

TESTIMONY OF
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BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY, INFORMATION POLICY,
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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

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Good afternoon Chairman Lankford, Representative Connolly, and members of the Subcommittee. My name is Andrew Battin, Director of the Office of Information Collection in the U.S. Environmental Protection Agency's (EPA) Office of Environmental Information. I am pleased to appear before you today to discuss the development of the FOIA Module being developed by EPA in partnership with the National Archives and Records Administration and the Department of Commerce.

EPA is committed to the implementation of the Administration's Open Government and Transparency goals. EPA demonstrated this commitment by striving for reduction in processing time of initial Freedom of Information Act (FOIA) requests and recognizing that information technology creates an opportunity to improve our FOIA performance.

EPA has sought continually to be proactive in improving our FOIA administration and innovative in the use of technology to enhance the FOIA process, both internally and for the public. We made it a priority to deploy a system to help track requests and produce EPA's annual FOIA Report.

Further, the Agency believes that efforts made to improve processing and extend public access to documents that are responsive to FOIA requests is very much in keeping with the letter and spirit of the principles in the Administration's Open Government Directive. Embracing the Directive's mandate for greater transparency, EPA has posted databases from multiple program areas to its website containing information frequently requested under FOIA.

We believe EPA's FOIA performance documents our commitment to openness and continuous improvement. EPA's program and regional offices analyze and respond to more than 10,000 FOIA requests each year. Over the past several years, EPA aggressively tackled its backlog of overdue requests while responding to new requests in a timely manner. In 2001, there were 23,514 overdue FOIA requests, which was 165% of the number of requests received each year by EPA. The Agency revised its FOIA procedures and processes to reduce overdue requests to less than 10% of the number of new requests received each year. By fiscal year 2007, we met our goal and continued to reduce our backlog so that by the end of fiscal year 2011, the Agency's backlog totaled only 226. Furthermore, to ensure consistency in the application of statutory criteria, we moved all fee waivers and expedited processing decisions from the regions to our national office in 2009.

While these improvements and efficiencies have been made, there is still much more that could be improved by having all publicly released documents made available online as they become cleared for release in response to a FOIA request. Continued access to these documents has many benefits. Especially significant here is the capability that better tools can give us to recapture the effort required to identify, review and prepare a set of documents for public release. Through a data repository, we could quickly locate that documents if needed again and minimize the effort to provide the same documents consistently.

To build on our strong record of transparency, innovative use of available technologies, and overall FOIA performance, in June 2010 our Deputy Administrator, Bob Perciasepe, launched a cross-EPA workgroup to identify ways to further improve the efficiency and consistency of our FOIA responses as well as update regulations and policies. His mandate to the workgroup included better use of tools “to inform citizens in a timely way about what is known and done by their government...[, and to] recommend[]... any needed changes to ensure the effective use of such tools.” The workgroup report included a recommendation to “invest in tools and technologies that streamline FOIA operations and increase public access and transparency.”

As managing partner of the eRulemaking Program, EPA noted that the FOIA process mirrors many of the processes used by the public to review proposed rulemakings and submit comments into www.regulations.gov. To this end, we explored whether the eRulemaking Program’s technology infrastructure could be used to accept FOIA requests, store them in a

repository for processing by agency staff, and allow responsive documents to be uploaded into the system and posted for public access. These analyses indicated that the eRulemaking infrastructure could be used to support FOIA processing. Further, these analyses indicated that leveraging the eRulemaking technology infrastructure could be accomplished with a fairly modest investment.

EPA shared the analyses with the federal government's FOIA leads, the Office of Information Policy at the Department of Justice and the Office of Government Information Services at the National Archives and Records Administration (NARA) to validate the approach of developing a FOIA Module that would improve the processing of FOIA requests operationally at the Agency-level, as well as provide statistics for the Annual FOIA Report. The module would automate FOIA processing and reporting, storing FOIA requests and responses in an electronic records repository, and enable the public to search, access, and download previously released FOIA responses from any participating agency. The module would also accumulate statistics of the operations throughout the year and summarize this for the Annual FOIA Report. Later, other agencies were invited to learn about and explore use of a possible FOIA module. Through this broader outreach, requirements were developed and refined for how such a FOIA module could operate.

EPA went on to procure a third-party technical and cost feasibility assessment. The assessment concluded that the FOIA module could be developed and deployed using the

eRulemaking Program's technology infrastructure. Following the finalization of the workgroup's recommendation for a FOIA module, EPA entered into a partnership with NARA and the Department of Commerce. These agencies provided funding to help reimburse EPA for costs to design and develop such a solution. The construction and deployment of the system for the three Agencies is estimated to cost \$1.3 million. The module is scheduled to be available for partner agencies to use agency use later this summer and available for public submissions by October 2012.

As development of the FOIA module recently reached a sufficient state of definition to clarify how its component capabilities are expected to work, managers in both EPA and DOJ recognized that it has become timely to harmonize EPA's efforts on the FOIA module with the functions provided by DOJ's FOIA.Gov , now and in the future. Accordingly, we have begun a series of conversations about each organization's electronic tools to understand in greater detail any near-term technical coordination needs, and identify potential future complementary capabilities. We look forward to continuing, productive interagency collaboration moving forward on this important work.

I appreciate the opportunity to provide this testimony and will be happy to respond to any questions you may have.