



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

APR 28 2006

MEMORANDUM FOR: Department FOIA Officers
Department FOIA Contacts

FROM: Brenda Dolan Departmental
FOIA Officer

SUBJECT: New FOIA Cut-Off Date Regulation

Effective immediately, the cut-off date used in determining records responsive to a Freedom of Information Act (FOIA) (5 U.S.C. § 552) request will be the date the search for responsive documents begins. For each request, it is important to document the date that the search begins in order to establish a uniform cut-off date. The date, the office where the search *begins*, and the individuals who conduct the search should be recorded and made part of the administrative record of the request. I will forward to each of you a draft search form for use in recording and verifying cut-off dates.

The Department has been enjoined from using the current cut-off date regulation (15 C.F.R. § 4.5(a)) by a Federal district court in Oregon. Oregon Natural Desert Association v. Department of Commerce, Case No. 05 -210-K1 (District of Oregon, April 24, 2006). That regulation is being amended, consistent with the Court order. However, the change in the cut-off date (from the time the proper component receives the request to the date the search actually begins) must be used even before the amendment becomes final.

If you have any questions about this matter, please call me at (202) 482-3258.