

**Chief FOIA Officer Report for the
Chemical Safety and Hazard Investigation Board**

April 20, 2010

I. Steps Taken to Apply the Presumption of Openness

1. Description of steps taken to ensure that presumption is being applied to all decisions involving the FOIA.

All Chemical Safety and Hazard Investigation Board (CSB) personnel with responsibilities for FOIA processing and administration have been informed, and provided a copy, of the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. With this background, the personnel who make FOIA release decisions are well aware of the presumption of openness and apply it to their decision making. In addition, the General Counsel (who is also the Chief FOIA Officer) has discussed the President's and Attorney General's FOIA policy documents with the CSB Leadership Team, so that managers are aware that the presumption applies to records in their functional areas.

In terms of specific records releases, the CSB seeks to apply the presumption of openness to the greatest extent possible, consistent with applicable law. For example, many records collected during CSB investigations, which are also the most frequent subject of FOIA requests to the agency, are within the scope of the Trade Secrets Act and not appropriate for discretionary disclosure. However, for other kinds of records, the CSB is making a concerted effort to identify those that can be disclosed for the sake of openness, and to reasonably segregate as much disclosable information as possible from records that still require partial exemptions.

2. Disclosure Comparisons

	Full Grants	Partial Grants
FY 2008	4	10
FY 2009	2	8

Although the number of full grants and partial grants in response to FOIA requests decreased between FY 2008 and FY 2009, this limited numerical comparison should not be considered the only, or even the best, measure of the CSB's commitment to openness. Because of fluctuations in the number of FOIA requests received by the CSB each year, there can be high year-to-year variability in particular reporting categories. A more important indicator, as discussed in detail below, is the unprecedented proactive disclosure initiative

the CSB has embarked upon to increase the transparency of the Board's decision making process.

II. Steps Taken to Ensure that Agency has an Effective System for Responding to Requests

As a crucial step to ensure that the CSB has an effective system for responding to FOIA requests, the agency has made improvements to its records management function, and the interface between the records management and FOIA functions. In FY 2009, the agency's newly-hired Information Assurance Specialist began a systematic effort to ensure the integrity, quality, and utility of the CSB's investigation case file records, which are the most frequent subject of FOIA requests. As a result of that effort, which is starting to bear fruit, newer investigation case files will be complete and ready for FOIA processing within a short time after an investigation closes – about the time the first FOIA requests for the investigation are received. Having these records promptly available for FOIA review should help the CSB to avoid falling behind in the first place. In another significant improvement, FOIA staff worked with Information Management staff to develop a method for conducting FOIA reviews directly in the CSB's electronic records management program. Previously, the CSB had been implementing a stand-alone electronic FOIA processing system. Although that solution made sense when the investigation records were mostly maintained in paper form, it proved to be a cumbersome and unnecessary approach for processing records already in electronic form. The new capability to review records in their native format where they reside should also greatly enhance the effectiveness and efficiency of the CSB's system for responding to FOIA requests.

In another step to ensure the effectiveness of its FOIA response system, the CSB is seeking in its budget requests two additional positions that would have significant FOIA processing responsibilities. Given the volume and complexity of CSB investigation files – and the increasing number of requests for them – the reality is that the agency will need to invest substantially more labor hours in order to reduce or eliminate its backlog and to improve FOIA response/processing times. The additional positions requested represent the CSB's assessment of what is required to maintain an effective FOIA program – including the proactive discretionary release of information, prompt processing of all requests, and the elimination of the backlog by the close of FY 2012.

III. Steps Taken to Increase Proactive Disclosures

The CSB is undertaking a major initiative, which we believe to be unprecedented for a multi-member agency, to proactively disclose the voting results and underlying records for every written vote taken by the Board. This initiative – which includes all Board voting actions going forward, as well as all those that have occurred since the CSB began operating in 1998 – covers nearly 800 voting actions and will provide a wealth of information to the public about the Board's

decision- and policy-making on a wide range of substantive and administrative matters. These records are being disclosed through a dedicated page on the CSB website that allows the public to search by vote category, status, and/or date, as well as to browse the entire collection. In addition, interested members of the public can subscribe to an RSS feed to receive automatic notification when new voting records are posted.

As another proactive disclosure step, the CSB has posted on its website all of the agency's non-sensitive Board Orders (administrative policies). These are records that in the past might have been considered exempt from disclosure under a "low 2" analysis, but are now being affirmatively released in accordance with the presumption of openness.

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically?

The CSB will accept requests submitted by e-mail, but does not have a formal system for receiving requests electronically.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Establishing a formal system for receiving requests electronically would require additional personnel time and financial resources to assess the extent to which existing CSB information systems can receive requests, or would require modifications and upgrades in order to do so. It would also be necessary to develop appropriate policy and technical controls to ensure that security issues in an electronic FOIA request system (e.g., secure handling of combined FOIA/Privacy Act requests containing Personally Identifiable Information) are properly addressed.

3. Does your agency track requests electronically?

No.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Implementing a system to track requests electronically would require additional personnel time and financial resources to assess the extent to which existing CSB information systems could be used for this purpose, or would require modifications and upgrades in order to do so.

5. Does your agency use technology to process requests?

Yes.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Not applicable.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Not applicable.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status

	Number of Backlog Requests at End of FY	Average Age (Days) of Backlog Requests	Number of Backlog Appeals at End of FY	Average Age (Days) of Backlog Appeals	Date of Oldest Pending Request
FY 2008	25	307	0	0	10/15/04
FY 2009	26	357	0	0	5/2/05

2. Description of Backlog Status and Backlog Reduction Steps

In FY 2008, the CSB reduced its FOIA backlog by 30%. Further reduction did not occur in FY 2009 for several reasons. In FY 2009, the number of FOIA requests received by the CSB increased *by almost 40 percent*. The time available for processing these requests declined, however, by over 30 percent. While the CSB still managed to process a greater number of overall requests during the past fiscal year, the overall backlog grew by one request. The average number of days backlogged complex requests had been pending also increased by 50 days. Based upon these indicators, the CSB has concluded that further backlog reduction will require the investment of additional resources into FOIA processing. Accordingly, as noted above in section II of this report, the CSB is seeking two additional positions in its budget requests that would have significant FOIA processing responsibilities. In conjunction with this, as described in detail in section II of this report, the CSB is focusing on improving agency records management and better leveraging existing information technology resources as steps to eliminate underlying conditions that have contributed to the current backlog.

3. Description of Steps Agency is Taking to Improve Timeliness in Responding to Requests and to Administrative Appeals

Timeliness in completing responses to requests is closely intertwined with the status of the CSB's FOIA backlog. The need to allocate resources to process and close backlog requests competes with the allocation of resources to process records in response to new requests. This, in turn, delays the completion of responses to new requests and pushes them into the backlog. To break this cycle, the CSB is pursuing the steps described in section II of this report, including, among others, seeking funding for two additional positions that would have significant FOIA processing responsibilities.