a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?

Yes, at the close of FY2012, there were no outstanding administrative appeals. Of the 23 administrative appeals received during FY2013, NRC was able to adjudicate 15 prior to the end of FY2013.

- b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?**

No.

- c. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?**

Yes. During FY2013, the number of complex cases processed during FY2013 increased by more than 57%. This correlated to an increase in the number of appeals received from FY2012 to FY2013 by 130% from 10 to 23.

- d. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?**

The current backlogged administrative appeals in several instances involve constructive denial and exemption appeals from requests regarding the 2011 Fukushima Daiichi event. Many of those are extremely voluminous and have led to longer appeal response times. However, the NRC has maintained communication with the requesters to provide a reasonable timeframe for a response. It is anticipated that all of the Fukushima requests and appeals will be closed by the end of Q3 FY2014.

“Ten oldest” Not Closed

- e. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.**

The ten oldest requests all relate to the Fukushima Daiichi disaster and remain open pending the completion of the processing of the records remaining that are responsive to these respective requests.

- f. If your agency was unable to close any of its ten oldest requests or appeals because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.**

N/A

Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

- 4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2014.**

The NRC created a “Japan-Team” dedicated exclusively to the processing and release of records related to the Fukushima Daiichi crisis. The team has worked year-round processing and disclosing over 207,539 pages of responsive records since the creation of the team. Of those, 201,679 pages have been publicly released in ADAMS. Staff continues to work full-time to complete the processing of the remaining responsive records.

Also, to avoid the duplication of efforts, the NRC proactively posted all Japan-related FOIA requests online to inform the public of the information that was already being sought, and would be made publicly available as soon as those pending requests were processed. All requests seeking information regarding the Fukushima Daiichi crisis are located on the NRC public website at this URL address, by year:
<http://www.nrc.gov/reading-rm/foia/japan-foia-info.html>.

Several noteworthy releases proactively posted in response to these requests include the Executive Team transcripts of the audio files from the telephone lines recorded in the agency’s Headquarters Operations Center that are responsive to FOIA requests, seeking any and all documents related to the agency’s response to the Fukushima, Japan tsunami and subsequent disaster, have been processed and made publicly available. These files are located by Executive Team Meeting, by ADAMS Accession Number: <http://www.nrc.gov/reading-rm/foia/japan-foia-info/transcripts/et/>.

Similar transcripts of audio files from the agency’s HOO1 Headquarters Operations Center have also been processed and made publicly available, by ADAMS Accession Number: <http://www.nrc.gov/reading-rm/foia/japan-foia-info/transcripts/hoo1/>.

Lastly, transcripts of the Reactor Safety Team ENS Communicator Audio Files have been processed and made publicly available, by ADAMS Accession Number: <http://www.nrc.gov/reading-rm/foia/japan-foia-info/transcripts/rst/>.

Each of these public releases and proactive disclosures are also responsive to portions of one or more of the ten oldest backlogged FOIA requests, and as such, have reduced the processing that will be necessary to individually respond to each item of multiple requests seeking overlapping responsive records.

- 5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency’s plan for achieving backlog reduction in the year ahead.**

N/A

Interim Responses:

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

6. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes.

7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

58% of the backlogged cases have received an interim response. Additionally, of the cases where an interim response has been provided to the requester, 53% of the backlogged cases have had 2 or more substantive, interim responses sent to the requester.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013?

No.

2. If so, what was the total number of times exclusions were invoked?

N/A

Spotlight on Success

Out of all the activities undertaken by your agency since March 2013 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of a key achievement. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- During FY2013, the subject matter of several of the agency's oldest FOIA requests significantly changed in content and value to significantly increase the public's understanding of Agency activities. For example, in cases where an NRC licensee has been closed since the submission of a FOIA request seeking records about the licensee's operations, the responsive records would potentially no longer be used by the requesters to advance the public understanding as originally intended by the requester to further transparency. In many of those cases, the requester would no longer even have an interest in receiving the responsive records.

In such cases, or in requests where the requester had not had any recent contact with the agency, the NRC reached out to the requesters to determine the continued interest of the requester in the responsive records.

In following OIP guidance, letters were sent to specific requesters who met these criteria, and an overwhelmingly positive response was received from the requesters. Many of them thanked the agency for following up, and agreed that they no longer wanted to pursue the request, or no longer had an interest in receiving responsive records. Other requesters indicated that the public would no longer benefit from the requested records in light of the changed circumstances surrounding their request. As a result of these efforts, requesters withdrew, and the agency was able to administratively close, a significant volume of the agency's backlogged FOIA requests.

- The NRC also instituted a process to periodically review the backlogged FOIA requests for suitability of sending similar letters, in an effort to allocate resources towards substantively responding to as many FOIA requests as possible, informing the public about as much of the agency's activities as possible, and improving agency transparency.
- The agency proactively posted thousands of records publicly in ADAMS during FY2013, including records regarding the Fukushima disaster, Investigation and Enforcement Actions, Reactor Regulation, Nuclear Material Safety, Licensing, Environmental Safety, Nuclear Security, Nuclear Research, and agency financial accountability.
- The NRC is centralizing its FOIA processing to increase efficiency and improve the FOIA processes. This will increase the consistency in the application of FOIA Exemptions and decrease the time that it takes for a FOIA request to be processed as records are processed that involve equities from agency Program Offices.
- Lastly, the NRC was recognized for its best practices in FOIA by the Center for Effective Government, and is continuing to advance the public understanding of agency activities through the use of technology. The agency has procured, and will be utilizing licenses in FOIA processing technology to decrease request response times, electronically process records, and allow the public to track the progress in the processing of FOIA requests submitted to the agency.