

FEDERAL MARITIME COMMISSION
FREEDOM OF INFORMATION ACT ANNUAL REPORT
October 1, 2003 to September 30, 2004

I. Basic Information Regarding Report

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

Bryant L. VanBrakle, Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573-0001
202-523-5725

B. Electronic address for report on the World Wide Web.

www.fmc.gov

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

Send request to the Office of the Secretary, Federal Maritime Commission, at the address listed above or e-mail to Secretary@fmc.gov.

II. How to Make a FOIA Request

The Commission's Public Information (FOIA) section on the web contains a Public Information Handbook. Information as to how to address a FOIA request to the Commission is contained in the Handbook. This section also refers to 46 CFR Part 503, the Commission's rules covering access to public information including the filing of FOIA requests. Part 503 can be accessed through the Commission's web site.

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

Bryant L. VanBrakle, Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573-0001
(202)523-5725
Secretary@fmc.gov

B. Brief description of the agency's response-time ranges.

The response-time ranges from the same day as received to 259 days after receipt.

C. Brief description of why some requests are not granted.

Requests that are not granted usually involve investigatory files, sensitive files, and/or information made confidential by statute.

III. Definitions of Terms and Acronyms Used in the Report (to be included in each report)

A. Agency-specific acronyms or other terms.

“Commission” or “FMC” means Federal Maritime Commission.

B. Basic terms, expressed in common terminology.

1. FOIA/PA request -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

2. Initial Request -- a request to the FMC for access to records under the Freedom of Information Act.

3. Appeal -- a request to the Chairman, FMC, asking review at a higher administrative level of 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 the FMC 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 (see below).

6. Expedited processing -- the Commission 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 the Commission places in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.

8. Complex request -- a FOIA request that the Commission places in a slower track based on the volume and/or complexity of records requested.

9. Grant -- a Commission decision to disclose all records in full in response to a FOIA request.

10. Partial grant -- a Commission 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 entireties, but to withhold others in whole or in part.

11. Denial -- a Commission 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 Commission to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).

12. Time limits -- the time period in the Freedom of Information Act for the Commission to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).

13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the Commission, and for which there is no remaining question about the payment of applicable fees.

14. 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).

15. Median number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. 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.

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.

Materials submitted with section 5 agreements filed confidentially pursuant to section 6(j) and Minutes filed confidentially pursuant to section 15 of the Shipping Act of 1984, as amended, 46 App. U.S.C. 1705(j) and 1714, respectively.

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

N/A

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year 5
2. Number of requests received during current fiscal year 56
3. Number of requests processed during current fiscal year 54
4. Number of requests pending as of end of current fiscal year 7
(Enter this number also in Line VII.B.1.)

B. Disposition of initial requests.

1. Number of total grants 12
2. Number of partial grants 13
3. Number of denials 0

a. number of times each FOIA exemption used (counting each exemption once per request)

(1) Exemption 1 0

(2) Exemption 2 0

(3) Exemption 3 1

(4) Exemption 4 8

(5) Exemption 5 3

(6) Exemption 6 2

(7) Exemption 7(A) 1

(8) Exemption 7(B) 0

(9) Exemption 7(C) 0

(10) Exemption 7(D) 1

(11) Exemption 7(E) 0

(12) Exemption 7(F) 0

(13) Exemption 8 0

(14) Exemption 9 0

4. Other reasons for nondisclosure 29

a. no records 24

b. referrals 0

c. request withdrawn 3

d. fee-related reason 0

e. records not reasonably described 0

f. not a proper FOIA request for some other reason 1

g. not an agency record 1

h. duplicate request 0

i. other (specify) 0

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

1. Number of appeals received during fiscal year 0

2. Number of appeals processed during fiscal year 0

B. Disposition of appeals.

1. Number completely upheld 0

2. Number partially reversed 0

3. Number completely reversed 0

a. number of times each FOIA exemption used (counting each exemption once per appeal)

(1) Exemption 1 0

(2) Exemption 2 0

(3) Exemption 3 0

(4) Exemption 4 0

(5) Exemption 5 0

(6) Exemption 6 0

(7) Exemption 7(A) 0

(8) Exemption 7(B) 0

(9) Exemption 7(C) 0

(10) Exemption 7(D) 0

(11) Exemption 7(E) 0

(12) Exemption 7(F) 0

(13) Exemption 8 0

(14) Exemption 9 0

4. Other reasons for nondisclosure (total) 0

a. no records 0

b. referrals 0

c. request withdrawn 0

d. fee-related reason 0

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 (specify) 0

VII. Compliance with Time Limits/Status of Pending Requests

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

1. Requests. (The Commission did not use a multi-track system during the year.)

a. number of requests processed 51

b. median number of working days to process 11

2. Complex requests. N/A

3. Requests accorded expedited processing.

a. number of requests processed 3

b. median number of days to process 13

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year 7
(Enter this number from Line V.A.4.)

2. Median number of days that such requests were pending as of that date 37

VIII. Comparisons with Previous Years.

Other statistics significant to agency.

The Commission received three requests for expedited processing and granted two. Last year the Commission received six and granted all six.

Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public.

The Secretary of the Commission serves as the FOIA/Privacy Acts Officer and the Assistant Secretary serves as the alternate. The Secretary reviewed and updated procedures for handling FOIA/Privacy Act requests during the year. The Secretary also encouraged staff members to attend courses concerning the FOIA and Privacy Acts. Several members of the staff did attend classes recently and more training will be scheduled.

IX. Costs/FOIA Staffing

A. Staffing levels.

1. Number of full-time FOIA personnel 0

2. Number of personnel with part-time or occasional FOIA duties (in total work-years) .25

3. Total number of personnel (in work-years) .25

B. Total costs (including staff and all resources).

1. FOIA processing (including appeals) \$23,205

2. Litigation-related activities (estimated) N/A

3. Total costs \$23,205

X. Fees

A. Total amount of fees collected by agency for processing requests \$1,234.20

B. Percentage of total costs 5%

XI. FOIA Regulations (Including Fee Schedule)

46 CFR Part 503 contains the Commission's FOIA Regulations, including fees, and can be accessed through the Commission's web site.