



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FY 2004 ANNUAL FREEDOM OF INFORMATION REPORT

I. BASIC INFORMATION REGARDING REPORT.

A. Name, title, address, and telephone number of person to be contacted with questions about the report.

Larry F. Gottesman
National FOIA Officer
Records, FOIA and Privacy Branch
Office of Environmental Information
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 2822T
Washington, D.C. 20460
(202) 566-1667

B. Electronic address for this report on our Web site.

<http://www.epa.gov/foia>

C. How to obtain a copy of this report in paper form.

Contact:

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II. HOW TO MAKE A FOIA REQUEST.

For basic information on how to make a FOIA request, visit our Web site at <http://www.epa.gov/foia>

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

For these names, addresses, and telephone numbers, visit our Web site at <http://www.epa.gov/foia>

B. **Brief Description of Agency's Response-Time Ranges (On a Component-by-Component Basis).**

The Agency responded to 51% of its requests within the 20-day time limit.

For a detailed breakdown of each component's response times, see Section VII of this report, Compliance With Time Limits/Status of Pending Requests.

C. **Brief Description Why Requests are Not Granted.**

Exemption 4 (used 323 times), Exemption 5 (used 394 times), Exemption 6 (used 210 times), and Exemption 7(A) (used 161 times) were used most frequently for not granting requests. These records usually related to confidential business information, privileged inter-agency/intra-agency memoranda, invasion of privacy, or ongoing enforcement proceedings, respectively.

III. DEFINITIONS OF BASIC TERMS AND ACRONYMS USED IN THE REPORT.

A. Agency-specific acronyms or other terms.

Acronym	Areas Served
HQ	EPA Headquarters
Region 1	New England Region
Region 2	New Jersey, New York, Puerto Rico, U.S. Virgin Islands and 7 Tribal Nations
Region 3	Mid-Atlantic Region
Region 4	Southeast Region
Region 5	Mid-West Region
Region 6	South Central Region
Region 7	America's Heartland Region
Region 8	Mountains and Plains Region
Region 9	Pacific Southwest Region
Region 10	Pacific Northwest Region

B. Basic Terms, Expressed in Common Terminology.

1. **FOIA Request** -- Freedom of Information Act request. A FOIA request is a request for access to records concerning a third party, an organization, or a particular topic of interest, which includes Privacy Act requests.
2. **Initial Request** -- a request to a federal agency for access to records under the Freedom of Information Act.
3. **Appeal** -- a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
4. **Processed Request or Appeal** -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.

5. **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 in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing.
6. **Expedited processing** -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
7. **Simple Request** -- a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
8. **Complex Request** -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
9. **Grant** -- the agency decision to disclose all records in full in response to a FOIA request.
10. **Partial denial** -- the agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
11. **Denial** -- the agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason, such as when no record is located in response to a FOIA request.
12. **Time limits** -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of the FOIA request).
13. **Exemption 3 statute** -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
14. **Median number** -- the middle, not average, number of working days.
15. **Days** -- refers to actual working days, excluding weekends and holidays.

IV. EXEMPTION 3 STATUTES.

Statute/Rule (A.1.)	Type of Information Withheld	Case Citation (A.2.)
Procurement Integrity Act, 41 U.S.C. 253b(m)	Contract Proposal	<u>Hornbostel v. Dept. of Interior</u> , 305 F. Supp. 2d 21 (D.D.C 2003) as amended (2004), <u>aff'd on other grounds</u> , 2004 WL 1900562 (D.C. Cir. 2004)
Chemical Safety Information, Site Security, and Fuels Regulatory Act, 42 U.S.C. 7412	Offsite consequence analysis sections of risk management plans	None
Federal Rule of Criminal Procedures, Rule 6(e)	Records relating to Grand Jury Investigations or Proceedings	<u>Fund for Constitutional Government v. National Archives and Records Service</u> 656 F. 2d 856 (D.C. Cir. 1981).
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 7 U.S.C. 136h	Prohibits registrants from disclosing information to foreign competitors.	None
Safe Drinking Water Act, 42 U.S.C. 1433 (a)(3)	Community Water, systems concerning vulnerability assessments	None

V. INITIAL FOIA/PA ACCESS REQUESTS.

A. Numbers of Initial Requests.

	NUMBER OF REQUESTS PENDING AS OF END OF PRECEDING YEAR (A.1.)	NUMBER OF REQUESTS RECEIVED IN CURRENT YEAR (A.2.)	NUMBER OF REQUESTS PROCESSED IN CURRENT YEAR (A.3.)	NUMBER OF REQUESTS PENDING AS OF END OF CURRENT YEAR (A.4.)
HQ	634	2204	2195	643
REGION 1	75	302	317	60
REGION 2	1187	2368	2957	598
REGION 3	103	1756	1749	110
REGION 4	122	1019	1040	101
REGION 5	121	2052	2013	160
REGION 6	165	896	861	200
REGION 7	52	692	651	93
REGION 8	49	394	387	56
REGION 9	47	744	726	65
REGION 10	46	470	456	60
TOTALS	2601	12897	13352	2146

B. Disposition of Initial Requests.

	TOTAL GRANTS (B.1.)	PARTIAL GRANTS (B.2.)	DENIALS (B.3.)
HQ	1418	296	62
REGION 1	173	3	3
REGION 2	887	9	1
REGION 3	1425	24	6
REGION 4	479	115	15
REGION 5	1088	62	10
REGION 6	566	28	5
REGION 7	522	16	1
REGION 8	272	8	8
REGION 9	421	34	2
REGION 10	289	40	7
TOTALS	7540	635	120

**EXEMPTIONS CLAIMED UNDER THE FREEDOM OF INFORMATION ACT
(B.3.a)**

	(1)	(2)	(3)	(4)	(5)	(6)	(7)(A)	(7)(B)	(7)(C)	(7)(D)	(7)(E)	(7)(F)	(8)	(9)	
HQ	0	28	20	187	108	49	31	0	28	20	14	1	1	0	487
REGION 1	0	0	0	1	6	0	1	0	0	0	0	0	0	0	8
REGION 2	0	0	0	0	5	3	3	0	0	0	0	0	0	0	11
REGION 3	0	1	0	10	22	11	9	1	2	2	1	0	0	1	60
REGION 4	0	9	2	73	97	106	38	0	39	0	1	0	0	0	365
REGION 5	0	0	1	16	43	9	31	2	1	1	1	0	0	0	105
REGION 6	0	1	0	7	21	13	4	0	3	4	3	1	0	0	57
REGION 7	0	0	2	2	17	5	6	0	0	0	0	0	0	2	34
REGION 8	0	1	0	2	12	2	4	0	1	0	1	0	0	0	23
REGION 9	3	2	1	13	25	3	11	0	0	0	4	0	0	1	63
REGION 10	0	2	0	12	38	9	23	0	8	1	0	0	0	0	93
TOTALS	3	44	26	323	394	210	161	3	82	28	25	2	1	4	1306

**EXPLANATION OF DISPOSITION OF FOIA/PA INITIAL REQUESTS:
OTHER REASONS FOR NONDISCLOSURE
(B.4.)**

	NO RECORDS	REFERRALS	REQUEST WITH-DRAWN	FEE-RELATED REASON	RECORDS NOT REASON-ABLY DESCRIBED	NOT AN AGENCY RECORD	DUPLICATE REQUESTS	NOT A PROPER FOIA REQUEST	OTHER
HQ	169	1	202	10	1	1	33	2	0
REGION 1	75	2	27	1	0	1	31	1	0
REGION 2	1788	0	251	1	12	0	6	2	0
REGION 3	236	0	40	0	0	0	18	0	0
REGION 4	286	2	113	24	0	2	4	0	0
REGION 5	745	0	86	5	2	1	11	3	0
REGION 6	220	0	39	0	0	0	3	0	0
REGION 7	73	0	35	0	1	0	3	0	0
REGION 8	61	1	31	0	0	0	3	3	0
REGION 9	203	10	32	8	5	0	7	4	0
REGION 10	83	1	34	1	0	0	1	0	0
TOTALS	3939	17	890	50	21	5	120	15	0

VI. APPEALS OF INITIAL DENIALS OF FOIA/PA REQUESTS.*

A. Numbers of appeals.

1. Number of appeals received during fiscal year 117
2. Number of appeals processed during fiscal year 105

B. Disposition of appeals.

1. Number completely upheld 18
2. Number partially reversed 9
3. Number completely reversed 9
 - a. Number of times each FOIA exemption was used (counting each exemption once per appeal):
 - (1) Exemption 1 0
 - (2) Exemption 2 3
 - (3) Exemption 3 0
 - (4) Exemption 4 5
 - (5) Exemption 5 14
 - (6) Exemption 6 3
 - (7) Exemption 7(A) 8
 - (8) Exemption 7(B) 0
 - (9) Exemption 7(C) 6
 - (10) Exemption 7(D) 3
 - (11) Exemption 7(E) 2

*Appeals are processed centrally at EPA Headquarters.

(12) Exemption 7(F) 0

(13) Exemption 8 0

(14) Exemption 9 0

4. Other reasons for nondisclosure (total) 69

a. No records 6

b. Referrals 0

c. Request withdrawn 59

d. Fee-related reason 4

e. Records not reasonably described 0

f. Not a proper FOIA request for some other reason 0

g. Not an agency record 0

h. Duplicate request 0

i. Other (expedited) 0

VII. COMPLIANCE WITH TIME LIMITS/STATUS OF PENDING REQUESTS.

A. Median processing time for requests processed during the year.

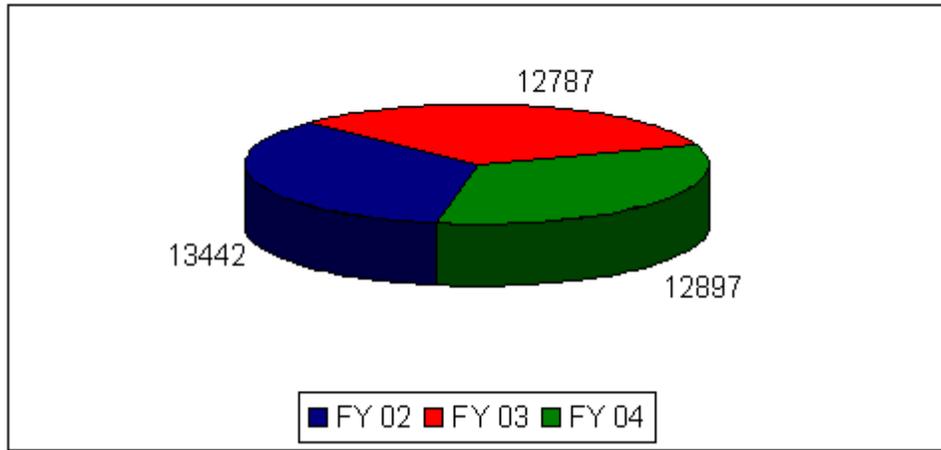
	Simple Requests (A.1.)		Complex Requests (A.2.)		Requests Accorded Expedited Processing (A.3.)	
	Number of Requests Processed (A.1.a.)	Median Number of Days To Process (A.1.b.)	Number of Requests Processed (A.2.a.)	Median Number of Days To Process (A.2.b.)	Number of Requests Processed (A.3.a.)	Median Number of Days To Process (A.3.b.)
HQ	2188	19	1	170	6	16
REGION 1	317	19	0	29	0	0
REGION 2	2949	27	7	49	1	9
REGION 3	1748	15	0	0	1	7
REGION 4	1034	21	5	75	1	6
REGION 5	2011	18	2	70	0	0
REGION 6	860	18	1	353	0	0
REGION 7	651	23	0	0	0	0
REGION 8	387	13	0	0	0	0
REGION 9	725	16	0	0	1	6
REGION 10	454	20	1	19	1	27
TOTALS	13324	N/A	17	N/A	11	N/A

B. Status of pending requests.

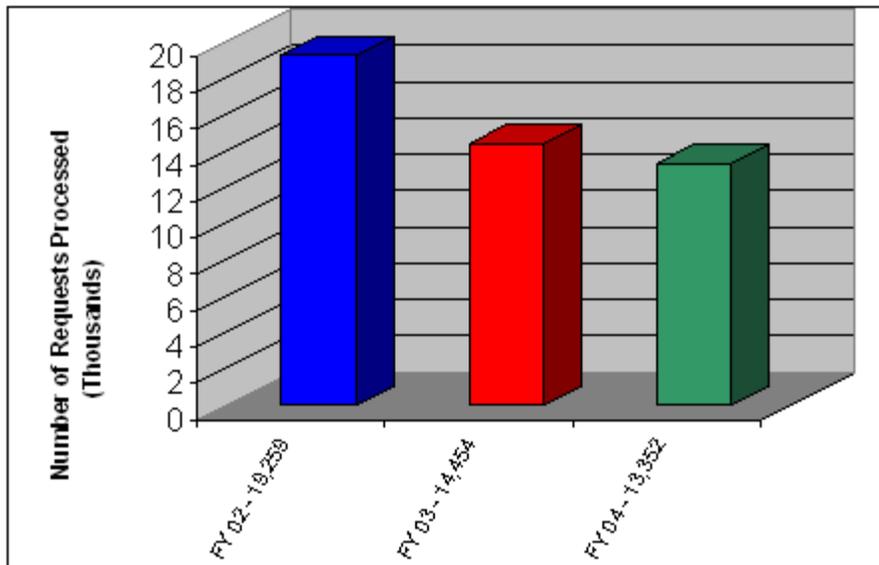
	NUMBER OF REQUESTS PENDING AS OF END OF FISCAL YEAR (B.1.)	MEDIAN NUMBER OF DAYS TO PROCESS (B.2.)
HQ	643	100
REGION 1	60	283
REGION 2	598	161
REGION 3	110	8
REGION 4	101	12
REGION 5	160	11
REGION 6	200	25
REGION 7	93	18
REGION 8	56	16
REGION 9	65	17
REGION 10	60	24
TOTAL	2146	N/A

VIII. COMPARISONS WITH PREVIOUS YEAR(S).

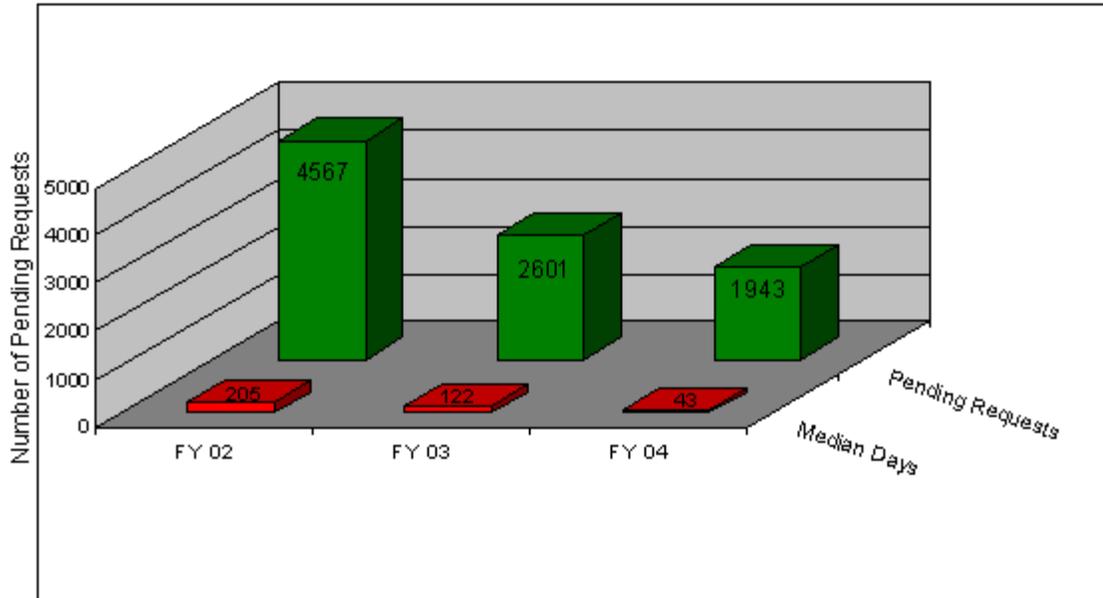
A. Comparison of numbers of requests received:



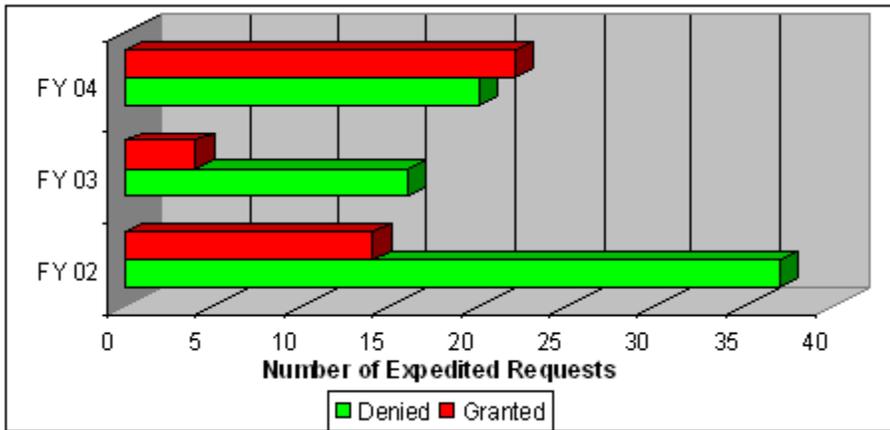
B. Comparison of numbers of requests processed:



C. Comparison of median numbers of days requests were pending as of end of the fiscal year:



D. Other statistics significant to the Agency:



IX. COSTS/FOIA STAFFING.

Staffing Levels				Total Costs including staff & all resources		
	Number of Full Time Personnel (A.1.)	Number of Personnel with Part Time or Occasional FOIA Duties (In Total Work-Years) (A.2.)	Total Number of Personnel (In Work-Years) (A.3.)	FOIA Processing (Including Appeals) (Estimated) (B.1.)	Litigation-related activities (Estimated) (B.2.)	Total Costs (B.3)
HQ	21.00	46.77	67.77	\$4,848,199.51	\$290,309.30	\$5,138,508.81
REGION 1	0.00	6.00	6.00	\$780,000.00	\$0.00	\$780,000.00
REGION 2	5.00	22.00	27.00	\$553,669.13	\$0.00	\$553,669.13
REGION 3	8.00	1.37	9.37	\$415,032.00	\$0.00	\$415,032.00
REGION 4	15.00	0.11	15.11	\$943,022.48	\$0.00	\$943,022.48
REGION 5	11.00	8.45	19.45	\$2,110,928.00	\$0.00	\$2,110,928.00
REGION 6	3.00	3.85	6.85	\$621,880.00	\$0.00	\$621,880.00
REGION 7	2.00	4.26	6.26	\$211,878.00	\$0.00	\$211,878.00
REGION 8	1.00	1.65	2.65	\$104,792.00	\$0.00	\$104,792.00
REGION 9	1.00	10.00	11.00	\$230,842.88	\$0.00	\$230,842.88
REGION 10	1.00	3.00	4.00	\$394,946.86	\$0.00	\$394,946.86
TOTALS	68.00	107.46	175.46	\$11,215,190.86	\$290,309.30	\$11,505,500.16

X. FEES.

	Total Fees Collected for Processing requests (A)	Percentage of Total Costs (B)
HQ	\$137,488.60	1.20%
REGION 1	\$5,687.26	0.05%
REGION 2	\$17,987.72	0.16%
REGION 3	\$27,032.72	0.24%
REGION 4	\$49,040.35	0.43%
REGION 5	\$34,639.00	0.30%
REGION 6	\$24,412.20	0.21%
REGION 7	\$14,918.51	0.13%
REGION 8	\$9,792.63	0.09%
REGION 9	\$8,500.80	0.07%
REGION 10	\$21,371.19	0.19%
TOTALS	\$350,870.98	3.05%

XI. FOIA Regulations

For more information, please consult the EPA FOIA Regulations. They can be found at the following website: <http://www.epa.gov/foia/foiaregs.htm>.