

**DI 3.1  
FREEDOM OF INFORMATION ACT REQUEST**

**Approved Date:** 5/2/2011

**Point of Contact:** DNMS FOIA Coordinator

**Supersedes:** DI 3.1, 06/05/2007

**Approval:**   /RA/  

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Division of Nuclear Materials Safety

**A. Purpose**

This divisional instruction is designed to allow the Division of Nuclear Materials Safety (DNMS) to properly process Freedom of Information Act (FOIA) requests. This is a major revision.

**B. References**

RP-3.1; "Freedom of Information Act Requests," dated 8/20/2009.  
Management Directive (MD) 3.1; "Freedom of Information Act." dated 10/4/2000.  
Title 10 of the Code of Federal Regulations (CFR) Part 9; "Public Records"  
FOIA internal web page at: <http://www.internal.nrc.gov/OCIO/foia/index.html>  
FOIA external web page at: <http://www.nrc.gov/reading-rm/foia/foia-request.html>

**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 will incoming FOIA requests, divisional responses or concurrences be placed in the internal mail system—all distributions will be hand carried to the intended recipient.

It is the Region's responsibility to be as complete as possible in providing pertinent documents when responding to a request made under the FOIA. It is also the Region's responsibility, as the originating office of information, to screen the documents prior to release to ensure that information to be withheld is properly marked prior to its being forwarded to the Headquarters FOIA/Privacy Act (PA) Section, Information Services Branch, Information Management Division, Office of the Chief Information Officer.

All communications with requesters will be through the FOIA/PA. Region III staff members are not to contact requesters directly. The Region III FOIA Coordinator will initiate or be informed of all communications with the FOIA/PA. Division FOIA Coordinators may request or be requested to participate in conference calls with FOIA/PA and requesters.

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Oral requests are not honored as received under the FOIA. Persons making requests by telephone or in person (arriving in the RIII office) should be referred to the NRC FOIA webpage which provides detailed instructions for requesting information through FOIA.

**D. Definitions**

Refer to RP-3.1, "Freedom of Information Act Requests," Revision 8/20/2009.

**E. Organizational Responsibilities**

The DNMS Director or Deputy Director is responsible for determining whether to release or withhold records.

The DNMS Director or Deputy Director is responsible for designating a Division FOIA Coordinator (DFC) and a backup who coordinates the Division's response to specific FOIA requests.

The Branch Chiefs are responsible for implementing the review phase for FOIA requests.

**F. Implementation**

Specific guidance on the DNMS approach to requests under FOIA is summarized in Attachment 1 to this document. Below is a summary of the primary responsibilities for the DNMS staff when processing FOIA requests

The Division FOIA Coordinator (DFC):

- ensures that records exempt from public disclosure are properly bracketed and the applicable exemption annotated as described in the MD 3.1 Handbook (see pp.3-5 and 14);
- sorts records in chronological order and according to category (release in entirety, withhold in part, etc...);
- provides paper-based and electronic appendices to the RIII FOIA coordinator within the established time limit;
- directs those involved in reviewing documents for the FOIA request to read the checklist provided in this Divisional Instruction; and
- provides completed NRC Form 496 containing clerical, professional, and Senior Executive Service (SES) expenditures.

The Backup Division FOIA Coordinator:

- is responsible for performing duties of the Division FOIA Coordinator (DFC) when the DFC is not available; and
- stays current in the responsibilities of the DFC.

Division Branch Chiefs:

- ensure that duties are performed in accordance with this Divisional Instruction in the absence of the DFC;
- assign FOIA document reviews to technical staff and review procedures with the staff; and
- review FOIA packages for appropriateness prior to submitting them to the DFC and DNMS Director/Deputy Division Director:
- approves the results of the FOIA records search

Division Technical Staff:

- review the self-study guidance package on how FOIA reviews should be conducted before performing a review;
- follow procedures for processing the FOIA request as directed by the DFC, and as indicated in the checklist

Attachments:

1. DNMS's Approach to FOIA Requests
2. Checklist for Preparing FOIA Documents
3. Abbreviated Exemption List

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DATE	04/19/11		04/29/11		04/28/11		04/20/11	
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DATE	05/02/11		05/02/11					

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## DNMS's APPROACH TO FOIA REQUESTS

1. The DNMS DFC receives incoming FOIA requests from the regional FOIA coordinator.
2. A log of FOIA requests is maintained by the DNMS FOIA Coordinator which contains the following information:
  - A copy of the original request
  - Date received in DNMS
  - Date due to regional FOIA coordinator
  - Date closed by DNMS
  - A copy of the closure email.
  - A new entry is made for each FOIA request received. The log is located in a FOIA binder located in the Administrative Area of DNMS.
3. The request is duplicated by the DFC who provides a copy to the Director, Deputy Director, Branch Chiefs, and the State Agreements Officer (SAO). Each manager contacts their staff members to determine if anyone in the Division possesses records regarding the FOIA request.
4. If it is determined that DNMS has no documents relevant to the FOIA, the incoming FOIA request form is completed and given to the Deputy Director for signature. After being signed by the Deputy Director, an email is sent to RIII FOIAPA Resource. The email should indicate that DNMS has no records in reference to this FOIA; however, information may be available from another office. A copy of the email is attached to the completed FOIA request and maintained in the FOIA binder.
5. If it is determined that DNMS does have documents, the records are compiled by the DNMS FOIA Coordinator and the appendices are prepared. The person or persons submitting records makes the determination under which appendices the records will be categorized. There are six appendices which may be used:
  - A. Records already available in the PDR
  - B. Records being released in their entirety
  - C. Records being withheld in part (with exemptions noted on the record)
  - D. Records being withheld in their entirety (with exemptions noted on the record)
  - E. Records to be referred to other offices/agencies/companies
  - F. Personal records

Upon completion of the appendices, the records and the completed FOIA request form is given to the Deputy Director for review and signature (Section 5 on Form RIII/0959A), the appendices are emailed to the Regional FOIA coordinator, and the records along with the prepared appendices are delivered to the Regional FOIA coordinator.

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Attachment 1

### Checklist for Processing FOIA Documents

- ✓ Understand what records the requester is seeking.
- ✓ Determine if you are likely to have records subject to the request.
- ✓ Provide an estimate of search and review time and pages if required.
- ✓ Search for documents responsive to the request only when authorized to begin the search.
- ✓ Determine what records are to be released or withheld from the requester.
- ✓ After the documents have been assembled; Sort documents into categories and prepare the appendices.
  - A. Records already available in the PDR
  - B. Records being released in their entirety
  - C. Records being withheld in part (with exemptions noted on the record)
  - D. Records being withheld in their entirety (with exemptions noted on the record)
  - E. Records to be referred to other offices/agencies/companies
  - F. Personal records
- ✓ For documents being withheld in part, bracket the portion of the document being withheld in red pencil and write the exemption number next to the bracket. (See Attachment 3 for Exemption list).
- ✓ For documents being withheld in their entirety, write at the top of the first page in red, "Withhold All," and note the applicable exemption.
- ✓ Obtain and list the ADAMS accession numbers for documents already available in the PDR.
- ✓ Order each category of documents into chronological order, oldest on top. Documents with no date go on top of the documents that are dated.
- ✓ Write one appendix listing for each category of documents.
- ✓ Submit the documents to the Region III FOIA coordinator.

#### Other Information

For documents that you believe contain information that could be potentially helpful to an adversary but are not safeguards information, list these records separately and provide a statement explaining the sensitivity of the information. This is not including safeguards

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material (Exemption 3) which will be marked as such. Contact the Safeguards group for guidance in writing this statement or questions relating to the sensitivity of the material. Be sure to use red pencil to bracket parts of documents to be withheld and write the exemption number to the right of the bracket.

- Be on the lookout for personal privacy information such as SSNs, referred names, home phone numbers, etc. These are exempt under Exemption 6.
- Emails sent within the Region III office that contain some predecisional information can be included in the "withheld in part" or "withheld entirely" appendices.
- Emails sent within the NRC or other government agencies but not just Region III that contain any exempted information, i.e., predecisional, have to be placed on the appendix of records that are to be referred to another office/agency/company.
- For more information see the OICO/FOIA website.  
<http://www.internal.nrc.gov/OICO/foia/index.html>

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Attachment 2

### Abbreviated Exemption List

For documents to be withheld in part, bracket the part withheld in red, and write the exemption number next to the bracket.

- Exemption 1: Information properly classified pursuant to an Executive Order.
- Exemption 2: Information relating solely to internal personnel rules and procedures.
- Exemption 3: Information specifically exempted from public disclosure by statute including: safeguards information, restricted data, voluntary submitted critical infrastructure information, and contractor proposals not incorporated into the contract.
- Exemption 4: Trade secrets of commercial or financial information, including proprietary information.
- Exemption 5: Interagency or intra agency records that are not available through discovery during litigation, including predecisional information.
- Exemption 6: Information if released would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: *Records compiled for law enforcement purposes.*
  - 7A Disclosure could reasonably be expected to interfere with an enforcement proceeding.
  - 7B: Would deprive a person of fair trial or an impartial adjudication.
  - 7C: Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
  - 7D: Information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal the identities of confidential sources.
  - 7E: 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.
  - 7F: Disclosure could reasonably be expected to endanger the life or physical safety of an individual.