

**FEDERAL ENERGY REGULATORY COMMISSION**  
**Annual Freedom of Information Act Report**  
**FY2019**



**February**

**FEDERAL ENERGY REGULATORY COMMISSION**  
**ANNUAL FREEDOM OF INFORMATION ACT REPORT**  
**FY2019**

**I. BASIC INFORMATION REGARDING REPORT**

**1. Contact with questions about the report.**

Toyia Johnson  
FOIA Liaison  
Federal Energy Regulatory Commission  
888 First Street, NE, Code EA-1  
Washington, DC 20426

[Toyia.Johnson@ferc.gov](mailto:Toyia.Johnson@ferc.gov)

Telephone : (202) 502-8389

FOIA/CEII Service Center 202-502-6088

Toll-free: 1-866-208-3372

FAX Number: 202-208-2106

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

<http://www.ferc.gov/legal/ceii-foia/foia/ann-rep.asp>

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

Write to the following address:

Public Reference and Files Maintenance Branch Federal Energy Regulatory  
Commission 888 First Street, NE, Room 2A Washington, DC 20426

Telephone: 202-502-8371

FAX Number: 202-208-2320

E-Mail: <http://www.ferc.gov/resources/pub-ref-rm.asp>

## II. MAKING A FOIA REQUEST

The FERC eLibrary contains many documents that are filed at FERC or issued by FERC. Individuals are encouraged to review material in the eLibrary before submitting a FOIA request. <https://www.ferc.gov/docs-filing/elibrary.asp> A FOIA request is only required for non public material.

1. **Name, address, and telephone number of agency component that receive FOIA requests.**

Leonard M. Tao  
Director, Office of External Affairs  
FOIA Officer  
Federal Energy Regulatory Commission  
888 First Street, NE, Code EA-1  
Washington, DC 20426  
Telephone: 202-502-8004  
Toll Free: 1-866-208-3372  
Requests may be submitted via:

- **Online FOIA request form:** <http://www.ferc.gov/legal/ceii-foia/foia/foia-new-form/FOIARequest.aspx>
- **Mail:** 888 First Street NE, Room 11H-24, Code EA-1,
- Washington, DC 20426
- **Fax:** 202-208-2106
- **E-mail:** [FOIA-CEII@ferc.gov](mailto:FOIA-CEII@ferc.gov)

Please refer to the FOIA Reference Guide on the Commission's Web Site  
<http://www.ferc.gov/legal/ceii-foia/foia/guide/basics.asp>

3. Some FOIA requests are not granted because (a) the agency has no responsive documents, (b) the responsive documents fall within one or more FOIA exemptions and are not appropriate for discretionary release, or (c) a request has been rendered moot because the responsive documents were subsequently released through other means, such as a negotiated disclosure in the course of a Commission proceeding.

### III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

#### 1. Agency-specific acronyms or other terms.

##### SIMPLE

- a. **Track One Requests** -- the processing track for a FOIA request that is seeking records that are readily identifiable or were previously cleared for release.

##### COMPLEX

- b. **Track Two Requests** -- the processing track for a FOIA request that is seeking records that are readily identifiable and require limited review.
- c. **Track Three Requests** -- the processing track for a FOIA request that is seeking records that are complex and/or voluminous and require a significant search and/or review.

#### 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 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. All FOIA requests for the Federal Energy Regulatory Commission are received and processed by the Washington DC branch.

- 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 that 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 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 or administrative appeal for which an agency has not taken final action in all respects.
  - n. **Perfected Request** – a request for records that 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. Include the following concise descriptions of the nine FOIA exemptions:
- a. **Exemption 1:** classified national defense and foreign relations information
  - b. **Exemption 2:** information that is related solely to the internal personnel rules and practices of an agency.
  - 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

### 3. Agency Component Abbreviations

Component Abbreviation	Component Name
FERC	Federal Energy Regulatory Commission

### IV. Exemption 3 Statutes

Statute	Type of Information Withheld	Case Citation	Agency / Component	Number of Times Relied upon by Agency / Component	Total Number of Times Relied upon by Agency Overall
16 U.S.C. § 470hh (Archaeological Resources Protection Act of 1979)	Information pertaining to the nature and location of certain archaeological resources.	Hornbostel v. U.S. Dep't of the Interior, 305 F. Supp. 2d 21, 30 (D.D.C 2003), summary affirmance granted, No. 03-5257, 2004 WL 1900562 (D.C. Cir. August 25, 2004); Starkey v. U.S. Dep't of the Interior. 238	FERC	12	12



		F. Supp. 2d 1188, 1193-94 (S.D. Cal. 2002)			
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**V.A. FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING FOIA REQUESTS**

Agency / Component	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
FERC	48	117	114	51
AGENCY OVERALL	48	117	114	51

**V.B.(1). DISPOSITION OF FOIA REQUESTS -- ALL PROCESSED REQUESTS**

Agency / Component	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	
FERC	13	59	20	17	0	5	0	0	0	0	0	0	114
AGENCY OVERALL	13	59	20	17	0	5	0	0	0	0	0	0	114

**V.B.(2). DISPOSITION OF FOIA REQUESTS -- "OTHER" REASONS FOR "FULL DENIALS BASED ON REASONS OTHER THAN EXEMPTIONS"**

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
FERC	N/A	0	0
AGENCY OVERALL			0

**V.B.(3). DISPOSITION OF FOIA REQUESTS -- NUMBER OF TIMES EXEMPTIONS APPLIED**

Agency / Component	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
FERC	0	0	12	7	35	50	5	1	1	0	2	6	0	0
AGENCY OVERALL	0	0	12	7	35	50	5	1	1	0	2	6	0	0

**VI.A. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING ADMINISTRATIVE APPEALS**

Agency / Component	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
FERC	3	10	9	4
AGENCY OVERALL	3	10	9	4

**VI.B. DISPOSITION OF ADMINISTRATIVE APPEALS -- ALL PROCESSED APPEALS**

Agency / Component	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
FERC	5	3	1	0	9
AGENCY OVERALL	5	3	1	0	9

**VI.C.(1). REASONS FOR DENIAL ON APPEAL -- NUMBER OF TIMES EXEMPTIONS APPLIED**

Agency / Component	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
FERC	0	0	2	2	4	5	0	0	0	0	0	2	0	1
AGENCY OVERALL	0	0	2	2	4	5	0	0	0	0	0	2	0	1

**VI.C.(2). REASONS FOR DENIAL ON APPEAL -- REASONS OTHER THAN EXEMPTIONS**

Agency / Component	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
FERC	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0

**VI.C.(3). REASONS FOR DENIAL ON APPEAL -- "OTHER" REASONS**



		Appeal									
FERC	Date of Appeal	N/A	N/A	N/A	N/A	N/A	N/A	2019-09-25	2019-09-16	2019-09-16	2019-04-17
	Number of Days Pending	0	0	0	0	0	0	3	10	10	115
AGENCY OVERALL	Date of Appeal	N/A	N/A	N/A	N/A	N/A	N/A	2019-09-25	2019-09-16	2019-09-16	2019-04-17
	Number of Days Pending	0	0	0	0	0	0	3	10	10	115

**VII.A. FOIA REQUESTS -- RESPONSE TIME FOR ALL PROCESSED PERFECTED REQUESTS**

Agency / Component	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
FERC	27	47	1	679	30	102	8	1349	N/A	N/A	N/A	N/A
AGENCY OVERALL	27	47	1	679	30	102	8	1349	N/A	N/A	N/A	N/A

**VII.B. PROCESSED REQUESTS -- RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED**

Agency / Component	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
FERC	29	66	5	679	41	94	15	364	N/A	N/A	N/A	N/A
AGENCY OVERALL	29	66	5	679	41	94	15	364	N/A	N/A	N/A	N/A

**VII.C. PROCESSED SIMPLE REQUESTS -- RESPONSE TIME IN DAY INCREMENTS**

Agency / Component	<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
FERC	17	20	0	0	0	0	0	0	0	0	1	0	1	39
AGENCY OVERALL	17	20	0	0	0	0	0	0	0	0	1	0	1	39

**VII.C. PROCESSED COMPLEX REQUESTS -- RESPONSE TIME IN DAY INCREMENTS**





		of Days	of Days		of Days	of Days		of Days	of Days
FERC	5	8	99	46	137	207	0	N/A	N/A
AGENCY OVERALL	5	8	99	46	137	207	0	N/A	N/A

**VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS**

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
FERC	Date of Receipt	2018-06-20	2018-05-29	2018-03-06	2017-12-18	2017-12-14	2017-07-17	2017-11-16	2017-05-05	2017-02-13	2013-08-21
	Number of Days Pending	320	335	394	448	450	461	469	608	667	1575
AGENCY OVERALL	Date of Receipt	2018-06-20	2018-05-29	2018-03-06	2017-12-18	2017-12-14	2017-07-17	2017-11-16	2017-05-05	2017-02-13	2013-08-21
	Number of Days Pending	320	335	394	448	450	454	469	608	667	1575

**VIII.A. REQUESTS FOR EXPEDITED PROCESSING**

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
FERC	0	14	8	8	14
AGENCY OVERALL	0	14	8	8	14

**VIII.B. Requests for Fee Waiver**

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
FERC	0	0	N/A	N/A
AGENCY OVERALL	0	0	N/A	N/A

**IX. FOIA Personnel and Costs**

Agency / Component	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
FERC	1	2.32	3.32	595592.00	0.00	595592.00
AGENCY OVERALL	1	2.32	3.32	595592.00	0.00	595592.00

**X. Fees Collected for Processing Requests**

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
FERC	0.00	0.0000
AGENCY OVERALL	0.00	0.0000

**XI.A. Number of Times Subsection (C) Used**

Agency / Component	Number of Times Subsection Used
FERC	0
AGENCY OVERALL	0

**XI.B. Number of Subsection (A)(2) Postings**

Agency / Component	Number of Records Posted by the FOIA Office	Number of Records Posted by Program Offices
FERC	4	200
AGENCY OVERALL	4	200

**XII.A. Backlogs of FOIA Requests and Administrative Appeals**

Agency / Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
FERC	40	1
AGENCY OVERALL	40	1

**XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING CONSULTATIONS**

Agency / Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Processed</u> by the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the <u>End</u> of the Fiscal Year
FERC	1	2	3	0
AGENCY OVERALL	1	2	3	0

**XII.C. CONSULTATIONS ON FOIA REQUESTS -- TEN OLDEST CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT THE AGENCY**

Agency / Component		10th Oldest Consultation	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation
FERC	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0	0

**XII.D.(1). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- REQUESTS RECEIVED AND PROCESSED**

Agency / Component	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

FERC	129	117	111	114
AGENCY OVERALL	129	117	111	114

**XII.D.(2). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED REQUESTS**

Agency / Component	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
FERC	31	40
AGENCY OVERALL	31	40

**XII.E.(1). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED**

Agency / Component	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	Number Received During	Number Received During	Number Processed	Number Processed

	Fiscal Year from Last Year's Annual Report	Fiscal Year from Current Annual Report	During Fiscal Year from Last Year's Annual Report	During Fiscal Year from Current Annual Report
FERC	8	10	6	9
AGENCY OVERALL	8	10	6	9

**XII.E.(2). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS**

Agency / Component	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
FERC	1	1
AGENCY OVERALL	1	1