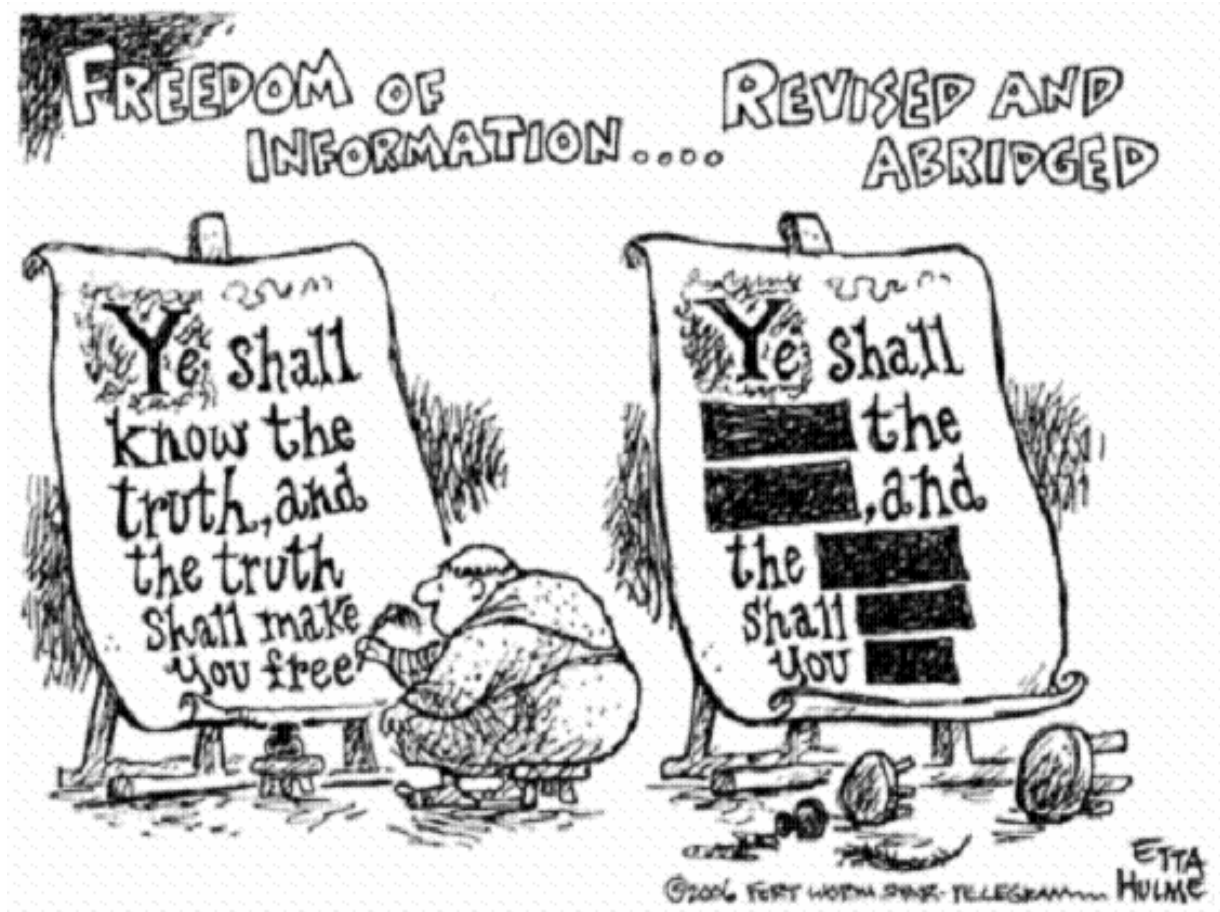


Freedom of Information Act (FOIA) Processing at the NRC

Desk Guide

Freedom of Information, Privacy & Information Collections Branch (FPIB)



This Desk Guide is intended to assist FOIA and other NRC staff in the processing of Freedom of Information Act requests assigned to them by integrating the various authorities (e.g., statute, NRC regulations, NRC Management Directive 3.1, government-wide guidance) in one place, and helping staff to identify and analyze commonly encountered questions and issues with greater ease. This Desk Guide is not intended to create or confer any rights, privileges, or benefits on any person. It is not intended to have the force of law, or of a statement of U.S. Nuclear Regulatory Commission policy.

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SECTION I: GENERAL GUIDANCE

CHAPTER 1

FOIA COORDINATORS

The role of the FOIA Coordinator is to provide a program/regional office's response to FOIA requests assigned to the program/regional office (*i.e.*, providing fee estimates, directing the program office's search for responsive records, maintaining personal records that are not sent to the FOIA staff, and providing the disclosure recommendations¹ for the records, including de-duplicating records, ensuring consistency of searches conducted within the office and in the disclosure recommendations being made, and obtaining foreseeable harm statements, etc.). There is a FOIA Coordinator assigned these duties for each program/regional office. Due to the importance of the coordinator duties, whenever a coordinator is expected to be away from the office for three or more consecutive business days, an alternate is expected to assume those responsibilities.

¹ The offices of the Commission, including the Secretary to the Commission (SECY), General Counsel (OGC), and Inspector General (OIG) have their own independent authority with respect to making determinations on the applicability of the FOIA to their records. For all other program/regional offices, the program/regional offices are the authority for release of their own records, but offer recommendations on any withholding of, or redactions in, their records.

CHAPTER 2

INITIAL STEPS

- A. FOIA requesters may use “snail mail” or “email”, online form, fax, or hand delivery, to submit FOIA requests. Under the NRC regulations, 10 C.F.R. 9.23(b), the statutory response period begins when the request is received by the Freedom of Information, Privacy & Information Collections Branch (FPIB).
- B. Once the FOIA Officer makes the assignment, the administrative staff will then assign the request to you in FOIA Xpress and will upload a copy of the original FOIA request¹ (and, if there is personally identifiable information (PII) within the request, also a redacted copy) into (non-public) ADAMS and FOIA Xpress. When you receive the green working folder, you’ll see included within it the original incoming request, as well as a redacted copy that has PII removed (since the FOIA request, once responded to, may be posted to public ADAMS). *Note:* When the time comes for you to prepare the Form 464 response, if the response package is to be made publicly available, you will need the ML# of the response. You can locate it by searching ADAMS under the FOIA request number. You may wish to obtain the ML# and write it on the request so you’ll have it when the time comes.
- C. You are then responsible for taking the next steps. The administrative staff has entered into FOIA Xpress various items of information about the request and NRC’s receipt of it. Confirm the accuracy of each item of information in each of the four screens (General Information, Custom Fields, Request Information, and Fee Information), paying particular attention to the request type (*i.e.*, FOIA/PA if it’s a request received directly by NRC from a requester or a referral from another agency, or CON if a request comes to NRC as a consultation from another Federal agency), the processing track (simple or complex), fee category, and whether a fee waiver and/or expedited processing was requested (and whether or not it’s been granted or denied). You should confirm that the appropriate fields are completed, and that the information is correct. If you disagree with the processing track assigned, do not change it yourself. Discuss any changes you believe should be made with the FOIA Officer; if he agrees with you, he will make the change in FOIA Xpress. Similarly, if the request includes a fee waiver or expedited processing request, which is not reflected in FOIA Xpress, discuss it

¹ FOIA requests for allegation and investigation records, as well as personnel- or security-related records, are generally not posted to www.nrc.gov.

(as well as whether the request should be granted or not) with the FOIA Officer before addressing these issues in the acknowledgment letter and making changes to FOIA Xpress.

- D. NRC uses two tracks for its FOIA requests. Track A, which is the simple track, uses the standard 20-business day response period. Track B, which is the complex track, uses the 20-business day + 10 additional business days, for a total of 30 business days. Track C, which is another complex track, is reserved for extraordinary requests that are expected to involve substantial coordination and/or a high volume of records (and uses the “greater than 30 business day” time period). A request is considered “complex” if:
1. there is a need to search for, collect, and review a voluminous amount of separate and distinct records;
 2. three or more program/regional offices in NRC have substantial subject matter interest in the records;
 3. there is a need to consult with another agency having a substantial interest in the records;
 4. there will be records sent for a licensee or other business submitter’s review;
 5. the requested records are investigatory files (e.g., report, exhibits, and miscellaneous investigatory records);
 6. there is a need to undertake a declassification review of classified records; or
 7. there is a need to retrieve older records from a Federal Record Center or other off-site facility.
- E. You should confirm that the request is “perfected” under the NRC regulations, 10 C.F.R. 9.23. A request is perfected when it contains all of the information necessary for you to process it. At this preliminary stage, you should ensure that if an individual is requesting a record on him or herself, there is verification of his/her identity. Similarly, if a third party makes a request for records that does, or may, include Privacy Act records about another individual, make sure the requester provides authorization from the individual. An identity verification (**Attachment I-2-1**) or third party authorization (**Attachment I-2-2**) document must either be notarized or signed under penalty of perjury (in satisfaction of 28

U.S.C. 1746(b). You should also consider whether the request is clear in what it is asking for or ambiguous, or whether the records being sought are voluminous. The program/regional offices may also identify such concerns to you once tasked with either the fee estimate or search (see **Section I-Chapter 4**), which should result in your seeking clarification or a modification from the requester. You should not wait for the program/regional offices to raise such concerns; if you identify such infirmities, contact the requester as soon as you can. We are looking for efficiencies in our processing and establishing an early line of communication with the requester is a constructive first step and is highly desirable. But even if all of these requirements are satisfied, the request will not be considered perfected² until after all fee issues have been resolved (see sections K and L, below).

F. Unless you know that you can complete work on the request and issue the Form 464 response within ten (10) business days³, you will then prepare the acknowledgment letter (**Attachment I-2-3**), which will include an Explanation of Fees. Today, most requests come to us electronically (either through an email, or the online form on www.nrc.gov, so we will have the requester's email address to which to send the acknowledgment letter. For requests for which we do not have the requester's email address, we will prepare the acknowledgment letter for "snail mail." The steps to follow for creating the acknowledgment letter differ depending on whether it will be delivered via email or "snail mail" so be sure you know before you start which one you'll be sending.

1. If you are going to email the acknowledgment letter, Select Correspondence; then Send. Click Requester Email button and verify the email address. Select Letter Template: ACK MEMO Base – Email. Select Customize Email Template: Acknowledgment Forwarding Email from the drop-down menu. Select Prepare Email.
 - (a) Always remember to include your own email address on the cc: line;
 - (b) Scroll down to the form letter and customize it appropriately (in lieu of attaching a copy of the incoming request, which was prior practice, remember to include a brief description of the records being sought);

² The default in FOIA Xpress is that a request is perfected upon receipt (even though there may be impediments to completing all the work on the request). Nevertheless, do not place the request on hold unless you contact the requester to clarify the scope of the request, or you have provided the requester with a fee estimate. See Section L.

³ The FOIA does not require the issuance of an acknowledgment letter if the agency's response is issued within ten (10) business days of receipt. 5 U.S.C. 552(a)(7)(A).

- (c) Remember to delete paragraphs and attached sheets that are not needed for the particular response⁴;
 - (d) If the request included a fee waiver request that is to be denied, remember to include the reasons for that denial in the appropriate paragraph in the letter (in lieu of the formerly used Fee Waiver Denial Notice);
 - (e) Similarly, if the request included an expedited processing request that is to be denied, remember to include the reasons for that denial in the appropriate paragraph in the letter (in lieu of the formerly used Expedited Processing Denial Notice);
 - (f) Remember to type in “Roger D. Andoh /s/” in the signature block;
 - (g) Select Send Email. (Since you copied yourself, receiving a copy of it will confirm that it was sent properly and you can double-check that any attachments that were supposed to be sent were, in fact, sent.)
2. If you are going to “snail mail” the acknowledgment letter, Select Correspondence; then Send. Select Letter Template: ACK Memo Base. Select Customize and Save from the drop down menu. Customize letter as described in steps (b) – (e), above. In the signature block, type in “Roger D. Andoh /s/” as his signature. Click Save. To print the letter, Select Correspondence, then Send:
- (a) Select Pending Letter button;
 - (b) Select Letter Template – select the customized letter;
 - (c) Select Print;
 - (d) Change delivery mode to “mail;”
 - (e) Give original acknowledgment letter (with appropriate attached sheets) to the administrative staff to mail out to the requester.

G. Your next step is to decide to which program/regional office(s) you’ll send an action email tasking the office(s) to either provide you with a fee estimate (**Attachment I-2-4**) or, if no fees are anticipated or a fee waiver is granted (see **Section 1-Chapter 3**), for a record search (**Attachment I-2-5**). To assist you in figuring out which offices may have responsive records, you can refer to a listing

⁴ Depending on the fee category, the nature of the request and/or if the requester has specified his/her desire to receive the response electronically, you may know that there will not be any billable fees. In such cases, adjust the fee language of the acknowledgment letter accordingly (e.g., although you can leave the fee category/type of fees that would be billable language intact, but you could add something along the lines of “since you have requested only a single document by its ML#, and asked that it be provided to you electronically, there will be no billable fees for this request.”) Also remember to delete the attached Explanation of Fees sheet.

of commonly requested records (**Attachment I-2-6**), or consult the NRC's intranet site. FOIA Xpress has multiple templates for your use in tasking the program/regional offices for fee estimates and/or record searches. In an effort to minimize the customization required, you should choose the template designed for your particular request (e.g., a fee estimate for a commercial use requester will be asking that the offices break out review time, search time, and duplication costs).

H. Program/regional offices are given four (4) business days in which to provide a fee estimate; they are given ten (10) business days in which to respond to a request for documents. You are to count the day you are sending the action email tasking the office(s) as Day 1. For offices that have Redact Xpress (currently, the offices of the Inspector General and Enforcement), which will process the records electronically, the process differs slightly from what is set forth below when you are sending out the Request for Documents email:

1. Select Actions, then Request for Documents from the drop-down menu.
2. Change the due date, depending on whether you're doing a request for fee estimate or request for documents (search).
3. Select (highlight) the appropriate program/regional office(s).
4. Select Customize the email template; choose the appropriate assignment task from the drop-down menu.
5. Select Prepare Email.
6. Remember to include yourself on the cc: line of all action emails tasking program/regional offices. If the request comes from a representative of the news media, even if the Office of Public Affairs (OPA) is not an office reasonably expected to have responsive records, remember to include OPA.Resource@nrc.gov on the cc: line so that OPA is aware of the reporter's interest.
7. For the attachment, click Attach from Request Correspondence Log, click on the request that has the "received" status and then Select.
8. Choose the appropriate template (e.g., fee estimate for a commercial use requester, with or without duplication fees), but be sure to customize the

language. If there is additional information (e.g., clarification of the request based on your communication with the requester; a different time period from that stated in the request because we already have the records from processing an identically worded request, etc.) that you think will assist the office(s) in responding, you should include that information in the email.

9. Select Send Email. (Since you copied yourself, receiving a copy of it will confirm that it was sent properly and you can double-check that a copy of the request that was supposed to be attached was, in fact, sent).
- I. For the offices that have Redact Xpress, when you are sending the action email tasking the Request for Documents, do the following steps:
 1. Select Actions, then Request for Documents from the drop-down menu. In the Comment box, add "Title Folder – 201X-XXXX" (the FOIA request #).
 2. Change the due date, which is ten (10) business days for a Request for Documents. Remember to count the day you are sending the action email tasking the office as Day 1.
 3. Select OIG and/or OE as the program office(s).
 4. Select Customize the email template; choose the appropriate assignment task from the drop-down menu.
 5. Select Prepare Email.
 6. Remember to include yourself on the cc: line of all action emails tasking the Office of Inspector General (OIG) and/or Office of Enforcement (OE). If the request comes from a representative of the news media, include OPA.Resource@nrc.gov on the cc: line so that the Office of Public Affairs (OPA) is aware of the reporter's interest.
 7. For the attachment, click Attach from Request Correspondence Log, click on the request that has the "received" status and then Select.
 8. Select "Attach Empty ADX".
 9. Review the template language and make changes, as appropriate. If there is additional information (e.g., clarification of the request based on your

communication with the requester; a different time period from that stated in the request because we already have the records from processing an identically worded request, etc.) that you think will assist the office(s) in responding, you should include that background in the email.

10. Select Send Email. (Since you copied yourself, receiving a copy of it will confirm that it was sent properly and you can double-check that a copy of the request that was supposed to be attached was, in fact, sent).

J. As with any general rule, there are exceptions. On occasion, one request, or a series of FOIA requests, will arrive that needs to be handled atypically in order to be processed more efficiently. The FOIA Officer should recognize such occasions. But you should also review the request and raise concerns if you believe NRC would benefit from an early meeting to discuss the scope of the request. If you are assigned such a request, you should discuss with the FOIA Officer options for handling the request and then reach out to the program/regional office(s) having equity in the responsive records; it may also be appropriate to include OGC to have an attorney's advice on how best to handle the request. Once there is agreement between the FOIA Office and the program/regional office(s), you should arrange a conference call with the requester. The goal is for the FOIA office, the program/regional office(s), and the requester to reach an agreed-upon approach moving forward as early in the process as practicable. Once agreement is reached, the request can be assigned as described above. Because the agreed-upon approach may change the usual way in which we task the program/regional offices, you will need to adjust the action email tasking the program/regional office(s):

1. In lieu of selecting the program/regional offices from the drop down menu, select Other;
2. In "Other Email" section enter the email addresses that should be in the "to" line;
3. Select the email template to be used for the tasking;
4. Include the FOIA Coordinator (the email addresses that the tasking email would ordinarily be sent), as well as yourself, on the "cc" line; and
5. Provide the appropriate revised language to the template language as to the steps to be taken, as agreed upon.

K. As noted in section E, a request is considered “perfected” when it contains all of the information you need in order to process it. This means:

1. Any necessary identity verification has been provided;
2. The request provides a “reasonable description of records”⁵ (*i.e.*, NRC staff familiar with the subject matter of the requested records knows where the records are located, and they can locate them with a reasonable amount of effort); and
3. Where fees are to be charged to the requester, the NRC has received back from the requester the completed Form 509, reflecting the commitment to pay the estimated fee amount, or submission of an advance payment in the amount of the fee estimate when required (for estimated fees exceeding \$250) (see **Section I-Chapter 3**).

L. Requests placed On Hold Need their Target Date (Response Date) Recalculated

1. The current version of FOIA Xpress (9.2) presumes a request is perfected upon its receipt. If that is not the case (*i.e.*, because you need an identity verification or third party authorization, or need a clarification/modification to the request), or once you have sent out a fee estimate and need to wait for the requester to respond (or fail to respond within the ten (10) business day time frame), it will need to be placed on hold. The statute allows an agency multiple opportunities to place a request on hold for fee-related purposes that tolls the statutory response period; however, an agency has only one opportunity to place a request on hold that tolls the statutory response period for the purpose of clarifying a request.

- (a) If a request is placed on hold because you have gone back to the requester to clarify the scope of the request (which you can do once that will stop the clock), or to narrow the scope of the request so as to reduce fees (which you can do multiple times), then the target date that appears in FOIA Xpress will have to be changed. This should not be a regular occurrence. But it may happen in the situation where the request does

⁵ For some requests, it will be clear on its face what records are being requested, where they are located, and the search burden is reasonable. But for other requests, you may not be able to conclude that the request provides a “reasonable description of records” until you hear back from the program/regional offices to which you send emails tasking them for fee estimates or search requests for records.

not involve fees, and your reading of the request suggested it provided a “reasonable description of records.” So the first time a program/regional office sees the request may be when you task the office to conduct a search. In response, that office may reply that the request seems unclear, or is so broad that a search for, and review of, the records would be unduly burdensome. Once you have heard back from all of the program/regional offices that you tasked, you should reach out to the requester to resolve these ambiguity/burden issues. Or perhaps when you received the request and sent a fee estimate, the expectation was that the responsive records – an Office of Investigations (OI) file – would be withheld in their entirety and so no fees were expected (because OI would provide an Exemption 7(A) Certification). But, after the search was done, or during processing, the ongoing enforcement proceeding concludes, so now the records could be reviewed for possible release.

- (b) As soon as you learn of this change in circumstances, you should obtain a fee estimate and notify the requester. How you communicate with the requester will vary on the situation. You may choose to telephone or email the requester; or you may reach out to the requester to set up a conference call (including representatives from the program/regional offices that have raised the concerns). Make sure you document whatever agreement is reached with the requester and upload it into the Correspondence Log of FOIA Xpress.
 - (c) Once the concerns/changes in circumstance are raised to you and you have notified the requester, until the concerns/changes are resolved, you should place the request “on hold.” Select Actions; Select Perfect Request from the drop-down menu; and then fill in the circle for On Hold (ensuring the date is correct) and enter comments, as appropriate (*i.e.*, the reason why it’s being placed on hold). Save.
2. Once the infirmity that caused you to place the request on hold is corrected, the request is now considered “perfected.”⁶ Based upon the track, you recalculate the target date from the date of perfection. For example, a Track B (complex) request was received on 08/10/15 and perfected once the advance payment was received on 08/21/15. Based upon its receipt, the original target

⁶ If the hold was placed while you awaited for the requester to commit to pay fees or remit advance payment, but the requester does not do so in the allotted time period, remember to remove the hold (noting that the requester did not commit to, or remit, payment) so that, once you prepare the Form 464 indicating an administrative close, the administrative staff can close out the request in FOIA Xpress.

date was 09/21/15. Applying the 30-day response period for complex requests from the date of its “perfection” (*i.e.*, 08/21/15), the new target date is now 10/02/15.

3. To effect the change in FOIA Xpress, double click on the request, which will bring up the General Information screen. You’ll need to make two changes. First, change the target date by clicking on the calendar, selecting the new date and then selecting Save. Second, change the Last Perfected Date in the same way, using the date the clock was restarted.

VERIFICATION OF IDENTITY FORM

To Whom It May Concern:

I, _____, hereby affirm my identity.
I understand that penalties for false statements may be imposed upon me pursuant to 18 U.S.C. 1001, and that pursuant to 5 U.S.C.552a(i)(3), any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

[Signature]

[Date]

Sworn to and Subscribed before me this _____ day of _____, _____
[Month] [Year]

Signature of Notary Public

NOTARY SEAL:

SWORN VERIFICATION OF IDENTITY FORM

Full Name of Requester (or person on whose behalf the request is made:

Current Address:

Date of Birth:

To Whom It May Concern:

I, _____, declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: _____

Signature: _____

AUTHORIZATION FOR RELEASE OF INFORMATION

I, the undersigned, authorize the U.S. Nuclear Regulatory Commission to release to _____
_____ any
and all information requested under the Freedom of Information Act relating to _____
_____.

Date: _____

Signature: _____

Printed Name: _____

Sworn to and subscribed before me this _____ day of _____, _____.
[Month] [Year]

Signature of Notary Public

NOTARY SEAL:

SWORN AUTHORIZATION FOR RELEASE OF INFORMATION

Full Name of Individual who is authorizing release:

Current Address:

Date of Birth:

To Whom It May Concern:

I authorize the U.S. Nuclear Regulatory Commission to release to
_____ any and all information requested under the Freedom of
Information Act relating to

_____.

I, _____, declare (or certify, verify, or state) under penalty of
perjury under the laws of the United States of America that the foregoing is true and
correct.

Executed on: _____
[Date]

Signature: _____



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

[TODAYDATE]

[REQUESTNUMBER]

[REQUESTERNAME]
[COMPANY]
[STREET1]
[STREET2]
[CITY], [STATESHORT] [ZIPCODE]

Dear Mr./Ms. [RLNAME]:

We received your Freedom of Information Act (FOIA) request on [RECEIVEDDATE].

Your request, which seeks access to [include a brief description of the requested records], has been assigned the following reference number that you should use in any future communications with us about your request: [REQUESTNUMBER].

To ensure the most equitable treatment possible of all requesters, the NRC processes requests on a first-in, first-out basis, using a multiple track system based upon the estimated time it will take to process a request. Based on your description of the records you are seeking, we estimate completion of your request will be on or before [TARGETDATE]. [Add the following for complex track cases:] Please note that we are estimating that completion will take more than 20 working days because we must:

- ☐ search for, collect, and appropriately examine a voluminous amount of records
- ☐ consult with multiple program and/or regional offices within the NRC
- ☐ consult with other Federal agencies having equities in the records
- ☐ refer records to a licensee, or other business submitter
- ☐ undertake a declassification review of classified records; or
- ☐ retrieve records from Federal Records Centers or other off-site facilities.

Please know that this date roughly estimates how long it will take us to close requests ahead of yours in the respective track and complete work on your request. The actual date of completion might be before or after this estimate based on the complexity of all of the requests in the [simple] [complex] track. We will advise you of any change in the estimated time to complete your request. In an effort to process your request promptly, you may wish to narrow the scope of your request to limit the volume of potentially responsive records.

For purposes of assessing fees in accordance with our regulations (10 CFR 9.33), we have placed your request in the following category: [REQUESTERCATEGORY]. If applicable, you will be charged appropriate fees for: [CUSTOMFIELD21]. [If the requester would only be responsible for duplication fees, and his request letter asks for electronic records, add: Because you have indicated that you prefer to receive our response electronically, you will not incur duplication charges.]

A sheet has been enclosed that explains in detail the fee charges that may be applicable.
Please do not submit any payment unless we notify you to do so.

You requested that fees be waived for your request and

I have determined that your justification is adequate and fees will be waived for those records which are responsive to your request.

I have determined that your request for a waiver of fees does not meet the criteria required under 10 CFR 9.41 (copy enclosed) for the following reason(s): [briefly explain the reason]. You may appeal this determination. Any such appeal must be made in writing within 30 calendar days by addressing the appeal to the Executive Director for Operations.

To protect the privacy of individuals on whom we maintain records, our regulations (10 CFR 9.54) require that individuals seeking records about themselves provide verification of their identity by a signature, address, date of birth, employee identification number (if any), and one other item of identification such as a copy of a driver's license or other document. An individual may also provide either a notarized statement, or a statement made under penalty of perjury in accordance with 28 U.S.C. 1746, swearing or affirming to his identity and to the fact that he or she understands that penalties for false statements may be imposed pursuant to 18 U.S.C. 1001, and that penalties for obtaining a record concerning an individual under false pretenses may be imposed pursuant to 5 U.S.C. 552a(i)(3). Forms for the notarized statement and sworn statement are enclosed. The proper identification or a statement that you want this request processed as if it was received from any other member of the public must be received no later than [insert date that is 15 calendar days of the date of this letter]. The documentation should be mailed to the U.S. Nuclear Regulatory Commission, Mail Stop T-5 F09, 11555 Rockville Pike, Rockville, MD 20852-2738, or emailed to FOIA.Resource@nrc.gov. If we do not hear from you regarding this matter by [insert date that is 15 calendar days of the date of this letter], our file on this request will be closed.

Persons requesting records pertaining to another individual, in addition to furnishing verification of identity of the individual, must have the individual's written consent for the records to be disclosed to them. A valid consent may be in the form of either a notarized statement, or a statement made under penalty of perjury in accordance with 28 U.S.C. 1746. In the consent, the individual swears or affirms his or her identity and to the fact that he or she understands that penalties for false statements may be imposed pursuant to 18 U.S.C. 1001, and that penalties for obtaining a record concerning an individual under false pretenses may be imposed pursuant to 5 U.S.C. 552a(i)(3). Forms for the notarized statement and sworn statement are enclosed. If you do not provide the individual's identification and written consent, information will be disclosed to you only if it is deemed that such disclosure will not constitute an invasion of the privacy of the individual about whom your request pertains. In some instances, depending on the sensitivity of the type of records in which the kind of information you are seeking would be found, we will neither confirm nor deny the existence of records pertaining to the person because to even publicly acknowledge the fact that there is that type of record about the person could be considered an invasion of the person's privacy. The proper identification and consent, or a statement that you want this request processed as if it was received from any other member of the public, must be received no later than [insert date that is 15 calendar days of the date of this letter]. The documentation should be mailed to the U.S. Nuclear Regulatory Commission, Mail Stop T-5 F09, 11555 Rockville Pike, Rockville, MD 20852-2738, or emailed to FOIA.Resource@nrc.gov. If we do not hear from you regarding this matter by [insert date that is 15 calendar days of the date of this letter], our file on this request will be closed.

A request for expedited processing can be granted only when the requester shows a "compelling need" based on meeting either of two conditions: when failure to obtain the records quickly "could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;" or, if the requester is a person "primarily engaged in disseminating information," by demonstrating that an "urgency to inform the public about the actual or alleged Federal Government activity" exists.

Your stated reason for requesting expedited processing does not meet the above criteria.

[Your stated reason for requesting expedited processing does not meet the above criteria pertaining to an imminent threat to life or physical safety of an individual.]

[Even though you are a person "primarily engaged in disseminating information," you have not demonstrated an "urgency to inform the public about the actual or alleged Federal Government activity" that exists.]

Therefore, you have not demonstrated a compelling need and your request for expedited processing cannot be granted. You may appeal this determination. Any such appeal must be made in writing within 30 calendar days by addressing the appeal to the Executive Director for Operations.

Your request for expedited processing has been approved and it will be completed as soon as possible.

The following person is the Government Information Specialist who has been assigned responsibility for your request: [PRIMARYUSERNAME] at [PRIMARYUSERPHONE] or [PRIMARYUSERREMAIL].

If you have questions on any matters concerning your FOIA request, please feel free to contact the assigned Government Information Specialist or me at (301) 415-7169.

Sincerely,

Roger D. Andoh /s/

Roger D. Andoh
FOIA Officer
Office of the Chief Information Officer

Enclosures:

- Explanation of Fees
- Fee Waiver Justification Requirements
- Verification of Identity Forms
- Authorization for Release Forms

EXPLANATION OF FEES

Requester Fee Categories

Commercial: Fees are charged for document search, duplication, and review, when records are requested for commercial purposes. Fees (above the minimum fee charge) cannot be waived for this category of requester.

Educational, Non-Commercial Scientific, News Media and Privacy Act: Fees may be charged only for document duplication when records are not sought for commercial use and the request is made by an Educational or Non-Commercial Scientific Institution, whose purpose is scholarly or scientific research; or a Representative of the News Media; or a person requesting his/her own records that are in a Privacy Act system of records. No fee is charged for the first one hundred pages of duplication for this category of requester.

Non-Excepted: For any request not described above (Non-Excepted), fees may be charged for document search and duplication. No fee is charged for the first two hours of search time or for the first one hundred pages of duplication for this category of requester.

Fee Schedules

Fee schedules provide only for the recovery of the direct costs of search, duplication, or review. Review costs include only the costs for initial examination of a document to determine whether it must be disclosed and to determine whether to withhold portions that are exempt from disclosure. The fee schedule is as follows:

Search & Review Conducted By

Rate

! SES/COMMISSIONER	\$90.53/hour	(ES-maximum)
! PROFESSIONAL	\$56.36/hour	(GG-13, Step 6)
! CLERICAL	\$25.16/hour	(GG-7, Step 7)

Duplication Charges \$.20 per page

Fees for non-standard search or duplication will be charged at the actual cost (e.g. providing copying of audio tapes or conducting computer searches).

Minimum Fee: No fee will be charged unless the fee is equal to or greater than \$25.00.

When to Pay Fees

If we estimate that fees will not exceed \$25.00 or you have stated in your request a higher amount that you are willing to pay, we assume your willingness to pay up to \$25 or the amount stipulated and you will be billed after we have completed your request.

If we estimate that fees will exceed \$25.00 or any amount that has been stated by you in your request, we will not proceed with your request until we have notified you and obtained your agreement to pay the estimated fees.

If we estimate fees will exceed \$250, you will be required to pay the estimated fees in advance before we proceed further with your request. If, while processing your request, we find that the actual fees exceed the estimated fee, we will obtain your consent to pay the additional fees before continuing to process your request. If the actual fees to process your request are less than any advance payment you have made, you will be refunded the overpayment amount.

Fee Waivers

A waiver or reduction of fees may be granted for furnishing documents if a requester, by fully addressing the eight factors in 10 CFR 9.41, clearly demonstrates that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

SECTION 9.41- REQUESTS FOR WAIVER OR REDUCTION OF FEES

(a) FOIA Fee Waivers

(1) The NRC shall collect fees for searching for, reviewing, and duplicating agency records, unless a requester submits a request in writing for a waiver or reduction of fees. To assure that there will be no delay in the processing of Freedom of Information Act requests, the request for a waiver or reduction of fees should be included in the initial Freedom of Information Act request letter.

(2) Each request for a waiver or reduction of fees must be addressed to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(b) A person requesting the NRC to waive or reduce search, review, or duplication fees shall:

- (1) Describe the purpose for which the requester intends to use the requested information;
- (2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record;
- (3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding;
- (4) Describe the likely impact on the public's understanding of the subject as compared to the level of understanding of the subject existing prior to disclosure;
- (5) Describe the size and nature of the public to whose understanding a contribution will be made;
- (6) Describe the intended means of dissemination to the general public;
- (7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee; and
- (8) Describe any commercial or private interest the requester or any other party has in the agency records sought.

(c) The NRC will waive or reduce fees, without further specific information from the requester if, from information provided with the request for agency records, it can determine that disclosure of the information in the agency records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

(d) In making a determination regarding a request for a waiver or reduction of fees, the NRC shall consider the following factors:

- (1) How the subject of the requested agency records concerns the operations or activities of the Government;
- (2) How the disclosure of the information is likely to contribute to an understanding of Government operations or activities;
- (3) If disclosure of the requested information is likely to contribute to public understanding;
- (4) If disclosure is likely to contribute significantly to public understanding of Government operations or activities;
- (5) If, and the extent to which, the requester has a commercial interest that would be furthered by the disclosure of the requested agency records; and
- (6) If the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(e) Within 10 working days after receipt of a request for access to agency records for which the NRC agrees to waive fees, the NRC shall respond to the request.

(f) If the written request for a waiver or reduction of fees does not meet the requirements of this section, the NRC will inform the requester that the request for waiver or reduction of fees is being denied. The requester will be informed of the right to appeal a denial of a request to waive or reduce fees to the Secretary of the Commission within 30 days from the date of the denial.

VERIFICATION OF IDENTITY FORM

To Whom It May Concern:

I, _____, hereby affirm my identity.
I understand that penalties for false statements may be imposed upon me pursuant to 18 U.S.C. 1001, and that pursuant to 5 U.S.C. 552a(i)(3), any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

[Signature]

[Date]

Sworn to and Subscribed before me this _____ day of _____, _____
[Month] [Year]

Signature of Notary Public

NOTARY SEAL:

SWORN VERIFICATION OF IDENTITY FORM

Full Name of Requester (or person on whose behalf the request is made):

Current Address:

Date of Birth:

To Whom It May Concern:

I, _____, declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: _____

[DATE]

[SIGNATURE]

AUTHORIZATION FOR RELEASE OF INFORMATION

I, the undersigned, authorize the U.S. Nuclear Regulatory Commission to release to _____ any and all information requested under the Freedom of Information Act relating to _____.

DATED: _____

Signature: _____

Printed Name: _____

Sworn to and Subscribed before me this _____ day of _____, _____
[Month] [Year]

Signature of Notary Public

NOTARY SEAL:

SWORN AUTHORIZATION FOR RELEASE OF INFORMATION

Full Name of Individual who is authorizing release:

Current Address:

Date of Birth:

To Whom It May Concern:

I authorize the U.S. Nuclear Regulatory Commission to release to _____
any and all information requested under the Freedom of Information Act relating to

I, _____, declare (or certify, verify,
or state) under penalty of perjury under the laws of the United States of America that the
foregoing is true and correct.


Executed on: _____

[DATE]



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Subject* : [CASENUMBER] Action Item/Instructions: Commercial Use Requester
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Offices Assigned Action on [TODAYDATE]:

[SUNITS]

This requester has been placed in the **Commercial Use** fee category, being responsible for **review time**, **search time**, and **duplication** costs. Therefore, your initial estimates of search time, review time, and duplication costs are required on or before [REQFORDOCSDUEDATE], which is four (4) working days from the date of this e-mail. Please be sure to differentiate between search time and review time.

If there are no responsive records, please respond with "No records."

The Government Information Specialist for this request is [PRIMARYUSERNAME], who can be reached at [PRIMARYUSERPHONE] or [PRIMARYUSERREMAIL].

The FOIA request should be processed in accordance with the standard instructions (How to Respond to an Initial FOIA Request) at ML060590485. To ensure that search time is calculated appropriately and consistently, search is the time spent by any staff member looking for material subject to a request, either manually or by automated means, including time spent in page-by-page or line-by-line identification of responsive material within records. Searches should identify all paper and electronic records maintained by your office, including records in any file centers or other remote locations, all versions in ADAMS, Sharepoint, or other shared drives, as well as individual staff members' Outlook, Office, and other computer programs. To ensure that review time is calculated appropriately and consistently, review is the time spent by any staff member during the initial examination of a record to determine whether the information may be withheld, including the time spent preparing the record for release (e.g., bracketing or describing the information to be redacted), but not including time spent resolving general legal or policy issues about whether to apply a particular exemption (such as conferring with your management chain, asking for legal advice from OGC, or deciding about foreseeable harm).

If you believe another office (that is not copied on this e-mail) may have records responsive to this request, please let the Government Information Specialist know.

You are encouraged to ask for a scoping discussion with the requester when you believe it would be beneficial.

You are encouraged to ask for assistance in performing ADAMS searches if you have any difficulty doing a search.

NRC Form 496, "Report of Staff Resources for Processing FOIA Requests" is available in the NRC Forms Library for

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 Offices Assigned Action on [TODAYDATE]:
[SUNITS]**Due Date: [REQFORDOCSDUEDATE]**

This requester has been placed in the "favored fee" (e.g., representative of news media, educational institution, or non-commercial scientific institution) category, being responsible only for duplication costs after receiving 100 pages free of charge. **Therefore, your initial fee estimate of duplication costs is required on or before [REQFORDOCSDUEDATE],** which is four (4) working days from the date of this e-mail.

If there are no responsive records, please respond with "No Records".

The Government Information Specialist for this request is **[PRIMARYUSERNAME]**, who can be reached at **[PRIMARYUSERPHONE]** or **[PRIMARYUSERREMAIL]**.

The FOIA request should be processed in accordance with the standard instructions (How to Respond to an Initial FOIA Request) at ML060590485.

If you believe records may be located in another office (that is not copied on this e-mail), please let the Government Information Specialist know.

You are encouraged to ask for a scoping discussion with the requester when you believe it will be beneficial.

You are encouraged to ask for assistance in performing adequate ADAMS searches if you have any difficulty doing a search.

NRC Form 496, "Report of Staff Resources for Processing FOIA/PA Requests" is available in the NRC Forms Library for your use.

Thank you.

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Offices Assigned Action on [TODAYDATE]:**[SUNITS]**

This requester has been placed in the **"non-excepted" fee category**, being responsible only for search fees in excess of two (2) hours and duplication costs after receiving 100 pages free of charge. Therefore, your initial fee estimate of **search fees** and **duplication costs** is required on or before **[REQFORDOCSDUE DATE]**, which is four (4) working days from the date of this e-mail.

If there are no responsive records, please respond with "No Records".

The Government Information Specialist for this request is **[PRIMARYUSERNAME]**, who can be reached at **[PRIMARYUSERPHONE]** or **[PRIMARYUSERREMAIL]**.

The FOIA request should be processed in accordance with the standard instructions (How to Respond to an Initial FOIA Request) at ML060590485. To ensure that **search time** is calculated appropriately and consistently, **search** is the time spent by any staff member looking for material subject to a request, either manually or by automated means, including time spent in page-by-page or line-by-line identification of responsive material within records. Searches should identify all paper and electronic records maintained by your office, including records in any file centers or other remote locations, all versions in ADAMS, Sharepoint, or other shared drives, as well as individual staff members' Outlook, Office, and other computer files, audio and video tapes, and any other media.

If you believe another office (that is not copied on this e-mail) may have records responsive to this request, please let the Government Information Specialist know.

You are encouraged to ask for a scoping discussion with the requester when you believe it will be beneficial.

You are encouraged to ask for assistance in performing adequate ADAMS searches if you have any difficulty doing a search.

NRC Form 496, "Report of Staff Resources for Processing FOIA/PA Requests" is available in the NRC Forms Library for your use.

Thank you.

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**Offices Assigned Action on [TODAYDATE]:
[SUNITS]**

This requester has been placed in the **[COMMERCIAL USER] [FAVORED FEE]** or **[NON-EXCEPTED]** fee category. Accordingly, your initial fee estimates of **[search time]**, (which is the time spent locating paper records or electronically stored information), **[review time]** (which is the time spent on the initial examination of the records to decide whether any exemption applies, or whether a discretionary disclosure should be made), and **[duplication]** costs is required on or before **[REQFORDOCSDUEDATE]**, which is four (4) working days from the date of this e-mail. Please be sure to differentiate between search time and review time.]

This request has been granted expedited processing. It must be processed ahead of all others, except for requests already determined to warrant expedition.

If there are no responsive records, please respond with "No Records".

The Government Information Specialist for this request is **[PRIMARYUSERNAME]**, who can be reached at **[PRIMARYUSERPHONE]** or **[PRIMARYUSERREMAIL]**.

The FOIA request should be processed in accordance with the standard instructions (How to Respond to an Initial FOIA Request) at ML060590485.

If you believe another office (that is not copied on this e-mail) may have records responsive to this request, please let the Government Information Specialist know.

You are encouraged to ask for a scoping discussion with the requester when you believe it will be beneficial.

You are encouraged to ask for assistance in performing adequate ADAMS searches if you have any difficulty doing a search.

NRC Form 496, "Report of Staff Resources for Processing FOIA/PA Requests" is available in the NRC Forms Library for your use.

Thank you.

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**Offices Assigned Action on [TODAYDATE]:
[SUNITS]**

The requester has either agreed to pay the estimated fees, or has provided an advance payment, or there are no billable fees. The request is now considered "perfected." Please provide the Government Information Specialist, who is named below, with the responsive records on or before [REQFORDOCSDUEDATE], which is ten (10) working days from the date of this e-mail.

If there are no responsive records, please respond with "No records."

The Government Information Specialist for this request is [PRIMARYUSERNAME], who can be reached at [PRIMARYUSERPHONE] or [PRIMARYUSERREMAIL].

The FOIA request should be processed in accordance with the standard instructions (How to Respond to an Initial FOIA Request) at ML060590485. NRC Form 511, "Program Office Response to a FOIA Request" is available in the NRC Forms Library for your use.

In order to document the search conducted, in the event of an appeal challenging the adequacy of the search, please also have each member of your staff who conducts a search complete NRC Form 511A, "Documentation of a FOIA Search," which is also available in the NRC Forms Library for your use. Please review these forms to ensure that an adequate, and consistent, search has been performed within your office. Then include copies of the completed Forms 511A along with the NRC Form 511 you return to the Government Information Specialist.

You are encouraged to ask for assistance in performing adequate ADAMS searches if you have any difficulty doing a search.

NRC Form 496, "Report of Staff Resources for Processing FOIA Requests" is also available in the NRC Forms Library for your use.

Thank you.

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Subject* : [CASENUMBER] Action Item/Instructions: Fee Waiver Granted

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**Offices Assigned Action on [TODAYDATE]:
[SUNITS]**

Since the requester has been granted a fee waiver, your initial fee estimates are not required. Please provide the Government Information Specialist, who is named below, with the responsive records on or before [REQFORDOCSDUEDATE], which is ten (10) working days from the date of this e-mail.

If there are no responsive records, please respond with "No Records".

The Government Information Specialist for this request is [PRIMARYUSERNAME], who can be reached at [PRIMARYUSERPHONE] or [PRIMARYUSERREMAIL].

The FOIA request should be processed in accordance with the standard instructions (How to Respond to an Initial FOIA Request) at ML060590485. NRC Form 511, "Program Office Response to a FOIA Request" is available in the NRC Forms Library for your use.

If you believe another office (that is not copied on this e-mail) may have records responsive to this request, please let the Government Information Specialist know.

In order to document the search conducted, in the event of an appeal challenging the adequacy of the search, please also have each member of your staff who conducts a search complete NRC Form 511A, "Documentation of a FOIA Search," which is also available in the NRC Forms Library for your use. Please review these forms to ensure that an adequate, and consistent, search has been performed within your office. Then include copies of the completed Forms 511A along with the NRC Form 511 you return to the Government Information Specialist.

You are encouraged to ask for a scoping discussion with the requester when you believe it will be beneficial.

You are encouraged to ask for assistance in performing adequate ADAMS searches if you are having difficulty doing a search.

NRC Form 496, "Report of Staff Resources for Processing FOIA Requests" is also available in the NRC Forms Library for your use.

Thank you.

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
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**Offices Assigned Action on [TODAYDATE] :
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This request has been granted expedited processing. It must be processed ahead of all others, except for requests already determined to warrant expedition. The requester has either agreed to pay the estimated fees, or has provided an advance payment, or there are no billable fees. The request is now considered "perfected." Please provide the Government Information Specialist, who is named below, with the responsive records on or before **[REQFORDOCSDUEDATE]**, which is ten (10) working days from the date of this e-mail.

If there are no responsive records, please respond with "No Records".

The Government Information Specialist for this request is **[PRIMARYUSERNAME]**, who can be reached at **[PRIMARYUSERPHONE]** or **[PRIMARYUSERREMAIL]**.

The FOIA request should be processed in accordance with the standard instructions (How to Respond to an Initial FOIA Request) at ML060590485. NRC Form 511, "Program Office Response to a FOIA Request" is available in the NRC Forms Library for your use.

In order to document the search conducted, in the event of an appeal challenging the adequacy of the search, please also have each member of your staff who conducts a search complete NRC Form 511A, "Documentation of a FOIA Search," which is also available in the NRC Forms Library for your use. Please review these forms to ensure that an adequate, and consistent, search has been performed within your office. Then include copies of the completed Forms 511A along with the NRC Form 511 you return to the Government Information Specialist.

You are encouraged to ask for assistance in performing adequate ADAMS searches if you have any difficulty doing a search.

NRC Form 496, "Report of Staff Resources for Processing FOIA Requests" is also available in the NRC Forms Library for your use.

Thank you.

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FOIA REQUEST - ACTION OFFICE(S)

Description of Request	Office Assignment
Advanced Reactor Policy	NRO
AEC Manual Chapters	ADM
Agreement Status	NMSS, Region
Allegations	Region (and Allegation Coordinator), all Program Offices
Annual Radioactive Effluent Release Reports	NRR
Billings / Financial	OCFO
Category Rating Annual Report	OCHCO
Chairman / Commissioners	SECY
Commission calendars	SECY
Commission Directives/Policy	SECY, EDO
Commission travel & telephone logs (cc: OPA if media)	SECY
Communications Plan (press/external relations)	OPA
Congressional correspondence	EDO, SECY, OCA
Contracts	ADM
Cyber attacks on Reactors	CSO, NSIR, NRR, OI, Region
Daily Plant Status Reports	NRR, Region
Davis Besse	EDO, NRR, OGC, R3
Decommissioning Plants - non-reactor	NMSS, Region
Decommissioning Reactors	NMSS, NRR/DORL, Region
Depleted Uranium	NMSS, Region
Device Registration	NMSS
DPV/DPO	OE
Electrical Engineering	NRR, Region, RES
Emergency Planning Records	NSIR, NMSS, Region/HQ (Incident Response Centers)
Environment Impact Statement	NRR
Event Notifications	NSIR, NRR, Region
Federal Service Impasse Panel assigned Mediator-Arbitrator decision	OGC, OCHCO
Final Safety Analysis Report for nuclear plants	NRR
Fire Protection Records	NRR, NRO, Region (If plant is listed)
FOIA Requests	FOIA (OIS)
Fuel Rods	NRR, RES
Gammacell 220 Irradiator	NMSS
Generic Issues	RES
Generic Fundamental Examinations for Reactors	NRR
Global Laser Enrichments (GLE)	NMSS
Grant Applications	OCHCO
Hazard Analysis	NRR

GLT	NMSS
Hematite Nuclear Facility (MO)	NMSS
Hicksville, NY (Sylvania)	NMSS, Region I
High level or "senior" NRC Officials	EDO, SECY
IG Reports	OIG
IMPAC (International Merchant Purchase Authorization Card)	CFO, ADM
In-Plant Reliability Data	NRR, RES
Inspection Reports	NRR/DIRS, Regions
Instrumental & Controls (I&C)	NRO
ITAAC and Generic Communications	NRO
License - non-power (SUC, SNM)	NMSS, Region
License Renewals	NMSS (materials), NRR (reactors)
License Renewal – Spent Fuel Storage	NMSS
Licensing - reactors	NRR
Map of Plant	NRR, Region
Material sources/devices lost/stolen/missing (radioactive) If a specific material/device listed, add Region(s)	NMSS
Memorandum of Understanding / Memorandum of Agreement	SECY, EDO
Mitigation Strategies	NRR
MLTS (Materials Licensing Tracking System)	NMSS
Modular high-temp gas-cooled reactor and gas turbine-modular helium reactor	NRR, RES (OIP if international)
New Reactor Licensing	NRO
NMED (Nuclear Materials Events Database)	NMSS
Notices of deficiency or violation, site inspections (non-power)	Region
Nuclear Testing	NRR, RES
NRC's Safety Evaluation	OCA
Nuclear waste shipment accidents	NMSS, Region
NUREGs (Contact Linda Stevenson (PSB) for contact name and office)	ADM
OE Reports	OE
OI Files	OI
OI Investigations, Allegations, etc.	OI, OE, Region, cc: Region Alleg. Coord.
OI Reports	OI, OE
Operator's License	NRO, Region
Parks Shallow Disposal Area (Parks Township, PA)	NMSS, Region I
Part 21 Reports for Plants	NSIR, NRR, possibly RES
Pebble Bed Modular Reactor	EDO, NRR, RES
Performance Awards	OCHCO
Performance Budget	OCFO
Permit Applications	NMSS

Plant Operator licenses, SOPs, Ops	NRR, Region
Plant Safety Analysis Report	NRR
Plant Security Information	NSIR, NRR, Region
Plants	NRR
Potassium Iodine (KI)	NSIR
Position Descriptions	OCHCO
Power Upgrades	NRR
PRA and Severe Accidents	NRO
Publications and Listings	ADM, OIS, NSIR, NMSS, OE, OGC, OCHCO, OI, OIG
Purchase Orders	ADM
Quality Assurance Vendor	NRO
Radiation exposure	RES, NMSS, NRR, Region
Radioactive materials license	NMSS, Region
Radiation protection	NRO
Radiation Safety Officers (RSO)	NMSS
Radioactive Sealed Source	NMSS
Radioactive waste	NMSS, NRR, Region
RCRAs/inspection reports	NMSS, Region
Reactor oversight process	NRR
Regulatory Guides	RES
REIRS Database	RES
RFQs	ADM
Rulemaking Activity Plans	ADM
Rulemaking - New Reactor	NRO
Rulemaking Docket Files	SECY
Safety Systems and Risk Assessment	NRO
Seabrook Alkali-Silica Reaction Issue Technical Team	ACRS, NRR, OI, SECY, Region I
Senator Correspondence	SECY, EDO
Security (personal) records	ADM (Region)
Security Orders (if # is provided, task the owner of that order)	NRR, NMSS
Series 800 and 1300 positions	OCHCO
Shutdown Plants	NMSS, Region
Site Assessments	NMSS (materials), NRR (reactors)
Site Safety and Environmental Analysis	NRO
Small Modular Reactor Licensing	NRO
Spent Fuel (all stages)	NMSS (ISFSI and Decomm), RES (technical), NRR (in pools), NSIR (security)
State Government Correspondence	STP, SECY
State Regulations and Legislative	NMSS
Surveillance Plan	NMSS, Region

Technical Specifications	NRR
TIA (Task Interface Agreement)	NRR, Region
TIA Response from NRR	NRR
Training Catalogues	OCHCO
Transcripts (OI)	OI, OE (Region)
Tritium, alternative production technologies	RES
U.S. Rep Ed Markey Documents	OGC, EDO, SECY
Uranium concentration process of ablation	NMSS, Region
Vendor Inspection	NRO, NRR (historical)
Vendor/Quality Assurance Program	NRO, NRR (historical)
Virtual Reading Room	OIS (Anna McGowan)
WikiLeaks website/organization	CSO, NSIR, OPA

CHAPTER 3 FEES AND ADMINISTRATIVE CLOSURES

I. Important Definitions

A. There are three fee categories into which all requesters are sorted (see **Attachment I-3-1**):

(1) Commercial Use Requester – pays for all search, review and duplication costs;

(2) Representative of the News Media, Educational/Non-commercial Scientific Institution, and Privacy Act Requester – pays only for duplication fees¹ after the first 100 pages are given free of charge; and

(3) Non-Excepted (or Other) Requester – everyone else – pays for search fees above two hours and duplication fees after the first 100 pages.

B. A requester may self-identify to which category he or she belongs (although we still must make an independent judgment whether the category is correct). If the requester does not, the FOIA Officer will make that determination based upon the request. Although generally a requester will remain in the same category for each request he or she makes, that isn't always true so be aware of any changes in a requester's affiliation or reason for making a request (as stated in the request itself).²

¹ Unless the requester specifies that he or she wants paper records, there will be no duplication fees because we are now providing the Form 464 and responsive records electronically. So, for the favored fee category of requesters, it will not be unusual for there to be no fees associated with the processing of these requests.

² Unlike the favored fee categories, the commercial use requester category looks more to how the requester intends to use the requested records, rather than who the requester is. In other words, if the records are to be used for a commercial purpose, then the appropriate fee category is commercial use requester. While we generally rely on the "common sense" understanding of what is a "commercial use" (a profit-making trade or business), political action committees and similar groups making requests of opposing candidates during election cycles are categorized as commercial use requesters, rather than non-excepted requesters.

- C. Keep in mind that if an attorney submits a FOIA request on behalf of a client, it is the client's status that dictates to which fee category he or she belongs. For instance, Lawyer A makes a request on behalf of B, an alleged, for an allegation file. The appropriate fee category for this request is a non-excepted requester. On the other hand, Lawyer A makes a request on behalf of licensee C, for an allegation file. The appropriate fee category for this request is a commercial use requester.
- D. Search is the time spent looking for responsive records, or to determine whether there is responsive information within records (including page-by-page, or line-by-line consideration), either manually or by using existing computer programs.
- E. Review is the time spent during the initial examination³ of the responsive records/information to determine whether such material is exempt from disclosure in whole or in part, including the bracketing of, or description of information to be redacted from, the responsive records.⁴
- F. Duplication costs – Unless the requester chooses to receive responsive records on paper (either by specifying paper in the request itself, or by checking the box on the Form 509, “Statement of Estimated Fees”) (**Attachment I-3-2**), we will provide the records electronically for which there will be no duplication fees charged.
- G. NRC does not charge fees if the total is under a minimum threshold of \$25.
- H. If a requester has an outstanding fee balance that is over 30 days old, either due to the NRC or another Federal agency, his or her request will not be considered “perfected” until he or she has brought the balance to zero (0). The Office of the Chief Financial Officer (OCFO) sends a report of outstanding FOIA fees to the FOIA Officer on a monthly basis. This report is available to you in the G drive in the Fees & Billing folder. You should check

³ Generally, that initial review will be undertaken by the program/regional office. However, if the office does not make disclosure recommendations, and it falls to you to do that initial review, your time reviewing the records should be included in any fee estimate (or fees ultimately charged).

⁴ Typically, review time will reflect the program/regional office's review of the records that forms the basis for its disclosure recommendations. However, if the office defers to the FOIA Office, or the FOIA Office proposes redactions for the review of that program/regional office, the time we spend may be considered review time.

that list before you acknowledge receipt of the request, or otherwise move forward with the request.

- I. If the fee estimate exceeds \$250, the requester must remit an advanced payment before the request is considered “perfected” and will continue to be processed (see below, step II.D).

II. Fee Tasking

- A. Unless the requester has been granted a fee waiver, or is placed in one of the favored fee categories and the incoming request specifies that the requester wants the records electronically (*i.e.*, representative of the news media, member of a non-commercial scientific institution, or faculty or other staff member -- not a student -- of an educational institution), or the request on its face allows you to conclude that there will be no billable fees (e.g., a non-excepted requester asks for a single document by its ML# and specifies that he or she wants the record electronically), the initial tasking to the program/regional office(s) will ask for a fee estimate (refer back to **Attachment I-2-4**). Be sure that you choose the correct template when tasking these offices and customize the language, as necessary. Program/regional office(s) have four (4) business days in which to respond. Remember, the date you task the office counts as Day 1.
- B. As fee estimates come in from the various program/regional offices, go into FOIA Xpress. Highlight the request. Select Actions. Select Request for Documents. Highlight the program/regional office from which you’ve received the fee estimate, select Take Action, enter the Action date (which is the date of the memorandum or email, not the date you received it or entered the information in FOIA Xpress), select the drop down arrow for the Status and select Estimate Received (the date of the program/regional office’s response to you, not when you actually received it). Then you need to enter the Completed date, which is the same date as the Action date. Enter the fee estimate in the free-form field. Select Save.
- C. Although you can do it along the way, once all fee estimates are received, Select Action, Select Estimate Cost. FOIA Xpress contains the NRC’s own form, Select DD Form 2086, and FOIA Xpress’s own standard fee estimate calculation screen. They are the same. Enter the total hours for which fees are to be charged. Select Apply in the upper left hand corner of the screen. Taking these steps will prompt a pop-up window to open, which says

“Exceeded willing amount [presumed to be \$25 if not specified]”. You’ll get a “This is only an estimate” prompt. Click Yes. (*Note: at the conclusion of your processing of the request, be sure to go back into the screen and update the information. This screen populates the report that may be generated to reflect the salient aspects of the processing of the request.*)

- D. For fee estimates that exceed the \$25 minimum threshold, send an estimate email (or letter if the requester has not provided us with an email address), using the appropriate template (**Attachment I-3-3**) to the requester, accompanied by the NRC Form 509, “Statement of Estimated Fees for FOIA Request” and NRC Form 629, “Authorization for Payment by Credit Card” (**Attachment I-3-4**), even though you’re not yet asking for fees to be paid (unless it’s over \$250). The requester should sign the Form 509 and return it to you. Keep in working folder. For requests with an fee estimate exceeding \$250, once you’ve received the advance payment (whether credit card form or check), provide it to the administrative staff, who will make sure the OCFO receives it. Remember to make a copy of the check for the working folder. Upload copies of the forms, as well as the copy of the check, once they are returned by the requester, in the Correspondence Log in FOIA Xpress.
- E. Once you send the estimate, go back into FOIA Xpress. If you did not complete (and apply the results) of the DD Form 2086, select “Stop the Clock”. (If you entered the program/regional offices’ estimates of search, review, and duplication, if it exceeds the \$25 threshold, it will automatically ask if you want to Stop the Clock.) That will prompt “are you sure?” Click Yes. Select Stop Clock. Select the drop down arrow for the reason for stopping the clock. Be sure to enter the correct date to stop the clock. Select Stop Clock at the top of the screen. This places the request on hold in FOIA Xpress.
- F. Email the program/regional offices that they need do nothing further on the request unless and until they hear back from you (which should occur in the form of a Request for Documents email tasking them to conduct a search).

III. If Requester doesn’t commit to pay fees within ten (10) business days

- A. Select Start Clock. That will prompt “Are you sure you want to start the clock?” Select Yes.
- B. Then proceed to do an “Administrative Close” of the request. Find the Form 464 (**Attachment I-3-5**) in the NRC Forms Library. You need to finish Part I only; include in Part I.C., the Comments Section, that the request is being

closed administratively due to the requester's failure to return the signed Form 509, "Statement of Estimated Fees", or to remit payment (as applicable) timely. Prepare signature package for the FOIA Officer's signature.

- C. Once signed, the FOIA Officer will give the Form 464 to the administrative staff, who will do the close-out in FOIA Xpress. Make sure that any tasking actions in FOIA Xpress have been closed and that you have entered final disposition information in FOIA Xpress (see **Section I-Chapter 7** on the steps to do this) before you submit the package to the FOIA Officer so it doesn't delay the closing.

IV. If Requester Narrows Request to Lessen Fees

- A. In response to the fee estimate, if the requester narrows the scope of the request, this is treated as a new request for purposes of tracking the program/regional offices' responses, and a new action in FOIA Xpress is to be created for each program/regional office that is likely to have records responsive to the narrowed request. Make sure that the new action that is tasking the program/regional offices for a new fee estimate clearly sets out how the request has been narrowed, either by describing it carefully or attaching a copy of the narrowed request.
- B. To create the new action in FOIA Xpress, highlight the request. Select Actions. Select Request for Documents. Select New. Enter the Due Date as four (4) business days from the request date. Select the program/regional office(s) by simply left clicking on them. Under Customize Email Template, select from the drop down menu, choose the appropriate Assignment Fee Estimate Required. Select Prepare Email. Remember to add your own email address (on the cc: line) in addition to the program/regional offices that you selected. Make any adjustments in the email (especially how the request has been narrowed or changed), and then click Send. Print a copy of the email for the working folder.

V. If Requester Commits to Pay Fees (see **Section I-Chapter 5**)

VI. Fee Waiver

A. If the requester asks for a fee waiver, he or she is expected to address all of the eight factors that are spelled out in the NRC FOIA regulations, 10 C.F.R. 9.41. They are:

(1) Describe the purpose for which the requester intends to use the requested information;

(2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record;

(3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding;

(4) Describe the likely impact on the public's understanding of the subject as compared to the level of public understanding of the subject before disclosure;

(5) Describe the size and nature of the public to whose understanding a contribution will be made;

(6) Describe the intended means of dissemination to the general public;

(7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee; and

(8) Describe any commercial or private interest the requester or any other party has in the agency records sought.

- B. As part of the FOIA Officer's initial assignment of a request that asks for a fee waiver, he will make the determination whether to grant it or not. If a requester has not addressed each of the eight factors (**Attachment I-3-6**), the fee waiver request will be denied. Note that for fee waiver requests from favored category requesters (*e.g.*, representatives of news media, or non-commercial scientific institutions), since these requesters typically ask for records in electronic form, there will be no billable fees. Thus, their request for fee waiver is moot. Although not as likely, this may also be true for the other categories of requesters, which you should be aware of in preparing the response to the fee waiver request. The FOIA Officer's determination, and a brief rationale for that determination, will be reflected in FOIA Xpress on the Fee screen. Include this determination, and the brief rationale, in the acknowledgment letter. If a fee waiver is granted, there is no need to do a fee estimate tasking, so the initial tasking that you send (using the appropriate template) to the program/regional office(s) will be to conduct a search for responsive records (see **Section I-Chapter 5**).

EXPLANATION OF FEES

Requester Fee Categories

Commercial: Fees are charged for document search, duplication, and review, when records are requested for commercial purposes. Fees (above the minimum fee charge) cannot be waived for this category of requester.

Educational, Non-Commercial Scientific, News Media and Privacy Act: Fees may be charged only for document duplication when records are not sought for commercial use and the request is made by an Educational or Non-Commercial Scientific Institution, whose purpose is scholarly or scientific research; or a Representative of the News Media; or a person requesting his/her own records that are in a Privacy Act system of records. No fee is charged for the first one hundred pages of duplication for this category of requester.

Non-Excepted: For any request not described above (Non-Excepted), fees may be charged for document search and duplication. No fee is charged for the first two hours of search time or for the first one hundred pages of duplication for this category of requester.

Fee Schedules

Fee schedules provide only for the recovery of the direct costs of search, duplication, or review. Review costs include only the costs for initial examination of a document to determine whether it must be disclosed and to determine whether to withhold portions that are exempt from disclosure. The fee schedule is as follows:

<u>Search & Review Conducted By</u>	<u>Rate</u>	
! SES/COMMISSIONER	\$90.53/hour	(ES-maximum)
! PROFESSIONAL	\$56.36/hour	(GG-13, Step 6)
! CLERICAL	\$25.16/hour	(GG-7, Step 7)
<u>Duplication Charges</u>	\$.20 per page	

Fees for non-standard search or duplication will be charged at the actual cost (e.g. providing copying of audio tapes or conducting computer searches).

Minimum Fee: No fee will be charged unless the fee is equal to or greater than \$25.00.

When to Pay Fees

If we estimate that fees will not exceed \$25.00 or you have stated in your request a higher amount that you are willing to pay, we assume your willingness to pay up to \$25 or the amount stipulated and you will be billed after we have completed your request.

If we estimate that fees will exceed \$25.00 or any amount that has been stated by you in your request, we will not proceed with your request until we have notified you and obtained your agreement to pay the estimated fees.

If we estimate fees will exceed \$250, you will be required to pay the estimated fees in advance before we proceed further with your request. If, while processing your request, we find that the actual fees exceed the estimated fee, we will obtain your consent to pay the additional fees before continuing to process your request. If the actual fees to process your request are less than any advance payment you have made, you will be refunded the overpayment amount.

Fee Waivers

A waiver or reduction of fees may be granted for furnishing documents if a requester, by fully addressing the eight factors in 10 CFR 9.41, clearly demonstrates that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.



FOIA - -

DATE

**STATEMENT OF ESTIMATED FEES FOR FREEDOM
OF INFORMATION ACT (FOIA) REQUEST**

REQUESTER

NRC CONTACT

TELEPHONE NUMBER

SECTION I - ESTIMATED FEES

Pursuant to the NRC's regulations, 10 CFR 9.40, www.nrc.gov/reading-rm/doc-collections/cfr/part009, the NRC notifies you when estimated applicable fees exceed \$25.00, or a limit stated in your FOIA request. Please telephone the NRC contact identified above if you wish to discuss re-scoping your request to reduce the estimated fees:

ESTIMATED FEES	
SEARCH	
DUPLICATION	
REVIEW	
TOTAL	

Unless you indicate otherwise in Section II, below, the NRC's response to your FOIA request, including any disclosed records, will be provided to you electronically and sent to you via email, or on a CD mailed to you. When we provide you records electronically, you are not charged any duplication fees. Please note that the NRC generally makes its FOIA responses, including disclosed records, available to the public in its Electronic Reading Room, at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

You may pay the estimated fees by credit card or check. If paying by credit card, complete the attached Form 629 and return it to the NRC, to the attention of the NRC contact identified above, either by mail to: Mail Stop T-5 F09, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852-2738, or via email to FOIA.Resource@nrc.gov. Check payments should be mailed to the same address. Please include the FOIA request number on your check, or in the box marked "Invoice Number or Description" on Form 629.

SECTION II - ACTION REQUIRED OF REQUESTER☐ Since the estimated fees are \$250 or less, I am agreeing to pay fees as high as estimated.☐ Since the estimated fees exceed \$250, I am providing an advance payment of the estimated fees by check or credit card.If you prefer to receive your response and any disclosed records on paper, check here: ☐

By signing this form, below, I understand that the NRC can charge me search and review fees, as applicable, even if the search does not locate records, or the records are determined to be exempt from disclosure.

You must complete this form, sign and date it, and return it to the NRC, to the attention of the NRC contact identified above. If we do not hear from you about re-scoping your request, or we do not receive this completed form back from you, by _____, we will presume that you have no further interest in pursuing your request, and we will close our file on this matter.

SIGNATURE OF FOIA REQUESTER

DATE

Estimated burden per response to comply with this mandatory collection request: 6 minutes. This form is used to notify a requester of the amount of the estimated fees and to obtain the requester's agreement to pay the fees. Send comments regarding burden estimate to the FOIA, Privacy, and Information Collections Branch (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to Infocollects.Resource@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0043), Office of Management and Budget, Washington, DC 20503. If a person used to improve an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Notification to "Non-excepted Requester" of Fee Estimate

We have now received the cost estimate for the search time and duplication costs associated with the processing of your [date] FOIA request. The program/regional office(s) involved has/have estimated that a total of ___ hours of search time will be necessary to complete your request, which is expected to result in the release of approximately ___ pages.

Because you are a "non-excepted" requester, you are responsible for search time in excess of two hours and duplication costs above 100 pages. Unless you choose to receive any responsive records on paper, we will respond to you electronically (either via email, if we have your email address and the size of the electronic file is not too large; or otherwise we will mail you a CD.) As reflected in the attached Form 509, Statement of Estimated Fees, your search cost is estimated to be ___ hours x \$56.36/hour (accounting for professional search time at the GS13 Step 6 level), which amounts to \$____. If you choose to receive responsive records in paper, the duplication charge is estimated to be ___ pages x \$.20/page, which amounts to \$____. You may wish to refer back to the "Explanation of Fees" page attachment to the [date] acknowledgment letter we sent you, and as required pursuant to 10 C.F.R. 9.37, for additional information about the fees we may charge.

Pursuant to 10 C.F.R. 9.40(e), we will not continue processing your request until we receive a response from you of your willingness to pay up to the above-referenced fee estimate. [Additionally, because the estimated fee exceeds \$250, the NRC will not process your request without advance payment of the estimated fee. We have attached a Form 629, Authorization for Payment by Credit Card, should you choose to remit the estimated fee by credit card.]

If we have not received a response from you by _____ [insert the date that is 10 business days from the date of the email], we will administratively close your request. You may also narrow the scope of your request to reduce the estimated fees associated with the processing of your request.

Should you have any questions, please do not hesitate to contact me. I may be reached by email at _____ or by telephone at _____.

Notification to "Commercial Use Requester" of Fee Estimate

Because you are determined to be a "commercial use" requester, you will be responsible for search, review, and duplication fees associated with the processing of your request.

We have now received the cost estimate for the search and review time, as well as duplication, associated with the processing of your [date] FOIA request. The program/regional office(s) involved has/have estimated that a total of ___ hours of search time and ___ hours of review time will be necessary to complete your request, which is expected to result in the release of approximately ___ pages. {Add as appropriate: Duplication costs are not expected as you have requested that we furnish the records to you electronically}.

As such, as reflected in the attached Form 509, Statement of Estimated Fees, your final cost is estimated to be ___ hours x \$56.36/hour = \$____, which accounts for the professional search and review time at the GS13, Step 6 level, and as explained to you in the "Explanation of Fees" page attachment to the [date] acknowledgment letter we sent you, and as required pursuant to 10 C.F.R. 9.37.

Pursuant to 10 C.F.R. 9.40(e), we will not continue processing your request until we receive a response from you of your willingness to pay up to the above-referenced fee estimate. [Additionally, because the estimated fee exceeds \$250, the NRC will not process your request without advance payment of the estimated fee. We have attached a Form 629, Authorization for Payment by Credit Card, should you choose to remit the estimated fee by credit card.]

If we have not received a response from you by _____ [insert the date that is 10 business days from the date of the email], we will administratively close your request. You may also narrow the scope of your request to reduce the estimated fees associated with the processing of your request.

Should you have any questions, please do not hesitate to contact me. I may be reached by email at _____ or by telephone at _____.

Notification to "Favored Fee Category Requester" of Fee Estimate

We have now received the cost estimate for the duplication costs associated with the processing of your [date] FOIA request. The program/regional office(s) involved has/have estimated that the processing of your request is expected to result in the release of approximately ____ pages.

Because you are a [representative of the news media] [educational institution] [non-commercial scientific institution] requester, you are responsible only for duplication costs above 100 pages. Unless you choose to receive any responsive records on paper, we will respond to you electronically (either via email, if we have your email address and the size of the electronic file is not too large; or otherwise we will mail you a CD). As reflected in the attached Form 509, Statement of Estimated Fees, if you choose to receive responsive records in paper, the duplication charge is estimated to be ____ pages x \$.20/page, which amounts to \$____. There is no duplication charge for responsive records that we provide electronically. You may wish to refer back to the "Explanation of Fees" page attachment to the [date] acknowledgment letter we sent you, and as required pursuant to 10 C.F.R. 9.37, for additional information about the fees we may charge.

Pursuant to 10 C.F.R. 9.40(e), we will not continue processing your request until we receive a response from you of your willingness to pay up to the above-referenced fee estimate. [Additionally, because the estimated fee exceeds \$250, the NRC will not process your request without advance payment of the estimated fee. We have attached a Form 629, Authorization for Payment by Credit Card, should you choose to remit the estimated fee by credit card.]

If we have not received a response from you by _____ [insert the date that is 10 business days from the date of the email], we will administratively close your request. You may also narrow the scope of your request to reduce the estimated fees associated with the processing of your request.

Should you have any questions, please do not hesitate to contact me. I may be reached by email at _____ or by telephone at _____.

**AUTHORIZATION FOR PAYMENT
BY CREDIT CARD**

Estimated burden per response to comply with this voluntary collection request: 5 minutes. Requested information will allow respondents to transfer funds electronically. Send comments regarding burden estimate to the FOIA, Privacy, and Information Collections Branch (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to Infocollects.Resource@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0190), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

The NRC is currently accepting credit card payment of fees and other debts. The maximum amount accepted on a credit card per invoice is \$24,999.99. Splitting of a payment on multiple credit cards is not allowed. If you wish to pay by credit card, complete the authorization below. If you have any questions, contact NRC's collection service provider, Deva and Associates at (301) 415-3878.

NAME OF CARDHOLDER		ACCOUNT NUMBER	CARD EXPIRATION DATE
ADDRESS		CARDS ACCEPTED (Check card you are using) <input type="checkbox"/> VISA <input type="checkbox"/> MASTERCARD <input type="checkbox"/> NOVUS (DISCOVER) <input type="checkbox"/> AMERICAN EXPRESS	
TELEPHONE	LICENSE NUMBER	SECURITY CODE - 3 DIGITS	
INVOICE NUMBER OR DESCRIPTION	TOTAL AMOUNT OF TRANSACTION	SIGNATURE OF CARDHOLDER	

If you are paying an application or registration fee (including new licenses, amendments, etc.), mail the completed form with your application to the appropriate regional office. For all other payments, send completed form to:

**U.S. Bank
U.S. Nuclear Regulatory Commission
Accounts Receivable Team
P. O. Box 979051
St. Louis, MO 63197-9000**

**PRIVACY ACT STATEMENT
NRC FORM 629
AUTHORIZATION FOR PAYMENT BY CREDIT CARD**

Pursuant to 5 U.S.C. 552a(e)(3), enacted into law by Section 3 of the Privacy Act of 1974 (Public Law 93-579), the following statement is furnished to individuals who supply information to the U.S. Nuclear Regulatory Commission (NRC) on NRC Form 629. This information is maintained as part of a system of records designated as NRC-32 and described at 77 *Federal Register* 67225 (November 8, 2012), or the most recent *Federal Register* publication of the NRC's "Republication of Systems of Records Notices" that is available in the NRC's Agencywide Documents Access and Management System.

1. **AUTHORITY:** 5 U.S.C. 552a; 5 U.S.C. 5514; 15 U.S.C. 1681; 26 U.S.C. 6103; 31 U.S.C. Chapter 37; 31 U.S.C. 6501-6508; 42 U.S.C. 2201; 42 U.S.C. 5841; 31 CFR 900-904; 10 CFR Parts 15, 16, 170, 171; Executive Order (E.O.) 9397, as amended by E.O. 13478; and E.O. 12731.

2. **PRINCIPAL PURPOSE(S):** To collect credit card account information and provide authorization for its use to collect a payment or debt.

3. **ROUTINE USE(S):** Information contained in this system may be disclosed to debt collection contractors or to other Federal agencies for the purpose of collecting and reporting on delinquent debts and to banks enrolled in the Automated Clearinghouse (ACH) Network to collect a payment or debt when the individual has given his or her authorization for this purpose. Information may be disclosed in accordance with any of the Routine Uses listed in the Prefatory Statement of General Routine Uses, including to an appropriate Federal, State, local or Foreign agency in the event the information indicates a violation or potential violation of law; in the course of an administrative or judicial proceeding; to an appropriate Federal, State, local and Foreign agency to the extent relevant and necessary for an NRC decision about you or to the extent relevant and necessary for that agency's decision about you; in the course of discovery under a protective order issued by a court of competent jurisdiction and in presenting evidence; to a Congressional office to respond to their inquiry made at your request; to NRC-paid experts, consultants, and others under contract with the NRC, on a need-to-know basis; and to appropriate persons and entities for purposes of response and remedial efforts in the event of a suspected or confirmed breach of data from this system of records.

4. **WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL OF NOT PROVIDING INFORMATION:** Providing this information is voluntary. However, not providing the requested information will not provide the NRC the information and authorization required to use your credit card to collect a payment or debt.

5. **SYSTEM MANAGER(S) AND ADDRESS:** Controller, Division of the Controller, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST**RESPONSE
TYPE☐

INTERIM

☐

FINAL

REQUESTER:

DATE:

DESCRIPTION OF REQUESTED RECORDS:

PART I. -- INFORMATION RELEASED

- ☐ Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- ☐ Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☐ See Comments.

PART I.A -- FEES

AMOUNT*

\$

*See Comments for details

☐

You will be billed by NRC for the amount listed.

☐

None. Minimum fee threshold not met.

☐

You will receive a refund for the amount listed.

☐

Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- ☐ We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- ☐ Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- ☐ You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - FREEDOM OF INFORMATION ACT OFFICER

DISTRIBUTION

OFFICE

ACTION OFFICER

FOIA OFFICER

NAME

DATE

☐

PUBLIC ADAMS

☐

NON-PUBLIC ADAMS



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

RESPONSE
TYPE

☐

INTERIM

☐

FINAL

REQUESTER:

DATE:

DESCRIPTION OF REQUESTED RECORDS:

PART I. -- INFORMATION RELEASED

- ☐ Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- ☐ Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☐ See Comments.

PART I.A -- FEES

AMOUNT*

\$

☐

You will be billed by NRC for the amount listed.

☐

None. Minimum fee threshold not met.

☐

You will receive a refund for the amount listed.

☐

Fees waived.

*See Comments for details

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- ☐ We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- ☐ Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- ☐ You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - FREEDOM OF INFORMATION ACT OFFICER



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

DATE:

PART II.A -- APPLICABLE EXEMPTIONS

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by the statute indicated.
- ☐ Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
- ☐ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- ☐ 41 U.S.C. 4702(b), which prohibits the disclosure of contractor proposals, except when incorporated into the contract between the agency and the submitter of the proposal.
- ☐ Exemption 4: The withheld information is a trade secret or confidential commercial or financial information that is being withheld for the reason(s) indicated.
- ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
- ☐ The information is considered to be another type of confidential business (proprietary) information.
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- ☐ Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
- ☐ Deliberative process privilege.
- ☐ Attorney work product privilege.
- ☐ Attorney-client privilege.
- ☐ Exemption 6: The withheld information from a personnel, medical, or similar file, is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☐ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
- ☐ (A) Disclosure could reasonably be expected to interfere with an open enforcement proceeding.
- ☐ (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
- ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
- ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ Other

PART II.B -- DENYING OFFICIALS

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			EDO	SECY
<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;"> </div>	<div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;"> </div>
<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;"> </div>	<div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;"> </div>
<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;"> </div>	<div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;"> </div>

Appeals must be made in writing within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

SECTION 9.41- REQUESTS FOR WAIVER OR REDUCTION OF FEES

(a) FOIA Fee Waivers

(1) The NRC shall collect fees for searching for, reviewing, and duplicating agency records, unless a requester submits a request in writing for a waiver or reduction of fees. To assure that there will be no delay in the processing of Freedom of Information Act requests, the request for a waiver or reduction of fees should be included in the initial Freedom of Information Act request letter.

(2) Each request for a waiver or reduction of fees must be addressed to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(b) A person requesting the NRC to waive or reduce search, review, or duplication fees shall:

- (1) Describe the purpose for which the requester intends to use the requested information;
- (2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record;
- (3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding;
- (4) Describe the likely impact on the public's understanding of the subject as compared to the level of understanding of the subject existing prior to disclosure;
- (5) Describe the size and nature of the public to whose understanding a contribution will be made;
- (6) Describe the intended means of dissemination to the general public;
- (7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee; and
- (8) Describe any commercial or private interest the requester or any other party has in the agency records sought.

(c) The NRC will waive or reduce fees, without further specific information from the requester if, from information provided with the request for agency records, it can determine that disclosure of the information in the agency records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

(d) In making a determination regarding a request for a waiver or reduction of fees, the NRC shall consider the following factors:

- (1) How the subject of the requested agency records concerns the operations or activities of the Government;
- (2) How the disclosure of the information is likely to contribute to an understanding of Government operations or activities;
- (3) If disclosure of the requested information is likely to contribute to public understanding;
- (4) If disclosure is likely to contribute significantly to public understanding of Government operations or activities;
- (5) If, and the extent to which, the requester has a commercial interest that would be furthered by the disclosure of the requested agency records; and
- (6) If the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(e) Within 10 working days after receipt of a request for access to agency records for which the NRC agrees to waive fees, the NRC shall respond to the request.

(f) If the written request for a waiver or reduction of fees does not meet the requirements of this section, the NRC will inform the requester that the request for waiver or reduction of fees is being denied. The requester will be informed of the right to appeal a denial of a request to waive or reduce fees to the Secretary of the Commission within 30 days from the date of the denial.

CHAPTER 4

NEED FOR CLARIFICATION OR MODIFICATION

There are various points in the processing of a FOIA request where there may be a need to seek clarification or modification of the request from the requester. Keep in mind that, under the Open Government Act of 2007, you can suspend (“toll”) the time limits of a FOIA request only once for the purpose of clarifying the scope of a request with the requester, but multiple times to clarify fee-related issues.

I. If Clarification or Modification is Necessary

- A. You may realize upon receipt of the request that there is a need for clarification or modification (because the request, on its face, is unduly overbroad). Or, in response to the initial action tasking to the program/regional offices (whether it be a fee estimate or record search) one or more program/regional offices may ask for clarification of, or some type of modification (narrowing) of the request. If you cannot resolve these questions without going back to the requester, if the request had already been perfected (see **Section I-Chapter 2**), you’ll need to place the initial action tasking the program/regional offices for that request on hold. Go into FOIA Xpress. Highlight your request. Select Action. Select Perfect Request. Fill in the circle for On Hold Need Info/Clarification and Select Save.
- B. Then send an email to the program/regional offices (unless you have already heard back from them and their tasking has been completed and will not be affected by the clarification/modification) that you’ve put the request for fee estimates or request for documents, as applicable, on hold pending clarification/modification from the requester.

While it is equally acceptable to reach out to the requester by telephone or email, be sure to keep written documentation of your attempts to reach the requester (*i.e.*, enter these attempts in the Comments Section of the General Information screen for the request in FOIA Xpress), what you discuss with the requester, and exactly what clarification the requester provides. From a customer service perspective, if you speak to the requester and agree upon a clarification or modification of the request, do not put it upon the requester to provide that clarification/modification in writing to you. Rather, you should include the clarification/modification in an email to the requester. Print a copy of that

documentation and include it in the working folder and upload a copy of that confirmatory email to the Correspondence Log in FOIA Xpress.

II. Once You Have Received Clarification or Modification

- A. Once the clarification or modification is received, if you had placed the request on hold, go back into FOIA Xpress. Select Action. Select Perfect Request. Fill in the circle for “Perfected.” Select Save.
- B. Once the clarification or modification is received and you have removed the hold in FOIA Xpress, you will need to direct the program/regional offices that you had placed on hold to provide the fee estimate/resume the search, as applicable. Select Action. Select Request for Documents. Select New. Enter four (4) business days as the due date for fee estimate, or ten (10) business days as the due date for the search. Remember that the day you are tasking counts as the first day. Select Customize email template. Select from the drop down menu the appropriate template for Fee Estimate Required. If there is any change in the scope of the request, you should add it in this email. Don’t forget to copy yourself so that you’ll receive a copy of the tasking. Select Send. Print a copy for the working folder (or if you send the email from OUTLOOK instead of FOIA Xpress, select “Save RFD” instead of “Send.”)
- C. Sometimes a program/regional office will raise a question regarding the scope of the records being requested after other offices have already responded. If the clarification you receive from the requester may affect the fee estimate or search results already provided by the other offices, for which their tasking in FOIA Xpress is already completed, you need to ask those offices to recalculate the fee estimate, or redo the search, and create a new tasking in FOIA Xpress, which will give those offices additional time (*i.e.*, the clock begins again). Refer to **Section I-Chapter 3** for creating a fee estimate tasking or **Section I-Chapter 5** for creating a search tasking.

CHAPTER 5

SEARCH FOR RESPONSIVE RECORDS

I. Once a requester has made a commitment to pay the estimated fees, or has submitted an advanced payment of the estimated fees (if it exceeds \$250), the request is now considered perfected. When a request is perfected, take the following steps in FOIA Xpress: Select Action. Select Perfect Request. Fill in the circle for “Perfected.” Select Save. You now need to initiate the search for responsive records. Recall, from Section I-Chapter 3, that you had placed the request on hold and emailed the program/regional offices not to do anything further until they had heard back from you

- A. In FOIA Xpress, Select Actions. Select Request for Documents. Select New. Enter the due date (which is ten (10) business days from the date when the clock is being restarted). Select the program/regional office(s) from the original tasking. Select Customize Email Template. From the drop down menu, you can select “the “Search for Perfected Request” template. Select Prepare Email (which is also from the upper left hand corner of the screen). You can customize the email to include anything else pertinent. Remember to copy yourself so that you will also get a copy of the email in your OUTLOOK in-box.
- B. As responses come in from the program/regional office(s), go back into FOIA Xpress. Highlight the request. Select Actions. Select Request for Documents. Highlight the program/regional office from which you’ve received a response. Select Take Action. Enter the Action date as the date of the program/regional office’s response (whether on paper or email) (not the date you received it or the date you’re entering the completion in FOIA Xpress). Use the drop down menu to select the appropriate choice. Enter some summary information about the response you received from the office about the search (e.g., “no records”, which divisions within the office you’ve heard from, etc.). Enter Completion date as the same date as the Action date (which will then close the program/regional office’s response obligation if it was a complete response rather than a partial response). If the response you receive is a complete one, you can leave the Completed box checked. But if you received only a partial response, be sure to uncheck the Completed box.
- C. Either halfway through the ten (10) business day response period, but certainly no later than a couple of days before the response period is about to end, for the program/regional offices that haven’t responded, either use the FOIA Xpress reminder feature, re-send the search email with another reminder, or just create

a new email to remind the program/regional office that the due date is soon to pass. In addition to email, pick up the phone to speak with, or go visit, the FOIA Coordinator or subject matter expert who has been tasked with the search. If your efforts are unsuccessful and it's two (2) business days or more past the due date, elevate to the FOIA Officer.

D. The program/regional offices respond back, either through email or mail, with a completed Form 511, "Program Office Response to a FOIA Request" (**Attachment I-5-1**), and the responsive records, if any. These offices' responses should also include, as applicable, the following additional material:

1. Personal Records – the Form 510, "Personal Records Checklist" (**Attachment I-5-2**) is to be used to assist an employee in determining whether any records in his or her possession arguably responsive to a request are personal records (and therefore outside the scope of the request) or agency records (and therefore must be processed). The employee or the program office's FOIA Coordinator must maintain the records deemed personal for the six-year statute of limitations applicable to FOIA litigation.
2. Documentation of Search – the FOIA Coordinator should provide you copies of the Form 511A, "Documentation of FOIA Search" (**Attachment I-5-3**) that each staff member completed, so that you can verify the coordinator's determination that an adequate, and consistent, search has been performed.
3. Foreseeable harm – for exemptions 2 and 5, the program/regional office must articulate a particularized harm that would occur if the information subject to these exemptions is released. For example, it isn't an acceptable foreseeable harm statement to say that releasing an email exchange for which exemption 5's deliberative process privilege is being claimed will "inhibit candor." Rather, the program/regional office is to focus on the particular deliberation and the harm release of the record would cause; *e.g.*, the decision to which the record pertains has not yet been made, nor has the NRC yet gone public with its preliminary thinking, so release would inhibit other points of view from being offered, or confuse the public as to decisions not yet made. This foreseeable harm statement must be signed by the Office Director or designee at a GS-15 level or higher (Form 512, "Delegation

of Discretionary Release Authority – FOIA Memorandum” (**Attachment I-5-4**) is used for this delegation).

4. Whether the response is a complete or partial one.
 5. If the fees associated with the processing of the request changed from the original estimate, the program/regional office needs to attach a completed Form 496, “Report of Staff Resources for Processing a FOIA Request” (**Attachment I-5-5**); and
 6. With few exceptions,¹ FOIA requests, responses, and the records released in full or in part) are posted to the NRC website. Based upon the criteria set forth in 10 C.F.R. 9.27(a), the program/regional office indicates whether or not the response and records fall within one of the regulatory exceptions. See also **Section I-Chapter 7**.
- E. There will be occasions where, during the time a program/regional office is conducting its search for, or review of, records, the requester will narrow the scope of the request, or even withdraw it altogether. When that occurs, be sure to email the FOIA coordinators so that their offices don’t waste time.

¹ As a general rule of thumb, first party requests for investigation or allegation records or personnel records, or security-related information, are not made public. Even if a request involves other types of records, if there are multiple responses (*i.e.*, interim and final), if the first response is not made public, then the remaining responses will not be made public either.



PROGRAM OFFICE RESPONSE TO A FOIA REQUEST

TO: Government Information Specialist
FOIA, Privacy & Information
Collections Branch (FPIB)

FROM: FOIA Coordinator

SUBJECT: FOIA -

Section 1. Is this a partial ☐ or final response ☐ to this request? (Check only one).

Section 2. DISCLOSURE RECOMMENDATION: How do you recommend the responsive records be handled?
(Check all that apply).

<input type="checkbox"/> No records subject to the request.	
<input type="checkbox"/> Records already publicly available.	Group
<input type="checkbox"/> Records to have ADAMS profile changed to public.	Group
<input type="checkbox"/> Records to be released or withheld.	Group
<input type="checkbox"/> Records that have to be referred.	Group
<input type="checkbox"/> Ongoing investigation - NRC Form 656, Exemption 7(A) Certification, attached.	
<i>Note: An e-mail, with its attachment(s), is considered one record and should not be broken apart when you're assembling groups.</i>	

Section 3. PERSONAL RECORDS: Did anyone in your office identify personal records that pertain to this request? If so, make sure the employee completes NRC Form 510, Personal Records Checklist, attach a copy, and note in Section 9 whether the employee or FOIA Coordinator is retaining the records, which must be kept for six years.

Section 4. SEARCH: Staff in your office must undertake a search that is reasonably calculated to locate all records responsive to the request. Each person in your office that is asked to search must complete the attached NRC Form 511A, FOIA Search. You should review the forms to ensure that they are completed properly and reflect a consistent and adequate search. Attach all NRC Forms 511A.

Section 5. WAIVER: Records, or information within records, that may be withheld from release based upon an applicable exemption are subject to release if the NRC has officially disclosed that information previously. For any record, or information within records, that you are recommending be withheld, please confirm that staff has checked public ADAMS and www.nrc.gov to determine that such information has not previously been disclosed. **By checking the box at the end of Section 5, you are confirming that your staff did not find that the information recommended to be withheld has been publicly released by the NRC.** ☐

Section 6. DISCRETIONARY RELEASE/FORSEEABLE HARM DETERMINATION:

- ☐ We are recommending that exemption 2 and/or exemption 5 be claimed for certain records (or information within records) and a particularized harm statement, **signed by the Office Director or delegate**, is attached.
- ☐ We are making a discretionary release. Briefly describe the records (or information within records) for which such discretion was made.

PROGRAM OFFICE RESPONSE TO A FOIA REQUEST (Continued)

SUBJECT: FOIA -

Section 7. INCLUDE IN PUBLIC ADAMS: The NRC places FOIA responses (including released records) in public ADAMS unless the records contain information personal to the requester, involve matters that are not likely to be of public interest, or contain privileged or confidential information that should only be disclosed to the requester.

Do any of the records fall under one of these three exceptions to public availability?

☐ Yes ☐ No

Section 8. FEES: If the actual time spent searching or reviewing records, or number of pages, differs from the fee estimate given previously, complete and attach NRC Form 496, Report of Staff Resources for Processing FOIA Requests.

Section 9. COMMENTS: Please include any other comments that we should know about. In lieu of bracketing the responsive records, you may include a description of the records, or information within the records, that you recommend be redacted, including the exemption(s) that should be claimed. (Attach separate pages, if needed).



PERSONAL RECORDS CHECKLIST

Use the checklist below to assist you in making a determination as to whether your records are personal or agency records. If you have any questions, contact your office's FOIA coordinator, the FOIA specialist assigned to the request, and/or OGC or your Regional Counsel.

Creation - - Was the record created by an agency employee on agency time, with agency materials, at agency expense?
(If not, then it very likely is not an "agency record," on that basis alone.)

☐ Yes ☐ No

Content - - Does the record contain "substantive" information that relates to the activities and operations of the Government?
(If not, then it very likely is not an "agency record," on that basis alone.)

☐ Yes ☐ No

Does it contain personal as well as official business information?

☐ Yes ☐ No

Purpose - - Was the record created solely for an individual employee's personal convenience?

☐ Yes ☐ No

Alternatively, was it created to facilitate agency business?

☐ Yes ☐ No

Distribution - - Was the record distributed to anyone else for any reason, such as for a business purpose?

☐ Yes ☐ No

How wide was the circulation?

--

Use - - Did the record's author actually use it to conduct agency business
(e.g., prepare an agency record)?

☐ Yes ☐ No

If yes, to what extent did others use it?

--

Maintenance - - Was the record kept in the author's possession?

☐ Yes ☐ No

Was it placed in an official agency file?

☐ Yes ☐ No

Disposition - - Was the record's author free to dispose of it at his or her personal discretion?

☐ Yes ☐ No

What was the actual disposal practice?

--

Control - - Has the agency attempted to exercise "institutional control" over the record through applicable maintenance or disposition regulations?

☐ Yes ☐ No

Did it do so by requiring the record to be created in the first place?

☐ Yes ☐ No

Segregation - - Is there any practical way to segregate out any personal information in the record from official business information?

☐ Yes ☐ No

Revision - - Was the record revised or updated after the fact for recordkeeping purposes?

☐ Yes ☐ No



DOCUMENTATION OF FOIA SEARCH

FOIA NUMBER

DATE

In responding to this FOIA request, you must undertake a search that is reasonably calculated to locate all records that are responsive to the request. You must search in all places where responsive records may be found (electronic and paper). Please have each person in your office who searches for responsive records complete a copy of this form. Then return this form, along with the Form 511, Program Office Response to a FOIA Request, Form 496, Report of Staff Resources for Processing FOIA Requests (if different from original fee estimate), and any responsive records to the assigned Government Information Specialist:

NAME OF PERSON CONDUCTING SEARCH:

ORGANIZATION (Office/Division/Branch):

ELECTRONIC SEARCH:

1. Please list where you searched (e.g., your email, including archived emails, hard drive (C), server (P), shared drives (G), Sharepoint, ADAMS, desktop, laptop, mobile device, etc.):

2. Please list the systems of records and databases that you searched:

3. What search terms (e.g., key words or phrases) did you use?

4. Briefly describe your reasoning for your method of search (e.g., name of nuclear plant, name of case, commonly used acronym, etc.):

DOCUMENTATION OF FOIA SEARCH (Continued)

FOIA NUMBER

DATE

PHYSICAL SEARCH:

1. Please list where you searched (e.g., paper files, microfiche, audio, video, etc.):

2. Please describe how the paper files are organized and maintained (e.g., alphabetical by name, chronological, etc.):

3. Briefly describe your reasoning for your method of search (e.g., name of case, name of nuclear plant, commonly used acronym, etc.):



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

DATE:

MEMORANDUM TO:

FROM:

SUBJECT: Delegation of Discretionary Release Authority

Delegation of Discretionary Release Authority

The purpose of this Delegation of Release Authority is to ensure that the roles and responsibilities between the Office Director (OD) and the designee of the Discretionary Release Authority are clearly established.

The authority granted to you under this delegation is limited to Freedom of Information Act (FOIA) discretionary release determinations under 10 C.F.R. 9.25(f). Specifically, with respect to agency records that have been requested under FOIA and are exempt from disclosure under 10 C.F.R. 9.17(a), you may authorize disclosure of the records if you determine that the disclosure will not be contrary to the public interest and will not affect the rights of any person. The delegation of authority does not extend to information that does not fall within the purview of discretionary release determinations under 10 C.F.R. 9.25(f).

In exercising the required discretionary release functions, you are expected to comply with 10 C.F.R. Part 9, 5 U.S.C. § 552, and 5 U.S.C. § 552a. You must also ensure that the records being contemplated for release fall within the scope of the discretionary release authority described in 10 C.F.R. Part 9.25(f), as well as within the scope of this delegation. No discretionary release of records that fall under the purview of another Agency, a licensee, or any other non-NRC entity is contemplated in this delegation.

This delegation is effective until superseded and applies to you in your position as _____ and future holders of that position.

For more information about this delegation, please contact:

at: _____ @nrc.gov.

¹ Delegate to named designee or to a position (Division Director, and/or other designee no lower than the level of a grade 15)

Office

--

Report ALL time spent. (Show exact time in hours and minutes.)

NAME	SEARCH		REVIEW	
	HOURS	MINUTES	HOURS	MINUTES
TOTAL				

NAME	SEARCH		REVIEW	
	HOURS	MINUTES	HOURS	MINUTES
TOTAL				

NAME	SEARCH		REVIEW	
	HOURS	MINUTES	HOURS	MINUTES
TOTAL				

CONTRACTOR COST		DISKS		TAPES		OTHER COSTS	TOTAL
# OF HOURS	COST PER HOUR	# OF DISKS	COST PER DISK	# OF TAPES	COST PER TAPE	(SPECIFY)	

DATE _____

CHAPTER 6

REFERRALS & CONSULTATIONS

As records come in from program/regional offices, they may identify records (or portions of records) that originated with other NRC program/regional offices, other Federal agencies, or outside third parties (typically, licensees that have marked the records as confidential proprietary information under 10 C.F.R. 2.390, or predecessor regulation). Keep in mind that a referral to a licensee is solely for it to address the proprietary interest, if any, that it has in the material for which exemption 4 may be applicable; it is not an opportunity for the licensee to raise personal privacy or other interests.

These offices generally do not make any disclosure recommendations about these “third party” records; rather, they expect you to refer these records to the originator. But if the original office does indicate how it recommends the records be treated, be sure to include that information in the referral you prepare.

How you handle these referrals depends on who the originator is. For particularly complex requests, involving multiple program/regional offices, it may behoove you to reach out to the FOIA Coordinators for these offices to have a meeting to discuss a strategy for moving forward before sending referrals.

I. PREPARATION OF REFERRAL TO ANOTHER NRC PROGRAM/REGIONAL OFFICE:

- A. For referrals to other program/regional offices, use Form 496A (**Attachment I-6-1**) from the NRC Forms Library. The form can be completed electronically, or you can print it out. Complete the top parts of the form, up through and including the Comments section. (The program/regional office will complete the Office Response section, sign and date the bottom, and return to you.) Remember to include a copy of the incoming FOIA request with the referral.
- B. Print a copy of the Form 496A for the working folder. Include the records that you are referring or, if voluminous, create some type of appendix so you know exactly which records you are sending as part of the referral.
- C. In FOIA Xpress, create an action that tasks the referred records to that program/regional office. Highlight the applicable request. Select Action. Select Request for Documents. Select New. For the request date, use the

actual date of the referral except where it is to be mailed to a region, add two (2) business days. For the due date, enter the date that is ten (10) business days away. Remember that the day of tasking counts as the first day. Select the program/regional office(s) to which referrals are being sent. Select Customize email template – Referral. Then you can choose to prepare an email from within FOIA Xpress, or simply choose “RFD Save” (and do your own email attaching the completed Form 496A from Outlook). Then select Take Action (you can then change the status from “Request for Documents” to “Referral”, but remember to uncheck the Completed box).

- D. The administrative staff will either hand carry your referrals to the program offices or email those program/regional offices that have asked that referrals be sent to their resource mailbox. For referrals to the regional offices, the administrative staff will send them via FedEx overnight delivery.
- E. Once you receive the response(s) from the program/regional office(s) (**Attachment I-6-2**), go back into FOIA Xpress. Highlight the applicable request. Select Action. Select Request for Documents. Highlight the program/regional office from which you’ve received a response. Select Take Action. Enter the Action Date as the date of the completed Form 496A (not the date that you actually received it back). Briefly capture what the program/regional office has responded in the field provided. Enter Completion Date as the same as the Action Date, which will close out that program/regional office’s tasking (again, if the referred office sends you only a partial response, enter that date, but uncheck the Completed box).

II. PREPARATION OF REFERRAL OR CONSULTATION TO ANOTHER FEDERAL AGENCY

- A. If the program/regional office has no equity in a record it identifies as responsive to a request, that record is appropriate for a referral to the originating Federal agency.
- B. Do not use the Form 496A. Instead, you draft a letter (**Attachment I-6-3**) for the signature of the FOIA Officer. The letter informs the originating Federal agency that the record is being referred for the agency’s direct response to the requester. At the same time, prepare a letter, or email, to the requester notifying him/her of the referral and that he or she should expect a response from that other agency.

- C. Where a program/regional office has equity in another agency's record, or information that originated in another Federal is contained in an NRC record, then that record (or information contained in the record) is appropriate for a consultation. Create an action that tasks the other agency for a consultation referral in FOIA Xpress in the same way that you do for program/regional office referrals (the office to select is "Other"). If the volume of records is too great to email, you will need to prepare a letter to the other Federal agency asking for a consultation. If you do not use the blank correspondence template in FOIA Xpress to create the letter, but create it using WORD, remember to upload the letter to the Correspondence log in FOIA Xpress.
- D. Since the agency is given ten (10) business days in which to respond, at the half-way point, telephone or email the agency point of contact to remind him or her of the impending deadline. Reiterate what is said in the letter – if NRC does not receive the other agency's views, NRC (you and the subject matter experts in the program/regional office(s) that located the referred records) will make the best judgment as to how they should be handled.

III. PREPARATION OF REFERRAL TO OUTSIDE THIRD PARTIES (E.G., LICENSEES OR OTHER BUSINESS SUBMITTERS WHO HAVE DESIGNATED THEIR RECORDS AS CONFIDENTIAL COMMERCIAL OR FINANCIAL INFORMATION, OR WHOSE RECORDS APPEAR TO CONTAIN SUCH PROPRIETARY INFORMATION)

A. General Rules

- 1. The obligation to provide notice to a business submitter is triggered whenever the records, or information, comes into the NRC with a restrictive legend that indicates the information is confidential proprietary¹ information voluntarily submitted to the NRC under 10 C.F.R. 2.390². But there are times when NRC will obtain information (e.g., a resident inspector at a nuclear plant picks up some records when conducting an on-site inspection) as part of his or her duties and there

¹ 10 C.F.R. 2.390 affords the licensee the opportunity to identify not only proprietary interests, but personal privacy interests. The FOIA requires notification to ascertain proprietary interests only.

² Depending on the age of the records, the prior regulation was 10 C.F.R. 2.790.

may be no restrictive legend affixed. If you believe information may be proprietary, you should confer with the FOIA Officer, FOIA Coordinator and/or the subject matter expert (SME) in the program/regional office that provided you the records. If you and the SME agree that the information may be proprietary³, follow these steps.

2. If, however, you determine that there is another exemption that may be claimed to withhold the record, or information (for example, a listing of licensee personnel may be withheld on privacy grounds under exemption 6), there is no need to engage the licensee as part of your consideration whether to claim exemption 4.
3. Although the NRC's regulations set forth a detailed procedure for licensees to designate proprietary information when they submit it under 10 C.F.R. 2.390 (including NRC's response to the claim), and the NRC to respond to that designation, that procedure may not have occurred, or you may not find documentation of those steps having been followed.
 - a. If you do have that documentation, and the NRC agreed with the licensee's designation, and the FOIA request you're now processing is within one year of that agreement, you can rely on that documentation and claim exemption 4 without further need to engage the licensee.
 - b. If, however, more than one year has passed, given the possibility that the passage of time may affect the proprietary interest, or you don't have such documentation, you should prepare a referral.
4. Do not use the Form 496A. Instead, use the letter template in FOIA Xpress to send the letter to the licensee or other business submitter. (**Attachment I-6-4**) These letters do not identify the requester, although if the submitter contacts you, you can orally tell the submitter who the requester is.
5. Include a set of the records being referred. Most often, these records will have been created by the submitter and there will be no need to do any

³ The program/regional office should not simply default to considering the information proprietary, but rather should use its best judgment whether the information is proprietary, taking into account what other information may already be widely known, or the passage of time that would affect the sensitivity of the information.

bracketing or redaction from this set of records. Keep a copy of what you send to the submitter.

6. When the submitter letter is mailed, use the email template in FOIA Xpress (if you have an email address for the licensee) or create a letter (using the blank correspondence template) in FOIA Xpress (**Attachment I-6-5**) to notify the requester that certain responsive records have been sent to the submitter for review. You should also do a Request for Documents action (referral) to the business submitter; select “ZZZ” for the program office.
7. Upon receipt of the submitter’s views, decide whether the submitter has met the requirements for claiming exemption 4. If, ultimately, the records are to be handled in the way the submitter claims, then you can prepare the signature package and proceed accordingly. But, if the decision is made not to claim exemption 4 for any of the records/information the submitter had marked for redaction, then use the letter template in FOIA Xpress letter (**Attachment I-6-6**), which serves to advise the submitter of the determination and give the submitter notification of the impending release of the records, unless the submitter files an injunction action to forestall the release.
8. If there are records at issue in a request that do not need to be referred to a licensee or other business submitter, while you are awaiting the submitter’s response to your letter asking for input, you should consider whether its viable to prepare an interim response for other (non-proprietary) records.
9. Special Rules (for OI and OE records):
 - a. If the FOIA request seeks records from the Office of Investigations (OI) or Office of Enforcement (OE), the letter you write to the submitter can tell the submitter that a FOIA request has been received for the submitter’s records (or information), but do not reveal the identity of the requester (who may be the alleged that prompted the creation of the records) in the letter or if the submitter calls you.
 - b. Include a set of the records being referred.

- (1) Most often, these records will have been created by the submitter, so the submitter is already aware of the identity of the individuals referenced in the record (e.g., the record is an exhibit to a Report of Investigation (ROI) maintained in an OI or OE file). In such cases, the record can be sent to the submitter without any bracketing/redaction.
 - (2) In other instances, the submitter may be unaware of the identities of the individuals referenced in the record that contains the proprietary information. Examples: (a) in a transcript of an interview with an alleged, which is an exhibit in the Report of Investigation (ROI), the special agent conducting the interview references a proprietary record, or its content; (b) the text of the ROI incorporates proprietary information, or (c) in the allegation itself, the alleged references the proprietary information. Precautions need to be taken so that the NRC does not inadvertently disclose to the submitter the identity of individuals who are entitled to exemption 7C and/ or 7D protection, including any alleged. In this situation, the identities of these individuals should be bracketed/redacted before the record is referred to the licensee for an exemption 4 proprietary review.
- c. The submitter is generally given only ten (10) calendar days in which to respond (however, if the volume is great, you may extend that time period but in no event more than thirty (30) calendar days). Accordingly, you should have the administrative staff send the letter (including the records in question) via Fed Ex overnight delivery if you cannot email the letter and records to the submitter. If you have not had prior contact with the submitter, it is recommended that you telephone the point of contact⁴ to alert him or her that the package is coming.

⁴ If the records do not reflect the name and contact information for the business submitter's point of contact, ask the FOIA Coordinator (who may have to ask the subject matter experts) for that name. If they don't know, you can also check the Roster of Reactor Licensees that the Office of Nuclear Reactor Regulation (NRR) maintains on its webpage, <http://nrr10.nrc.gov>, and look for contact information for the Senior Vice President. If possible, telephone the Senior VP to confirm whether he or she is the right person, or if you should communicate with someone else and get that person's name and mailing address.



REFERRAL RELATED TO FOIA REQUEST

☐

INITIAL REQUEST

☐

APPEAL

TO: FOIA COORDINATOR --

OFFICE

FROM: FOIA SPECIALIST--

TELEPHONE NUMBER

We are referring the record(s) identified below or on the attached list for appropriate action, as noted. Please complete the actions indicated and return this referral and the record(s) to this office by _____. If you have any questions regarding this matter, telephone the FOIA Specialist.

☐

Provide your office's concurrence/nonconcurrence in the originating office's disclosure recommendation for each record.

☐

Complete NRC Form 496, "Report of Staff Resources for Processing FOIA Requests."

☐

Provide a disclosure determination/recommendation for each record, which was identified by another office as a record for which your office is responsible, and that is subject to this request.

☐

The initial denial of records (FOIA Number) has been appealed. Copies of the initial request, denial, and appeal are attached. Have your office conduct another review of each record and provide either a new disclosure determination/recommendation or reaffirm the initial disclosure determination/recommendation.

☐

Provide a disclosure determination/recommendation for each record that was referred to the NRC for review by another agency.

☐

Records that you provided this office in response to this FOIA request are being returned to you for further review/clarification for reasons noted in the COMMENTS section below.

☐

Other required action as noted in the COMMENTS section below.

COMMENTS

OFFICE RESPONSE

SIGNATURE -- FOIA COORDINATOR (Typed First & Last Name Indicates Your Electronic Signature)

Date



REFERRAL RELATED TO FOIA/PA REQUEST

☒ INITIAL REQUEST ☐ APPEAL

DATE

June 11, 2014

OFFICE

TELEPHONE

(301) 415-6064

TO: FOIA COORDINATOR – Office of General Counsel Attn: Cynthia Davidson O15D21

FROM: FOIA/PA SPECIALIST – *Margo E. Stevens*
Margo E. Stevens (contractor)

We are referring the record(s) identified below or on the attached list for appropriate action, as noted. Please complete the actions indicated and return this referral and the record(s) to this office within 10 days of your receipt of this referral. If you have any questions regarding this matter, telephone the FOIA/PA Specialist.

- | | |
|---|--|
| <input type="checkbox"/> Provide your office's concurrence or nonconcurrence in the originating office's recommendations for disclosure or withholding for each identified record. | <input type="checkbox"/> The subject request has been appealed for <u>initial denial of record(s)</u> . A copy of the appeal, denial response (with bracketed record(s)) and initial request are attached. Please have your office conduct another review of each appealed record and provide a new disclosure determination/recommendation or reaffirm the initial determination. |
| <input checked="" type="checkbox"/> Provide a disclosure determination/recommendation for each record which was identified by another office as a record for which your office is responsible and which is subject to this request. | <input type="checkbox"/> The subject request has been appealed for <u>lack of response</u> . Please provide a prompt response to the initial FOIA request or advise when a response may be expected and explain the reasons for the delay. A copy of the appeal and initial request are attached. |
| <input type="checkbox"/> The attached record(s) and/or bracketed information was referred to the NRC for review by another agency | <input type="checkbox"/> The subject request has been appealed for <u>adequacy of search</u> . Please have your office conduct another search for records responsive to this FOIA. A copy of the appeal letter is attached to assist you in your search for additional records. |
| <input type="checkbox"/> Records that you provided this office in response to the FOIA request are being returned to you for further review/clarification for reasons noted in the COMMENTS section below. | <input type="checkbox"/> The subject request has been appealed for <u>initial denial of fee waiver</u> . A copy of the appeal, denial, and initial request are attached. When the appeal response has been signed, please forward it to the FOIA/PA Section for dispatch to the requester. |
| <input type="checkbox"/> The enclosed records are being returned because they were determined to be outside the scope of this request, or the request was administratively closed without providing records to the requester. | <input type="checkbox"/> The subject request has been appealed for <u>initial denial of record(s)</u> . A copy of the appeal, denial response (with bracketed record(s)) and initial request are attached. When the appeal response has been signed, please forward it to the FOIA/PA Section for dispatch to the requester. |
| <input type="checkbox"/> Complete NRC Form 496, "Report of Staff Resources for Processing FOIA requests." | |
| <input type="checkbox"/> Other required action as noted in the COMMENTS section below. | |

COMMENTS/DESCRIPTION OF REFERRED RECORDS

- (1) A copy of the incoming FOIA request, from Larry Criscione, is attached immediately behind this referral form.
- (2) The attached email string is the second enclosure to an undated memorandum from Mary Jane Ross-Less to Richard Correia, which was previously provided to Mr. Criscione (without redaction) in response to another FOIA request. A copy of that memorandum is the second attachment behind this referral form.
- (3) ADM has already provided its views on its employees' email in this string, recommending release (except for mobile telephone numbers). Please provide your views on your office employees' email within this string.

I will be out of the office from Friday, June 13 through Friday, June 20th. Should you have any questions, I am happy to answer them prior to my departure or upon my return. Your response is due no later than June 25, 2014. Thank you.

OFFICE RESPONSE

Redactions indicated on hard copy, and explanatory email sent to Margo Stevens (OIS) on 6/24/14
James Adler
OGC

SIGNATURE – FOIA COORDINATOR

C. Davidson

DATE

6/26/14



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

[Date]

IN RESPONSE REFER TO
FOIA-201X-XXXX

FOIA Officer
Agency
Agency Street Address
City, State, Zip

Dear FOIA Officer:

In processing the enclosed Freedom of Information Act (FOIA) request, submitted by [REQUESTER], the U.S. Nuclear Regulatory Commission (NRC) has located the enclosed record(s), or information included in records, that fall under the purview of the [AGENCY].

The records are being sent to you for guidance regarding their disposition¹ before we issue our response to the requester. Please respond directly to the NRC with your views (including a foreseeable harm statement for any record, or portion thereof, that are you recommending be withheld, under exemptions 2, 5 or, if not apparent from the information itself, 7).

Please note that, if we have not received your views by [insert the date that is 10 working days from the date of the letter], the NRC will use its best judgment to make a determination on the record(s) and respond to the requester.²

The requester has been notified of this consultation.

We would appreciate hearing from you with the name and contact information for the member of your staff to whom this consultation is assigned. If you have any questions regarding this matter, please contact [Government Information Specialist] at (301) 415-xxxx, or [email address].

Sincerely,

Roger D. Andoh /s/

FOIA Officer
Customer Service Division
Office of the Chief Information Officer

¹ See 10 C.F.R. Part 9.25(i).

² See <http://www.justice.gov/oip/foiapost/2011foiapost42.html>.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

[DATE]

IN RESPONSE REFER TO:
FOIA/PA-201X-XXXX

Name of Business Submitter Contact
Name of Business
Address 1
Address 2
City, State, Zip Code

Dear Mr./Ms. [Business Submitter]:

The [enclosed records/records listed on the enclosed appendix] were identified by the U.S. Nuclear Regulatory Commission (NRC) staff as having been requested in the above-referenced Freedom of Information Act (FOIA) request.

Under the provisions of the FOIA, the NRC must determine which portion(s) of the records, if any, should be withheld from public disclosure because they contain trade secret or confidential commercial or financial information ("proprietary information"). Therefore, we need information from you to assist us in determining whether these records, or any information contained in these records, fall within exemption 4 of the FOIA, 5 U.S.C. 552(b)(4), and 10 CFR 9.17(a)(4).

Please mark the enclosed copies of the records by bracketing [] information your company considers proprietary and return the copies to us, along with a letter answering the following questions in sufficient explanatory detail to permit the NRC to arrive at a determination.

1. Was the information transmitted to, and received by, the NRC in confidence? Please give details as to the circumstances in which NRC obtained this information.
2. To the best of your knowledge, is the information currently available in any public sources?
3. Does your company customarily treat this information, or this type of information, as confidential? Please explain why.
4. Would public disclosure of this information be likely to cause substantial harm to the competitive position of your company? If so, how?

Attachment I-6-4

5. Since this information was transmitted to the NRC, have any events altered the proprietary character of the information? If so, please explain.

We will consider carefully the response you provide to us. Should the NRC determine that these records, or any portions thereof, should be disclosed, we will notify you of our determination, including a description of the information to be disclosed, the reason(s) for the NRC's determination, and the date by which the information will be made available to the public. 10 CFR 9.28(c).

Please provide your response to [PRIMARYUSERNAME] no later than [insert the date that is 10 working days from the date of this letter]. If we have not heard from you by this date, you will be considered to have no objection to disclosure of any of the records. If you have any questions regarding this matter, you may reach [PRIMARYUSERNAME] at [PRIMARYUSERPHONE] or [PRIMARYUSEREMAIL].

Sincerely,

Roger D. Andoh /s/

Roger D. Andoh
FOIA Officer
Office of Information Services

Enclosure:
[Appendix or Records]



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

DATE

IN RESPONSE REFER TO:
FOIA/PA-201X-XXXX

Requester Name
Street 1
Street 2
City, State, Zip Code

Dear Mr./Ms. [Requester]:

This is to notify you that, in accordance with 10 C.F.R. 9.28 of NRC's regulations, record(s) subject to your request has/have been sent to the submitter of the information for review for claims of confidential commercial and/or financial information in which they may have a proprietary interest.

Should you have any questions, I may be reached at [telephone #] or [email address].

Sincerely,

Government Information Specialist



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

[DATE]

IN RESPONSE REFER TO:
[FOIA/PA-201X-XXXX]

Name of Contact for Business Submitter
Business
Street 1
Street 2
City, State Zip Code

Dear Mr./Ms. [Contact for Business Submitter]:

The [attached records/records listed on the enclosed appendix] were submitted to the U.S. Nuclear Regulatory Commission (NRC) and have now been identified as subject to the above-referenced Freedom of Information Act (FOIA) request.

Under the provisions of the FOIA, the NRC must determine which portions of the records, if any, should be withheld from public disclosure because they contain trade secret or confidential commercial or financial information ("proprietary information"). When you submitted the record(s), you requested that the record(s) be withheld from public disclosure in accordance with the provisions of 10 C.F.R. 2.390. However, under the provisions of the FOIA, the NRC must make an independent review and determine which portions of the records, if any, must be disclosed to the public. We have completed our review and determined that [these records/portions of these records] must be released.

This information will be released by [insert date that is 15 calendar days from the date of this letter], unless you take appropriate legal action to prevent the agency from doing so or provide additional written justification for withholding this information prior to that date. If you have any questions, please contact [Government Information Specialist] at [telephone #] or [email address].

Sincerely,

Roger D. Andoh /s/

Roger D. Andoh
FOIA Officer

Enclosures:

1. Records/appendix
2. Bracketed set of records to be released

Attachment I-6-6

CHAPTER 7

PROCESSING RECORDS AND PREPARING THE SIGNATURE PACKAGE FOR RESPONSE

For administrative closings of FOIA requests (whether for failure to commit to pay the fee estimate or other reasons), see **Section I-Chapter 3**.

When you are ready to prepare either an interim or final response package, you will use Part I and, if there is any denial, Part II of the Form 464.

I. Reviewing Records and Redacting in FOIA Xpress

- A. In response to the Request for Documents, the program/regional offices will be providing you records¹, separated into several groups: (i) those that will be processed based upon their disclosure recommendations (e.g., released in their entirety, released in part, or withheld in full)²; (ii) those that should be referred, either to other NRC offices, other Federal agencies, or licensees or other submitters for their input; (iii) those that are already publicly available, and (iv) those that can be made publicly available. For the latter two groups, the program/regional office may provide you with the actual records or, more typically, they will provide you with a print-out from ADAMS that contains a description of the record and its ML#, or a listing the FOIA Coordinator created containing the same descriptive information. Only the print-out/listing is to be uploaded into FOIA Xpress (not the actual records). But all of the records in the other groups are to be uploaded into FOIA Xpress (whether or not they will need any redactions).

- B. Depending on your own workload, and the volume of records you receive, you may want to do the scanning and uploading of the

¹ As we migrate away from a paper-based process, we are starting to see more program and regional offices providing their FOIA responses, including records, in electronic form. Some regional FOIA Coordinators have chosen to upload their responses to our Sharepoint site in lieu of mailing their responses to us. Remember to delete the records from the Sharepoint site once you have imported them into FOIA Xpress.

² In the past, the records to be processed were broken down in three groups: (i) records to be released in their entirety, (ii) records to be released in part; and (iii) records to be withheld in their entirety. To simplify processing, we eliminated these distinctions.

records, or you can ask the administrative staff to do the task for you. If you choose the latter option, complete the Request for Scanning Services form [**Attachment I-7-1**], placing it atop the records needing to be scanned/uploaded, and leaving them in the designated box on the administrative desk.

- C. The records are to be uploaded into a folder you create within the file drawer corresponding to the fiscal year in which the request was opened (regardless of the year you are actually working on the request). For example, it's October 2015, and you've been assigned FOIA-2016-0001. The records responsive to the request are uploaded into the 2016 drawer.
- D. The naming convention for each folder you create is the request reference number (including the prefix, so as to distinguish requests received directly by NRC or direct referrals that come in from other agencies (both of which use the FOIA- prefix) from consultation requests from other agencies (which use the CON- prefix)), followed by your initials in brackets; *e.g.*, FOIA-2015-0001 (ABC). In this way, there is both an easy means of accountability (so any user can know quickly who processed the records) and retrievability (so any user can search for all requests handled by a particular specialist) for each folder.
- E. Since we want FOIA Xpress to “mirror” how the program/regional offices respond to the Request for Documents (whether an initial request for records or a referral), remember to upload not only the ADAMS print-out/listing and/or responsive records, but the Form 511 (and other attachments, if any) that the program/regional offices provide you. Additionally, we want FOIA Xpress to reflect the way in which we ultimately respond to a FOIA request; *i.e.*, interim and final response packages. In order to accomplish both of these objectives, follow these steps in organizing and uploading the records:
 - 1. Create separate sections for each program/regional office from which you receive at least one response (because you may receive records from an office initially and then as a result of a referral). To create a section, once you open the folder you've created for the particular request in Document Manager (and before any layers are loaded), right click on the folder name (which should be the FOIA request

number), select “create section” and enter the name for that section (e.g., the office from which the records were received, the response # if there are going to be multiple responses, etc.). Select Save. Once you’re done, you’ll get a pop-up message saying section created. Because you may not know for sure how many offices may be involved in providing recommendations on records (e.g., you may only have sent an initial Request for Documents to one office, but the records have equities from other offices as well, to which you’ll need to do referrals), always create a section (so that you can add additional sections if you need them; you cannot go back and create sections once you do an initial upload of records to a given folder).

2. Within each Section, upload the Form 511, followed by the ML# print-out/listing (if any) and the responsive records, as appropriate³. Even if an office provides you with a Form 511 that says the office found no responsive records, upload the Form 511.⁴
3. Keep in mind that the released set of records you ultimately produce need to be “clean” of any bracketing and exemption claims that a program or regional office may have proposed, whether or not we ultimately agree or disagree with them. The ellipse functionality in FOIA Xpress is available to erase these stray markings. Where a record consists of single-spaced text, it is often difficult to make effective use of the ellipse because you may end up obscuring text along with the stray marking. This is true whether the records you received from the program/regional office were sent to you on paper or electronically. When this situation happens, you have several options:

⁴ Often, you will receive a “no record” response from a program/regional office in response to the fee estimate tasking. In that situation, you won’t have a Form 511 back from that office because you will not have sent a request for document tasking email. When you receive a “no record” response at the fee estimate stage, select “Completed – No records” for the appropriate action. You may also wish to include the “no record” response in the comments field.

- a. Especially if the volume of records is small, upload the bracketed set of records, along with the Form 511, as the first section. Then upload as a separate section a “clean” set of the records on which you’ll do the necessary redactions. (Make sure you name the sections so as to distinguish between the two.)
 - b. If the volume of records is so large that it would be unwieldy to upload both the bracketed and clean sets into FOIA Xpress, since we still want to maintain the records as the program/regional office marked them in an electronic form, upload the bracketed PDF file (or scan paper records into a PDF file) into the G drive, in the Electronic Case Files folder, under the applicable fiscal year. There will already be a subfolder for that case number (where you’ll find the incoming request). Upload the PDF file into that same subfolder. Using Adobe’s tools, under Protection, use the sanitize tool to eliminate the metadata and create the clean version that you will work from in FOIA Xpress.
4. De-duplication. In order to minimize fees for the requester, eliminate the risk of inconsistent treatment, and to lessen the time it takes to process records, you are expected to de-duplicate the responsive records (although this is a role for FOIA Coordinators for records within their own offices, sometimes this may still be needed, and you will certainly have to de-duplicate records coming from multiple offices). For this purpose, a duplicate is either (a) the identical record, or (b) in the case of email strings, a shorter email string that is fully included in a longer email string. De-duplication can occur at various stages. Before uploading the records, although you do not want to discard them (because we want to keep the “integrity” of exactly what each program/regional office produced in case of any adequacy of search issue), you can identify any duplicates. Or, you can use the ADR functionality in FOIA Xpress once all the records are uploaded⁵. Or as you work through the

⁵ You will need to refer to FOIA Xpress’s Online Manual (on the home page) on the use of the ADR de-duplication functionality.

records, you may recognize duplicates (including by using the 'find and redact' feature to confirm what you think you recognized). Whatever methodology you use, you are only going to process the "original" record, in whichever program/regional office's response it appears first. For the other duplicates, you will use the "duplicate" review flag (either right-click on the page, select "set review flag" and then select "duplicate" or choose the "duplicate" option in the exemption menu). By doing so, when you open the folder (if you set your general preferences at the FOIA Xpress home page to "show review flags"), next to the page number, you'll be able to see readily the pages that are duplicates, which you then won't "save to disk" or print when you are assembling the response package.

5. Where there are duplicate records, since you will be processing the record only once (the first time it appears in whatever order you upload the different program/regional offices' responses), that particular uploaded record may not reflect the bracketing of all the offices that have some equity in the record. In order for that uploaded record to serve as the "master," you can either (a) note in pencil the other offices' recommendations before you upload them (but remember that you should then clean up any pencil marks or bracketing when assembling the Released Set), or (b) make use of the Sticky Note⁶ feature to indicate that the bracketing, or release, of the record follows (or differs) from the offices' recommendations that do not appear (in a transparent or translucent view).
6. Keep in mind that emails that have attachments, or letters that have enclosures, are considered a single record. When an attachment or enclosure is an already publicly available record, instead of uploading that already publicly available record (see Section I-A, above), use the

⁶ Be mindful that when you print the Released Set of records, you will need to suppress the Sticky Note feature; however, it's a good idea to include the Sticky Notes when you print/make available the Bracketed Set of records so that any reviewer, including OGC, can know why a record is being handled the way it is.

Comment⁷ feature to insert the ML# (e.g., “attachment is publicly available as ML#_____”) on, or near, the Attachment line of the email.⁸ By doing this, the requester will be able to match up the attached record that is included on the Records Already Publicly Available in ADAMS group’s cover sheet.

7. Make appropriate use of the Sticky Note feature to provide any other salient information about the record for a reviewer (e.g., a prior release of the same record, or same/similar information).
- F. Since we want the records uploaded in FOIA Xpress to reflect how they were ultimately processed, if for any reason the request, or any part of the request, is not finalized (e.g., the requester withdraws the request, or narrows the scope of responsive records, etc.), you should ensure that this information is noted in the Comments field of the General Information screen before the request is closed (once the request is closed out, your options for making this notation changes – either add a Request Notes or include a Sticky Note on the records in Document Management). This will allow any user to understand what transpired with the request.
- G. The administrative staff will upload the concurrence copy of each Form 464 (as well as appeal response letters at the appeal stage) into the Correspondence log for the request upon its issuance. Note that if the response was delivered to the requester via email, the signature copy will already appear in the Correspondence log. But as we migrate away from paper working folders and embrace FOIA Xpress as the “electronic working folder,” we want the concurrence copy also to be included, so we have the benefit of which offices, and staff within the offices, concurred in the response. You should confirm that each Form

⁷ Be mindful that when you print both sets of records, you will want the Comment feature to appear in both sets.

⁸ If the ML# of the publicly available version is already included in the Attachment line, you don’t need to do this. But if the ML# is of the non-public version, or the document is merely described by its subject matter, then you will need to add the ML# of the publicly available version.

464 and appeal response letter for your assignments is uploaded into the Correspondence log.

- H. If you receive the records electronically, you can upload a PDF file directly into FOIA Xpress. For the program offices that have Redact Express, you will be able to import them directly from Redact Express into FOIA Xpress. This happens in slightly different ways, depending on whether you have the records to send over to the program offices using Redact Xpress or not (*i.e.*, when you send a Request for Documents email tasking program offices using Redact Xpress that includes a blank ADX file into which the program office will upload its responsive records and use the redaction functionality to make its recommendations, or when you receive records from other offices that need to be referred to the program offices using Redact Xpress that you will have to populate into an ADX file that you send over).
- I. When you have received records from one office that need to be referred to a program office using Redact Xpress, you will have already uploaded the records into FOIA Xpress from the office that located them in response to the Request for Documents tasking (in a section named for that office). There is a little trick to making this work. Do the following:
 - 1. Either right click the name of the section containing the records you need to refer and select Send/Save for Consultation from the drop down men, or click on the name of the section containing the records you need to refer and then select the Save for Consultation Review button on the toolbar.
 - 2. This will bring up a small window asking you to select the pages you intend to refer (or select the “all” option) for consultation. Click OK.
 - 3. This will bring up a larger window, which will allow you to send the referred pages via email to the FOIA Coordinator you check, or the addressee whose email address you enter. (This is the default setting; see step (4) below for handling referrals to OE.) Enter the review due date, which is ten (10) business days from the date you are sending the pages. You should cc: yourself so that you know when the email and records are delivered to the

intended addressee. Ensure that the format of the file is “ADX.” This is the default setting. (Note that if you copy yourself on the email that transmits the ADX file, you will not be able to open the file since it can only be opened in Redact Xpress.)

4. You can email the ADX file to OIG, but you’ll have to burn the ADX file onto a CD to hand carry to OE. (If the records for OIG are too large to email, you will also have to use the CD approach.)
 5. Following these steps will automatically populate an item in the Consultation Log, which you can view to confirm that you have successfully created the ADX file.
 6. Once the program office receives the ADX file, it will upload it into Redact Xpress, apply the redactions it recommends, and then either email you or provide you a CD with the revisions being recommended.
- J. When the program office completes the redactions, and returns the “bracketed” file back to you, you will need to upload this newest layer to the appropriate folder that you have already established in FOIA Xpress. Do the following:
1. After clicking on the File Cabinet button from the FOIA Xpress home page, click on Consultation Review Log.
 2. Find your case. Note that the log identifies the entries by the specialist’s name, and the date of creation, not the FOIA number. (If you’re unsure which one of your entries is the correct one, you can select the View Details button of each entry that will show you its FOIA number.)
 3. Select Take Action.
 4. Complete the fields in the screen. In the status field, enter Received. This will prompt the Import button to appear.

5. Select Import. Choose the location of the “bracketed” file (*i.e.*, the CD you received back from OE, or your P drive or desktop where you saved the file OIG emailed you).
6. Select Open. This will open the layer. You should double-check to make sure that OE/OIG’s recommendations are there.
7. Select the Import ADX File button along the top toolbar. This will open Document Manager in FOIA Xpress, loading this layer, and allowing you to do whatever is necessary to finish your redactions. *Note:* If the records you referred for consultation review were already uploaded into FOIA Xpress, and you already have a layer with your proposed redactions included, enter the exact name of the folder/section where you want the upload to occur. The uploaded consultation records will become its own layer as long as the file name is identical to the folder/section where you want it uploaded. You can then use that layer; review what the consulting office has done, make changes as appropriate, and then complete processing.

K. When you do not have the records until the program office using Redact Xpress sends them to you, or once the program office returns the records to you, do the following steps to upload the ADX file sent to you:

1. After clicking on the File Cabinet button from the FOIA Xpress home page, click on Import from Redact Xpress.
2. The “Choose File to Upload” screen appears; select the ADX file you want to upload and click Open. This starts the upload process. Once it is complete, the name of the file will appear.
3. Click on the Import button (icon) on the toolbar to import the ADX file into FOIA Xpress. You’ll get a window/prompt, asking if you’re sure you want to import the file into FOIA Xpress; click yes.
4. This will open the Sync from Redact Xpress to FOIA Xpress window. Select the program office that sent you the ADX file (*i.e.*, OIG). Select the target file cabinet drawer where the ADX

file will be imported (which will serve to create the folder, so if necessary, you can edit the name so it will indicate the FOIA case number and your initials). Click the sync button. A window will open to say that the importing has been completed.

- L. For records that contain any type of restrictive header or footer (e.g., official use only; sensitive security-related information, sensitive internal information, etc.), or similar language that may appear at the bottom and/or top of emails, if you are going to release them in their entirety or in part, these types of restrictive legends must be crossed out. You can manually strike out these restrictive markings before you upload the records, or you may use the straight line feature in FOIA Xpress to do so.
- M. Before you prepare the Form 464 and assemble the signature package, email the FOIA Officer that the records are ready for his (preliminary) review in FOIA Xpress. Provide him with the name of the folder and its drawer location, so that he can easily find it.
- N. Once the FOIA Officer concurs with the way in which you've processed the records, you are ready to prepare the Form 464 and assemble the signature package.

II. Preparation of Signature Package

- A. Unless there is a full grant of records, you will use both Parts I and II of Form 464. With the exception of requests for OIG records only (see **Section II-Chapter 2**), the FOIA Officer is the signatory.
- B. Although not favored, sometimes it is not practicable to wait until all of the responsive records can be processed to do a response. For example, where there is a need to send records to a business submitter, or to consult with another agency, it may be better to do interim response packages.
 - 1. When doing an interim response, in Part I of the Form 464, check the "interim" box, insert the appropriate number of the interim response, and remember to check the box that says "we're continuing to process your request". Do not insert anything in the Part I.A, Fees section, until you do the final response.

2. Check the box in the Part I.B. informing the requester that administrative appeal rights will be afforded upon issuance of the final response.
- C. For records that are already publicly available in ADAMS, elsewhere on www.nrc.gov, such as in the Document Collections area (**Attachment I-7-2**), or made available through the National Technical Information Service, or the Government Printing Office, create a listing of each record by its date, brief description, and ML# (or link to where the record is already publicly available).
- D. If a record's availability in ADAMS is listed as "non-publicly available", and the program/regional office (and you) agree that the record is to be released in its entirety, then you will need to initiate steps to have the record's availability in ADAMS changed from "non-publicly available" to "publicly available." The record may also be profiled as "sensitive" because it contains restrictive legends (e.g., official use only, submitted under 2.390, etc.). But if after the program/regional office and you (and the licensee, as applicable) agree that the record may be released in its entirety, you will also need to initiate steps to have the record's profile and availability in ADAMS changed from "sensitive" to "non-sensitive" and "non-publicly available" to "publicly available." When the FOIA Coordinator recommends that such a record can be made publicly available in ADAMS, you may rely on that recommendation and send an email to the ADAMS IM resource mailbox asking that the record be made publicly available immediately. (**Attachment I-7-3** is a sample of that email)⁹. By doing so, the record carries only one ML# and it will be designated as publicly available, allowing anyone researching it, whether an NRC employee or a member of the public, to know its correct status.
- E. With the exception of sensitive records, or records for which there is expected to be little or no public interest, responses to media requesters and most other responses (and the incoming request) are placed in public ADAMS. See 10 C.F.R. 9.27(a). To ensure consistency in our treatment of FOIA responses, except as listed

⁹ Note that if a record in ADAMS has not been declared an official agency record, the record's owner will first have to request, through the ADAMS IM resource mailbox, that the record be declared an official agency record. Then you can follow the steps above to have its profile and/or availability changed.

herein, FOIA responses (including released records) will be placed in public ADAMS:

1. Privacy Act records (a first party requester's own records, which are maintained by the NRC in a system of records and retrievable by that first party's name or other unique identifier);
 2. Investigation/allegation (OI/OE) records, whether sought by a first or third party requester;
 3. FOIA requests in which the only responsive records are already available in public ADAMS or elsewhere on the NRC Web site¹⁰;
 4. Administrative closures;
 5. No record responses because the records requested are in the possession of an Agreement State (and we provide the pertinent contact information for that state);
 6. Consultation responses we provide another Federal agency (since they are not the final determination as to the records);
 7. FOIA requests that deal with "internal housekeeping matters" in which other members of the public aren't likely to have any interest (e.g., organizational charts and functional descriptions; position descriptions); and
 8. No record responses if the subject of the request is one in which other members of the public aren't likely to have any interest.
- F. For packages that are to be made public, be sure to include, in Form 464's Part I.C, Comments section, the ML# of the incoming request (you may find the ML# on the Custom Fields screen in FOIA Xpress, or check ADAMS, under FOIAPA Cases, for it). This is the language that is to appear in the Comments section:

The incoming FOIA request will be made available in public ADAMS as ML# _____. Records with an ML Accession Number are publicly available in the NRC's Public Electronic Reading Room at

¹⁰ Clarification not discussed during meeting: If a requested record is categorized as publicly available, but it is part of the Legacy ADAMS that is available only in microfiche, a response that provides such a record should be placed in public ADAMS so that it is widely available from that point forward.

<http://www.nrc.gov/reading-rm.html>. If you need assistance in obtaining these records, please contact the NRC's Public Document Room (PDR) at 301-415-4737, or 1-800-397-4209, or by email to PDR.Resource@nrc.gov.

- G. For each response, in the area to the right of the signature block, check the appropriate box, "Public ADAMS" or "Non-public ADAMS."
- H. In Part I.B, if either box 1 (no record found) or 2 (record denial) is checked, then you must check box 3 (if it's an interim response) or 4 (administratively appeal rights). Conversely, if the request is being granted in its entirety, boxes 2 and 4 are not checked.
- I. In Part I.C, include in the Comments section any information about fees if there is a change from the estimate or describe any modification to the scope of the request.
- J. In Part II.B, with the exception of records originating with SECY, OGC, or OIG, the FOIA Officer is the denying official for the records being denied in part or in their entirety. For SECY and OGC records, refer to the Officer Director and Regional Administrator listing for the appropriate official (**Attachment I-7-4**). The appellate official for records from the Commission-level offices (*i.e.*, ACRS, ASLBP, EDO, OCA, OCFO, OCAA, OGC, OIP, OPA, and SECY) is SECY; the appellate official for records from all other program offices is the EDO. (Note: The OIG uses its own version, Form 464-OIG). See **Section III-Chapter 3** for a listing of program/regional offices and acronyms.
- K. If you have prepared the records in the package as the program/regional office recommended¹¹, you do not have to let those offices know how you have prepared the signature package. If there are modest changes, as a best practice, you should communicate with the FOIA coordinator or subject matter expert (SME) within that office with whom you've been working, to get "buy-in" to the change.

¹¹ The offices of the Secretary to the Commission (SECY), General Counsel (OGC) and the Inspector General (OIG) have their own independent authority. So, when processing these offices' records, you follow their bracketing as a general rule. But if you see an oversight or what you believe is a clear error (*e.g.*, a failure to bracket personally identifiable information (PII), or an inconsistency in bracketing, etc.), you should raise this to the appropriate FOIA Coordinator.

- L. A signature package containing allegation and/or investigation records is sent to the Office of Enforcement (OE) for a concurrence review (except in the rare circumstance where there is no alleged and there is no pending enforcement action) before the FOIA Officer will sign the Form 464. Since OE is one of the program offices using Redact Xpress, the FOIA Coordinator's review is done electronically. Follow the steps set forth in sections (I) and (J) of Part I of this chapter. OE has ten (10) business days to complete that review. As discussed in chapter 6 on Referrals, remember to task OE in FOIA Xpress for that review.
- M. If you did not already coordinate with OE during your processing of the records, whenever records originating with other program or regional offices were part of a non-concurrence process (NCP) or differing professional opinion (DPO) process, the signature package should be coordinated with OE as it "owns" the NCP and DPO processes.
- N. Generally, signature packages must receive a concurrence review by an OGC attorney before it is given to the FOIA Officer for signature. Also include anything of significance you want the reviewer to know about the request, or if the request is related to, or deals with the same records as, another request recently reviewed by an OGC attorney. This will assist the OGC manager when she is deciding to whom to assign the review. It generally takes about 48 hours between the time the OGC mailroom is notified that a signature package is ready for review, and its assignment to an OGC attorney. If you want to know to whom it's been assigned, you may email the mailroom to find out. Remember to create a tasking action in FOIA Xpress for OGC's concurrence review, or you may choose to use the concurrence review template available in FOIA Xpress. If the OGC attorney suggests changes with which you do not agree, if after discussing it with the OGC attorney you cannot reach agreement, then discuss it with the FOIA Officer
- O. As part of the Background section of the package, be sure to include the program/regional office's recommendations, including foreseeable harm statements, any documentation of the requester's modification to the request, licensee/other business submitter or other agency consultation input, and any other pertinent information that would assist the reviewers and the FOIA Officer.

III. Final Steps -- Signature Package

- A. Once you obtain the necessary concurrences (or make any changes that are required as a condition of the concurrence given), the signature package is ready to go to the FOIA Officer for final review and signature. Because the FOIA Officer has already done a preliminary review of the records in FOIA Xpress, he needs only a “truncated” signature package (*i.e.*, Form 464 and any salient background information, such as foreseeable harm statements). He can view the request, any modifications to the request reflected in emails that you should have uploaded into the Correspondence log in FOIA Xpress, and the records. Type the date into the Form 464 (use the date you are giving the package to the FOIA Officer if before 2:00 PM; if after 2:00 PM, use the next business day’s date), type in “Roger D. Andoh” in the signature block, and print both signature and concurrence pages. If you use the continuation page of Part I and/or Part II, be sure to print two copies (one for issuance to the requester and one for our files).
- B. In finalizing the released set of records, the steps you will take will depend upon whether the response is to go into public ADAMS.
 1. If the response is to go into public ADAMS, and the requester has not asked for paper records, burn the released set of records on a CD for the requester and, depending on how we obtained the records in the first place, either burn a second CD for DPC, or print the records for DPC:
 - (a) If the entire released set of records came to you on paper, which were then scanned either by your or one of the administrative staff into FOIA Xpress at 300 DPI, [or the FOIA coordinator who provided you the records electronically can confirm/verify that he/she had scanned all of the paper records he/she received from subject matter experts (SMEs) at 300 DPI, which you or administrative staff then uploaded into FOIA Xpress], you can provide the released set of records to DPC on a CD. Be sure to run text recognition on the PDF file containing the released set of records before you burn it to the CD for DPC.

- (b) If any part of the released set of records came to you electronically (and you cannot confirm/verify that the records were scanned at 300 DPI), print the released set of records for DPC.
 - 2. If the response is not going into public ADAMS, burn only one CD (for the requester, regardless of whether we are going to email the response to the requester or mail the CD).
 - 3. If the response is to go into public ADAMS, but the requester has asked for paper records, follow either step 1(a) or (b) for providing the released set of records to DPC.
- C. If the response is a final response, return the working folder to the administrative staff for closing. If the response is an interim response, you keep the working folder.
- D. If your requester had submitted an advanced payment of the estimated fees and is now entitled to a refund, before you submit the final signature package to the FOIA Officer for signature, make sure you have obtained from the requester the taxpayer identification number (social security number for an individual; employer identification number for a business or other entity), and include it in a note to the administrative staff with the package, so that the refund can be processed on a timely basis.
- E. Be sure that all actions tasked in FOIA Xpress have been closed out (see **Section III-Chapter 2**) before you give the final package (along with CD(s)) to the FOIA Officer.
- F. Ensure that your communications with licensees or other business submitters, as well as other agencies regarding the treatment of responsive records, have been uploaded into the Correspondence Log.
- G. Once the FOIA Officer signs, he will give the signature package back to you so that you can enter the “final disposition” in FOIA Xpress. To enter the final disposition, follow these steps:

1. From the FOIA Xpress home page, select Create/View Requests. Locate your case and select Actions.
 2. Select Final Actions. Enter the date the FOIA Officer (or Assistant Inspector General-Investigations for OIG requests) signed the Form 464 in the Disposition Accepted field.
 3. Choose the appropriate Action, and Select the exemptions applied, if applicable (and, if a discretionary disclosure is made, note that).
 4. Change the Action Date so that it is the same as the Disposition Date, if needed.
 5. Double-check that all of the information entered in the Final Actions screen is correct (this is the source of the Annual Report).
 6. Select Apply; then Save.
- H. Once you entered the final disposition information, email the administrative staff that you have done so. Give the final package, and if it is a final response, the working folder, to the administrative staff as well. The administrative staff will take the remaining final steps (including preparation of the appropriate Form 665 for inclusion of the response package in ADAMS).
- I. Double-check that the concurrence copy, along with the signature copy, has also been uploaded into the Correspondence log of FOIA Xpress.
- J. If a response is supposed to be included in public ADAMS, double-check a few weeks after the response is completed to ensure that it has been made publicly available. If it has not, speak with the administrative staff, who can make contact with DPC to check its status.

REQUEST FOR SCANNING SERVICES

Date Request Submitted: _____ Time Request Submitted: _____

Name of FOIA Caseworker: _____ FOIA Request: _____

Please answer the following questions:

1. Into what drawer should the records be scanned? _____
2. What should the folder be named? _____
3. Do you need sections to be created? - _____—If so, please identify how many sections you want to be created, the number of records to be placed in each section (or however else each section is to be organized), and name them:

4. Are the records double-sided? ☒ Yes ☐ No

5. Please include any other information that the scanner should know, e.g., are there “post it notes” or “flags” on the pages that need to be removed before scanning but then put back in place, or moved on the page so as not to obscure any of the page’s content before scanning; if there are multiple sections, do you want the records back as each section is completed?

Completed:

Date _____ Time _____ By Whom _____

FOIA-2015-0294

Final Response #2

Records Already Publicly Available

1. ML15117A059 – Pacific Gas & Electric-prepared slides for the April 28, 2015 Category 1 Public Meeting on Diablo Canyon Seismic Hazard Re-evaluation.
2. ML15125A186 – Summary of the April 28, 2015 Category 1 Public Meeting with Pacific Gas & Electric to discuss Diablo Canyon's Seismic Hazard Re-evaluation Associated with Implementation of Japan Lessons-Learned Near-Term Task Force Recommendation 2.1-Seismic.
3. ML15118A021 – Announcement of Forthcoming Webcast Public Meeting to discuss Diablo Canyon's Seismic Hazard Re-evaluation Associated with Implementation of Japan Lessons-Learned Near-Term Task Force Recommendation 2.1-Seismic.
4. ML13273A601 – COMSECY-13-0030, Staff Evaluation and Recommendation for Japan Lessons-Learned Tier 3 Issue on Expedited Transfer of Spent Fuel, dated November 12, 2013.
5. ML13282A632 – Non-concurrence Process Record for NCP-2013-013.
6. ML15113B360 – Email from Nicholas DiFrancesco, NRR, to Philippe Soenen, PG&E, dated April 23, 2015, discussing NRC Technical Focus Areas for Support of Public Meeting on April 28, 2015.
7. ML14268A516 – NRC letter to Power Reactor Licensees on the Enclosed List, Request for Additional Information Associated with Near-Term Task Force Recommendation 2.1, Seismic Re-evaluations Related to Southeastern Catalog Changes, dated October 23, 2014.
8. ML15134A258 – Email from Rochelle Becker, Alliance for Nuclear Responsibility, transmitting three attached Independent Peer Review Panel Reports: No. 8, "Comments on PG&E's Central Coast California Seismic Imaging Project Report Part 2, Onshore Seismic Studies intended to reduce the uncertainty in seismic hazard at Diablo Canyon Power Plant", dated December 17, 2014; No. 6, "Site Shear Velocity at Diablo Canyon, Summary of Available data and comments on analysis by PG&E for Diablo Canyon seismic hazard studies", dated August 12, 2013; and No. 9, Comments on PG&E's Central Coast California Seismic Imaging Project Report Part 2, Onshore Seismic Studies intended to reduce the uncertainty in seismic hazard at Diablo Canyon Power Plant", dated March 6, 2015.
9. ML14111A147 – NRC letter to All Power Reactor Licensees and Holders of Construction Permits in Active or Deferred Status on the Enclosed List, Screening and Prioritization Results Regarding Information Pursuant to Title 10 of the Code of Federal Regulations 50.54(f) Regarding Seismic Hazard Re-evaluations for Recommendation 2.1 of the Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident, dated May 9, 2014.

Sample Email to Send to ADAMS IM Support to Change the Availability of a Record maintained in non-public ADAMS that is to be Released in its Entirety Pursuant to a FOIA Request

TO: ADAMS IM

FROM: Government Information Specialist

SUBJECT: [FOIA/PA-201X-xxxx]

As a result of a release of documents under FOIA/PA-201X-XXXX, please change the availability to public, sensitivity to non-sensitive, the release date to immediate release, and add SUNSI Review Complete and FOIA to the keyword field of MLXXXXXXXXX and MLXXXXXXXXX.

Please advise when complete.

Thank you.

OFFICE DIRECTORS AND REGIONAL ADMINISTRATORS

ACRS*	Edwin M. Hackett, Executive Director
ADM	Cynthia A. Carpenter, Director
ASLBP*	G. Paul Bollwerk, III, Chairman
CFO*	Maureen Wylie, Chief Financial Officer
EDO*	Victor M. McCree, Executive Director for Operations [SBCR]
	DEDM Glenn M. Tracy, Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration and Human Capital Programs [NMSS, RES, OE, OI, ADM, OCHCO]
	DEDR Michael R. Johnson, Deputy Executive Director for Reactor & Preparedness Programs [NSIR, NRR, NRO, REGIONS]
NMSS	Scott Moore, Acting Director
NRO	Glenn Tracy, Director
NRR	William M. Dean, Director
NSIR	Brian E. Holian, Director
OCA*	Eugene Dacus, Director
OCAA*	Brooke P. Clark, Director
OE	Patricia Holahan, Director
OGC*	Bernice C. Ammon, Assistant General Counsel for Legal Counsel, Legislation and Special Projects Marvin L. Itzkowitz, Associate General Counsel for Hearings, Enforcement and Administration
OCHCO	Miriam Cohen, Director
OCIO	Darren Ash, Chief Information Officer
OI	Kevin Fowler, Acting Director
OIG**	Joseph A. McMillan, Asst. Inspector General for Investigations
OIP *	Nader L. Mamish, Director
OPA*	Eliot B. Brenner, Director
Region I	Daniel Dorman, Regional Administrator
Region II	Leonard D. Wert, Jr, Acting Regional Administrator
Region III	Cynthia D. Pederson, Regional Administrator
Region IV	Marc L. Draper, Regional Administrator
RES	Michael F. Weber, Director
SBCR	Vonna Ordaz, Acting Director
SECY*	Rochelle Baval, Executive Assistant

*Appeal to the Secretary of the Commission

**Appeal to the Inspector General

CHAPTER 8

ADMINISTRATIVE APPEAL PROCEDURES¹

Note: Appeals for expedited processing or fee waivers should never be late. If, due to circumstances beyond your control, it appears that an appeal of a denial of expedited processing or fee waiver is in jeopardy of being late, you must inform the FOIA Officer at least two (2) business days before the due date.

I. Initial Processing Steps

- A. The administrative staff logs in all appeals upon receipt and assigns the appeal number. Normally, if you handled the request that is the subject of the administrative appeal, the appeal will be assigned to you. Along with the working folder for the appeal, you'll also receive the working folder for the closed request, and a copy of the incoming appeal.
- B. Prepare the acknowledgment letter using the appropriate template in FOIA Xpress.
- C. You may use the referral template in FOIA Xpress, or the Form 496A referral form (refer back to **Attachment I-6-1**) to task the appropriate program/regional office (including appeals for OIG and Commission records) if the appeal is based on an initial denial of records, adequacy of search², or a failure to respond timely. Check the correct box to indicate that it is an appeal. Keep in mind that if you use the referral template, the action will automatically be included in FOIA Xpress. To do that, select Action. Select Request for Documents. Enter the due date as ten (10) business days from the date of entry. Using the drop down menu, select the program/regional office. Where it says "Email Template", select Referral. Make any adjustments, as appropriate, to the email; be sure to copy yourself on the email. Select Send. Then, go back into the Request for Documents action you just sent out.

¹ An appeal that is to be administratively closed can be handled in the same way as a request (using a Form 464 for the FOIA Officer's signature). For example, a "constructive denial" appeal that becomes moot once the response to the initial request is issued, or a fee waiver appeal that can be resolved by an exercise of administrative discretion to simply waive a small amount even though the criteria for fee waiver aren't met, can be handled in this way.

² During the processing at the initial request stage, if the Forms 511A, Documentation of Search, submitted by the program/regional offices reflect that an adequate search was conducted, you do not need to task the office to do a second search at the appeal stage.

Select Take Action. Select Referral as the status. Be sure to uncheck the Completed box. Select Save. If you choose to use the Form 496A, you are responsible for entering the referral in FOIA Xpress by either uploading a copy of the form into the Correspondence Log, or doing a Request for Documents action (but after preparing the email tasking to the appropriate office(s), choose the Save Request for Document (RFD) rather than send email).

II. Preparing the Appeal Signature Package

- A. Once you receive response(s) from the program/regional office(s), prepare a draft response letter for the signature of the Chief Information Officer. Let the FOIA Officer know that your draft response is ready for his review and concurrence; you can email him the draft response, along with any salient background documentation, and refer him to the location of the records in FOIA Xpress where he can review them, if applicable. Be sure to close out the program/regional office(s)' actions in FOIA Xpress.
- B. In finalizing the appeal response letter, include the following officials on the concurrence page of the letter:
 - You
 - FOIA Officer
 - Office Director/Regional Administrator whose records are appealed (*via email, if appropriate)
 - Office of the General Counsel (OGC)
 - Chief Information Officer (OCIO)
- C. Like the signature package used for requests, you will prepare a signature package for the administrative appeal. A few differences to note, however. First, you will use both the orange signature and concurrence tabs for placement of the letter and concurrence page. Second, unless there is only a single record at issue, or the issue on the appeal concerns fee waiver, fee category, or expedited processing, include appendices (as appropriate) describing the records for ease of review.
- D. Prepare a routing slip (**Attachment I-8-1**) that will accompany the appeal signature package. Include on the routing slip the following: "The statutory due date for this appeal response is [enter date]." The statutory response date can be taken from the target date entered into FOIA Xpress. This will convey the urgency with which the response should be reviewed. It is your

responsibility to keep track of which office has the appeal package for concurrence and to keep the package moving. It is sent from you to the following officials:

- FOIA Officer
- Office Director/Regional Administrator (if applicable)
- OGC
- OIS Correspondence Manager
- Chief Information Officer (OCIO)

- E. Save the appeal letter you've drafted to the G drive, under the folder for the applicable fiscal year (the year in which the appeal was opened, regardless of the year in which the appeal response is prepared) so that someone else can access the electronic version of the letter and quickly make any changes that are needed, in case you are not available to do so. Use the following naming convention for the appeal: FOIA-201X-00XXA_ issue in the appeal (*i.e.*, denial of information, adequacy of search, lack of timely response, denial of fee waiver, denial of expedited processing, or other).
- F. Once you obtain the FOIA Officer's concurrence, email (or ask the administrative staff to hand carry or fax, as appropriate) the appeal letter and appendices, if applicable, to the appropriate FOIA Coordinator(s) for the Director/Regional Administrator to concur. Ask the FOIA Coordinator to email or fax the Director/Regional Administrator's (or his/her designee's) concurrence to you. You should place the Director/Regional Administrator's initials on the concurrence grid, and include the concurrence memorandum or email you receive in the background section of the appeal signature package.
- G. Once you have the Director/Regional Administrator's concurrence, provide the appeal signature package to the administrative staff, who will upload the draft letter into ADAMS, and then deliver the appeal signature package to OGC for concurrence.
- H. Once OGC concurs, the administrative staff will deliver the package to the OIS Front Office to obtain the OIS Correspondence Manager's concurrence.
- I. Once the OIS Correspondence Manager concurs, she will give the appeal signature package to the Chief Information Officer for signature. After signature, the OCIO Front Office will contact the administrative staff for pick-up and dispatch of the appeal.

- J. If the appeal response is to be made publicly available, the administrative staff will put the response letter, incoming appeal and released records, if applicable, in public ADAMS, and then close the case. In order for the administrative staff to close the case, you must bring the staff the working folder (see **Section I-Chapter 10**) and ensure that all salient information is included in FOIA Xpress and that all actions tasked in FOIA Xpress are closed. Enter the appropriate final disposition in FOIA Xpress as well (see **Section I-Chapter 7** for how to do that). The administrative staff will upload the signed and dated letter in the G drive, in the applicable subfolder, based upon the issue in the appeal (e.g., denial of information, adequacy of search, etc.) for the applicable fiscal year.

III. On remand from the CIO

- A. If the Chief Information Officer determines the initial search for records was inadequate, or that records previously withheld should be released in their entirety, or in part, the OCIO will remand the request back to the FOIA Office to take actions consistent with that determination.
 - 1. The remanded request will receive a new FOIA request reference number, which you will receive from the administrative staff, along with a new working folder. Double-check that the FOIA request number is cross-referenced to the appeal number, and vice versa, in FOIA Xpress.
 - 2. Take whatever actions are appropriate, including the preparation of an acknowledgment letter, tasking actions to obtain new fee estimates, or requests for documents, to process the request anew.
 - 3. If the records are to be treated differently than at the initial request stage, be sure that you create a separate layer in FOIA Xpress to reflect the new disclosure determinations.

Date:

ROUTING AND TRANSMITTAL SLIP

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Roger Andoh, OCIO		
2. OGC		
3. Joan Depristo, OCIO Correspondence Mgr.		
4. Chief Information Officer		
5.		

SUBJECT: Response to FOIA Appeal 201X-XXXXA

The statutory response due date is:

Please return to the FOIA office or notify the FOIA Office once final concurrence and signature is obtained.

Thank you,

FROM: (name, org. symbol, Agency/Post)	Room No.-- Bldg. T-5F09

SECTION II: SPECIALIZED GUIDANCE

CHAPTER 1

PROCESSING GUIDANCE FOR CLOSED OFFICE OF INVESTIGATIONS (OI) & ALLEGATION (OFFICE OF ENFORCEMENT, OR OE)-RELATED MATERIAL

To assist in the processing of FOIA requests for records relating to investigations and allegations after the OI case and allegation is closed, and the initial enforcement action is issued/cited, the FOIA Coordinator for the Office of Enforcement (OE) created guidance (**Attachment II-1-1**). The current version is dated September 24, 2014.

Points of Clarification:

1. As a point of clarification, when protecting the identities of third parties¹ who appear in OI and OE records, remember to take into account whether the position they hold is a unique one. If so, then redact not only the person's name, but that unique title. Conversely, if there are multiple persons in the same location that have the same position title, redact only the name and not the title. Since artificial entities, such as corporations and other businesses, do not have personal privacy protections under the FOIA, only redact the entity names when they would indirectly identify an individual in the entity. For example, John X. Lawyer is a sole practitioner in his firm, John X. Lawyer, P.C. You would redact both his name and the law firm's name because release of the firm's name would indirectly identify the lawyer. But the same would not be true if Ms. Lawyer worked for the law firm of Smith, Jones & Williams (its letterhead shows multiple partners and associates). In that instance, you would redact Ms. Lawyer's name, but not Smith, Jones & Williams.
2. Although the names and job titles of NRC Senior Managers, Resident Inspectors, NRC Technical Experts, Regional Counsel and other NRC employees are generally released in OI and OE records, if such employee is "standing in the shoes" of an investigator (for example, one of the resident inspectors at plant A is present during a transcribed interview of a third party witness who is testifying as to what occurred at plant A, and is providing the OI special agent with technical expertise, including asking questions of the witness), then such employee's name and job title should also be redacted.

¹ Often you will find transcripts of recorded interviews of third parties in these OI files; Neil R. Gross Court Reporters and Transcribers holds a contract with NRC. Its identifying information (*i.e.*, name, address, telephone number, and website) that appears at the bottom of each page of the transcript does not get redacted.

3. With respect to the names and titles of OI investigators, while the names should be redacted on privacy grounds, the titles of “special agent” and “senior special agent” should not be redacted as they are not sufficiently unique as to be indirectly identifying. However, the name and title of the one Special Agent in Charge (SAIC) and Field Director in each region is to be redacted.
4. Remember that even when exemptions 2 or 5 technically apply, you must ensure that OI or OE, as applicable, has provided you with a written articulation of the foreseeable harm that would come from releasing such material, signed by the applicable Office Director or authorized delegate at the GS-15 level.
5. The NRC’s Policy on Protecting the Identity of Allegers and Confidential Sources, which may be found at 10 CFR 21.2(d) (published in 61 FR 25924, May 23, 1996) and Management Directive 8.8, “Management of Allegations” means that if a third party request (e.g., licensee, representative of the news media or anyone else that is not the allexer or the allexer’s representative) asks for an allegation file or other records by the name of an allexer, we cannot confirm the existence of records because that would confirm that the named individual is an allexer². In such cases, you should utilize a “Glomar” response (*i.e.*, to the extent such records exist, they would be exempt from disclosure under FOIA exemption 7C).

² Of course, if the allexer is “widely known”, then you can proceed to process the request, releasing the name of, and other information associated with, the allexer as long as such information has also been made publicly known. As reflected in the chart (**Attachment II-1-1**), a “widely known” allexer is an individual who has publicly identified himself/herself to the media, held a press conference, or is otherwise identified in a public setting as the individual who raised a specific allegation concern to the NRC. Keep in mind that if an allexer also brings that concern to the attention of the Department of Labor (DOL), at the OSHA stage, the investigation is not a matter of public record. It is only if the allexer appeals the results of that investigation to an administrative law judge at DOL that the proceeding becomes a matter of public record. At that juncture, the allexer would be considered “widely known.” Consult with OE’s FOIA Coordinator if you believe the facts support the conclusion that the allexer in the FOIA request you’re handling is “widely known.”

FOIA Processing Guidance for Investigation and Allegation Related Material
(after OI Case and Allegation is Closed and Initial Enforcement Action is Issued/Cited)¹

FOR ANY OI CASE/ANY ALLEGATION RECORDS:

<u>Requester is:</u>	<u>Perform This Type of Review:</u>	<u>Types of Reviews:</u>
<p>Alleger (or their Atty) 1st Party* Not Public (1+2+3) <u>Summary of How to Handle 1st Party Requests:</u> <u>For Allegers requesting information about their allegation/investigation—</u> release their name, job titles/description of duties, Personally Identifiable Information (PII) and any other information they provided about themselves.</p> <p><u>For Witnesses/Defendants/Confidential Sources—</u>withhold under Ex 7(C) their names, sufficiently unique² job titles/description of duties, PII and “fingerprinting” information. Withhold under Ex 7(D) as well as Ex 7(C) if assurance of confidentiality was expressly given (NRC policy requires written documentation of such assurance) or may reasonably be inferred (although this will be the rare occasion; for example, a witness refusing to be interviewed at work).</p> <p><u>For other individuals mentioned (not interviewed) in the file—</u>withhold their names, sufficiently unique job titles/description of duties and PII using Ex 7(C).</p>		<p>(1) ALLEGER²/WITNESS/DEFENDANT/CONFIDENTIAL SOURCE FINGERPRINTING SCRUB (see page 2 for additional information)</p> <p>(2) OTHER PROTECTED INFORMATION SCRUB (see page 3 for additional information)</p> <p>(3) ADDENDUM (see page 4 for additional general guidance))</p>
<p>All Others 3rd Party* Yes Public (1+2+3) <u>Summary of How to Handle 3rd Party Requests:</u> <u>For Allegers—</u>Widely, Publicly known³—release their name and job titles or description of duties. Withhold their PII under Ex 7(C).</p> <p><u>For other Allegers/Witnesses/Defendants/Confidential Sources—</u> withhold under Ex 7(C) their name, sufficiently unique job titles/description of duties, PII and “fingerprinting” information. Withhold under Ex 7(D) as well as Ex 7(C) if assurance of confidentiality was expressly given or may reasonably be inferred [see notes in 1st party discussion]</p> <p><u>For other individuals not allegers or witnesses (mentioned/not interviewed)—</u> withhold under Ex 7(c) their name, sufficiently unique job titles/description of duties and PII</p>		<p><u>*How to Handle Specific Documents in BOTH Reviews:</u></p> <p><u>In ROI, Exhibits and administrative documents (such as ROI cover memo, OI background documents, and emails/records from any office):</u>Withhold under Ex 7(C) names of Investigators/OI Admin staff/FODs/SAICs and other information sufficiently unique that release could reasonably be expected to identify the employee (e.g., last four digits of their work phone number), but release their job titles unless sufficiently unique, such as SAIC. <u>Withhold</u> under Ex 7(C) licensee’s or private attorney’s name <u>Withhold</u> law firm’s name under Ex 7(C) if release could reasonably be expected to identify the attorney (e.g., a sole practitioner, or if only one attorney in the firm works on this subject matter).</p> <p><u>In any documents:</u> <u>Release</u> names and job titles of NRC Senior Managers, Resident Inspectors, NRC technical experts, Regional Counsel and other NRC employees (except if the person is a witness or allegor in, or a subject of, the investigation, then withhold under Ex 7(C)).</p>

¹ NOV/Order/CO/NCV/Exercise of Discretion/Closeout Letter is Issued/Cited.

² For purposes of this document, the term “sufficiently unique” means that the information, if released, could reasonably be expected to identify the individual about whom the information pertains.

³ Widely Known Allegor-The Agency Allegation Advisor determines if the allegor is widely publicly known (and documents this determination in writing), i.e., an allegor who has publicly identified himself/herself to the media, held a press conference, or is otherwise identified in a public setting as the individual who raised a specific allegation concern to the NRC. If determined to be widely known, allegor fingerprint scrub is unnecessary.

(1) ALLEGER²/WITNESS/DEFENDANT/CONFIDENTIAL SOURCE FINGERPRINTING SCRUB:

Withhold all information that, if released, could reasonably be expected to identify the individual.

EXAMPLES OF PROTECTED INFORMATION—Use Exemption 7(C) to withhold this information. Exemption 7(D) may also be used to withhold information only if there was an express or implied assurance of confidentiality.

A. Core Personal Privacy Information—name, sufficiently unique job titles/description of duties and PII (including home address, social security number, date and place of birth, mother's maiden name, biometric records, home/cell/pager/blackberry number, personal email address, military service information, education history, medical history, and other personally sensitive information such as alcoholism, drug addiction, other health problems, and financial transactions)

- (i) Pronouns—If the work group is very small and there are only a few women in it or there are very few women in a particular occupation, in order to protect the identity of the woman/women, you must redact all masculine and feminine singular pronouns
- (ii) References to Date and Time of Events and Meetings that, if released, could reasonably be expected to identify the Alleger/Witness/Defendant/Confidential Source
- (iii) References to a Supervisor, Co-workers, Small Work Groups, or Associations that, if released, could reasonably be expected to identify the Alleger/Witness/Defendant/Confidential Source
- (iv) Attorney (private or licensee)
- (v) Law firm's name if release could reasonably be expected to identify the attorney (e.g., a sole practitioner, or if only one attorney in the firm works on this subject matter)
- (vi) References to, or Initials of, individuals on forms or other documentation if the identity of that individual is being protected

B. Employment History—If sufficiently unique, Job Titles, Positions, Termination Date, and Duties Description. If release could reasonably be expected to identify the person being protected, number of years in various positions.

C. Employee Badge number, Direct Work Telephone Numbers Identifying Office Locations and mailstops that are sufficiently unique.

D. Performance Information—References to disciplinary letters, dates of disciplinary letters, text from disciplinary letters, Personal Improvement Plans, appraisal ratings, appraisal narrative, any other employee's or manager's name and comments about performance if such information could reasonably be expected to identify the employee

E. Training Attendance Records (unless the course is mandated for a large group of employees, such as annual XXXX training)—[ABC Class] on [XX/XX/XX]

(2) OTHER PROTECTED INFORMATION SCRUB:

OGC/Regional Counsel's Opinion—Exemption 5—Located in the Report of Investigation (ROI) and possibly the Investigation Status Record. This is attorney-client privileged material.

Predecisional/Drafts—Exemption 5—Drafts or position papers that express opinions, or make recommendations, on legal or policy matters prior to the adoption of a final agency decision on the matter and that have not been expressly adopted by the final decision-maker. This is to protect from disclosure our deliberative process as well as encourage open and frank exchange of advice, opinion and ideas. This is also to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. This exemption is for internal government documents, with limited exceptions. Also, this exemption should be used only if it is reasonably foreseeable that disclosure of the information would result in harm; a harm statement needs to be provided.

10 CFR 2.390 (some older documents may refer to 10 CFR 2.790)—Exemption 4—Licensee Referred Records—Records the licensee provided *that have a "2.390 Proprietary" stamp, or other withholding statement on the document, and/or were accompanied by a 2.390 affidavit letter.* This category consists of trade secrets and commercial or financial information that was obtained from a person and is privileged or confidential. Information on a licensee's physical protection or material control and accounting program may also be covered by Exemption 4 when received from the licensee if it is "privileged or confidential." If the licensee was required to submit the information to the NRC, it is considered "confidential" if disclosure would be likely to impair the Government's ability to obtain necessary information in the future or to cause substantial harm to the competitive position of the licensee. If the licensee voluntarily submitted the information, it is considered "confidential" if the licensee would customarily not release that type of information to the public. We bracket the records or recommend they be released. OIS/FOIA will send them back to the licensee with NRC's recommendation for release, giving the licensee 10 days to respond. The licensee either agrees or provides additional justification for why the records should be withheld. *You need to provide the address/contact for the licensee. Records that we have determined are to be withheld in their entirety on the basis of another exemption are not referred to the licensee.*

Security-Related Information (not Safeguards)—Exemption 7(F)—Disclosure of information that could reasonably be expected to endanger the life or physical safety of an individual, such as Allegation/Investigation records of security-related violations/enforcement actions. This category would include records created by the NRC that contain detailed plant security information, including (a) our evaluations of a licensee's control and accounting procedures for safeguarding licensed nuclear material, (b) our evaluations of detailed measures for the physical security of a licensed facility, particularly information that could facilitate attempts at sabotage, diversion of nuclear material, or other attacks detrimental to public health and safety, (c) our evaluation of licensee information revealing vulnerabilities of nuclear facilities or materials to theft or sabotage, and (d) certain facility drawings showing specific locations of equipment/materials.

Condition Reports—Exemption 7(C)—In condition reports (e.g., problem identification forms, incident reports, and work reports), withhold report numbers, dates of event, month/year written, title, specific title paraphrasing, and names of the author, reviewer, and approver. Though rare, determine on a case-by-case basis if the report should be withheld in its entirety (e.g., if the remaining information after the information mentioned in the previous sentence is redacted is meaningless, or if the only way to prevent an unwarranted invasion of personal privacy would be to withhold the entire report).

Licensee Employee Concern Program (ECP) Files—Exemption 7(C)—Any information in the ECP files that could reasonably be expected to identify the Allegor/Witness/Defendant/Confidential Source (such as the date that the individual went to the ECP). Though rare, determine on a case-by-case basis if the ECP file should be withheld in its entirety (e.g., if the remaining information after the information mentioned in the previous sentence is redacted is meaningless, or if the only way to prevent an unwarranted invasion of personal privacy would be to withhold the entire file).

Information Related Solely to Internal Personnel Rules and Practices of an Agency—Exemption 2—Following the Supreme Court's decision in 2011 in *Milner v. Department of the Navy*, this exemption is limited to information pertaining to an agency's rules and practices dealing with employee relations or human resources, such as vacancy crediting plans or parking regulations. In addition, this exemption should be used only if it is reasonably foreseeable that disclosure of the information would result in harm; a harm statement needs to be provided. Consequently, this exemption is rarely used.

All teleconference bridge passcodes—Exemption 6

Investigative Techniques-Exemption 7(E) - Information that would disclose techniques and procedures for law enforcement investigations or prosecutions not generally known by the public, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. Although, in general, you cannot use Exemption 7(E) to withhold information pertaining to techniques and procedures well known by the public, i.e., "wiretap" or "polygraph," Exemption 7(E) may also be used to withhold information regarding how a well-known technique or procedure was actually used in a particular investigation. A harm statement needs to be provided.

(3) ADDENDUM (additional general guidance):

RECORDS OTHER THAN OI/NRC STAFF/LICENSEE RECORDS:

Records from Other Federal Agency—Generally, do not bracket their records, unless there is information in the record that OI wants withheld. OI needs to bracket that information and indicate the FOIA exemption. You need to inform OIS/FOIA about this material. OIS/FOIA refers the records to that agency.

Some Federal agencies (TVA, VA) are also licensees. You need to make a determination whether they are acting in their capacity as a sister agency or commercial entity. If the records were obtained from the agency because it has an NRC license, the records are treated the same as records from any other licensee (See the "10 CFR 2.390" Section on page 3). If the records were obtained from the agency in its capacity as another Federal agency, then the records are treated the same as if they came from another Federal agency, not bracketed and referred back to that agency by OIS/FOIA.

Chapter 2

OFFICE OF INSPECTOR GENERAL (OIG) GUIDANCE

- I. Except as noted below, the processing of FOIA requests for records of the Office of Inspector General (OIG) will be the same as for other records.
 - A. The Assistant Inspector General for Investigations, currently Joseph A. McMillan, is the signatory for responses to FOIA requests for OIG records.
 - B. When you send the email tasking the OIG to search for responsive records, do it separately from the other program/regional offices and remember to check the box for the “ADX file.” It allows OIG to use Redact Express when providing the records to us.
 - C. Ashley Hines is currently the FOIA Coordinator for OIG. She is responsible for providing fee estimates, conducting searches, and providing you with the responsive records, indicating the disclosure determination of the Assistant IG, which she will have uploaded and redacted in Redact Xpress. (Recall that the OIG has independent FOIA determination authority.)
- II. How the responsive records maintained by the OIG will be handled, and the signature response package prepared, depends upon which program/regional office(s) (including the OIG) have equity in the records.
 - A. When the responsive records are purely OIG records and no other equities are involved:
 - 1. Use the Form 464-OIG (**Attachment II-2-1**)
 - 2. No Concurrence by you or the FOIA Officer;
 - 3. Joe McMillan, the Assistant OIG, signs; and
 - 4. OIG listed in distribution block.
 - B. When the responsive records are located by OIG in their files, but originated with other program/regional office(s), and the OIG has not indicated any of its own equities in the records:

1. You will have referred these records to the other program/regional office(s) for disclosure recommendations;
 2. Use the Form 464;
 3. Concurrence by you;
 4. FOIA Officer signs; and
 5. OIG, as well as other program/regional office(s), listed in distribution block.
- D. When the responsive records are located by OIG in their files, but the OIG has equity in these records, as do other program office(s):
1. You will have referred these records to the other program/regional office(s) for disclosure recommendations;
 2. Use the Form 464-OIG;
 3. Concurrence by you;
 4. Concurrence by FOIA Officer;
 5. Joe McMillan, the Assistant OIG, signs; and
 6. OIG, as well as other program/regional office(s), listed in distribution block.
- E. Although the OIG has independent FOIA determination authority, if you come across inconsistencies in the redaction of the records provided you, or you question the applicability of an exemption claimed for the information (e.g., a claim of 7(D) for investigative techniques when 7(E) was intended), bring these matters up to the FOIA Coordinator to address before you complete the response package.
- III. OIG's approaches to redaction to keep in mind:
- A. The identities of third parties are almost always redacted on privacy grounds (7C). Exceptions are the three OIG senior executives, the members of the Commission, and members of Congress. (Note that congressional staff members' identities are afforded privacy protection.)
 - B. If the OIG records deal with a work group that is very small, or where there are only a few women in the particular occupation being mentioned, in order to protect sufficiently the identity of these third parties, the OIG

redacts both the feminine and masculine pronouns in these records. This is the same practice that the Office of Investigations (OI) follows and is a change from OIG's prior practice of routinely redacting all feminine and masculine pronouns throughout the records.

- C. To protect the identity of NRC staff, their names, unique position titles, and organizational affiliation (generally below the Office level) are redacted on privacy grounds. Even if the identity of the third party is otherwise known; e.g., the third party is an NRC employee who authored an Information Notice that is public and whose authorship is also public, the OIG redacts the name (and unique position title) in its records.



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

RESPONSE
TYPE

☐

INTERIM

☐

FINAL

REQUESTER:

DATE:

DESCRIPTION OF REQUESTED RECORDS:

PART I. -- INFORMATION RELEASED

- ☐ Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- ☐ Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☐ See Comments.

PART I.A -- FEES

AMOUNT*

\$

☐

You will be billed by NRC for the amount listed.

☐

None. Minimum fee threshold not met.

☐

You will receive a refund for the amount listed.

☐

Fees waived.

*See Comments for details

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- ☐ We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- ☐ Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- ☐ You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, OIG

DISTRIBUTION

OFFICE

ACTION OFFICER

AIG OFFICER

NAME

DATE

☐

PUBLIC ADAMS

☐

NON-PUBLIC ADAMS



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

RESPONSE
TYPE

☐

INTERIM

☐

FINAL

REQUESTER:

DATE:

DESCRIPTION OF REQUESTED RECORDS:

PART I. -- INFORMATION RELEASED

- ☐ Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- ☐ Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☐ See Comments.

PART I.A -- FEES

AMOUNT*

\$

*See Comments for details

☐

You will be billed by NRC for the amount listed.

☐

None. Minimum fee threshold not met.

☐

You will receive a refund for the amount listed.

☐

Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- ☐ We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- ☐ Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- ☐ You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, OIG

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST**

DATE:

PART II.A -- APPLICABLE EXEMPTIONS

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by the statute indicated.
- ☐ Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
- ☐ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- ☐ 41 U.S.C. 4702(b), which prohibits the disclosure of contractor proposals, except when incorporated into the contract between the agency and the submitter of the proposal.
- ☐ Exemption 4: The withheld information is a trade secret or confidential commercial or financial information that is being withheld for the reason(s) indicated.
- ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
- ☐ The information is considered to be another type or confidential business (proprietary) information.
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- ☐ Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
- ☐ Deliberative process privilege.
- ☐ Attorney work product privilege.
- ☐ Attorney-client privilege.
- ☐ Exemption 6: The withheld information from a personnel, medical, or similar file, is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☐ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
- ☐ (A) Disclosure could reasonably be expected to interfere with an open enforcement proceeding.
- ☐ (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
- ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
- ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ Other

PART II.B -- DENYING OFFICIALS**In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.**

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Joseph A. McMillan	Assistant Inspector General for Investigations, OIG		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals must be made in writing within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

SECTION III: ADMINISTRATIVE MATTERS

CHAPTER 1

BEST RECORD-KEEPING PRACTICES (FILE MAINTENANCE & FOIA XPRESS)

I. File Maintenance

A. During the time in which a FOIA request is assigned to you, you are responsible for ensuring that the working folder (“official file”) and FOIA Xpress reflect all significant actions taken on the request since it was assigned to you. Although we are currently moving away from keeping hard copy files, for as long as we do so, the file must be complete. As described in Part II, below, for significant developments during the processing of the request that are not generated by (and automatically saved in) FOIA Xpress, be sure to enter them by inputting descriptive information into the Comments field on the General Information screen, and/or uploading documentation of these developments (e.g., all email communications between you and the requester, other agencies or licensees or other business submitters with whom you may consult, or you and NRC staff, the Form 509, “Statement of Estimated Fees,” that the requester signs, a copy of an advanced payment check, etc.) into the Correspondence Log. At a minimum, the working folder should include copies of:

1. As noted in **Section I-Chapter 2**, you will receive an assignment through an email from the FOIA.Resource mailbox. When you receive the working folder, it will contain the original incoming request (and, if the request includes PII, a redacted copy). Once you create and send out the acknowledgement letter (unless you are certain that the response will be issued within ten business days), and send out the initial tasking email(s), print copies of them for the working folder as well.
2. The responses you receive from the program/regional offices to the tasking action email(s).
3. A Case History Sheet, with continuation sheets (**Attachment III-1-1**) is available for your use to document, in one place, any other contacts (e.g., reminder emails or phone calls to program/regional offices of an upcoming due date, discussions to clarify the fee estimates received or to discuss the bracketing or other disclosure

recommendations being made), or upcoming deadlines (e.g., when a “hold” comes off, when a program office is due to respond to a referral or search tasking, etc.) or you may print any such emails for the file.

4. Any Form 496A referrals sent to program/regional offices, including the records referred (or if the volume is large, a listing of the records).
5. Program/regional office responses on the Form 496A referral, including the records provided, with bracketing or other disclosure recommendations noted.
6. The Form 511, “Program Office Response”, including the records provided, completed Forms 511A, “Documentation of FOIA Search”, a completed Form 496, “NRC Staff Resources,” if the fees incurred differed from the office’s original estimate provided to you, a Form 510, “Personal Records Checklist” (if applicable), and a foreseeable harm statement signed by the Office Director or delegate, including Form 512, “Delegation of Discretionary Release Authority – FOIA Memorandum,” if applicable.
7. Any communications with a licensee or other business submitter, including copies of records referred, and their responses.
8. Any communications with other Federal agencies with whom you consult, including copies of records referred, and the agency’s responses.

B. Once a signature package/response is issued

1. If interim responses are issued, once the administrative staff returns the package to you, retain it (in its entirety) in the file.
2. Once the final response is issued, retain it (in its entirety) in the file (but see below).

C. Upon Closing

1. When you are ready to close the file, review all of its contents. Be sure that there is only one copy of each record in the working folder, which is to be preserved to reflect the significant actions that took place during the processing of the request or administrative appeal and that will serve as the administrative record in the case of an administrative appeal or judicial review. Ensure that the contents are in reverse chronological order, with the incoming request and initial assignment as the first items and the final response as the last item. Any extraneous records should be placed in the appropriate disposal receptacle.
2. Since FOIA Xpress will contain all of the records¹ furnished by the program and/or regional offices grouped together by the Form 511 that transmitted them, you do not need to retain hard copies in the working folder when it is closed. However, if a program/regional office provided you with records deemed to be personal records (along with Form 510, "Personal Records Checklist"), or records that were ultimately determined to be nonresponsive, they should be retained in the working folder upon closing (so that they are available if challenged on appeal or in court).

II. FOIA Xpress

- A. As we transition away from physical working folders to electronic file maintenance, you are still expected to include documentation of all significant developments (e.g., with requesters, program/regional offices, licensees or other business submitters, and other agencies with whom you consult) that occur during the processing of the request in the working folder (either by printing out email communications, or writing/typing notes). This documentation in FOIA Xpress will take one of two forms. For correspondence or emails you send or receive, they are to be uploaded into the Correspondence Log. For oral communications, they are to be noted in FOIA Xpress's Comments Section on the General Information Screen of the assigned request. This will help you keep track of your

¹ If an office includes a large volume of records that you determine are outside the scope/nonresponsive in their entirety, they need not be uploaded into FOIA Xpress's document management. It is recommended that you include some notation on the Form 511 you received back, which would indicate that certain records provided by that office were determined to be nonresponsive. They can be retained in the working folder.

assignments, as well as assist supervisors and managers who may need some information from your assignments (especially when you are not around).

Case History

1. FOIA/PA #:

2. Requester's Name:

3. List chronologically all pertinent substantive and procedural actions taken

(Include any special instructions, telephone and other contacts, coordination activities, significant meetings, conference calls, etc.)

[illegible]

PROGRAM AND REGIONAL OFFICE ACRONYMS

ACRS	Advisory Committee on Reactor Safeguards
ADM	Office of Administration
ASLBP	Atomic Safety & Licensing Board Panel
CSO	Computer Security Office ¹
EDO	Office of the Executive Director for Operations
NMSS	Nuclear Material Safety & Safeguards ²
NRO	Office of New Reactors
NRR	Office of Nuclear Reactor Regulation
NSIR	Office of Nuclear Security & Incident Response
OCA	Office of Congressional Affairs
OCAA	Office of Commission Appellate Adjudication
OCFO	Office of the Chief Financial Officer
OE	Office of Enforcement
OGC	Office of the General Counsel
OCHCO	Office of the Chief Human Capital Officer
OI	Office of Investigations
OIG	Office of the Inspector General
OIP	Office of International Programs
OCIO	Office of the Chief Information Officer ³
OPA	Office of Public Affairs
RES	Office of Nuclear Regulatory Research
SBCR	Office of Small Business & Civil Rights
SECY	Office of the Secretary
RI	Region I
RII	Region II
RIII	Region III
RIV	Region IV

¹ Effective November 1, 2015, the Computer Security Office was re-designated as the Information Security Directorate within the Office of the Chief Information Officer (formerly Office of Information Services).

² Effective October 4, 2014, the former Federal and State Materials & Environmental Management Office (FSME) merged with the Office of Nuclear Material Safety & Safeguards.

³ Effective November 1, 2015, the Office of Information Services was re-designated the Office of the Chief Information Officer.