

DI-3.1  
FREEDOM OF INFORMATION ACT REQUEST PROCESSING

**Effective Date:** 12/15/09

**Point of Contact:** Chief IRB

**Supersedes:** DI-3.1 (01/17/2006)

**Approved:** /RA/

**Title:** B. J. Holt, Director  
Division of Resource Management  
and Administration (DRMA)

**A. Purpose**

To establish a divisional instruction to implement Regional Procedure (RP) 3.1, "Freedom of Information Act Requests."

This revision adds additional references, a required form that should be included in the response package, and a standard format of the appendix for records containing sensitive security information, and changes a website location and the personnel whom the monthly DRMA OMI input is provided to.

**B. References**

1. Management Directive (MD) 3.1, "Freedom of Information Act," revised March 30, 2006
2. RP-3.1, "Freedom of Information Act Requests," revised August 20, 2009
3. 10 CFR Part 9, "Public Records"
4. U.S. Department of Justice "Freedom of Information Act Guide and Privacy Act Overview"
5. Withholding of Sensitive Information at <http://www.nrc.gov/reading-rm/sensitive-info.html>
6. FOIA web page at [www.nrc.gov/reading-rm/foia/foia-privacy.html](http://www.nrc.gov/reading-rm/foia/foia-privacy.html);  
[www.internal.nrc.gov/015/divisions/irsd/foia/new-foia-procedures.pdf](http://www.internal.nrc.gov/015/divisions/irsd/foia/new-foia-procedures.pdf)
7. Office of the Attorney General Memorandum for Heads of Executive Departments and Agencies, March 19, 2009
8. Yellow Announcement No. 054, "New FOIA Procedures," May 12, 2009

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A/S

**C. Discussion**

The Freedom of Information Act (FOIA) requires, by law, prompt response by all government agencies to specific requests for information. Each FOIA request must be treated as a high priority item. At no time should incoming FOIA requests, division responses or concurrences be placed in the internal mail systems—all distributions should be hand carried to the intended recipient. Oral requests are not honored as received under the FOIA. Persons making requests by telephone or in person (arriving at the RIII office) should be referred to the NRC FOIA web page which provides detailed instructions for requesting information through FOIA.

**D. Definitions**

1. Refer to RP-3.1.
2. Sensitive Unclassified Non-Safeguards Information (SUNSI) Review Requirement: Office responses to FOIA must contain the statement that either "SUNSI review completed" or "SUNSI Review Needed." The statement should be included on the transmittal memorandum.
3. DRMA Operational Management Information (OMI) Monthly Report Input: Information gathered from the previous month's FOIA log and includes those FOIA requests where an estimate and a regional response is provided to headquarters.

**E. Responsibilities**

1. Refer to RP-3.1.
2. Region III FOIA Coordinator (FC)

The Region III FOIA Coordinator (or alternate) is responsible for providing the input for the monthly DRMA Operational Management report on FOIA.

**F. Implementation**

*In addition to the following implementation steps, the FC will implement the FOIA activities outlined in the attached FOIA Handbook.*

1. The Freedom of Information Act requires prompt response by all government agencies to specific requests for information. Each FOIA/PA request must be treated as a high priority item. At no time will incoming FOIA/PA requests, division responses, or concurrences be placed in the internal mail systems—all distributions will be hand carried to the intended recipient.
2. FOIA records containing personal privacy information must be protected and safeguarded from unauthorized access and disclosure. Papers, file folders, disks, etc. should be secured in locked filing cabinets. These records should not be left

on desks or in staff mail boxes where they can be openly viewed by other employees. Automated records should also be protected from unauthorized access. The records should be retained and disposed of according to the latest system of records notice.

3. Throughout the process, communication between the RIII FOIA coordinator (FC) and the Office/Division FOIA coordinators (DFC) is crucial.
4. FOIA requests which reference Reactor Facilities will generally be given to DRP, DRS, DNMS, and EICS. Those which reference Materials Licensees or Decommissioning Plants will generally be given to DNMS and EICS. Requests involving Personnel information or Privacy Act information will be handled on a need-to-know basis and with limited distribution.
5. The RIII FC will ensure that a blue allegation cover sheet is placed on all FOIA packages containing [bracketed] allegation information when routed for concurrence, during dispatch to HQ, and stored in Region III FOIA files.
6. When establishing due dates, day 1 is counted as the first business day after receipt of the action.
7. Region III responses to FOIA/PA estimates are required to be provided to the FOIA/PA Headquarters office by the RIII FC within four (4) business days from the date the request was received in Region III.
8. Region III responses to FOIA/PA authorizations to process are required to be provided to the FOIA/PA Headquarters office by the RIII FC within 10 business days from the date the FOIA/PA was perfected.
9. Region III responses to FOIA/PA referrals are required to be provided to the FOIA/PA Headquarters office by the RIII FC within eight (8) business days from the date of receipt in Region III.
10. Region III responses to FOIA/PA appeals are required to be provided to the FOIA/PA Headquarters office by the RIII FC within eight (8) business days from the date of receipt in Region III.
11. The monthly DRMA OMI input is required to be provided to the RIII DRMA secretary no later than five business days from the end of the previous month.

Enclosure: FOIA Handbook

OFFICE	RIII	RIII	RIII	RIII
NAME	JChoe	RDoornbos	JFoltz	BJHolt
DATE	12/15/09	12/15/09	12/15/09	12/15/09

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**FOIA HANDBOOK**

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## **FOIA File Folders**

1. The RIII FOIA Coordinator will prepare a file folder for each FOIA request as follows:
  - a. label each file folder with the FOIA request number as FOIA YY-00N;
  - b. initiate a log sheet to include the FOIA number, subject, date received, HQ contact person, date estimate request sent to each specified division (this form will be used to document dates and pertinent information throughout the processing of the FOIA request);
  - c. include the incoming request; and
  - d. include the e-mail from HQ forwarding the request to RIII.
2. File folders for completed FOIA requests will include:
  - a. completed log sheet (including documentation throughout processing);
  - b. incoming request;
  - c. e-mail from HQ forwarding the request to RIII;
  - d. estimate request to divisions and their responses;
  - e. pertinent e-mails, conversation records, etc.;
  - f. RIII response memorandum (copy of signed memorandum and original concurrence sheet) to HQ with attached appendices;
  - g. e-mail to HQ contact informing them the RIII response was sent via Federal Express; and
  - h. e-mail notifications of each HQ response sent to the requester.

## **FOIA Requests Received Directly by Region III:**

1. **Region III Staff Activities:**

*Region III staff directly receiving FOIA requests will immediately hand carry them to the RIII FC or alternate.*
2. **Information Management (IM)/IRB Activities:**

*Information Management (IM)/IRB will stamp the date received on all mail identified as being FOIA related and immediately hand carry FOIA designated mail to the RIII FC or alternate.*

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3. Region III FOIA Coordinator Activities:

The RIII FC (or alternate) will:

- a. transmit by facsimile to FOIA/PA (301/415-5130, Attn: Barbara Culleen) on the day of receipt and send an e-mail to HQ (to Barbara Culleen) informing her to expect the fax;
- b. send the original request to HQ FOIA/PA via Federal Express; and
- c. hold the request until it has been assigned a number by FOIA/PA and received in the RIII/FOIAPA e-mail box and then continue as instructed below.

**FOIA Requests Received From HQ FOIA/PA:**

Region III FOIA Coordinator Activities:

The RIII FC (or alternate) will:

- a. check the RIII/FOIAPA e-mail box several times throughout each workday;
- b. prepare a file folder (see section titled "FOIA File Folders");
- c. consult with the IM Specialist or HQ FOIA/PA if the request is unclear;
- d. determine data to be entered into the electronic FOIA Information System (FIS): FOIA #, subject, date received, date estimate requested, date estimate due from divisions, date estimate due to HQ (see section titled "FOIA Information System"); and
- e. continue as instructed in section titled "Processing Estimates."

**Processing Estimates:**

Region III FOIA Coordinator Activities:

The RIII FC (or alternate) will:

- a. establish Office/Division and Regional response due dates prior to forwarding the FOIA/PA request for estimates to each applicable Office/Division [Day 1 is counted as the first business day after receipt. Offices/Divisions will be given 3 business days to respond unless circumstances warrant a shorter response time.];
- b. as soon as possible, but no later than one business day from receipt of the FOIA/PA request, prepare and hand carry to the appropriate Office/Division FCs the memorandum request with Form RIII/0959A and a copy of the incoming request;

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- c. place a yellow cover sheet on the outside of each package to conspicuously identify it as a FOIA request requiring high priority handling. The cover sheet is to remain visible on top of the package at all times during processing and is to be removed only by the RIII FC just prior to final dispatch to HQ;
- d. place information copies of requests into U.S. Government Messenger Envelope and distribute to (no yellow cover sheet required) the mail boxes of the IM Specialist, Senior FOIA Management Official, and Regional Counsel;
- e. contact HQ FOIA/PA if rescoping or clarification of the request is requested by the Office/Division FCs;
- f. track and follow up on estimates not received from the Office/Division FCs within established due dates;
- g. when each Office/Division estimate has been provided, e-mail the combined estimates to HQ FOIA/PA;
- h. do not proceed with the search until the authorization to process has been received from HQ FOIA/PA (HQ may need to consolidate the estimates from several NRC offices. The search will be on hold until HQ notifies the requester of the estimated costs and receives payment from the requester.);
- i. update the FIS to reflect the date each Office/Division estimate is received; and
- j. update the FIS to reflect the date the estimate was e-mailed to the HQ FOIAPA.

**Processing Initial Requests:**

Region III FOIA Coordinator Activities:

The RIII FC (or alternate) will:

- a. establish, on the day the authorization to process is received, Office/Division and Regional response due dates. Division due dates will be established on a case-by-case basis taking into consideration the expected amount of records but allowing 5 days for the final document to process through the concurrence chain;
- b. on the day the authorization to process is received, e-mail the authorization to process, with the established due date, to the applicable Office/Division;
- c. track and follow up on responses not received from the Office/Division FCs within established due dates; and
- d. when the records responsive to the FOIA/PA and the paper and electronic appendices are received from the Office/Division:

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- (1) Verify the Office/Divisions' requirement to state on SUNSI review;
- (2) combine records from all respondents into each separate category of records (release in entirety, withhold in part, etc.) and consolidate the appendices accordingly;
- (3) prepare a memorandum from the SFMO to the HQ contact, stating in the comment section whether the SUNSI review is completed or needed, with concurrence by EICS if any of the response records contain allegation/enforcement information, the Regional Counsel, and the SFMO;
- (4) include the incoming FOIA request as background information;
- (5) assemble response package, with yellow FOIA transmittal sheet, a blue allegation cover sheet (as necessary), clearly identify the due date (at latest 1 full day before the response is due to HQ), and hand carry the response package to the first concurring person;
- (6) track and follow up on response packages not received from the SFMO within established due dates;
- (7) after the memorandum is signed, keep original concurrence sheet, copy of signed memo, and copy of all appendices for file;
- (8) if EICS was involved in the response, then send EICS a copy of concurrence sheet and copy of all appendices for EICS file;
- (9) Federal Express the original memo with appendices, documents, and a completed NRC Form 496 to the HQ contact person; and
- (10) notify the HQ contact person via e-mail that our response has been sent and the expected receipt date (include electronic appendices as an attachment).

**Processing Records Referred to Region III By Other Offices:**

Region III FOIA Coordinator Activities:

The RIII FC (or alternate) will:

- a. establish, on the day the referral is received, Office/Division and Regional response due dates prior to forwarding the FOIA/PA referral to the applicable Office/Divisions (RIII response to HQ is due in 8 working days). Division due dates will be established on a case-by-case basis taking into consideration the number of records referred but allowing 5 work days for the document to process through the concurrence chain;

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- b. as soon as possible, but no later than the day the referral is received, hand carry the referral to the applicable Office/Division;
- c. track and follow up on referral response packages not received within established due dates;
- d. when the referral materials are returned to the RIII FC, the RIII FC will:
  - (1) complete the "office response" section, then sign and date the referral form (NRC Form 496A); and
  - (2) keep the original RIII referral form and a copy of the completed NRC Form 496A in the file.
- e. Federal Express the original completed NRC Form 496A and referred documents to the HQ contact person; and
- f. notify the HQ contact person via e-mail that our response has been sent and the expected receipt date.

**Processing Appeals:**

A requester may appeal a denial of records, in whole or in part, adequacy of search, or lack of response to the initial FOIA request. The original Office/Divisions denying release of the records, in whole or in part, will review the records, consider any new information presented in the appeal letter, and recommend (in writing) to the RIII FC whether or not the records, in whole or in part, should continue to be withheld from public disclosure.

The Region III response must reflect that the Regional Administrator (RA) has personally approved the decision to withhold each record (or portion).

**Region III FOIA Coordinator Activities:**

The RIII FC (or alternate) will:

- a. establish, on the day the appeal is received, Office/Division and Regional response due dates prior to forwarding the FOIA/PA appeal to the Office/Divisions denying release of the records. The RIII response to HQ is due in 8 working days. Division due dates will be established on a case-by-case basis taking into consideration the number of records referred but allowing 3 business days for preparation by the RIII FC and Office/Division concurrence;
- b. as soon as possible, but no later than the day the appeal is received, hand carry the appeal to the applicable Office/Division;
- c. track and follow up on appeal response packages not received within established due dates;

- d. when the appeal materials are returned to the RIII FC, the RIII FC will:
  - (1) prepare a memorandum from the RA to the HQ contact with concurrence by the SFMO;
  - (2) include the appeal letter and the incoming FOIA request as background information; and
  - (3) assemble the response package, with yellow FOIA transmittal sheet clearly specifying due date (usually the day before the response is actually due to HQ) and blue allegation cover sheet (as necessary) and hand carry to the SMFO.
- e. track and follow up on response packages not received from the RA within established due date;
- f. after the memorandum is signed by the RA, keep original concurrence sheet, copy of signed memo, and copy of all appendices for file;
- g. Federal Express the original memo with appendices and documents to the HQ contact person; and
- h. notify the HQ contact person via e-mail that our response has been sent and the expected receipt date.

### **Late Responses**

Each FOIA/PA request must be treated as a high priority item. Throughout the process, communication between the RIII FC and the DFC is crucial and continues to be encouraged.

If a response (whether it be an estimate, documents and appendices, concurrence, etc.) from an Office/Division has not been received, the RIII FOIA Coordinator shall take the following progressive actions on the day after the due date:

- a. phone the DFC and obtain the status of their Division's response and document the division's status in the FOIA file;
- b. if the response is not immediately available, send an e-mail to the DFC and their supervisor, with a copy to the IM Specialist regarding the status of the response; and
- c. if the delay persists (i.e., response is not received by COB 1 day after the established due date), notify the IM Specialist who will contact the Senior FOIA Management Official and/or the applicable Division Director (if the IM Specialist is not available, contact the SFMO directly).

### **Coordination Between RIII FOIA Coordinator and Alternate**

- 1. The RIII FC and Alternate will be included in all e-mails concerning FOIA requests.

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2. RIII responses and appendices will be saved to the DRMA "G:\FOIA\FOIA Working Files" folder for easy access.
3. The RIII FC will brief the Alternate concerning the status of currently open and recently closed FOIA requests before scheduled absence from the RIII office.
4. When the RIII FC returns to the office, the Alternate will brief the RIII FC on the status of currently open and recently closed FOIA requests.

### **FOIA Information System**

The RIII FC will enter and maintain current information regarding all FOIA requests received in RIII in the FOIA Log which is located in the DRMA "G:\FOIA\" folder.

Information in the log is abbreviated due to space constraints. The log must be printed on legal size paper.

Abbreviations explained:

"ESTIMATES" heading:

Req.- the date the estimate request was hand carried to the divisions

Due - the date estimates are due to the RIII FC from the divisions

Sent HQ - the date the RIII FC emailed the consolidated RIII estimate to HQ

Due HQ - the date the RIII estimate is due to HQ

"PROCESSING" heading:

HQ Appr.- the date HQ notifies RIII to begin the search for records

Div. Ntfd.- the date the RIII FC notified the divisions to begin the search for records

Due - the date records and appendices are due to the RIII FC from the divisions

Received - the date records and appendices are received by the RIII FC from the divisions

"REGIONAL RESPONSE" heading:

On Conc.- the date the RIII FC started the RIII response memorandum on concurrence

Due - the date RIII response memorandum was due to the RIII FC after all concurrences are complete and the SFMO has signed the memorandum

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Sent to HQ - the date the response memorandum was sent to HQ via Federal Express

Due to HQ - the date the response memorandum was actually due to HQ

### **Preparation of Memorandum and Appendices**

Standard formats for the RIII response memorandum to HQ and appendices are located in the DRMA "G:\FOIA\Boilerplates" folder.

FOIASTAN.MEM-response memorandum

Appendices:

FOIASTAN.RIE - records being released in their entirety

FOIASTAN.WIP - records being withheld in part

FOIASTAN.WIE - records being withheld in entirety

FOIASTAN.REF - records to be referred to other office/agency/company

FOIASTAN.PDR - records already available in the Public Document Room

FOIASTAN.SENSI – records containing sensitive security information

### **FOIA Meetings**

Meetings are scheduled on an as needed basis as determined by the Senior FOIA Management Official, IRB Branch Chief, RIII FOIA Coordinator or alternate. If possible, each will attend scheduled meetings.

### **Monthly DRMA Operating Management Information (OMI) Report Input Instructions**

FOIA data is obtained for the OMI report from the most current FOIA log which contains the previous months FOIA data. This log is located in the FOIA folder on the DRMA "G" drive. Following are the steps necessary to obtain this data:

Open the FOIA log that corresponds to the current year and identify those FOIA that apply to the month for which you intend to gather data. This may include FOIAs where the regional response was completed in the current month and estimate was performed in the previous month. If an estimate was completed in the previous month and the regional response was completed in the current month, do not count the estimate in the current month.

### **Estimate Count Process**

Count each original FOIA request for estimates and create a tally of those estimates that were provided late, those that were provided on time, and a total number of estimates provided to the

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headquarters FOIA office during the previous month. Once obtained, subtract the number late from the number received and divide the answer by the number received to obtain a percentage of FOIA estimates that were on time.

Response Count Process

Next, count each original FOIA response and create a tally of those regional responses that were provided late, those that were provided on time, and a total number of responses provided to the headquarters FOIA office during the previous month. Once obtained, subtract the number late from the number received and divide the answer by the number received to obtain a percentage of FOIA regional responses that were on time.

Once obtained, email this information to the DRMA secretary.