



## **U.S. Consumer Product Safety Commission**

### **Chief FOIA Officer Report for 2015**

The Consumer Product Safety Commission (CPSC or Commission) is an independent regulatory agency established by the Consumer Product Safety Act. CPSC is charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the agency's jurisdiction. Deaths, injuries, and property damage from consumer product incidents cost the nation more than \$1 trillion annually. CPSC is committed to protecting consumers and families from products that pose a fire, electrical, chemical, or mechanical hazard. CPSC's work to help ensure the safety of consumer products – such as toys, cribs, power tools, cigarette lighters, and household chemicals – has contributed to a decline in the rate of deaths and injuries associated with consumer products over the past 40 years.

As required in the Attorney General's FOIA Guidelines, The CPSC Acting Chief FOIA Officer conducted a review of the administration of the FOIA and analyzed the data from its FOIA Annual Report from Fiscal Year 2014 to generate this report.

#### **Section I. Steps Taken to Apply the Presumption of Openness**

**The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.**

**Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.**

*FOIA Training:*

***1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?***

Yes.

***2. If yes, please provide a brief description of the type of training conducted and the topics covered.***

FOIA request processing is centralized in the CPSC's Secretariat, a division of the Office of the General Counsel. In April 2014, the Office of the Secretary and the CPSC's Office of Human Resources organized a 3-day, in-house training seminar that was conducted by the Graduate School USA. The in-house training seminar focused on the Freedom of Information Act and the Privacy Act. The topics addressed in the training included automatic disclosures of records, methods for identifying and locating records, procedural aspects of FOIA requests, appropriate use of FOIA exemptions, and protection of personal privacy in the context of FOIA requests. FOIA professionals in the Office of the Secretariat and staff from other agency offices attended the training. The training was also made available to designated individuals who perform file searches for the Commission's program offices in response to FOIA requests.

***3. Did your FOIA professionals attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?***

Yes. In addition to the training seminar described in the response above, FOIA staff attended the annual FOIAXpress User's Conference, which provides updates on new developments in the FOIAXpress Software, by AINS, Inc. Staff also attended training offered by the vendor of the CPSC's FOIA electronic tracking system, AINS, Inc. However, CPSC FOIA Staff did not attend any FOIA training offered by another agency during the reporting period.

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

One hundred percent of the FOIA staff attended the 3-day seminar mentioned in the response to question 2. About 45 percent of other staff with FOIA responsibilities attended substantive FOIA training.

***5. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.***

In keeping with this requirement, our FOIA office worked closely with the Commission's Office of Human Resources to ensure continued annual training such as that provided by the Graduate School USA in April 2014. The FOIA office has also developed a plan to conduct at least one FOIA refresher training session during each fiscal year.

*Outreach:*

***6. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?***

FOIA professionals speak and correspond with requesters daily about FOIA issues relating to specific requests as well as general FOIA matters and policies. The scientific nature and complexity of many of the agency's records result in frequent dialogue between FOIA professionals and requesters. To facilitate this dialogue, the FOIA professionals provide requesters with their direct contact information.

In addition, requesters frequently contact our FOIA Public Liaisons through the FOIA Requester Service Center on the CPSC website.  
<http://www.cpsc.gov/Newsroom/FOIA/FOIA-Requester-Service-Center-and-FOIA-Public-Liaisons--Check-Status-of-a-FOIA-Request/>.

The FOIA staff will work with the CPSC's Office of Communications to develop an outreach program specifically targeted to the requester community to further simplify the process of understanding and obtaining CPSC records. The program will be informative in nature to ensure that requesters fully understand the activities of the CPSC and the availability of CPSC records.

***7. If you did not conduct any outreach during the reporting period, please describe why?***

See response to question no. 6.

*Discretionary Releases:*

***8. Does your agency have a distinct process or system in place to review records for discretionary release?***

Yes. The CPSA FOIA regulations at 16 C.F.R. § 1015.1(b) set forth the Commission's clearly articulated policy that with respect to requests for records, disclosure is the rule, and withholding is the exception. Generally, the originator of the document or an appropriate subject matter expert is consulted initially in connection with FOIA requests. A secondary review is conducted by the FOIA professional to confirm the applicability of any exemption, in light of the general presumption of openness. Often additional input from the originator or subject matter expert will be sought to the extent that an exemption appears to be applicable. Particularly where records are to be withheld, the FOIA professionals frequently consult with the attorneys of the CPSC's Office of the General Counsel on whether to release certain records.

***9. During the reporting period did your agency make any discretionary releases of otherwise exempt information?***

Yes. As described in the response to question no. 11, CPSC made numerous discretionary releases.

***10. What exemption(s) would have covered the information that was released as a matter of discretion?***

Discretionary releases in large part were made for information that would have been covered under FOIA Exemption 5, 5 U.S.C. § 552(b)(5).

***11. Provide a narrative description, as well as some specific examples of the types of information that your agency released as a matter of discretion during the reporting year.***

In the ordinary course of the agency's business, some documents that could be withheld from public disclosure are routinely posted on to the CPSC website. For instance, Commissioner briefing packages that could be protected under the deliberative process privilege are made publicly available as a matter of course.

In addition, during the reporting period, the CPSC made numerous discretionary releases. Most records previously withheld would have been covered by Exemption 5. Records released on a discretionary basis are usually from investigative files involving completed corrective actions and recalls that remain open for staff to monitor the corrective action. Discretionary release considerations are also applied to draft documents in closed investigative files where no further action will be taken. Additional discretionary releases during the reporting year included:

- Emails containing internal communications which could be protected under the deliberative process privilege; and
- Draft reports and documents which could be protected under the deliberative process privilege.

An example of the agency's going beyond the strict requirements of FOIA came in the context of staff's release of spreadsheet information that was responsive to a FOIA request, but which was difficult for the requester to understand. Although FOIA does not require an agency to generate documents in response to a request, in this instance, staff originated and provided the requester a new document intended to assist the requester's analysis.

***12. If your agency was not able to make any discretionary releases of information, please explain why?***

Not applicable to CPSC.

*Other Initiatives:*

***13. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.***

The FOIA office has instructed all program office designees with respect to FOIA searches that all responsive information, regardless of sensitivity, must be provided to the FOIA office for a final determination on release.

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

The presumption of openness is the central policy of the CPSC's Secretariat and Office of the General Counsel for the processing of FOIA requests. With respect to requests for records, disclosure is the rule, and withholding is the exception. *See* 16 C.F.R. § 1015.1(b). All records that are not subject to an exemption are disclosed. Records that may be subject to exemption from disclosure are made available as a matter of discretion, except when prohibited by law. *See also* the CPSC Open Government plan on the CPSC website at: <http://www.cpsc.gov/About-CPSC/Agency-Reports/open/>.

**Section II. Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests**

**As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.**

**Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. You should also include any additional information that that [sic] describes your agency's efforts in this area.**

*Personnel:*

***1. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies about the status of converting all eligible FOIA professionals to the new Government Information Series. If your agency reported that its staff was eligible for conversion but had not yet converted all professionals to the new series, what is the current proportion of personnel that have been converted?***

All of our FOIA professional positions have been converted to the new Government Information Specialist job series, and the CPSC employs FOIA professionals in this series.

***2. If your agency has not converted all of its eligible employees yet, what is your plan to ensure that all FOIA professionals' position descriptions are converted?***

We have already converted our FOIA professionals to the Government Information Specialist series.

*Processing Procedures:*

***3. For Fiscal Year 2014, 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 2014 Annual Report.***

In FY 2014, CPSC received only three requests for expedited processing. These requests were adjudicated in an average of 1 day, with a median of 1 day. None of these requests met the standard for expedited processing.

***4. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.***

Not applicable to CPSC.

***5. If your agency has a decentralized FOIA process, has your agency taken steps to make the routing of misdirected requests within your agency more efficient? If so please describe those steps.***

Not applicable to CPSC.

***6. If your agency is already handling the routing of misdirected requests in an efficient manner, please note that here and describe your process for these requests.***

Not applicable to CPSC.

*Requester Services:*

***7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?***

No, but we plan to begin notifying requesters of the availability of mediation services in FY 2015. We will include language in our correspondence with requesters of their right to the mediation services offered by the Office of Government Information Services.

***8. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication?***

Yes. We provide a breakdown of all the costs associated with the processing of the request to the requester; search, duplication, review, and also any applicable waivers.

***9. If estimated fees estimates [sic] are particularly high, does your agency provide an explanation for the estimate to the requester?***

Yes. We also provide guidance to requesters on how to minimize costs by narrowing the scope of the request.

*Other Initiatives:*

***10. If there are any other steps your agency has undertaken to ensure that your FOIA System operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.***

CPSC FOIA professionals are currently working with a contractor to develop an online system that will allow the CPSC to communicate electronically with requesters and manufacturers for all aspects of our FOIA processing.

CPSC FOIA professionals also conduct periodic reviews of FOIA requests for related requests and to determine whether the responsive records meet the criteria (in terms of responsiveness) to be processed once for multiple requesters, thereby saving time and making the process more efficient.

### **Section III. Steps Taken to Increase Proactive Disclosures**

**Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.**

**Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.**

*Posting Material:*

***1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.***

Yes. CPSC's FOIA professionals have a system in place to identify records for proactive disclosure, as reflected by CPSC's policy of proactively disclosing on the CPSC website several different categories of records or information. For example, documents such as statistical and technical reports that are not affected by requirements

under Section 6(b) of the Consumer Product Safety Act, 15 U.S.C. § 2055 6(b), are posted. Also, as previously mentioned, Commission briefing materials are made publicly available in the ordinary course, even though they reasonably could be withheld.

***2. Does your process or system involve any collaboration with agency staff outside of the FOIA office? If so describe this interaction.***

The FOIA office receives numerous requests from the Commission's technical staff to post statistical and technical reports on consumer products and meeting summaries between agency staff and outside parties that are of interest to the public. These postings are usually coordinated with the Commission's Office of Hazard Identification and Reduction and the Office of Communications. The Office of Communications may issue notification to the public, including media announcements to notify the public of the postings. Examples of information proactively released through such collaboration include reports on safety testing of recreational off-highway vehicles (ROVs), incidents and deaths associated with the use of engine-driven generators, and the status of the development of fireworks safety standards.

***3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.***

"Frequently requested" records are determined by the Commission's FOIA professionals, based on the subject matter of FOIA requests received by the FOIA office. For example, if the FOIA office receives multiple requests for the same information, and if appropriate requirements have been satisfied, we post the material online. Similarly, documents relating to subjects that have garnered significant public interest routinely are posted online.

***4. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.***

The following types of records or information are subject to proactive disclosure on the CPSC website:

- Materials and briefing packages distributed to the Commission, except for matters that involve active investigations or legal advice, or other exempt matters. See <http://www.cpsc.gov/Newsroom/FOIA/Commission-Briefing-Packages/>.
- Records required under 5 U.S.C. § 522(a)(2) and Commission regulations at 16 C.F.R. § 1015.2 to be made available to the public for inspection and copying, as well as those that have been or are likely to become the subject of frequent FOIA requests. See <http://www.cpsc.gov/en/Newsroom/FOIA/>.
- Final technical and statistical reports and documents created by CPSC staff or CPSC contractors. See <http://www.cpsc.gov/en/Research--Statistics/-Technical-Reports-/>.



- Summaries of CPSC staff meetings with the public. *See* <http://www.cpsc.gov/en/Newsroom/Public-Calendar/>.
- CPSC contracts with the public and interagency agreements. *See* <http://www.cpsc.gov/en/About-CPSC/Agency-Reports/Interagency-Agreements-and-Contracts/>.
- Information concerning ongoing activities, such as agency rulemakings. *See* <http://www.cpsc.gov/en/Regulations-Laws--Standards/Rulemaking/>.
- Topics of high interest, such as ROVs, all-terrain vehicles (ATVs), phthalates, cribs, pools and spas, carbon monoxide, window cords, magnets, and thrift stores. *See* <http://www.cpsc.gov/en>.
- Filings in adjudicative proceedings where the CPSC has filed a Complaint against a manufacturer. *See* <http://www.cpsc.gov/en/Recalls/Recall-Lawsuits/Adjudicative-Proceedings/>.
- Records of Commission Actions on public matters, which include minutes of public decision-making meetings, are posted on the website almost immediately after decisions are taken by the Commission. *See* <http://www.cpsc.gov/Newsroom/FOIA/Records-of-Commission-Action-and-Commission-Meeting-Minutes>.
- Public statements of Commissioners. *See* <http://www.cpsc.gov/en/About-CPSC/Commissioners/>.
- Information relating to CPSC *Federal Register* notices, the notices for regulatory and rulemaking activities, Sunshine Act meeting notices, and Paperwork Reduction Act matters. *See* <http://www.cpsc.gov/en/Regulations-Laws--Standards/Federal-Register-Notices/>.
- Webcasts of public hearings and meetings of the Commission and videos of those webcasts. *See* <http://www.cpsc.gov/en/Search/?query=webcast&filters=all>.
- Commission and staff guidance documents informing the public of new legislation and the implications of such legislation. *See* <https://www.cpsc.gov/en/Regulations-Laws--Standards/>.

***5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.***

The CPSC Open Government Plan provides descriptions and guidelines for the use of the CPSC website and links to much of the information on the CPSC website. *See* <http://www.cpsc.gov/en/About-CPSC/Agency-Reports/open/>. Additionally, during this year, the Commission held Open Government meetings for its stakeholders at its headquarters and aired the meetings by webcast on a number of issues of public interest.

Some of the topics discussed at these meetings include recreational off-highway vehicles (ROVs), phthalates, window cords, bedside sleepers, and infant strollers and carriers.

Pursuant to the Consumer Product Safety Improvement Act of 2008, the Commission maintains a publicly available searchable database on reports of harm received from consumers and other stakeholders. See <http://www.saferproducts.gov/>. This database helps the public by providing direct access to such reports received by the Commission without a FOIA request.

#### **Section IV. Steps Taken to Greater Utilize Technology**

**A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.**

**Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that [sic] describes your agency's efforts in this area.**

*Online tracking of FOIA Requests and Appeals:*

***1. Can a member of the public track the status of his or her request or appeal electronically?***

Currently, requesters cannot electronically track their requests or appeals, but CPSC has contracted for and anticipates having the capability for electronic tracking in FY 2015. CPSC has a FOIA page: <http://www.cpsc.gov/Newsroom/FOIA>, which provides the email addresses for the FOIA Public Liaisons, where the requesters can send an email to request the status of their requests. Requesters can also directly contact the FOIA specialist working on their request.

***2. If yes, how is this tracking feature provided to the public? For example, is it being done through the regular posting of status logs, an online portal, or through another medium?***

CPSC has contracted for and anticipates having the capability for electronic tracking in FY 2015. When implementation of electronic tracking is complete, requesters will be able to submit requests, review the status of their requests, and receive responsive information online.

***3. If your agency does provide online tracking, please describe the information that is provided to the requester through this feature. For example, some online tracking features may tell the requester whether the request is “open” or “closed,” while others will provide further details throughout the course of the processing, such as “search commenced” or “documents currently in review.”***

Not applicable to CPSC.

***4. If your agency does provide online tracking for requesters, does this feature also provide an estimated date of completion?***

Not applicable to CPSC.

***5. If your agency does not provide online tracking of requests or appeals, is your agency taking steps to establish this capability? If not, please explain why?***

Yes. We are working with our electronic tracking system contractor and our computer technical staff to develop a user-friendly online tracking system for FOIA requesters. We expect the system to be operational in FY 2015.

*Making Material Posted Online More Useful:*

***6. 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.

***7. If yes, please provide examples of such improvements.***

The CPSC redesigned its website to improve its usability, partly based on comments from the public and agency stakeholders. The CPSC directs the public to post their comments on regulatory matters on [www.Regulations.gov](http://www.Regulations.gov), which allows the public to review all comments on a given matter. The CPSC’s technical staff also solicits comments from the public for statistical reports that are posted. The website also offers a way for consumers or businesses to contact the agency by email. The website also provides a quarterly listing of Letters of Advice (LOAs), which inform manufacturers and importers of violations of safety standards and notify them of the corrective action required.

***8. Have your agency’s FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?***

Yes. CPSC's FOIA professionals are working with our technical experts and contractors to develop document sharing platforms for all of our FOIA correspondence and records with requesters, manufacturers, other agencies, and other stakeholders. We anticipate having these platforms in place in FY 2015.

***9. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.***

The CPSC is engaging the public through social media, including Twitter, the OnSafety blog, Flickr, YouTube, recall widgets, email announcements and podcasts, as well as specific pages or sections of the website devoted to particular product areas. The Commission launched efforts to connect with the public and stakeholders through some popular current social media technologies to keep them informed about CPSC events and issues with which the agency is engaged. These efforts include actively managing accounts on Twitter, Flickr, and a channel on YouTube, through which users can view video of important public service announcements. The agency also provides subscription services to stakeholders such as notifications of product recalls.

***10. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?***

Yes.

***11. If so, please briefly explain what those challenges are.***

Section 6(b) of the Consumer Product Safety Act, 15 U.S.C. § 2055(b), requires that prior to the public disclosure of information the CPSC must notify each manufacturer, importer, or private labeler identified in the records to be released to provide advance notice and the opportunity to comment on the accuracy of the information and the fairness of the release. The CPSC regulation implementing section 6(b), 16 C.F.R. part 1101, allows firms to request that the CPSC re-notify them for every release of the same information. In short, CPSC cannot post or otherwise make publicly available information subject to 6(b) without following time-consuming and cumbersome procedures.

*Use of Technology to Facilitate Processing of Requests:*

***12. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes, describe the technological improvements being made.***

Yes. CPSC's FOIA professionals continue to work with our computer technical experts and contractors to develop and deploy document-sharing platforms for all of our

FOIA correspondence and records with requesters, manufacturers, other agencies, and other stakeholders. We anticipate having these platforms in place in FY 2015.

***13. Are there additional tools that could be utilized by your agency to create further efficiencies?***

Upon implementation of the program described in No. 12 above, the Commission's FOIA staff will again assess FOIA processing practices to determine whether any additional improvements to our system are necessary.

*Other Initiatives:*

***14. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?***

Yes.

***15. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.***

Not applicable to CPSC.

***16. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?***

Yes. Acknowledgement of FOIA requests, notification to requesters and to manufacturers required by section 6(a) and 6(b) of the Consumer Product Safety Act, and final FOIA responses are frequently communicated by email and fax.

***17. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?***

CPSC is implementing systems to further automate its FOIA processes. When completed, requesters of information will be able to initiate FOIA requests, get information on the status of their requests, and receive responsive information, all online.

## **Section V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests and Reduce Backlogs**

**The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section [of the] Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by**

**looking at whether agencies closed their ten oldest requests, appeals, and consultations.**

*Simple Track:*

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

Yes. The CPSC uses a separate track for simple requests.

***2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?***

No. The average number of days to process simple requests was 32 days. Please note that the statutory requirements of section 6(b) noted above adversely impact the time required to respond even to simple requests.

***3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.***

Fifty-five percent.

***4. 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.***

Not applicable to CPSC because the agency tracks simple requests separately.

*Backlogs:*

## **BACKLOGGED REQUESTS**

***5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?***

Yes. The backlog of requests at CPSC decreased from 230 in FY 2013 to 214 in FY 2014.

***6. 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 2014.***

Seventeen percent.

## **BACKLOGGED APPEALS:**

***7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?***

CPSC did not have a backlog of appeals in FY 2014.

***8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."***

N/A.

### ***Backlog Reduction Plans:***

***9. In the 2014 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2013 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you[r] 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 2014.***

N/A.

***10. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2014, what is your agency's plan to reduce this backlog during Fiscal Year 2015?***

N/A.

### ***Status of Ten Oldest Requests, Appeals, and Consultations:***

## **TEN OLDEST REQUESTS**

***11. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?***

No.

***12. 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 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.***

CPSC closed three of the 10 oldest requests that were pending as of the end of FY 2013.

***13. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?***

None of the requests were closed because the request was withdrawn by the requester.

#### **TEN OLDEST APPEALS**

***14. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual Report?***

CPSC did not report any pending appeals as of the end of FY 2013.

***15. 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 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.***

CPSC did not report any pending appeals as of the end of FY 2013.

#### **TEN OLDEST CONSULTATIONS**

***16. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 FOIA Annual Report?***

CPSC did not report any pending consultations as of the end of FY 2013.

***17. 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 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.***

N/A.

*Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:*

***18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals and consultations from Fiscal Year 2013.***



The 10 oldest requests seek voluminous complicated records and are complicated by file searching issues and processing issues, including the section 6(b) procedures described above, which require numerous notifications to manufacturers or retailers regarding potential confidentiality claims on information those firms submitted to the CPSC. Manufacturers and retailers may not be prompt in responding to these section 6(b) notices, further impairing the agency's ability to process the related FOIA requests expeditiously.

Most FOIA requests received at the CPSC seek information that identifies specific consumer products. CPSC must process such requests according to section 6(b) of the Consumer Product Safety Act, which requires that the CPSC notify each manufacturer, importer, or private labeler identified in the records to be released to allow them to comment on the accuracy of the information and the fairness of the release. An additional challenge has been identifying and producing voluminous export notifications that are responsive to pending FOIA requests.

***19. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.***

Not applicable to CPSC.

***20. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2015.***

CPSC's FOIA professionals will be focusing attention on the 10 oldest requests by contacting CPSC program officers regarding pending requests for information, speaking with the requesters to clarify their requests, and consulting with our Office of the General Counsel staff to resolve any legal issues related to the requests.

*Interim Responses:*

***21. Does your agency have a system in place to provide interim responses to requesters when appropriate?***

Yes. CPSC has a system in place to provide partial releases to requesters, whenever possible. CPSC's FOIA professionals also maintain frequent contact with requesters to update requesters on the status of their FOIA requests.

***22. If your agency had a backlog in Fiscal Year 2014, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.***

The requester for each backlogged case has received an acknowledgment of the receipt of the request and approximately 40 percent have received a substantive interim response or notification explaining the delay in the final response.

#### **Use of the FOIA's Law Enforcement Exclusions**

***Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014? If so, please provide the total number of times exclusions were invoked?***

CPSC did not invoke the cited statutory exclusions during FY 2014.

#### **Success Story**

**Out of all the activities undertaken by your agency since March 2013 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of a key achievement. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.**

- CPSC continues working with contractors and technical staff to develop an electronic document sharing system that will allow the FOIA professionals to electronically handle all correspondence and notifications to consumer product manufacturers.
- When deployed, the system will speed up FOIA processing and significantly reduce printing, paperwork and mailing costs. This project is on track for completion in FY 2015.

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