

**FISH AND WILDLIFE SERVICE
ADMINISTRATIVE PROCEDURE**

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OVERVIEW

1.1 What is the purpose of this chapter? This chapter:

A. Ensures that the U.S. Fish and Wildlife Service (Service) carries out its responsibilities under the Freedom of Information Act (FOIA) in accordance with all applicable Federal and Department of the Interior (Department) regulations and policies;

B. Steps down the requirements and responsibilities in the Department's FOIA regulations and policies for Service implementation (see [section 1.6](#) for citations); and

C. Requires that, when responding to FOIA requests, employees follow the policies and procedures in:

(1) The [Department of the Interior Freedom of Information Act \(FOIA\) Handbook](#), and

(2) Those that supplement the Department's in the [Service FOIA Processes and Procedures Handbook](#).

1.2 What is the scope of this chapter? This chapter applies to all Service programs, offices, Regions, and field stations (i.e., components).

1.3 What is the FOIA? The FOIA ([5 U.S.C. 552](#)) is a statute that establishes a right of public access (with certain exemptions and exclusions) to agency records.

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1.4 What is the overall policy?

A. The Service FOIA Officer is responsible for all FOIA requests Servicewide and is the decision-making authority for FOIA releases issued by the Service. Only a single employee within the Service may hold the title of FOIA Officer. At no time should another Service employee represent him/herself to the public or another agency as a “FOIA Officer.” We refer to other Service employees with FOIA responsibilities as either FOIA Coordinators or FOIA Contacts (see [section 1.7](#)).

B. Employees responsible for responding to and fulfilling FOIA requests must:

(1) Follow the Department’s policies, regulations, and procedures in [383 Departmental Manual \(DM\) 15](#), the [Department of the Interior FOIA Handbook](#), and on the Departmental FOIA program’s [FOIA Guidance website](#);

(2) Follow the supplementary policies, procedures, and Service-specific guidance in this chapter and the [Service FOIA Processes and Procedures Handbook](#); and

(3) Process requests on a first-in, first-out basis within their assigned processing track.

C. Regions and programs must not create or implement any additional FOIA policies or requirements that conflict with those prescribed by the Department or the Service FOIA Officer. They may not add any requirements that extend the time it takes to process a FOIA response.

D. For all incoming FOIA requests, employees responsible for coordinating our response (i.e., Regional and Program FOIA Coordinators) must follow the requirements in this policy to ensure we respond in the most expeditious and thorough manner possible (also see [sections 1.7F](#) and [1.9](#)).

E. The Service FOIA Officer must review and sign all outgoing letters, including full releases, unless he/she formally delegates this responsibility in writing to a FOIA Coordinator with appropriate training, as determined by Departmental requirements. He/she is the only official within the Service who has the authority to delegate this responsibility. See the [Service FOIA Processes and Procedures Handbook](#) for more information on the training requirements for FOIA Coordinators.

F. We must work to reduce our backlog of FOIA requests across the Service by 10% annually. The Department of Justice sets this requirement.

(1) To help each Region and program understand how to fulfill this goal, the Service FOIA Officer gives each Region/program:

(a) Their final backlog number at the end of each fiscal year,

(b) Office-specific backlog reduction targets based on this analysis, and

(c) Updates on their backlog status on a monthly basis.

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(2) We must close out our 10 oldest FOIA requests each fiscal year. At the beginning of the fiscal year, the Service FOIA Officer provides a list of the 10 oldest pending requests from the previous fiscal year and works with the responsive Region or program to resolve those requests expeditiously.

G. See Exhibit 1, Structure of the U.S. Fish and Wildlife Service FOIA Program, for a visual representation of the FOIA program structure.

1.5 What terms do you need to know to understand this chapter and the accompanying handbook? Although we have defined a few terms below for clarity, you can find an extensive list of definitions of FOIA-related terms in the Department's FOIA regulations ([43 CFR 2](#)).

A. Exclusions. Refers to law enforcement records that are exempt from FOIA as delineated by [5 U.S.C. 552\(c\)\(1\)-\(3\)](#).

B. Exempt. In the context of FOIA, a record is exempt if it, or a portion of it, is not subject to disclosure due to one or more of FOIA's nine statutory exemptions, which can be found at 5 U.S.C. 552(b)(1)-(9).

C. Expedited processing. Giving a FOIA request priority and processing it ahead of other requests because the requester has shown a compelling need for the records. The Department's regulations on expedited processing are in 43 CFR 2.20.

D. FOIA library. A physical or electronic compilation of records that we must make (or make at our discretion) available to the public for inspection and copying under 5 U.S.C. 552(a)(2).

E. Frequently requested records. Records that have been released to any person in response to a FOIA request and that have been requested, or may be requested, at least two more times under FOIA (for a total of three releases). According to the FOIA Improvement Act of 2016, we must post these records publicly.

F. Multitrack processing. The process of placing simple requests, requiring relatively minimal review, in one processing track and more voluminous and complex requests in one or more other tracks. We process the requests in each track on a first-in, first-out basis. The Department defines criteria for each track in [Subpart D](#) of its FOIA regulations and in chapter 8 of the [Department of the Interior FOIA Handbook](#).

G. Record. Any documentation or data that an agency either creates or obtains that is under its possession and control at the time of the FOIA request, or that an entity maintains under Government contract for the purposes of records management.

H. Requester. A person requesting records or filing an appeal under FOIA.

I. Review. The examination of a record located in response to a request to determine whether any portion of it is exempt from disclosure.

(1) Review time includes:

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(a) Processing a record for disclosure, including the process of redacting the record and marking the appropriate exemptions; and

(b) Time spent both obtaining and considering any formal objection to disclosure under Subpart G of 43 CFR 2.

(2) Review time excludes time spent with the Solicitor’s Office resolving general legal or policy issues regarding the application of FOIA exemptions.

J. Search. The process of looking for and retrieving records responsive to a request. Searching includes page-by-page or line-by-line identification of information within records, and the reasonable efforts expended to locate and retrieve electronic records.

1.6 What are the authorities for this chapter? A list of all applicable authorities and related policies is available on the Department’s [FOIA Guidance site](#). We are responsible for complying with each policy listed at that location. Following are only a few of the foundational authorities:

A. [Department of the Interior Freedom of Information Act \(FOIA\) Handbook](#).

B. FOIA (Public Law 89-487), as amended ([5 U.S.C. 552](#)).

C. FOIA Improvement Act of 2016 ([Public Law 114-185](#)).

D. Freedom of Information Act; Records and Testimony ([43 CFR 2](#)).

E. [383 DM 15, Freedom of Information Act Policy, Responsibilities, and Procedures](#).

RESPONSIBILITIES

1.7 Who is responsible for managing the Service’s FOIA program? See Table 1-1.

Table 1-1: Responsibilities for Managing the Service’s FOIA Program

These employees...	Are responsible for...
A. The Director	<p>(1) Establishing a FOIA program within the Service to ensure compliance with FOIA and the Department’s FOIA regulations and procedures, and</p> <p>(2) Approving or declining to approve Servicewide FOIA policies.</p>
B. Assistant Chief Information Officer (ACIO) for the Service, i.e., the Assistant Director - Information Resources and	<p>(1) Overseeing and managing the Service’s FOIA program,</p> <p>(2) Ensuring that we are meeting FOIA-related performance goals,</p> <p>(3) Designating the Service FOIA Officer,</p>

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These employees...	Are responsible for...
Technology Management (IRTM)	<p>(4) Designating the Service FOIA Public Liaison,</p> <p>(5) Coordinating with and providing training to key FOIA personnel within the Service, and</p> <p>(6) Promoting employee awareness of the Service's FOIA obligations.</p>
C. Regional Directors	<p>(1) Ensuring that:</p> <p style="padding-left: 40px;">(a) Employees within their Regions follow the FOIA policies and procedures in this chapter and the accompanying handbook;</p> <p style="padding-left: 40px;">(b) There is a Regional FOIA Coordinator to provide support for the Region and cooperating with the Service FOIA Officer and their FOIA Coordinator to resolve related issues;</p> <p style="padding-left: 40px;">(c) The Region designates a sufficient number of FOIA Contacts with appropriate training to support the Regional FOIA Coordinator. The number of FOIA Contacts needed should be determined based on the Region's FOIA workload;</p> <p style="padding-left: 40px;">(d) Staff within the Region search for responsive records and provide them to FOIA Contacts in a timely fashion; and</p> <p style="padding-left: 40px;">(e) Staff are available to assist the Regional FOIA Coordinator with interpreting records that they have provided; and</p> <p>(2) Establishing a web-based electronic FOIA Reading Room within the Region.</p>
D. Headquarters (HQ) Directorate members	<p>Ensuring that:</p> <p style="padding-left: 40px;">(a) There is a Program FOIA Coordinator to provide support for the program and cooperating with him/her and the Service FOIA Officer to resolve related issues;</p> <p style="padding-left: 40px;">(b) Employees within the program follow the FOIA policies and procedures in this chapter;</p> <p style="padding-left: 40px;">(c) Their program designates a sufficient number of FOIA Contacts with appropriate training to support the Program FOIA Coordinator. The number of FOIA Contacts needed should be determined based on the program's FOIA workload;</p>

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These employees...	Are responsible for...
	<p>(d) Staff within the program search for responsive records and provide them to FOIA Contacts in a timely fashion; and</p> <p>(e) Staff are available to assist Program FOIA Coordinators with interpreting records that they have provided.</p>
E. Service FOIA Officer	<p>(1) Setting Servicewide policy for implementing FOIA through this chapter and the Service FOIA Processes and Procedures Handbook;</p> <p>(2) Serving as the decision-making authority for FOIA releases issued by the Service;</p> <p>(3) Communicating new and updated Departmental FOIA policies to employees;</p> <p>(4) Determining which Region(s) or program(s) are responsible for preparing the response to a request;</p> <p>(5) Tracking and managing all Service FOIA requests to ensure that:</p> <p style="padding-left: 40px;">(a) Responses are accurate, complete, and prepared in a timely manner; and</p> <p style="padding-left: 40px;">(b) Fees are assessed and collected, as appropriate;</p> <p>(6) Coordinating with Departmental staff and other bureau FOIA Officers to resolve requests that involve or potentially involve multiple bureaus;</p> <p>(7) Reviewing and signing all outgoing letters, including full releases, unless he/she delegates this responsibility in writing to a FOIA Coordinator with appropriate training;</p> <p>(8) Maintaining documentation of actions taken in processing each FOIA request;</p> <p>(9) Providing timely, accurate, and complete information regarding our FOIA program to Departmental FOIA staff;</p> <p>(10) Obtaining necessary review and concurrences from Departmental FOIA policy staff and the Solicitor's Office before sending an official response;</p> <p>(11) Maintaining an email address for accepting the submission of electronic requests (fwhq_foia@fws.gov);</p> <p>(12) Monitoring our FOIA request backlog;</p>

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These employees...	Are responsible for...
	<p>(13) Developing and implementing strategies with the intent of reducing our FOIA backlog by at least 10 percent each year and ensuring we respond to the 10 oldest FOIA requests each year;</p> <p>(14) Developing and maintaining a FOIA website, electronic FOIA library, and electronic index of frequently requested records for HQ programs in compliance with FOIA and applicable web publishing and information quality guidelines;</p> <p>(15) Providing annual training and additional technical assistance to Service employees who are responsible for processing FOIA requests;</p> <p>(16) Ensuring employees with access to the Electronic FOIA Tracking System (EFTS) are aware of the appropriate maintenance, use, and other handling requirements; and</p> <p>(17) Ensuring our EFTS entries are accurate, consistent, complete, and entered in a timely manner.</p>
<p>F. Regional and Program FOIA Coordinators (also see section 1.9)</p>	<p>(1) Making decisions on FOIA requests that are assigned to them, in consultation with the Service FOIA Officer;</p> <p>(2) Reviewing incoming FOIA requests and ensuring they are logged appropriately in EFTS;</p> <p>(3) Preparing the acknowledgement of receipt letters in accordance with Departmental and Service policy (see section 1.9D);</p> <p>(4) Making decisions about fee waiver and expedited processing requests within the statutory time limits;</p> <p>(5) Ensuring FOIA Contacts conduct reasonable searches in response to FOIA requests;</p> <p>(6) Reviewing records found in accordance with FOIA and Departmental policy;</p> <p>(7) Consulting with the Service FOIA Officer before sending consultations or referrals to another office, bureau, or agency;</p> <p>(8) Consulting with the Service FOIA Officer (unless delegated responsibility per section 1.4E) and appropriate Departmental staff (usually the Solicitor’s Office) before:</p>

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These employees...	Are responsible for...
	<p>(a) Withholding any portion of a record under a FOIA exemption,</p> <p>(b) Denying a fee waiver,</p> <p>(c) Voluntarily releasing a record that is exempt from disclosure, or</p> <p>(d) Using a FOIA exclusion;</p> <p>(9) Ensuring that copies of records that are sent to the requester or made available for inspection are legible;</p> <p>(10) Keeping records of information that has been released or withheld as a reference for future requests and to support any potential appeal(s) or litigation;</p> <p>(11) Annotating the official file (see section 6.2 of the Department's FOIA Handbook for more information) in accordance with Departmental guidelines to show:</p> <p style="padding-left: 40px;">(a) Which offices and individuals conducted a search in response to the request,</p> <p style="padding-left: 40px;">(b) What was searched, and</p> <p style="padding-left: 40px;">(c) When and how the search was conducted;</p> <p>(12) Obtaining written assurance of payment or advance payment as necessary; and</p> <p>(13) Uploading copies of original requests and all response letters, including acknowledgment, interim response, and final response letters, into the EFTS.</p> <p>(14) <i>For Regional FOIA Coordinators</i>—developing and maintaining an electronic index of frequently requested Regional records (Regional FOIA Reading Room).</p> <p>(15) <i>For Program FOIA Coordinators</i>—assisting with adding appropriate records to the HQ FOIA Reading Room.</p>
G. FOIA Contacts	<p>(1) Leading reasonable searches within their areas of responsibility in response to FOIA requests (see section 1.7I for a description of the responsibilities of employees who are conducting searches);</p> <p>(2) Providing information to the Regional or Program FOIA</p>

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These employees...	Are responsible for...
	<p>Coordinator regarding:</p> <ul style="list-style-type: none"> (a) Which individuals within their office conducted a search in response to the request, (b) What systems were searched, and (c) When and how the search was conducted, including search terms used; <p>(3) Assisting FOIA Coordinators with interpreting records found during searches, if necessary; and</p> <p>(4) Ensuring copies of records provided are legible.</p>
H. Service FOIA Public Liaison (within IRTM)	<p>(1) Helping members of the public to locate records and frame their requests;</p> <p>(2) Reporting to the Department's Chief FOIA Officer on the public's interaction with the Service;</p> <p>(3) Serving as a supervisory official to whom a requester can raise concerns about the service they received; and</p> <p>(4) Helping to reduce delays, increase transparency and understanding of the status of requests, and provide dispute resolution.</p>
I. All Employees	<p>(1) Responding promptly and accurately to FOIA-related requests;</p> <p>(2) Documenting time spent searching, systems searched, and other information as required by the FOIA Contact when conducting a search for responsive records;</p> <p>(3) Assisting Regional and HQ Program FOIA Coordinators with interpreting records provided, as needed, on a timely basis; and</p> <p>(4) Complying with all Federal, Departmental, and Service FOIA requirements, policies, and procedures.</p>

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PROCESSING REQUESTS AND OBTAINING REVIEW

1.8 What do employees do if they receive a FOIA request or are assigned one?

A. If you receive a FOIA request from a member of the public, give it to your Regional or Program FOIA Coordinator as soon as possible. The Regional or Program FOIA Coordinator will upload the request into EFTS.

B. If you are assigned to perform a search in response to a FOIA request, follow the detailed guidance in the [Service FOIA Processes and Procedures Handbook](#).

1.9 What must Regional/Program FOIA Coordinators do when they process a request?

The Regional/Program FOIA Coordinator must:

A. Enter the request into EFTS within 24 hours of receipt;

B. Assign each request to a processing track, according to the multitrack processing procedure defined in [Subpart D](#) of the Department's FOIA regulations, based on the estimated time required to complete each response;

C. Assign a search to the appropriate FOIA Contact(s) within their Region or program, who will begin leading the effort to conduct a reasonable search of the appropriate office(s) for responsive records;

D. Prepare an acknowledgment letter using the approved language to send to the requester within 10 days of the date of receipt (this language may be combined into one final response letter if the request will be completed within 10 days of receipt). If the Regional/Program FOIA Coordinator has not been delegated signature authority per [section 1.4E](#), the Service FOIA Officer must review, sign, and send this letter;

E. Conduct an initial review of the records;

F. For complex or voluminous requests, communicate with requesting parties at least once each month to keep them informed of the status of their requests and the placement of their requests within the processing track (e.g., the request is currently sixth within the complex processing track); and

G. Complete our responses to requests, with the surname of the Service FOIA Officer and other parties as necessary, within 20 days, unless a request is in the "complex" or "exceptional/voluminous" processing tracks or if "unusual circumstances" exist as outlined in 43 CFR 2.19. See chapter 8 of the [Department of the Interior FOIA Handbook](#) for more information.

1.10 How does the Service review and approve requests that require additional review?

A. As required by the Department's memorandum, "[Awareness Process for Freedom of Information Act Productions](#)" (May 24, 2018), the Service FOIA Officer must notify the appropriate Service and Department officials (e.g., the Assistant Director for External Affairs or his/her designee, the Director, the Executive Secretariat) regarding certain types of records

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before we release them to the requester. These types of requests include, but are not limited to, requests where current political appointees are named in the records.

B. We also require that the Service FOIA Officer notify the appropriate Service and Department officials for those records that are controversial or are likely to be of high media interest, or both. The Service FOIA Officer will work with Regional and Program FOIA Coordinators and the Office of External Affairs to identify such records as new requests are received.

C. FOIA Coordinators must send release packages containing such records to the Service FOIA Officer as soon as practical once review is complete. No releases can be made until the Service FOIA Officer confirms they can be released, even if a FOIA Coordinator has delegated signature authority for release letters.

D. The [Service FOIA Processes and Procedures Handbook](#) provides more information on how the Service implements this requirement.

FREQUENTLY REQUESTED RECORDS

1.11 How does the Service ensure that frequently requested records are available online?

A. We post frequently requested HQ program records in our [FWS FOIA Reading Room](#).

B. Each Region is responsible for posting frequently requested Regional records in a Region-specific FOIA Reading Room. These Reading Rooms must be established within 60 days of the publication date of this chapter.

C. We encourage Regions and programs to proactively post releases of records online, especially for records the Coordinators anticipate will be requested again, as this may reduce the number of FOIA requests in the future.

D. Regions and the Service FOIA Officer in HQ must post any records requested three or more times.

MORE FOIA INFORMATION

1.12 Where can employees find more information about the Service's FOIA policy and procedures?

A. Additional details about these procedures are in the [Service FOIA Processes and Procedures Handbook](#), and you can contact the Service FOIA Officer for more information.

B. Our policies and procedures align with the Department's policy for managing our FOIA program. In addition to [383 DM 15](#), the [Department of the Interior FOIA Handbook](#), and

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[43 CFR 2](#), the [Department's official FOIA Program website](#) provides information on making and tracking a FOIA request, the fee schedule and other fee-related policy, and more.

/sgd/ James W. Kurth
DEPUTY DIRECTOR

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