

FOIA and “Need to Know” Implementation Procedure

With regard to Instruction Memorandum No. ID-2015-051 Dated September 28, 2015 which provides direction for the release of fire related records under the Freedom of Information Act (FOIA) and also allows for the release of records under what is called “Need to Know”; the following procedures have been agreed upon between the Fire Management Staff, FOIA Staff and the Idaho Field Solicitor.

This guidance is generally related to the Fire Trespass program but may apply, on a case by case basis, for other types of record requests specific to the fire program.

The “Need to Know” category is designed to allow for the settlement of fire trespass cases by providing information including but not limited to, investigation reports and cost documentation to individuals who are involved in the settlement.

When deciding whether a request is a FOIA or a “Need to Know” the process will usually begin with the District Fire Trespass Coordinator. The District Fire Trespass Coordinator will assess the request using the following criteria:

- **Is the Investigation Complete?** It must be at least complete enough to proceed with the Notice of Suspected Trespass process which opens the discovery period in the legal process.
- **Who is requesting the information and what is their interest?** In general people who are eligible under the “Need to Know” request should be directly involved in the settlement of the case. These individuals, or in some cases businesses or companies, would typically be, but are not limited to, the suspected trespasser or responsible party suspected or known to be involved in the ignition of the fire or their Insurance Agent or Adjuster. Other people not in this category would be assessed on a case by case basis and a decision made as to whether they may receive information under the “Need to Know” or if they would be required to file a more formal request under the FOIA. The District Fire Trespass Coordinator should also be able to verify their identity and obtain their contact information.
- **What information is being requested?** Requests processed under the “Need to Know” should generally be very simple and straight forward. This would include, but is not limited to, the Fire Investigation Report and Basic Cost Summary information. More detailed or complex information requests would typically be processed as a FOIA.

If the District Fire Trespass Coordinator determines that the criteria is met to proceed under a “Need to Know” request, he/she will make the request on behalf of the requesting party and forwards it to the State Fire Trespass Coordinator for concurrence. This can normally be done via email.

If the State Trespass Coordinator concurs that the request should be processed under a “Need to Know” the request is then forwarded to the Boise Field Solicitor’s Office (SOL) for additional review and concurrence also via email.

At any step in the process District or State Fire Trespass Coordinators or SOL may determine that the request does not meet the criteria for a “Need to a Know” request and the person requesting the information will be notified that they will be required to file a request under FOIA.

If the State Fire Trespass Coordinator and the SOL concur that the records request meets the criteria of a “Need to Know”, the email chain showing concurrence among all of the reviewers will be forwarded to the FOIA Staff along with the requested documents. The FOIA Staff will expedite the request but will still be required to review the documents for any necessary redactions of PII or other information required by policy to be redacted.

The FOIA Staff will then release the information to the requesting party.