

**Council on Environmental Quality
Annual FOIA 2010 Report
October 1, 2009 - September 30, 2010**

I. BASIC INFORMATION REGARDING REPORT

- A. Name, Title, Address, and Telephone Number of Person to be contacted with questions.

**Katie M. Scharf
Freedom of Information Officer
Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503
Telephone number: (202) 395-5750
Fax number: (202) 456-0753
E-Mail: efoia@ceq.eop.gov**

- B. Electronic address for report on the World Wide Web.
<http://www.whitehouse.gov/administration/eop/ceq>

- C. How to obtain a copy of the report in paper form.
Request a copy from the address above.

II. MAKING A FOIA REQUEST

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

**Office of the General Counsel
Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503
Telephone number: (202) 395-5750**

**FOIA requests may also be submitted via fax at (202) 456-0753 or email
efoia@ceq.eop.gov.**

- C. Brief description of why some requests are not granted.
CEQ does not grant requests when CEQ does not find any responsive documents or when the request is for another agency's records.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Agency-specific acronyms or other terms:

a. Council on Environmental Quality (CEQ);

- b. Environmental Assessment (EA);**
- c. Finding of No Significant Impact (FONSI); and**
- d. National Environmental Policy Act (NEPA).**

2. Definitions of terms used in this Report:

- 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 the 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-US 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 the 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 the 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 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.

n. **Perfect 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. Descriptions of the nine FOIA 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:** interagency or intra-agency communications that are protected by legal privileges.

f. **Exemption 6:** information involving matters of personal privacy

g. **Exemption 7:** records of 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 to withhold information

| Statute | Type of info w/h | Case citation | # of times relied on | Total # of times relied upon |
|---------|------------------|---------------|----------------------|------------------------------|
| N/A | N/A | N/A | N/A | N/A |

V. FOIA Requests

A. Received, Processed and Pending FOIA requests.

| # pending as of start of fiscal year | # received in fiscal year | # processed in fiscal year | # pending as of end of fiscal year |
|--------------------------------------|---------------------------|----------------------------|------------------------------------|
| 5 | 25 | 24 | 6 |

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

| Full grant | Partial grant/partial denial | Full denial based on exemptions | Number of Full Denials Based on Reasons Other than Exemptions | | | | | | | | Total | |
|------------|------------------------------|---------------------------------|---|--|--------------------|--------------------|----------------------------------|----------------------------------|-------------------|-------------------|-------|-------|
| | | | No Record | All records referred to another agency | With-Drawn request | Fee-related reason | Records not reasonably described | Improper request (other reasons) | Not agency record | Duplicate request | | Other |
| 3 | 8 | 0 | 12 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 24 |

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

| Description of “other” reasons for full denials from chart B (1) and number of times those reasons were relied upon | Total |
|---|-------|
| TOTAL | N/A |

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 |
|-------|-------|-------|-------|-------|-------|----------|----------|----------|----------|----------|----------|-------|-------|
| 0 | 4 | 0 | 0 | 3 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

* CEQ claimed exemptions for eight FOIA requests in fiscal year 2010. The above data reflects the number of times particular exemptions were applied for six of these requests. CEQ is transitioning to a new FOIA document tracking system.

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA

A. Received, Processed, and Pending Administrative Appeals

| Number of Appeals Pending at 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 | 1 | 1 | 0 |

B. Disposition of Administrative Appeals—All Processed Appeals

| Number Affirmed on Appeal | Number Partially Affirmed and Partially Reversed/Remanded on Appeal | Number Completely Reversed/Remanded on Appeal | Number of Appeals Closed for Other Reasons | TOTAL |
|---------------------------|---|---|--|-------|
| 1 | 0 | 0 | 0 | 0 |

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 | Ex. 7(A) | Ex. 7(B) | Ex. 7 (C) | Ex. 7 (D) | Ex. 7 (E) | Ex. 8 | Ex. 9 |
|-------|-------|-------|-------|-------|-------|-------|----------|----------|-----------|-----------|-----------|-------|-------|
| 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

C. (2) Reasons for Denial of Appeal—Reasons Other than Exemptions

| No records | Records referred at initial request level | Request withdrawn | Fee-Related | 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 |
|------------|---|-------------------|-------------|----------------------------------|------------------------------------|-------------------|-----------------------------|-----------------------|---|-------|
| 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |

C. (3) Reasons for Denial on Appeal

| Description of “other” reasons for denial on appeal from Chart C (2) and # of times reasons were relied upon | TOTAL |
|--|-------|
| N/A | N/A |

C. (4) Response Time for Administrative Appeals

| Median # of Days | Average # of Days | Lowest # of Days | Highest # of Days |
|------------------|-------------------|------------------|-------------------|
|------------------|-------------------|------------------|-------------------|

| | | | |
|----|----|----|----|
| 28 | 28 | 28 | 28 |
|----|----|----|----|

C. (5) Ten Oldest Pending Administrative Appeals

| | 10 th | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest |
|---|------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|--------|
| Date of Receipt of 10 Oldest Appeals | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| # of Days Pending | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |

VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

A. Processed Requests—response time for all processed perfected requests

| <i>Response Time For All Processed Perfected Requests</i> | | | | |
|---|------------------|-------------------|------------------|-------------------|
| | Median # of Days | Average # of Days | Lowest # of Days | Highest # of Days |
| Simple | 11.5 | 31.9 | 1 | 293 |
| Complex | N/A | N/A | N/A | N/A |
| Expedited | 20 | 20 | 7 | 33 |

B. Processed Requests—response time for perfected requests with information granted

| <i>Response Time For Perfected Requests With Information Granted</i> | | | | |
|--|------------------|-------------------|------------------|-------------------|
| | Median # of Days | Average # of Days | Lowest # of Days | Highest # of Days |
| Simple | 17.5 | 56 | 1 | 293 |
| Complex | N/A | N/A | N/A | N/A |
| Expedited | 33 | 33 | 33 | 33 |

C. Processed Requests—Response Time in Day Increments

| <i>Number of Processed Requests</i> | 1-20 | 21-40 | 41-60 | 61-80 | 81-100 | 101-120 | 121-140 | 141-160 | 161-180 | 181-200 | 201-300 | 301-400 | 401+ | TOTAL |
|--|-------------|--------------|--------------|--------------|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-------------|--------------|
| Simple Requests | 17 | 3 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 24 |
| Complex Requests | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Requests Granted Expedited Processing | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |

D. Pending Requests—All Perfected Requests

| <i>Pending Requests - All Perfected Requests</i> | | | |
|--|--------------------|------------------|-------------------|
| | Number of Requests | Median # of Days | Average # of Days |
| Simple | 5 | 1364* | 1059.6* |
| Complex | 0 | 0 | 0 |
| Expedited | 1 | 24 | 24 |

*The majority of this time has been spent in litigation.

E. Pending Requests—Ten Oldest Pending Perfected Requests

Ten Oldest Pending Perfected Requests

| | 10 th Oldest | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest |
|------------------|-------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------|
| Date | N/A | N/A | N/A | N/A | 8/30/10 | 8/13/10 | 5/12/2006* | 7/11/2005* | 7/1/2005* | 7/1/2005* |
| # of Days | 0 | 0 | 0 | 0 | 24 | 37 | 1155* | 1364* | 1371* | 1371* |

*The majority of this time has been spent in litigation.

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

| # Granted | # Denied | Median # of Days to Adjudicate | Average # of Days to Adjudicate | Number Adjudicated Within 10 Calendar Days |
|-----------|----------|--------------------------------|---------------------------------|--|
| 3 | 0 | 1 | 2.3 | 3 |

B. Requests for Fee Waiver

| Number Granted | Number Denied | Median # of Days to Adjudicate | Average Number of Days to Adjudicate |
|----------------|---------------|--------------------------------|--------------------------------------|
| 0 | 0 | 0 | 0 |

*CEQ did not charge fees for fiscal year 2010 FOIA requests.

IX. FOIA PERSONNEL AND COSTS

A. Staffing levels

B. Total costs (including staff and resources)

| PERSONNEL | | | COSTS | | |
|------------------------|--------------------------------------|-----------------------------------|------------------|--------------------------|-------------|
| # Full-time FOIA staff | # of Equivalent Full-time FOIA Staff | Total Number Full-time FOIA Staff | Processing Costs | Litigation-related Costs | Total Costs |
| 0 | .75 | .75 | 43,000.00 | 3,400.00 | 46,400.00 |

X. FEES COLLECTED FOR PROCESSING REQUESTS

A. Total amount of fees collected by agency for processing requests

B. Percentage of total costs

| Total amount of fees collected | Percentage of total costs |
|--------------------------------|---------------------------|
| 00.00 | 00.00 |

XI. FOIA REGULATIONS

For general information about CEQ, visit www.whitehouse.gov/administration/eop/ceq. CEQ revised its FOIA regulations. The revised regulations became effective September 10, 2010 and are available at

www.whitehouse.gov/sites/default/files/microsites/ceq/FOIA%20regs%20final%209%2010%2010%20-%20to%20post.pdf.

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

| # Backlogged Requests as of End of Fiscal Year | # of Backlogged Appeals as of End of Fiscal Year |
|--|--|
| 3 | 0 |

B. Consultations on FOIA Requests—Received, Processed, and Pending Consultations

| Number of Consultations | Number of Consultations | Number of Consultations | Number of Consultations |
|-------------------------|-------------------------|-------------------------|-------------------------|
|-------------------------|-------------------------|-------------------------|-------------------------|

| Received from Other Agencies that Were Pending at CEQ as of Start of Fiscal Year | Received from Other Agencies During the Fiscal Year | Received from Other Agencies that Were Processed by CEQ During the Fiscal Year | Received from Other Agencies that Were Pending at CEQ as of End of Fiscal Year |
|---|--|---|---|
| 0 | 6 | 3 | 3 |

C. Consultations on FOIA Requests—Ten Oldest Consultations Received from Other Agencies and Pending at CEQ

| 10th Oldest and # of Days Pending | 9th | 8th | 7th | 6th | 5th | 4th | 3rd | 2nd | Oldest and # of Days Pending |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-------------------------------------|
| N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| N/A | N/A | N/A | N/A | N/A | N/A | N/A | 9/29/10 | 9/29/10 | 9/2/10 |
| N/A | N/A | N/A | N/A | N/A | N/A | N/A | 1 | 1 | 23 |

D. Comparison of Numbers of Requests from Previous and Current Annual Report—Requests Received, Process, and Backlogged

Number of requests received

Number of requests processed

| # received during fiscal year from last year's annual report | # received during fiscal year from current annual report | # processed during fiscal year from last year's annual report | # processed during fiscal year from current annual report |
|---|---|--|--|
| 48 | 25 | 48 | 24 |

Backlogged Requests

| # of backlogged requests as of end of the fiscal year from previous annual report | # of backlogged requests as of end of the fiscal year from current annual report |
|--|---|
| 5 | 3 |

E. Comparison of numbers of administrative appeals from previous and current annual report—appeals received, processed, and backlogged

Number of appeals received

Number of appeals processed

| | | | |
|---|---|--|--|
| # received during fiscal year from last year's annual report | # received during fiscal year from current annual report | # process during fiscal year from last year's annual report | # processed during fiscal year from current annual report |
| 0 | 1 | 0 | 1 |

Backlogged appeals

| | |
|---|--|
| # of backlogged appeals as of the end of the fiscal year from previous annual report | # of backlogged appeals as of end of the fiscal year from current annual report |
| 0 | 0 |

F. Discussion of Other FOIA Activities

N/A