



**United States
Environmental Protection Agency
Chief FOIA Officer Report
*2024***

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
2024 CHIEF FOIA OFFICER REPORT
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TABLE OF CONTENTS

| | |
|---|----|
| Executive Summary | 2 |
| Section I: FOIA Leadership and Applying the Presumption of Openness | 5 |
| A. Leadership Support for FOIA | 5 |
| B. Presumption of Openness | 5 |
| Section II: Ensuring Fair and Effective FOIA Administration | 7 |
| A. FOIA Training..... | 7 |
| B. Outreach | 14 |
| C. Other Initiatives..... | 16 |
| Section III: Proactive Disclosures..... | 19 |
| Section IV: Steps Taken to Greater Utilize Technology..... | 27 |
| Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs..... | 29 |
| A. Remove Barriers to Access | 29 |
| B. Timeliness | 31 |
| C. Backlogs | 32 |
| D. Backlog Reduction Plans | 33 |
| E. Reducing the Age of Requests, Appeals, and Consultations..... | 35 |
| F. Additional Information about FOIA Processing..... | 36 |
| FOIA Messages from EPA Administrator Regan..... | 38 |

Executive Summary

The Environmental Protection Agency (EPA) is committed to continuously improving its implementation of Freedom of Information Act (FOIA) to promote transparency and build public trust in agency actions. This year, EPA modernized its FOIA Regulations to improve transparency, to make FOIA more affordable, and to establish a new, innovative authority to expedite the release of information for communities with environmental justice concerns. EPA also achieved significant, measurable improvements in backlog reduction and expedited processing decision making, while also improving proactive disclosure of EPA's records without the need for a FOIA request. EPA also launched a new FOIA processing and recordkeeping software system.

EPA Published Final Rules to Modernize EPA's FOIA Regulations

Removing barriers and speeding access to information in EPA records enhances the opportunity for the public's meaningful involvement in decisions regarding conditions that affect their health and protect their environment, a commitment of Executive Order 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All. In FY 2023, EPA promulgated FOIA regulations to better meet the needs of communities for speedy access to environmental information in EPA's records. EPA's Phase II FOIA Regulations Update, published in September 2023, established a new standard for expediting EPA's response to FOIA requests for records when there is a pressing need to inform a community that is potentially experiencing disproportionately high and adverse human health or environmental effects.

The Phase II FOIA Rule also removed barriers by raising the threshold for when requesters will be charged fees, benefiting all requesters, and it brought EPA's fee rates and other regulatory provisions into compliance with the FOIA Statute, government wide policy, and relevant case law. The Phase II FOIA Rule updated portions of EPA's FOIA regulations that were not updated since at least 2002.

EPA Reduced Its Requests Backlog, Maintained No Appeals Backlog, and Again Increased the Speed of Issuing Expedited Processing Decisions

EPA reduced its FOIA request backlog by 219 requests, or 14.25%, in FY 2023, as reported in EPA's Annual FOIA Report. This extraordinary result builds on reductions in prior years to cut by more than half EPA's FOIA backlog since the beginning of FY 2019. In addition, through better, more consistent early communication with requesters, the Agency was able to extend due dates on additional requests thereby further reducing the number of requests that are statutorily overdue, an accomplishment not reflected in the reported request backlog data.

| Fiscal Year | FOIA Requests Received | FOIA Request Backlog |
|--------------------|-------------------------------|-----------------------------|
| FY 2018 | 11,364 | 2761 |
| FY 2019 | 8869 | 2272 |
| FY 2020 | 6891 | 1783 |
| FY 2021 | 6485 | 1582 |

| | | |
|---------|------|------|
| FY 2022 | 6636 | 1537 |
| FY 2023 | 6585 | 1318 |

In FY 2023, EPA also maintained its extraordinary achievement of a zero FOIA appeals backlog. In FY 2023, EPA processed 100% of the appeals within the statutory timeframe.

| Fiscal Year | Median Number of Days | Average Number of Days | Appeal Backlog |
|--------------------|------------------------------|-------------------------------|-----------------------|
| FY 2018 | 73 | 209.89 | 140 |
| FY 2019 | 107 | 256.93 | 64 |
| FY 2020 | 20 | 182.74 | 1 |
| FY 2021 | 18 | 17.78 | 0 |
| FY 2022 | 15 | 13.66 | 0 |
| FY 2023 | 18 | 14.5 | 0 |

EPA also built on gains achieved in prior years to further increase the speed of its decisions on applications for expedited processing. In FY 2023, EPA reduced the average time for it to issue decisions on expedited processing applications to 2.24 days. This was an improvement over the 3.39-day average EPA achieved in FY 2022. This measurable processing speed improvement illustrates the results EPA has achieved by its commitment to continual improvement through applying lean management methods, techniques, and principles throughout EPA’s decentralized FOIA processing program.

| Fiscal Year | Average Number of Days to Process Expedited Requests | Expedited Process Requests Received |
|--------------------|---|--|
| FY 2020 | 21.06 | 411 |
| FY 2021 | 7.77 | 344 |
| FY 2022 | 3.39 | 225 |
| FY 2023 | 2.24 | 325 |

EPA Advanced Proactive Disclosure of Environmental Information

In his annual FOIA message to EPA staff, Administrator Regan called upon the Agency to identify information useful to the public and consider the best ways to make that information accessible on the agency’s website, without waiting for a FOIA request. Two advancements in proactive disclosure illustrate how the Agency implemented the Administrator’s call to action.

First, in FY 2023, EPA enabled the public and community organizations to better understand pesticide exposures, including exposures to vulnerable populations, by launching a new web-based search tool for pesticide incident data. The search tool pulls information from EPA’s Incident Data System (IDS), allowing public access to 10 years of raw data reported to EPA on pesticide exposure incidents. A pesticide incident is any exposure or effect from a pesticide’s use that is not expected or intended. EPA receives information about pesticide incidents from a variety of sources including from:

- pesticide manufacturers (registrants), as they are required to submit reports of unreasonable adverse effects from their products;
- reporting by the public through other entities (including state regulators for pesticide enforcement);
- information submitted when individuals send an email directly to EPA;
- the National Pesticide Information Center (NPIC); and
- the American Association of Poison Control Centers.

Prior to launching the new web-based tool, EPA generally only provided incident information to the public when responding to requests under the Freedom of Information Act (FOIA) or as an incident summary as part of EPA’s pesticide registration review process.

Similarly, EPA constructed a website to proactively disclose to the public information regarding EPA’s action taken in response to the freight train derailment in East Palestine, Ohio, including information EPA collected regarding the release of hazardous substances by the train derailment. The website provides affected community members and the interested public with the latest information about air monitoring, water sampling, cleanup activities, and public participation opportunities, as well as a history of EPA’s response actions. The webpage also includes links to all EPA records released under the FOIA relating to the incident.

EPA Launched FOIAXpress as the Agency’s Next FOIA Processing Software System

In October 2024, EPA launched FOIAXpress as the new software system for the public to submit FOIA requests to EPA. FOIAXpress replaced FOIAonline, which the Agency previously announced would be decommissioned at the end of FY2023. During FY 2023, EPA conducted the procurement and then worked with the successful offeror to configure FOIAXpress for EPA’s FOIA operations, to migrate data, and to train EPA employees and requesters on its use. Unexpectedly, system implementation issues prevented the full system implementation of FOIAXpress for EPA’s use on September 30, 2023, when FOIAonline ceased operations. The consequences of this were as follows:

- (1) The public experienced a several days at the beginning of October 2023 when they were not able to submit FOIA requests to EPA via FOIAXpress—that functionality was established within a week.
- (2) The public was not able to receive responses to their requests through the FOIAXpress Public Access Link until November 2023.
- (3) Full public access to previously closed requests and records released through FOIAonline has not been fully restored at the time of this report in February 2024.

Nevertheless, EPA continues to anticipate that, when fully operational, FOIAXpress will provide the public access to records released under the FOIA, a convenient way to manager their requests, and the ability to generate reports through real-time dashboards.

Section I: FOIA Leadership and Applying the Presumption of Openness

The guiding principle underlying the Attorney General’s 2022 [FOIA Guidelines](#) is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. Leadership Support for FOIA

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency’s Chief FOIA Officer at or above this level?

Yes, the EPA’s Chief FOIA Officer is the Agency’s General Counsel, a Presidentially appointed, Senate confirmed position.

2. Please provide the name and title of your agency’s Chief FOIA Officer.

Jeffrey M. Prieto, General Counsel

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

The EPA set a long-term performance goal in its *FY 2022-2026 EPA Strategic Plan* to eliminate the backlog of overdue FOIA responses by September 30, 2026. Through enhanced transparency, including through responding to the public’s FOIA requests, the public and local communities can participate more meaningfully and partner with EPA in protecting human health and the environment. For this Strategic Plan goal, EPA defines backlog as is the number of FOIA requests that remain open past the initial 20 working days or 30 days or longer for unusual circumstances or other timeframes to which the requestor has agreed.

B. Presumption of Openness

4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters?

Yes. The EPA’s National FOIA Office provided training on May 15, 2022, and January 12, 2023, to the EPA FOIA community highlighting Attorney General Garland’s March 15, 2022, Memorandum Regarding Freedom of Information Act Guidelines. For the EPA FOIA community, the National FOIA Office created a template letter and updated the

EPA FOIA Toolkit illustrating how to tell requesters about EPA’s consideration of the foreseeable harm standard in applying exemptions and determining the releasability of records when issuing FOIA responses.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. If your agency tracks Glomar responses, please provide:

- the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible);
- the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

EPA does not currently track the use of “Neither Confirm nor Deny” (NCND)/Glomar responses. However, EPA’s FOIA procedures require lead FOIA programs to obtain concurrence on this type of response from a relevant legal office.

6. If your agency does not track the use of Glomar responses, are you planning to track this information in the future?

In FY 2023, EPA completed the procurement of a new FOIA case management system, FOIAXpress. EPA does not yet know whether the new system has the capability to separately track use of Glomar responses.

7. Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

EPA worked to enhance transparency throughout the reporting year to improve compliance with the FOIA and to ensure EPA applies the presumption of openness. Steps taken included:

Monthly FOIA Backlog Reports to Senior Leadership. The National FOIA Office issued monthly FOIA backlog reports to the heads of all Agency program and regional offices, identifying each office’s existing FOIA backlog and the change from the prior month.

Routine Meetings of EPA FOIA Professionals. The National FOIA Office emphasized the presumption of openness and FOIA compliance during regular monthly meetings of the EPA FOIA community.

Requester Engagement for More Efficient Processing. EPA’s FOIA professionals regularly work with requesters throughout the FOIA process to seek clarification and to develop schedules for interim releases when appropriate.

Simplified Calendars of Senior Officials on EPA Webpage. In response to inquiries from the requester community, EPA proactively posts on an EPA webpage simplified, or abridged, calendars of Agency senior leadership. The simplified calendars provide the public with information regarding key activities of EPA Senior Leaders.

Proactively Release Monthly Visitors Logs of Headquarters Buildings. EPA uploads Headquarters visitors logs to the FOIA website by the 15th of each month. Posting the visitors logs eliminates the need for the public to submit a FOIA request to obtain this information.

Publication of Administrator Regan’s Messages to EPA Employees. EPA maintains on an agency webpage Administrator Regan’s message to EPA employees regarding transparency and maintaining the public trust.

Section II: Ensuring Fair and Effective FOIA Administration

The Attorney General’s 2022 [FOIA Guidelines](#) provide that “[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce.” The Guidelines reinforce longstanding guidance to “work with FOIA requesters in a spirit of cooperation.” The Attorney General also “urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency’s FOIA administration” as part of ensuring fair and effective FOIA administration.

A. FOIA Training

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

EPA Annual FOIA Training (In-house)

EPA requires all employees to take annual online FOIA training. This year’s training focused on the basics of the FOIA and FOIA processing, including records subject to the FOIA, who can be a FOIA requester, statutory time limits for processing, conducting a reasonable search, reviewing records for proper disclosure, records equities, and documenting the FOIA casefile. In FY 2023, 91%¹ of EPA personnel successfully completed the training.

EPA FOIA Training Committee (In-house)

In FY 2021, EPA launched a centralized FOIA training committee to review and progressively strengthen the training provided throughout EPA’s decentralized FOIA processing program. This initiative aims to increase the quality and consistency of EPA’s training while building on EPA’s strong tradition of encouraging EPA FOIA professionals to share their skills, knowledge, enthusiasm, and leadership by developing or presenting FOIA trainings to the EPA FOIA community and EPA at-large. For 2024, the Committee is focused on providing an agency-wide Tri-annual FOIA Training Conference.

¹ In this report, EPA rounded percentages to the nearest whole number using commonly applied decimal rounding rules. If the calculated number in the tenths place was 5 or higher, EPA rounded up to the next whole number; if the calculated number in the tenths place was 4 or lower, EPA rounded down to the nearest whole number.

2. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?

Yes. FOIA professionals and staff who have FOIA responsibilities attended substantive FOIA training during the reporting period.

3. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

Department of Justice, Office of Information Policy Trainings (External)

EPA FOIA professionals and staff with FOIA responsibilities attended the following trainings offered by the Department of Justice (DOJ), Office of Information Policy:

Exemption 1 and Exemption 7 Training: The Exemption 1 workshop gave an overview of Executive Order 13526 and the withholding of classified national security information. The Exemption 7 workshop provided an overview of the FOIA's primary exemption for law enforcement records, including this exemption's threshold requirement and substantive subparts.

Exemption 4 and Exemption 5 Training: This training provided an overview of the requirements of Exemption 4, protecting trade secrets and certain commercial and financial information, as well as the submitter-notice process for exemption determinations. An overview of Exemption 5, which incorporates civil discovery privileges into the FOIA.

Freedom of Information Act Litigation Seminar: This training provided a discussion of current legal and policy developments impacting FOIA administration, and an overview of recent FOIA court decisions.

Procedural Requirements and Fees Training: This training provided an overview of the FOIA's procedural requirements, and statutory fees and fee waiver provisions.

Advanced Freedom of Information Act Training: This training provided an introduction to the FOIA's personal privacy exemptions, an overview of the various FOIA procedural requirements and, an advanced overview of the FOIA's requirements to make information available proactively to the public.

Administrative Appeals, FOIA Compliance, and Customer Service: This course covered the FOIA administrative appeal process, an overview of how agency FOIA professionals can help their agency accurately report about their FOIA administration, and an overview of the Office of Government Information Services with a focus on providing good customer service.

Privacy Considerations Training: This training provided an overview of FOIA Exemptions 6 and 7(C) and interface between the FOIA and the Privacy Act.

Continuing FOIA Education: This training provided a discussion of current topics in FOIA administration, including an update on current legal and policy developments impacting FOIA administration, and an overview of recent FOIA court decisions.

American Society of Access Professionals (External)

EPA FOIA professionals and staff with FOIA responsibilities attended the National Training Conference offered by the American Society of Access Professionals.

E-Discovery & Technology Training for FOIA Experts (External & In-house)

EPA FOIA professionals attended several eDiscovery training events:

- RelativityFest 2023 conference to stay abreast of advances in eDiscovery technology and best practices applicable to processing FOIA document reviews using Relativity software.
- Federal eDiscovery Working Group (FEDWG) Third Annual Judges' Summit including:
 - The Judge's Roundtable Top 10 Recommendations: This panel discussed eDiscovery recommendations every practitioner should know and use in their matters to avoid negative discovery outcomes.
 - The Judges' Discovery Panel: This panel covered recommendations for addressing new developments in civil discovery, including the treatment of text messages, ephemeral data and Microsoft Teams, and the use of technology assisted review (TAR). In addition, the panel discussed recent case law regarding sanctions, ethical rules, and TAR in the context of a hypothetical that involves audience participation.
 - A View from the Bench: Special Master Philip Favro and Judges from across the country discussed key discovery and ESI issues confronting the Judiciary going into 2024.
- Federal Electronic Discovery Working Group (FEDWG) Conference including:
 - Keynote Addresses from industry experts that discussed the implications of generative AI on the Legal Profession and the future of Legal technology.
 - Multiple learning tracks for federal e-discovery practitioners at all experience levels, including breakout sessions by FEDWG experts in Civil, Criminal, Policy, and Technology topics.
 - Interactive discussions and sessions on generative AI and ethics workplace collaboration tool collection, ESI protocols and search validation, e-discovery platform evaluation, agency staffing issues, privilege and FOIA exemption review, recent caselaw analysis and discussion.
- The EPA provided training throughout the year to EPA FOIA professionals on the analytics tools included in EPA's e-Discovery Relativity platform that can be leveraged to more efficiently review records for response to FOIA requests.

EPA FOIA Community Meetings (In-house)

The National FOIA Office held monthly meetings with the Agency's FOIA community to provide guidance and updates on FOIA-related matters. These monthly meetings provided key FOIA personnel with ongoing training relevant to the performance of their duties, including but not limited to: information on Agency FOIA processes and procedures; explanations of how to apply FOIA exemptions, negotiate with requesters and appropriately extend the response due date, estimate fees, and make discretionary disclosures; and guidance on other administrative processing matters, case law developments, new EPA FOIA regulations updates, and FOIA related topics.

FOIAXpress Training (external and internal)

- **OPEXUS Training**: Three hundred EPA FOIA professionals received training from OPEXUS (the vendor of FOIAXpress) on EPA's new FOIA case management system FOIAXpress.
- **EPA Training**: The National FOIA Office created EPA-specific process and procedure training on FOIAXpress. This training included a detailed EPA FOIAXpress training manual for the FOIA professionals.

Focused EPA FOIA Training Events (In-house)

FOIA experts in EPA's Office of General Counsel also provided a wide variety of training, briefing, and assistance on an as needed or project-specific basis throughout the year.

- The National FOIA Office, in the Office of General Counsel, provided comprehensive training to FOIA professionals and agency employees in several FOIA topic areas, including Identifying Proactive Disclosures; Choosing the Appropriate Disposition at Closeout; Negotiating with FOIA Requesters; EPA's Awareness Notification Process; several fees-related topics; Exemption 5; and Protecting Privileges Practice Tips.
- The General Law Office, in the Office of General Counsel, provided regular training to information law attorneys across the agency on a variety of topics. The General Law Office also provided training regarding specific topics to offices and regions upon request.

EPA FOIA Training Committee (In-house)

EPA launched a centralized FOIA training committee to review and progressively strengthen the training provided throughout EPA's decentralized FOIA processing program in FY 2021. In FY 2023, the EPA FOIA Training Committee continued its aim to increase the quality and consistency of EPA's training while building on EPA's strong tradition of encouraging EPA FOIA professionals to share their skills, knowledge, enthusiasm, and leadership by developing or presenting FOIA trainings to the EPA FOIA community and EPA at-large.

The EPA FOIA Training Committee leveraged the FOIA knowledge and expertise of its members from regional and headquarters FOIA professional staff to ensure the quality of FOIA training provided throughout EPA. The Committee has the following objectives:

- Identify and respond to EPA FOIA community needs for new training resources;

- Facilitate access to existing training resources, including the development and maintenance of an archive or library for use by the EPA FOIA community;
- Ensure training resources are tailored to diverse roles, tasks, and concepts related to EPA FOIA processing; and
- Design resources that emphasize prevailing FOIA best practices and improve consistency in FOIA practice across the Agency in accordance with statutory requirements, regulatory requirements, and EPA FOIA Policy and Procedures.

Building on its accomplishments from last fiscal years, in FY 2023 the EPA FOIA Training Committee:

- Continued a regular practice of reporting at FOIA community meetings on significant new court decisions and on frequent counseling questions; and
- Oversaw the creation of the FY 2024 all-staff mandatory training module and completed the conversion of the companion Supervisor Training eLearning module on the application of exemptions, to be hosted in EPA's FedTalent learning management system.

The EPA FOIA Training Committee has begun planning and development of the 2024 National FOIA Training Conference for EPA FOIA professionals. The 3-day conference is currently scheduled to take place in Q4 of FY 2024.

4. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

EPA estimates nearly all EPA FOIA professionals took substantive FOIA training in FY 2023, as the EPA requires all employees to complete Annual FOIA Training. In addition, EPA's National FOIA Office provides substantive training as part of its monthly FOIA community meetings, which are routinely attended by more than 150 FOIA professionals and managers.

5. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

This is not applicable to EPA.

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

Annual FOIA Message from Administrator Regan

On March 17, 2023, Administrator Regan issued an email message to all EPA employees in celebration of Sunshine Week and to emphasize the importance of the FOIA as a tool

that implements “this bedrock principle of democracy that the public is entitled to ‘know what their government is up to.’” This annual message implements the 2018-2020 FOIA Federal Advisory Committee Recommendation 17, which encourages “agency leadership annually issue a memorandum reminding the workforce of its responsibilities and obligations under FOIA and encouraging the workforce to contact the agency’s FOIA officer for assistance with the FOIA process.”

Administrator Regan reminded EPA employees “The FOIA is everyone’s responsibility at EPA. Agency FOIA professionals, managers, record custodians, reviewers, eDiscovery service professionals, public affairs staff, attorneys, and many others must coordinate to maintain and improve our FOIA program. In addition, we will endeavor to provide excellent customer service to the public by adhering to FOIA best practices, including good communication with requesters, the provision of interim responses where possible, and the proactive release of records. When we work together, the FOIA works better.” The entire email is copied at the end of this report.

FOIA Regulations Message from Administrator Regan.

On September 14, 2023, Administrator Regan issued an email message to all EPA employees celebrating the publication of EPA’s FOIA regulations update. The entire email is located at the end of this report. Below are highlights from Administrator Regan email:

The Phase II FOIA Rule is the culmination of years of cross-agency efforts to update and improve the agency’s FOIA regulations. FOIA is critical tool to promote transparency, accountability, and public trust as EPA takes on the climate crisis, advances environmental justice, ensures scientific integrity, and promotes public health.

The Phase II FOIA Rule reflects EPA’s dedication to advancing environmental justice and working towards ensuring equal access for all communities to information about environmental and health harms. The Phase II FOIA Rule does this by establishing a new standard, in addition to the existing “compelling need” standard, for expediting EPA’s response to FOIA requests for records when there is a pressing need to inform a community that is potentially experiencing disproportionately high and adverse human health or environmental effects. EPA will also waive fees for such FOIA requests.

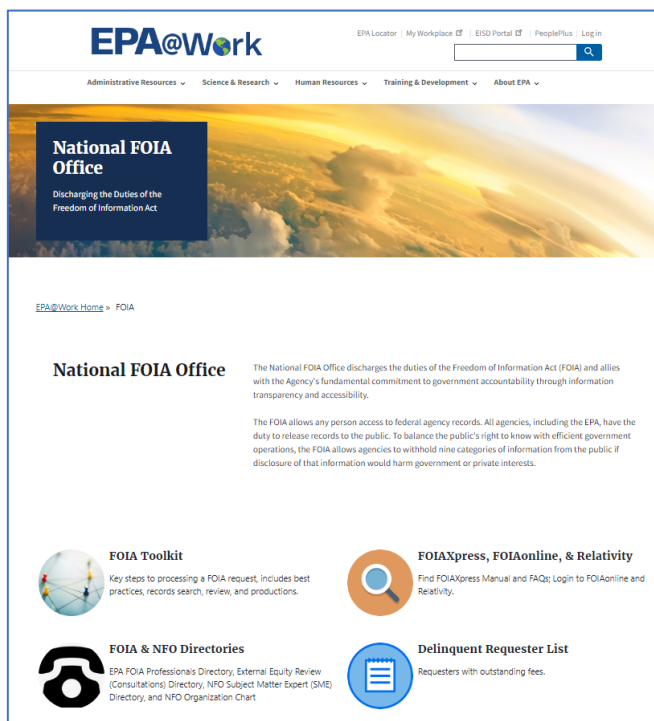
The Phase II FOIA Rule promotes openness by, among other things, modernizing EPA’s FOIA fee structure, no longer charging for FOIA requests unless \$250 of fees are accumulated, and updating portions of the regulations that had not been substantively updated since at least 2002. Through the issuance of this rule, EPA also met settlement agreement obligations in full and on schedule.

This action is part of broader initiatives taken by the agency to improve our FOIA program. We are proud to report that EPA has eliminated its backlog of FOIA appeals and reduced its average appeal response time by 95%. EPA has also dramatically

reduced its backlog of FOIA responses, as reported to the Department of Justice, from a high of 2,761 at the end of FY 2018 to 1,537 at the end of FY 2022.

Self-Learning Resources.

The National FOIA Office regularly reviewed and updated the Agency’s FOIA Intranet site available to EPA FOIA professionals and agency employees. This site includes subsections such as, for example, “FOIA Training Library,” “Statute, Regulations, Policy, Procedures, and Case Law,” and “FOIA Toolkit.” The Intranet site is a one-stop resource for training materials, guidance issued by the Department of Justice, and other learning resources useful to non-FOIA professionals new to FOIA processing or needing refresher training. The site also prominently displays news highlights including regarding recent court decisions.



Mandatory Annual FOIA Training.

Each fiscal year, EPA requires all employees to complete mandatory FOIA training. The training is provided via an online training platform, FedTalent, with regular reminders to each employee and to their supervisors to ensure completion by the end of the fiscal year. The online platform also provided data tracking for accountability. The FY 2023 training focused on the basics of the FOIA and FOIA processing, including records subject to the FOIA, who can be a FOIA requester, statutory time limits for processing, conducting a reasonable search, reviewing records for proper disclosure, records equities, and documenting the FOIA casefile.

FOIA-Related Performance Standards.

EPA requires that all senior manager performance agreements contain FOIA-related performance responsibilities to ensure Agency management promotes compliance with FOIA laws, regulations, policies, and Executive Orders. Managers are accountable to manage FOIA

responses and to supervise and train all EPA employees who have a role in administering the FOIA.

FOIA Supervisor Training.

The National FOIA Office has completed development of the companion Supervisor-focused eLearning module that concentrates on the application of the most frequently applied FOIA exemptions by EPA, Exemptions 5 (Civil Discovery Privileges) and 6 (Personal Privacy). Like the primary Supervisor Training eLearning module, this companion module is remote, on-demand, Section 508 compliant, and user accessibility tested for assistive technologies.

B. Outreach

7. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue and, if applicable, any specific examples.

Yes. EPA FOIA professionals regularly contact requesters concerning complex or voluminous requests. Agency FOIA procedures encourage FOIA Program Offices to contact a requester as many times as needed to clarify the scope of the request at any step in the FOIA process. EPA's centralized FOIA request intake team located within EPA's National FOIA Office evaluates requests for complexity within the first few days of receipt. NFO FOIA professionals contact requesters to provide recommendations on ways to clarify or narrow requests. For internal communications to the EPA FOIA processing community and Agency leadership, EPA uses FOIA backlog data display that takes into account due date extensions where EPA offices appropriately reach out to requesters about requests that are complex or seek voluminous records.

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? Please describe any such outreach or dialogue and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

Yes.

Federal FOIA Advisory Committee

Patricia Weth, a manager in EPA's Office of General Counsel, serves as a government member of the Federal FOIA Advisory Committee for the 2022-2024 term. The FOIA Advisory Committee establishes an open and transparent way for the public to provide the federal government advice regarding FOIA implementation, and it consists of members both inside and outside the federal government, who have considerable FOIA expertise. NARA created the Advisory Committee to foster dialogue between the federal government and the

requester community and to solicit public comments and develop recommendations for improving FOIA administration and proactive disclosures.

Chief FOIA Officers Council Technology Committee

Three members of EPA’s FOIA community—Jennifer MacDonald, an attorney-adviser in EPA’s Region 10 Office of Regional Counsel, Mark Muro, a government information specialist in EPA’s Region 5, and Joan Moubleaux a government information specialist in EPA’s Office of General Counsel—represent EPA on the Chief FOIA Officers Council, Technology Committee. The Chief FOIA Officers Council established the Technology Committee to study the use and deployment of technology in FOIA programs across agencies, and to identify best practices and recommendations that can be implemented across agencies.

Chief FOIA Officers Council Committee on Cross-Agency Collaboration and Innovation

Nicole Rementer, an attorney-adviser in EPA’s Office of General Counsel, serves as an EPA member on the Chief FOIA Officers Council, Committee of Cross-Agency Collaboration and Innovation (COCACI). The Chief FOIA Officers Council created the COCACI in October 2020 to implement Recommendation 16 from the 2018-2020 FOIA Advisory Committee Final Report and Recommendations. Its purpose is to research and propose cross-agency grant programs and funding sources, create federal career paths for FOIA professionals, and promote models to align agency resources with agency transparency. Nicole Rementer co-chairs the Government Information Specialists (Job Series) Professionalization Subcommittee.

Environmental Justice Expedited Processing Criteria

EPA has recognized environmental justice concerns for many decades and defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies. EPA recognizes the role timely access to information contained in EPA records may play in the opportunity for meaningful involvement by communities that potentially experience disproportionately high and adverse human health or environmental effects. Accordingly, in FY 2023, EPA promulgated a provision in its FOIA regulations to allow requesters to seek expedited processing of their request if the records sought pertain to an environmental justice-related need and will be used to inform an affected community. This new provision provides:

For purposes of this provision, an environmental justice-related need means a pressing need to inform a community that is potentially experiencing disproportionate and adverse human health or environmental effects. The Agency will consider: (A) Whether the requested records relate to actual or alleged Federal government activity, including Agency records containing environmental information or data. (B) The extent to which there is a pressing need to inform the community about the Federal government activity. A pressing need to inform does not include requests where the disclosure is primarily in the commercial interest of the requester. (C) The extent to which the community is potentially experiencing disproportionate and adverse human

health or environmental effects. (D) The requester's ability and intention to effectively convey the information to members of the community. 40 CFR § 2.104(g)(ii)

Establishing this new expedited processing category targets an understood need for timely access for communities with environmental justice concerns to information, which may not be met by the "compelling need" category set forth in the FOIA statute.

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during Fiscal Year 2023 (please provide a total number or an estimate of the number for the agency overall).

For FY 2023, the FOIA Public Liaison and FOIA Requester Service Center email account received approximately 1478 inquiries this year, including 362 specifically requesting FOIA Public Liaison services. The National FOIA Office responds to emailed inquiries by email or follow up phone call. In addition, the National FOIA Office, which includes EPA's FOIA Public Liaison and FOIA Requester Service Center, issues a unique correspondence to each requester as part of its intake review of FOIA requests and includes information on how to contact EPA's FOIA Public Liaison in that correspondence, as well as in every FOIA final letter and interim response letters.

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

In 2023, EPA continued to use lean management principles, methods and techniques to continuously review and improve EPA's FOIA response processing. By deploying lean management methods agency-wide, offices across the agency deployed visual management tools to bring greater focus to FOIA processing. Root cause analysis is a critical lean management method that requires offices to analyze whether FOIA processing goals and targets can be met through process improvements, deployment of technology, or changes in personnel resources.

Previously, EPA identified delays in hiring and onboarding staff to replace certain key employees who retired or left the agency in offices with the highest backlogs as a key root cause resulting in diminished momentum in FY2022 backlog reduction. Replacement hiring enabled the Agency to regain backlog reduction momentum in FY2023. In addition, EPA's procurement of a FOIA document review contract in a prior fiscal year enabled EPA to address the need for staffing increase to help respond to the more than 80 FOIA requests received regarding the East Palestine Train Derailment.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

The EPA regularly creates various reports to track the review status of FOIA requests and response times and to make case assignments. EPA uses lean management methods and techniques, including daily and weekly huddle data display and monthly and quarterly business meeting review of data, throughout its decentralized FOIA program administration. Several EPA program offices have developed their own FOIA processing display dashboards for tracking FOIA processing through various stages of initial triage through final response and use such data for daily and weekly allocation of resources to keep FOIA processing on schedule and to identify when further contact with requesters regarding estimated due dates is warranted. Additionally, the EPA compares the Quarterly Reports and the FOIA Annual Reports to assess quarterly and yearly trends and levels of productivity. The EPA will continue to use data reporting to assess productivity and assist it in streamlining processes and procedures. Additionally, the National FOIA Office holds an EPA FOIA community meeting to review and discuss the Annual FOIA Report, the Chief FOIA Officer's Report, and the DOJ Chief FOIA Officers' Report Assessment and Summary to illustrate areas of improvement and to identify opportunities for improvement in the next fiscal year. While these approaches have been highly successful over the last several years, in FY 2024, EPA and many of its sub-offices will need to adjust the data metrics they use because of differences in the types of data reports available from FOIAXpress after EPA transitioned to that system and away from FOIAonline.

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

Procuring a New FOIA Case Management System

On March 8, 2023, EPA entered into a contract with OPEXUS (formerly AINS) to provide EPA and FOIA requesters with a new FOIA case management software solution to replace FOIAonline, which ceased operation as of the end of FY 2023. The transition from FOIAonline to FOIAXpress produced a variety of inefficiencies that caused processing delays during the transition. Some inefficiencies were unavoidable, such as needing to dedicate staff time to learn the new system. Unexpectedly, system implementation issues prevented the full system implementation of FOIAXpress for EPA's use on September 30, 2023, when FOIAonline ceased operations. The consequences of this were as follows:

- (1) The public experienced a several days at the beginning of October 2023 when they were not able to submit FOIA requests to EPA via FOIAXpress—that functionality was established within a week.
- (2) The public was not able to receive responses to their requests through the FOIAXpress Public Access Link until November 2023.
- (3) Full public access to previously closed requests and records released through FOIAonline has not been fully restored at the time of this report in February 2024.

Nevertheless, EPA continues to anticipate that, when fully operational, FOIAXpress will provide the public access to records released under the FOIA, a convenient way to manager their requests, and the ability to generate reports through real-time dashboards.

FOIA Expert Assistance Team (FEAT)

EPA's FEAT, part of EPA's National FOIA Office in the Office of General Counsel, was created in 2014 to provide strategic direction and project management assistance on the most challenging or complex FOIA requests.

The FEAT also provides consulting services to EPA programs that need help assessing and identifying areas of improvement in their FOIA programs or processes. Depending on the specific needs of the Agency and each request for assistance, the FEAT adjusts its level of involvement on a particular project. FEAT project highlights from FY 2023 include:

- **Project Venti:** The FEAT coordinated 60 FOIA professionals from every FOIA program and region in the Agency to respond to 20 FOIA requests from one requester seeking similar information. All assigned FOIA programs issued their final responses and timely closed all requests in FY 2023, just 14 months after the Agency received the requests and within the due date negotiated with the requester.
- **East Palestine Train Derailment:** The FEAT deployed to assist following the East Palestine train derailment's release of hazardous substances on February 3, 2023. The incident spawned both FOIA litigation and more than 80 requests for EPA records with a FOIA workload that threatened to overwhelm the emergency response team. The Court overseeing litigation praised the FOIA Response Team's outstanding work, stating: "EPA has thus far been a constructive partner to [the Plaintiffs] and other FOIA requesters seeking information about the incident: it has proactively released information to the public, compiled more than 14,000 records in an effort to expeditiously comply with requests, and worked productively with Plaintiffs here to facilitate document production. The Court commends such actions." For the first time, the FEAT is also managing a document review contract team to provide additional support to agency staff reviewers. In total, the Team has collected over 85,000 records and made over 28 document production releases to the public, including posting all FOIA responses to the EPA East Palestine Emergency Response webpage. This response is ongoing and to date, EPA has made available online to the public over 17,000 pages of FOIA records.
- **Office of Environmental Justice and External Civil Rights:** EPA formed the new OEJECR office in FY 2022. In FY 2023, the FEAT provided support to this office as they worked to stand up a new FOIA program and respond to an influx of requests.

Section III: Proactive Disclosures

The Attorney General’s 2022 FOIA Guidelines emphasize that “proactive disclosure of information is . . . fundamental to the faithful application of the FOIA.” The Guidelines direct agencies to post “records online quickly and systematically in advance of any public request” and reiterate that agencies should post records “in the most useful, searchable, and open formats possible.”

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

Until the decommissioning of FOIAonline on September 29, 2023, the EPA was able to identify, track, and post responsive records with FOIAonline.

In November 2023, EPA went live with its new FOIA case management system, FOIAXpress. EPA continues to work with the vendor OPEXUS to implement the FOIAXpress system and post records in the Reading Room. EPA anticipates that upon completion of data migration into the new system, EPA will achieve its goal that release to one requester is release to all. New releases EPA makes through FOIAXpress meet this standard.

Because EPA anticipated interruption in display of previously released records during the transition to FOIAXpress, EPA proactively displayed on its website the records previously released regarding the East Palestine Train Derailment to ensure no loss of public access to these most frequently requested records during the transition.

2. How long after identifying a record for proactive disclosure does it take your agency to post it?

Until September 29, 2023, EPA FOIA professionals were able to proactively post records on FOIAonline immediately when they released the records to the requester. EPA meets this same standard for records newly released through FOIAXpress.

3. Does your agency post logs of its FOIA requests? If so, what information is contained in the logs? Are they posted in CSV format? If not, what format are they posted in?

EPA does post FOIA logs on the FOIA website located at <https://www.epa.gov/foia/historic-foia-logs>. The information contained in these logs are the FOIA tracking number, a requester name, requester organization, date received, and record description. The FOIA logs are posted in PDF format.

4. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

EPA continually updates its website with new information regarding public health and environmental protection topics. These updates demonstrate EPA's commitment to proactively disclose information to the public. The following illustrate these proactive disclosures:




EPA Building Visitor Logs

<https://www.epa.gov/foia/epa-building-visitor-logs>




EPA Building Visitor Logs

The Environmental Protection Agency routinely receives requests for copies of visitors logs for our headquarters buildings. In an effort to streamline the process, effective July 2021, the EPA will upload the headquarters visitors logs to this site by the 15th of each month. Posting the visitors logs will eliminate the need for the public to submit a FOIA request to obtain this information. If you have any questions pertaining to the visitors logs, please email James Stewart (Stewart.JamesL@epa.gov).

January 2024

-  [WJC North Visitor Sign-In Register \(January 2024\).\(pdf\)](#) (2.8 MB)
-  [WJC East Visitor Sign-In Register \(January 2024\).\(pdf\)](#) (265.7 KB)
-  [Electronic Visitor Sign-In Register \(January 2024\).\(pdf\)](#) (141.2 KB)

December 2023

-  [WJC North Visitor Sign-In Register \(December 2023\).\(pdf\)](#) (2.3 MB)
-  [WJC East Visitor Sign-In Register \(December 2023\).\(pdf\)](#) (671.2 KB)
-  [Electronic Visitor Sign-In Register \(December 2023\).\(pdf\)](#) (132.8 KB)

Data Landing Page

<https://www.epa.gov/data>

This site can be used to explore and interact with EPA data resources. You can find data by topic or location, interact with those data in web-based applications, understand how EPA uses data, and see how you can use those data too. The homepage view is on the next page.

The following cards link out to our most popular data topics. Check out those topics or navigate through the pages in our Data Resources box below to learn more.



Air

EPA collects air quality data from stationary and mobile sources to protect public health and public welfare.

[Explore air quality data](#)



Chemicals

EPA collects basic exposure-related information of chemicals produced domestically and imported into the United States under the Toxic Substances Control Act's Chemical Data Reporting rule.

[Access CDR data](#)



Environmental Information by Location

EPA organizes its geospatial data to help you search for environmental issues affecting your local community.

[Check on your community](#)



Superfund

Superfund allows EPA to clean up contaminated sites and to seek out those parties responsible for any release and assure their cooperation in the cleanup.

[View Superfund data](#)



Toxics Release Inventory

The Toxics Release Inventory Program tracks the industrial management of toxic chemicals that may cause harm to human health and the environment.

[Find facility data](#)




Water

EPA collects and maintains water data to protect and restore our waters, ensuring they are drinkable, fishable, and swimmable.

[Discover water data tools](#)

Apps to Interact with EPA Data

- [AirNow](#)
- [Clip and Ship](#) 
- [ECHO](#)
- [EJScreen](#)
- [How's My Waterway](#)
- [More Applications](#) (Geospatial)

Data Resources

- [APIs](#)
- [Data Governance](#)
- [Data Standards](#)
- [Environmental Dataset Gateway](#)
- [Open Data Policy](#)
- [Where to Find EPA Data](#)

EPA Senior Leaders Calendars

<https://www.epa.gov/senior-leaders-calendars>

EPA United States Environmental Protection Agency

Search EPA.gov

Environmental Topics ▾ Laws & Regulations ▾ Report a Violation ▾ About EPA ▾

CONTACT US

Senior Leaders' Calendars

Simplified Calendars

The simplified calendars listed on this webpage provide the public with information regarding key activities of EPA Senior Leaders. Senior Leaders' Calendars are posted for acting or confirmed Assistant Administrators, Regional Administrators, the Deputy Administrator and the EPA Administrator.

These simplified calendars do not constitute the official record-copy of the calendar for the purpose of documenting the activities of Senior Leaders. If you are seeking the official record-copy of the Administrator's calendar, please submit a FOIA request.

EPA Administrator

- [Michael S. Regan, Administrator](#)

EPA Deputy Administrator

- [Janet McCabe, Deputy Administrator](#)

Headquarters Offices

- [Joseph Goffman, Assistant Administrator for the Office of Air and Radiation](#)
- [Michal Ilana Freedhoff, Assistant Administrator for the Office of Chemical Safety and Pollution Prevention](#)
- [Faisal Amin, Chief Financial Officer](#)
- [David Uhlmann, Assistant Administrator for the Office of Enforcement and Compliance Assurance](#)
- [Jeffrey Prieto, General Counsel](#)
- [Jane Nishida, Assistant Administrator for the Office of International and Tribal Affairs](#)
- [Barry Breen, Principal Deputy Assistant Administrator for the Office of Land and Emergency Management](#)
- [Kimberly Patrick, Principal Deputy Assistant Administrator for the Office of Mission Support](#)
- [Christopher Frey, Assistant Administrator for the Office of Research and Development](#)
- [Radhika Fox, Assistant Administrator for the Office of Water](#)

Archived Calendars

To access the calendars of former EPA senior leaders in the [EPA Archive](#), search for the name of the official with the word "calendar". For example, search for "Mary Cuppacoffee calendar".

List of EPA Special Government Employees (SGEs)

<https://www.epa.gov/foia/list-special-government-employees-sges>

The term “special Government employee” refers to an advisor, expert or consultant who is appointed to work with federal government. 10 U.S.C. § 202.

Freedom of Information Act (FOIA) CONTACT US

List of Special Government Employees (SGEs)

A SGE is an agency employee that performs temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days, as defined in 18 U.S.C § 202.

This page will show the names of SGEs by month.

January 2024

- [January SGE List \(pdf\)](#) (151 KB)

December 2023

- [December SGE List \(pdf\)](#) (151.7 KB)

November 2023

- [November SGE List \(xlsx\)](#) (15.3 KB)

October 2023

- [October SGE List \(xlsx\)](#) (15.3 KB)

September 2023

- [September SGE List \(pdf\)](#) (151.5 KB)

August 2023

- [August SGE List \(pdf\)](#) (151.4 KB)

July 2023

- [July SGE List \(pdf\)](#) (150.5 KB)

June 2023

- [June SGE List \(pdf\)](#) (119.8 KB)

May 2023

- [May SGE List \(pdf\)](#) (120.7 KB)

East Palestine Train Derailment

<https://www.epa.gov/east-palestine-oh-train-derailment>

EPA constructed a website to proactively disclose to the public information regarding EPA’s action taken in response to the freight train derailment in East Palestine, Ohio, including information EPA collected regarding the release of hazardous substances by the train derailment. The website provides affected community members and the interested public with the latest information about air monitoring, water sampling, cleanup activities, and public participation opportunities, as well as a history of EPA’s response actions. The webpage also includes links to all EPA records released under the FOIA about the incident.

Toxics Release Inventory (TRI) Data and Tools

<https://www.epa.gov/toxics-release-inventory-tri-program/tri-data-and-tools>

In 2023, EPA published preliminary Toxics Release Inventory (TRI) data about chemical waste management, including releases, and pollution prevention activities that occurred during 2022 at more than 20,000 industrial and federal facilities across the country.

This webpage contains several tools, such as

- [TRI Data as Reported by Facilities](#)
- [National Reports/Factsheets](#)
- [TRI Tools for Most Users](#)
- [TRI Data and Tools for Advanced/Customized Analysis](#)
- [Topic-Focused Data and Tools](#)
- [TRI Toxics Tracker](#). The public can use the preliminary data to identify facilities that reported to TRI (for example, to locate facilities in a certain ZIP code locality) and learn which chemicals those facilities manage as waste and in what quantities.

The screenshot shows the EPA TRI Toxics Tracker website. The header includes the EPA logo, the title "TRI Toxics Tracker", and a "How to Search" link. A left sidebar contains navigation options: "New Search", "Map of TRI Facilities", "Facilities Summary" (with sub-links for Releases, Waste Managed, Pollution Prevention, Potential Harm, and Chemicals), and a link to the full version of the tool. The main content area features a search box with a "New Search" button, a "Map of TRI Facilities" icon, and a "Facilities Summary" section. The search section includes a "Search by address, place name, city, ZIP Code..." input field, a "State" dropdown, and a "My location isn't listed" link. Below this is a "County", "City", and "ZIP Code" dropdowns. A "View search results" button is prominently displayed. A "Data sources" note is located at the bottom of the search area. The footer indicates "Most Recent Reporting Year: 2022".

EPA TRI Toxics Tracker How to Search

Q New Search

Map of TRI Facilities

Facilities Summary

- Releases
- Waste Managed
- Pollution Prevention
- Potential Harm
- Chemicals

Open full version of [TRI Toxics Tracker](#) with more data and expanded capabilities.

Search below to view summary information reported by TRI facilities in the most recent reporting year.

Use the search features to identify industrial facilities in your community that release chemicals into the air, water, and land, or manage the waste through other methods. Learn what chemicals these facilities release, efforts to reduce releases, and potential health impacts associated with the chemical releases.

Address | State, County, City or ZIP Code **Metro Area** **Watershed** **Tribal Land** **TRI Facility Name**

Enter an address or select a location to search for facilities.

Search by address, place name, city, ZIP Code... **State** [My location isn't listed](#)

Or, use your current location.

County **City** **ZIP Code**

Then: **View search results**

Data sources

NOTE: the TRI Program covers many—but not all—industry sectors and chemicals. Additionally, some facilities within a covered sector may not meet TRI reporting criteria.

Most Recent Reporting Year: 2022

Pesticide Incident Data

<https://www.epa.gov/pesticide-incidents/about-incident-data-system-ids>

EPA launched a new web-based search tool in FY 2023 to increase transparency by enabling the public to search 10 years of pesticide incident data. A pesticide incident is any exposure or effect from a pesticide's use that is not expected or intended. By sharing this information, EPA enabled the public and community organizations to better understand pesticide exposures, including exposures to vulnerable populations. The search tool pulls information from EPA's Incident Data System (IDS), allowing public access to raw data reported to EPA on pesticide exposure incidents. EPA receives information about pesticide incidents from a variety of sources including from:

- pesticide manufacturers (registrants), as they are required to submit reports of unreasonable adverse effects from their products;
- reporting by the public through other entities (including state regulators for pesticide enforcement);
- information submitted when individuals send an email directly to EPA;
- the National Pesticide Information Center (NPIC); and
- the American Association of Poison Control Centers.

Prior to launching the new web-based tool, EPA generally only provided incident information to the public when responding to requests under the Freedom of Information Act (FOIA) or as an incident summary as part of EPA's pesticide registration review process.

5. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Yes.

6. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

The EPA Section 508 Program offers policies, guidance, and oversight to ensure agency-wide compliance with Section 508 and digital accessibility requirements.

Over the past year, EPA has made great strides in improving digital accessibility, such as:

1. Launching the EPA Web Accessibility Initiative in collaboration with the EPA Web Council to ensure accountability and progress in this area.
2. Using [Siteimprove](#) to scan EPA's public domains, which has allowed us to make improvements in web accessibility one site at a time.

3. Creating the Digital Accessibility Community of Practice, where people can ask questions, post comments and check out training from the Section 508 Liaison meetings and the ORD Digital Accessibility Working Group.
4. Updating EPA's Digital Accessibility intranet page to provide tips and resources to help you create digitally accessible documents and presentations.
5. Refreshing the public [EPA.gov/Accessibility](https://www.epa.gov/accessibility) site to clarify instructions for vendors, guidance for grantees and general information for the public.
6. Developing dashboards to track digital accessibility progress across the agency.
7. Introducing a pilot project to align Section 508 requirements with the Authority to Operate process.

To further the Open Government Initiative, EPA is posting information in open, machine readable, machine actionable formats by providing the public with an Environmental Dataset Gateway (EDG). The EDG offers data consumers a catalog of all EPA open data content, available at <https://edg.epa.gov/metadata/catalog/main/home.page>.

Further, EPA provides open data policies governing the open data initiative as well as guidance for viewing or downloading datasets curated by the EPA, available at <https://www.epa.gov/data>.

7. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

EPA Program Offices and Regions work with the Office of Mission Support to post records or databases on the agency website. EPA's National FOIA Office worked closely with EPA Region 5 to ensure posting of records released under the FOIA pertaining to the East Palestine Train Derailment.

8. Optional -- Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

EPA continually strives to improve and increase disclosure to the public of important environmental and public health information. EPA does this in a variety of ways, including the following best practices:

- Disclosure to One is Disclosure to All. EPA makes publicly available most records that have been released under FOIA (except records responsive to first party requests) through FOIAXpress regardless of the number of times requested. Records newly released through FOIAXpress meet this standard, and EPA is working with the FOIAXpress vendor to re-release via FOIAXpress the records EPA previously released through FOIAonline. Although the FOIAXpress vendor did not meet its contractual obligations to complete the data migration prior to

- September 30, 2023, the vendor informed EPA that it plans to complete migration of the EPA FOIA cases and previously released records by August 12, 2024.
- EPA program offices continuously disclose to the public, including through interactive websites, the public health and environmental information that EPA collects.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's 2022 [FOIA Guidelines](#) emphasize the importance of making FOIA websites easily navigable and complying with the [FOIA.gov](#) interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

In November 2021, EPA announced its decision to sunset the FOIAonline FOIA case management system by the end of the 2023 calendar year. EPA's National FOIA Office conducted extensive market research of alternative FOIA case management systems and solutions. In February 2022, EPA attended the NexGen FOIA Tech Showcase to get gain knowledge of new FOIA technologies to assist the agency with its FOIA mission. In July 2022, EPA posted a request for information and in October 2022, EPA posted its request for quotes for a FOIA case management system to replace FOIAonline. On March 8, 2023, EPA selected the winning quote for a FOIA case management system to replace FOIAonline and entered into a contract with OPEXUS to provide FOIAXpress. Throughout the remainder of FY2023 and into FY2024, EPA has worked with OPEXUS to use FOIAXpress to its fullest and to identify ways that the FOIAXpress system can be improved to better meet FOIA implementation demands.

In January 2023, EPA's National FOIA Office attended a demonstration of an AI-powered software to automate the redaction of sensitive information within audio, video, and image-based evidence and Veritone, which allows for the transcription and translation of audio and video files.

Several EPA employees are members of the Chief FOIA Officer Council Technology Committee. These members can stay current on the latest technology developments for FOIA solutions.

2. Please briefly describe any new types of technology your agency uses to support your FOIA program.

On March 8, 2023, EPA entered a contract with OPEXUS (formerly AINS) to provide EPA and FOIA requesters with the new FOIA case management software solution to

replace FOIAonline, which was decommissioned on September 30, 2023. EPA continues to work with the vendor OPEXUS to fully implement the FOIAXpress system and post records in the Reading Room.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

EPA primarily uses the RelativityOne software solution for FOIA document review and redaction. The Relativity One software solution includes a variety of machine automation tools for use in document review.

4. OIP issued [guidance](#) in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

The National FOIA Office started a review of its public-facing site. The National FOIA Office's goal is to make information about the FOIA, about EPA FOIA administration, and about EPA's publicly available records, easier to find and use. During 2024, the National FOIA Office plans to re-architect its web pages to provide simple, clear information about how to file a request as well as easy access to EPA records in the public domain.

5. Did all four of your agency's [quarterly reports](#) for Fiscal Year 2023 appear on FOIA.gov?

Yes. The EPA's Fiscal Year 2023 four quarterly reports appear in FOIA.gov. Additionally, EPA posted the FY 2023 quarterly reports to its public facing website, available at <https://www.epa.gov/foia/department-justice-quarterly-reports>.

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2024.

This is not applicable to EPA.

7. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2022 Annual FOIA Report and, if available, for your agency's Fiscal Year 2023 Annual FOIA Report.

The EPA FY 2022 FOIA Annual Report is posted on the agency website at <https://www.epa.gov/foia/foia-reports-quarterly-reports-annual-reports-chief-foia-officer-reports>.

The EPA FY 2023 FOIA annual report at <https://www.epa.gov/foia/foia-reports-quarterly-reports-annual-reports-chief-foia-officer-reports>.

8. In February 2019, DOJ and OMB issued joint [Guidance](#) establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

Yes. The EPA complies with OMB M-19-10 Guidance for Achieving Interoperability with the National Freedom of Information Act (FOIA) Portal on FOIA.gov.

9. Optional -- Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

EPA FOIA professionals attend RelativityFest to gain knowledge and best practices for the use of Relativity.

[Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reduce Backlogs](#)

The Attorney General's 2022 [FOIA Guidelines](#) instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

[A. Remove Barriers to Access](#)

1. Has your agency established alternative means of access to first-party requested records, outside of the typical FOIA or Privacy Act process?

Yes.

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

MyProperty (<https://enviro.epa.gov/facts/myproperty>) is an internet-based tool for searching facility data that comes from multiple EPA data sources available through the EPA's Facility Registry System (FRS). This tool allows property owners, as well as real estate agents, mortgage banks, engineering and environmental consulting firms and the public, to determine if EPA's FRS system has records on a specific property without filing a FOIA request. If a search of an address returns a 'No Information Found for the Submitted Address' response, the user can generate a "No Records Certificate". Environmental due diligence professionals often require documentation that EPA does not possess environmental contamination records about a specific property, and submit FOIA requests to obtain such documentation. The MyProperty "No Records Certificate"

satisfies such documentation requirements in several state and local jurisdictions. The public continues to increase use of the MyProperty site since EPA began informing FOIA requesters about the site.

The screenshot shows the EPA MyProperty website. At the top left is the EPA logo with the text "United States Environmental Protection Agency". To the right are navigation links: "Environmental Topics", "Laws & Regulations", and "About EPA". A search bar contains "Search EPA.gov" and a magnifying glass icon. Below the navigation is a "Related Topics: Envirofacts" link and a "Contact Us" link. The main heading is "MyProperty" in a large, bold font, followed by the subtitle "Searching Properties for Environmental Concerns". A paragraph explains that MyProperty is a tool for searching facility data from the EPA's Facility Registry System (FRS). Another paragraph states that the tool allows various users to determine if EPA's FRS system has records on a specific property without filing a FOIA request. Below this is a "Search Property Location" section with instructions on how to enter the address, city, and state. It includes a note about exact matches and alternate forms of addresses. The form fields are: "Street Address:" with a text input, "City:" with a text input, and "State:" with a dropdown menu. At the bottom are two buttons: "Submit Query" and "Reset".

3. Please describe any other steps your agency has taken to remove barriers to accessing government information.

The EPA FOIA Regulation update illustrates EPA’s dedication to advancing environmental justice and working towards ensuring equal access for all communities to information about environmental and health harms. The FOIA regulation does this by establishing a new standard of “environmental justice related need,” in addition to the existing “compelling need” standard, for expediting EPA’s response to FOIA requests for records. Pursuant to 40 C.F.R. §2.104(g)(ii), a requester may qualify for expedited processing if they can demonstrate a “environmental justice related need” for the records. An environmental justice-related need means a pressing need to inform a community that is potentially experiencing disproportionate and adverse human health or environmental effects. EPA will also waive fees for such expediated requests.

B. Timeliness

4. For Fiscal Year 2023, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2023 Annual FOIA Report.

EPA achieved a significant improvement in adjudicating requests for expedited processing by reducing the average number of days to 2.24 in FY 2023. In FY 2023, EPA adjudicated 322 of the 325 requests for expedited processing in 10 days or less.

5. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2023 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

This is not applicable to EPA.

6. Does your agency utilize a separate track for simple requests?

Yes.

7. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2023?

No. While EPA's average number of days to process simple requests in FY 2023 was 49.47 days, EPA processed 62.22% of simple requests within 20 working days.

8. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

No. EPA increased the average processing time for simple track requests in FY 2023 (49.47 days) as compared to FY 2022 (40.86 days).

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2023 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

In FY 2023, EPA processed 49.44% of the requests in the simple track.

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

This is not applicable to EPA.

C. Backlogs

Backlogged Requests

11. If your agency had a backlog of requests at the close of Fiscal Year 2023, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?

Yes. The backlog for FY 2023 was 1318 and the backlog for FY 2022 was 1537. EPA's backlog of FOIA requests decreased by 219 FOIA cases.

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did during Fiscal Year 2022?

This is not applicable to EPA.

13. If your agency's request backlog increased during Fiscal Year 2023, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

This is not applicable to EPA.

14. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

The number of backlogged requests at the end of FY 2023 as a percentage of total requests received in FY 2023 was 20%.

Backlogged Appeals

15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?

This is not applicable to EPA.

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022?

This is not applicable to EPA.

17. If your agency's appeal backlog increased during Fiscal Year 2023, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals
- A loss of staff
- An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

This is not applicable to EPA.

18. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2023 and/or has no appeal backlog, please answer with "N/A."

This is not applicable to EPA. EPA did not have a backlog of appeals at the close of FY 2023.

D. Backlog Reduction Plans

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2023?

Yes. EPA implemented its backlog reduction plan in FY 2023.

During this reporting cycle, EPA developed new initiatives and continued building actions started in previous reporting cycles to improve its FOIA program.

- In 2022, EPA set a Strategic Goal to increase transparency and public participation as part of the Agency's FY 2022-26 Strategic Plan.

- In FY 2023, EPA continued to use lean management principles, methods and techniques to continuously review and improve EPA's FOIA response processing. By deploying lean management methods agency-wide, EPA offices deployed visual management tools and pursued monthly and annual backlog reduction targets aligned with the Agency's Strategic Plan Goal and annual targets.
- EPA's National FOIA Office supported agency-wide backlog reduction efforts by issuing monthly FOIA backlog reports to EPA's senior leadership showing the backlog of overdue FOIA requests in each EPA headquarters and regional offices, as well as previous months' data trends.
- EPA's National FOIA Office also implemented the second year of a document review contract as a pilot to address need for additional document review capacity in two offices with the largest FOIA backlogs, and for surge capacity in other offices, if needed.
- EPA maintained FOIA accountability language in all senior manager performance agreements Agency-wide in FY 2023, and EPA continued delivering specialized FOIA training for supervisors.
- EPA sought to proactively disclose more records publicly available through FOIAonline and on the EPA website.
- Notwithstanding implementing these backlog reduction plan actions, EPA experienced delays in hiring and onboarding staff to replace certain key employees who retired or left the agency in offices with the highest backlogs.

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024.

EPA plans to continue its backlog reduction plan, including monthly data reporting of overdue FOIA requests showing progress towards the agency-wide and office-specific backlog reduction goals. EPA will continue to provide training to supervisors and EPA FOIA professionals on their FOIA duties.

EPA will continue focus on accountability through the performance review process. EPA will also continue to apply lean management principles, methods and techniques to FOIA agency-wide, thereby promoting continuous improvement through initiatives developed in each FOIA processing office. Through regular review of data and meetings to discuss both challenges and successes, EPA is committed to continuously identifying ways to improve FOIA processing.

E. Reducing the Age of Requests, Appeals, and Consultations

Ten Oldest Requests

21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2022 Annual FOIA Report?

No. EPA did not close the ten oldest requests reported in the FY 2022 Annual FOIA Report.

22. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

In FY 2023, EPA successfully closed five of the ten oldest FOIA requests that were pending and reported in the FY 2022 Annual FOIA Report.

23. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

EPA's efforts to reorganize and improve FOIA processing described in response to the questions above are the steps that EPA took to reduce the overall age of FOIA requests pending with EPA.

Ten Oldest Appeals

24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report?

Yes. EPA successfully closed all appeals reported in the FY 2022 Annual FOIA Report.

25. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2022 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

This is not applicable to EPA. EPA successfully closed all appeals reported in the FY 2022 Annual FOIA Report.

26. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

The EPA General Law Office (GLO), in the Office of General Counsel (OGC), maintained the prior fiscal year's process improvements to maximize efficiency. Within days of receiving an appeal, GLO notifies program offices and EPA regional offices

responsible for the initial response to the FOIA request that the response has been appealed and to be prepared to coordinate with an OGC attorney shortly. GLO holds a weekly group meeting for each attorney to give an update on the processing of each open appeal and to raise any issues for discussion and elevation. Additionally, attorneys abide by a strict timeline to draft appeal determinations to provide management sufficient time to review. To manage the operations of the Agency's FOIA appeals program, GLO established a Team Coordinator for Administrative Appeals position. Before a draft determination is presented to the Assistant General Counsel for review and signature, the Team Coordinator reviews the draft to ensure completeness and legal sufficiency. The Team Coordinator also briefs management with regular status updates, coordinates with EPA programs and regions on individual appeals, and assists attorneys with the processing of individual appeals as needed. Through these efforts, EPA was able to maintain a zero-appeal backlog throughout FY 2023.

Ten Oldest Consultations

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report?

No. EPA closed five out of the six consultations that were pending and reported in the FY 2022 Annual FOIA Report.

28. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

EPA closed five out of the six consultations that were pending and reported in the FY 2022 Annual FOIA Report.

Additional Information Regarding Ten Oldest

29. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2024.

The one consultation and the five oldest cases contain a voluminous number of records to review. In FY 2024, EPA hopes to obtain additional resources to assist with these cases and the backlogged cases.

F. Additional Information about FOIA Processing

30. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency's overall FOIA request processing and backlog. If possible, please indicate:

- The number and nature of requests subject to litigation
- Common causes leading to litigation
- Any other information to illustrate the impact of litigation on your overall FOIA administration

Yes, during FY2023 EPA defended approximately 43 lawsuits relating to approximately 59 FOIA requests received by the agency. The most frequent allegation made in the lawsuits was an alleged failure by EPA to respond to a FOIA request or complete its response within the time requirements of 5 U.S.C. 552(a)(6).

As we reported last year, litigation over a FOIA response often requires EPA to dedicate increased staff attention to the response. Typically, the office that is leading EPA's response must dedicate additional staff time and attention to assist the litigation attorney in reviewing all actions already taken in the FOIA response and to coordinate with the litigation attorney on subsequent action if the litigation was filed before EPA completed its final response. Litigation also often requires EPA staff to review and spend time preparing pleadings and declarations that are not needed for FOIA responses not in litigation. This additional staff time for review and coordination also must be done on compressed timelines due to court ordered or agreed to production schedules. In this way, litigation over a FOIA response can negatively impact a program office's ability to timely process other non-litigation requests in their queue by requiring EPA to prioritize work on responses that are in litigation. This can result in an increase in backlogged requests if an office has insufficient FOIA processing staff to simultaneously process both the litigation and non-litigation requests.

FOIA Messages from EPA Administrator Regan

From: Message from the Administrator <messagefromtheadadministrator@epa.gov>
Sent: Friday, March 17, 2023 4:41 PM
To: Message from the Administrator <messagefromtheadadministrator@epa.gov>
Subject: Annual FOIA Update: DOJ Sunshine Week Awards



Dear Colleagues,

It's "Sunshine Week" – the annual celebration of transparent and open government. The Freedom of Information Act (FOIA) was signed into law by President Lyndon B. Johnson in 1966 to establish this bedrock principle of democracy and ensure that the public has the means to know what their government is up to. Implementing the FOIA is key to our work rebuilding trust with underserved communities, confronting climate change, strengthening our Nation's water systems, and protecting public health and the environment.

EPA's FOIA implementation will undergo a significant transformation this year as our agency migrates from FOIAonline to FOIAXpress — the software system for the public to submit records requests to EPA and for EPA professionals to track and record their FOIA processing decisions. This is the first change in FOIA case management software in more than 10 years, and we expect that, once the migration is fully complete, FOIAXpress will be more accessible and easier to use, while providing efficiency gains for both the public and EPA staff.

The launching of FOIAXpress as EPA's FOIA case management system is only one of the significant, transformative changes underway at EPA. As we go through these changes together, please keep in mind the following FOIA implementation guidelines, and please join me in congratulating EPA winners of the Department of Justice's Sunshine Week Awards.

General Principles

Like all federal agencies, EPA is subject to the FOIA, which promotes accountability through transparency. Pursuant to the FOIA, any person has the right to access agency records, except where the information is protected from disclosure.

EPA is committed to conducting its business in an open and transparent manner through high quality and timely FOIA responses. The agency will work to ensure that its FOIA professionals have the support needed to meet the FOIA's requirements in a timely and efficient manner, including by providing training for all agency staff, supervisors and FOIA professionals. EPA is committed to being a flagship example of transparent, efficient, and effective government.

We will work together to serve public interest, ensure public trust, and emphasize transparency, disclosure, and cooperation.

Transparency

EPA is committed to operating in a transparent manner. I encourage offices to identify information useful to the public and consider the best ways to make that information accessible on the agency's website, without waiting for a FOIA request. EPA has many web-based tools and databases that allow the public to learn about environmental information and EPA's actions in their neighborhoods and communities. As our agency continues to expand the information and data we collect, we must also continue to look for new and better ways to make that information publicly available.

Disclosure

The FOIA's presumption of openness requires EPA to disclose information unless it reasonably foresees that disclosure would cause harm to an interest protected by one of nine FOIA exemptions. Those interests include personal privacy, confidential business information, national security, privileged communications, and law enforcement.

All agency personnel should ensure that this principle of openness is applied when responding to a FOIA request. Managers should give their staff and the agency's FOIA professionals the support needed to satisfy FOIA's transparency requirement in as timely and efficient a manner as possible. EPA's FOIA Regulations are available on the [Code of Federal Regulations](#).

Cooperation

The FOIA is everyone's responsibility at EPA. Agency FOIA professionals, managers, record custodians, reviewers, eDiscovery service professionals, public affairs staff, attorneys, and many others must coordinate to maintain and improve our FOIA program. In addition, we will endeavor to provide excellent customer service to the public by adhering to FOIA best practices, including good communication with requesters, the provision of interim responses where possible, and the proactive release of records. When we work together, the FOIA works better.

FOIA Innovation and Improvement

I encourage all staff and agency FOIA professionals to continue to offer innovative ideas to improve FOIA processing. The agency has a backlog of overdue FOIAs, and we are committed to reducing and eliminating that backlog and to improving and increasing our communication with FOIA requesters and the public.

The agency will continue FOIA training for all staff coordinated by the National FOIA Office in the Office of General Counsel. These training efforts and continued annual training of all staff will help ensure that the agency is responding effectively and efficiently to FOIA requests and leveraging available technological resources. The FY 2023 FOIA training for all EPA and a new training for supervisors is available in FedTalent. You may also access various FOIA

resources, including the [FOIA Toolkit](#), and additional trainings on the [EPA National FOIA Intranet Site](#).

Questions about processing, or whether FOIA exemptions apply to certain information, can be directed to local FOIA professionals, the Office of General Counsel, and the Offices of Regional Counsel. Questions about FOIA policy, procedures, appeals, and litigation should be directed to the appropriate components in the Office of General Counsel.

Celebrating FOIA Implementation

The Department of Justice's Virtual Celebration included a Sunshine Week Kickoff with a presentation of Sunshine Week FOIA Awards, an opportunity for federal agencies to join news organizations and the public in emphasizing the importance of transparency in government operations. I am proud that four EPA FOIA Professionals received Sunshine Week Awards:

- **Sandra Lesch** – *Award for Exceptional Service by a FOIA Professional*. As an attorney and project manager, Ms. Lesch managed FOIA responses on behalf of several program divisions within EPA Region 9 and worked tirelessly to train and mentor other FOIA Project Managers. When EPA Region 9 lost a consummate FOIA professional with the recent retirement of its long-time FOIA Officer, Ms. Lesch used her knowledge and energy to seamlessly step into the role of FOIA Officer to bridge the gap pending the selection and training of a permanent replacement. In this way, she leads by example, inspiring better and more attentive work among her peers and colleagues.
- **Wanda Calderon** – *Lifetime Service Award*. Ms. Calderon, the EPA Region 2 FOIA Officer, has demonstrated high standards of excellence in the administration of the FOIA program throughout her career of over 35 years with the EPA. She is passionate about customer service, and undaunted by FOIA response complexity. Ms. Calderon faced significant challenges in FOIA program administration, including being the only full-time person handling FOIA responses for the Region until 2020. During the pandemic office closures, many hard copy records were inaccessible, but Ms. Calderon worked skillfully with other divisions and requesters to ensure that the requestors received their documents as expeditiously as possible when the records were once again available.
- **Gail Davis** – *Award for Outstanding Contributions by a New Employee*. Ms. Davis joined EPA's National FOIA Office and began working on FOIA responses for the first time in February 2020, just as the global pandemic was beginning. She immediately contributed significantly to the EPA FOIA community. Among other things, she led process improvements by reducing the average time EPA took to make decisions on expedited processing applications by an extraordinary 84%.
- **Heather Olson** – *Award for Outstanding Contributions by a New Employee*. Ms. Olson started her career at EPA in July of 2020 with no previous FOIA experience.

Ms. Olson is a member of EPA's Office of Air and Radiation (OAR) FOIA Team and focuses her FOIA work on processing approximately 50 FOIA requests for calendars of senior career officials a year. When she started reviewing calendar FOIAs at the end of 2021, the process was slow and tedious, sometimes requiring more than 8 hours to review a single month of an individual's calendar, consisting of 400 to 800 pages. Through her leadership and deployment of innovative solutions, the time to process calendars was reduced by more than 50%, effectively doubling available resources to either help respond to other FOIA requests or devote time to other priorities.

Please join me in congratulating them!

I look forward to working with you to enhance our implementation of the Freedom of Information Act as we work together to restore public confidence in our agency and our mission. Promoting transparency, information disclosure, and cooperation through FOIA implementation will help us achieve the agency's mission of protecting people and the environment.

Michael S. Regan
Administrator

From: Russell, Maishia <Russell.Maishia@epa.gov> **On Behalf Of** Prieto, Jeffrey (he/him/his)
Sent: Thursday, September 14, 2023 12:07 PM
To: OGC ALL USERS <OGC_ALL_USERS@epa.gov>
Subject: Phase II FOIA Rule Publication



Colleagues,

Today, September 14, 2023, EPA published the Phase II FOIA final rule updating and modernizing the Agency's FOIA regulations to make FOIA more affordable and expedite access to information for communities potentially experiencing disproportionate and adverse human health or environmental effects.

The Phase II FOIA Rule is the culmination of years of cross-agency efforts to update and improve the agency's FOIA regulations. FOIA is critical tool to promote transparency, accountability, and public trust as EPA takes on the climate crisis, advances environmental justice, ensures scientific integrity, and promotes public health.

The Phase II FOIA Rule reflects EPA's dedication to advancing environmental justice and working towards ensuring equal access for all communities to information about environmental and health harms. The Phase II FOIA Rule does this by establishing a new standard, in addition to the existing "compelling need" standard, for expediting EPA's response to FOIA requests for records when there is a pressing need to inform a community that is potentially experiencing disproportionately high and adverse human health or environmental effects. EPA will also waive fees for such FOIA requests.

The Phase II FOIA Rule promotes openness by, among other things, modernizing EPA's FOIA fee structure, no longer charging for FOIA requests unless \$250 of fees are accumulated, and updating portions of the regulations that had not been substantively updated since at least 2002. Through the issuance of this rule, EPA also met settlement agreement obligations in full and on schedule.

This action is part of broader initiatives taken by the agency to improve our FOIA program. We are proud to report that EPA has eliminated its backlog of FOIA appeals and reduced its average appeal response time by 95%. EPA has also dramatically reduced its backlog of FOIA responses, as reported to the Department of Justice, from a high of 2,761 at the end of FY 2018 to 1,537 at the end of FY 2022.

Issuance of the Phase II FOIA Rule would have been impossible without the essential support of agency-wide staff. I am so proud of the cross-agency team that provided the advice, ideas, and collaboration necessary to this effort. From developing options for agency decisionmakers,

to advising on legal risk, providing insight into the needs of FOIA request processors, navigating complex policy and implementation considerations, and working with interagency partners, this team has done significant work that will benefit the agency and the public for years to come. As the Agency's Chief FOIA Officer, I would like to take this chance to recognize the core group of EPA's Phase II team for their leadership:

From NFO: Ian Altendorfer, Krishna Bhatt, Christopher Creech, Gail Davis, Kevin Hill, Nathan Solorio, Denise Dykeman, and Patricia Weth.

From GLO: Peter Bermes, Joan Kaminer, Lynn Kelly, and Kevin Miller.

From EPA FOIA Community who provided data and comments: Neil Bigioni, Joseph Carney, Michael D'Andrea, Alan Engels, Eduardo Gonzalez, Kaushal Gupta, Jennifer MacDonald, Zoe Oldham, Connie Puchalski, and Rita Tate.

From CRFLO: Johanna Johnson, Adam Wilson, and Mary O'Lone.

From CCILO: Adriane Busby, Michele Knorr, Leslie Reynolds, and Tom Marshall.

From OP: Kathleen Vello and Caryn Muellerleile.

From OEJECR: Charles Lee, Matthew Lee, and Onyemaechi Nweke.

I would also like to recognize Timothy Epp, Elise Packard, and Natalia Sorgente for their leadership and support.

This diverse collection of EPA staff truly exemplifies the brilliance and enthusiasm that you all bring to EPA every day.

-Jeff