

**United States Nuclear Regulatory Commission
Annual Freedom of Information Act (FOIA) Report:
Fiscal Year 2009**

I. Basic Information Regarding Report

- 1. Name, title, address, and telephone number of person(s) to be contacted with questions about the report.**

Donna L. Sealing
Freedom of Information Act and Privacy Act Officer
Mail Stop T-5 F09
United States Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Telephone: 301-415-7169
Fax: 301-415-5130

- 2. Electronic address for the report on the World Wide Web**

<http://www.nrc.gov/reading-rm/foia/annual-reports/>

- 3. How to obtain a copy of the report in paper form.**

Contact the U.S. Nuclear Regulatory Commission (NRC) Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD 20852-2738, by telephone at 301-415-4737 or 1-800-397-4209, PDR.Resource@NRC.GOV or fax at 301-415-3548. The mailing address is Public Document Room, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

II. How to Make a FOIA Request

- 1. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.**

Freedom of Information Act and Privacy Act Officer
Mail Stop T-5 F09
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Telephone: 301-415-7169
Fax: 301-415-5130
E-mail: FOIA.Resource@NRC.GOV
Electronic submittal <http://www.nrc.gov/reading-rm/foia/foia-submittal-form.html>

Enclosure

2. Brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply.

To protect privacy (40%)

To prevent compromise of a pending investigation or proceeding (12%)

To protect the attorney-client privilege, attorney work products, or the agency's predecisional deliberative process (23%)

To protect proprietary information (15%)

III. Acronyms, Definitions, and Exemptions

1. Agency-specific acronyms or other terms.

NRC-defined acronyms are available on the NRC Web site at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0544/r4>

2. Basic terms, expressed in common terminology.

- a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
- c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.

- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.

- ii. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
 - iii. **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on high volume and/or complexity of the records requested.
 - l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
 - m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
 - n. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
 - o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
 - p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
 - q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).
- 3. Exemptions**
- a. **Exemption 1:** classified national defense and foreign relations information
 - b. **Exemption 2:** internal agency rules and practices
 - c. **Exemption 3:** information that is prohibited from disclosure by another federal law
 - d. **Exemption 4:** trade secrets and other confidential business information
 - e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
 - f. **Exemption 6:** information involving matters of personal privacy

- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual
- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

IV. Exemption 3 Statutes

A. List of Exemption 3 statutes relied on by agency during current fiscal year.

1. Brief description of type(s) of information withheld under each statute.

41 U.S.C. 253b(m)(1), Contractor Proposals

Statute	Type of Information Withheld	Case Citation	Number of Times Relied Upon per Component	Total Number of Times Relied upon by Agency
41 U.S.C. 253b(m)(1)	Contractor Proposals	Y		1
			Agency Overall	1

2. Statement of whether a court has upheld the use of each statute. If so, then cite example.

41 U.S.C.253b(m)(1), Hornbostel v. U.S. Department of Interior, 305 F. Supp. 2d 21 (D.D.C. 2003)

V. FOIA Requests

**A. Received, Processed, and Pending FOIA Requests
(NRC has no components.)**

	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
Agency Overall	18	302	297	23

B. (1) Disposition of FOIA Requests – All Processed Requests

	Number of Full Grants	Number of Partial Grants/ Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									TOTAL
				No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	
AGENCY OVERALL	101	78	19	30	1	22	7	0	2	4	1	32	297

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B (1) Chart

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied Upon	TOTAL
	Lack of Response by requester	1
	Neither Confirm Nor Deny	1
	No Response to Fees	23
	No Response to Identity Verification	7
Agency Overall		32

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex.8	Ex.9
AGENCY OVERALL	1	23	1	19	29	24	14	0	31	1	0	0	0	0

VI. Administrative Appeals of Initial Determinations of FOIA/PA Requests

A. Received, Processed, and Pending Administrative Appeals

Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
0	25	20	5

B. Disposition of Administrative Appeals – All Processed Appeals

Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
6	5	5	4	20

C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied

Ex.1	Ex.2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex.9
0	3	0	2	3	2	3	0	2	0	0	0	0	0

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
1	0	1	1	0	0	1	0	0	0	0

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI, C (2) Chart

Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
	0

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
20	23	2	50

C. (5) Ten Oldest Pending Administrative Appeals

Date of Receipt of Ten Oldest Appeals	10 th Oldest Appeal	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
Number of Days Pending	0	0	0	0	0	2	11	20	80	83
	0	0	0	0	0	09/28/09	09/15/09	09/01/09	06/08/09	06/03/09

VII. FOIA Requests: Response Time for Processed and Pending Requests

A. Processed Requests – Response Time for All Perfected Requests

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	11	14	< 1	113	43	45	3	156	0	0	0	0

B. Processed Requests – Response Time for Perfected Requests Where Information Was Granted

	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	14	17	< 1	113	43	45	3	141	0	0	0	0

C. Processed Requests – Response Time in Day Increments

Simple Requests

	< 1 Day	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	16	203	36	5	3	1	0	1	0	0	0	0	0	0	265

Complex Requests

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	11	4	8	4	3	0	0	2	0	0	0	0	0	32

D. Pending Requests – All Pending Perfected Requests

	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
AGENCY OVERALL	11	6	7	12	19	31	0	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

Agency Overall	10 th Oldest Request and Number of Days Pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request and Number of Days Pending
		9/11/09	9/11/09	9/9/09	9/4/09	9/2/09	8/4/09	7/14/09	6/30/09	6/16/09
	13	13	15	15	19	26	44	64	74	89

VIII. Requests for Expedited Processing and Requests for Fee Waiver

A. Requests for Expedited Processing

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
AGENCY OVERALL	0	9	< 1	< 1	9

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL	45	6	< 1	< 1

IX. FOIA Personnel and Costs

	PERSONNEL			COSTS		
	Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of “Full-Time FOIA Staff”	Processing Costs	Litigation- Related Costs	Total Costs
AGENCY OVERALL	7	2	9	\$1,124,486	0	\$1,124,486

X. Fees Collected for Processing Requests

	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY OVERALL	\$3,635	.003%

XI. FOIA Regulations

10 CFR Part 9 (Available at NRC's Web site at www.nrc.gov/reading-rm/doc-collections/cfr/part009/index.html)

Fee Schedule (FY 2009)

Search and Review

SES/Commissioners (ES-Max)	\$90.53/hr	\$1.51/min
Professional (GG-13/6)	\$56.36/hr	\$0.94/min
Clerical (GG-7/7)	\$27.49/hr	\$0.46/min

Duplication: \$0.20 per page

Minimum fee: \$15.00
(NRC does not charge a fee if the total fee is less than \$15.00)

D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged

	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	344	302	360	297

	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
AGENCY OVERALL	6	5

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	8	25	9	20

	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
AGENCY OVERALL	0	3