



Climate Policy Watch

Group's NOAA FOIA Request Expands GHG Risk Finding Fight

A free-market group is expanding its bid to invalidate EPA's greenhouse gas (GHG) endangerment finding by filing a Freedom of Information Act (FOIA) request with the National Oceanic and Atmospheric Administration (NOAA), seeking NOAA data underpinning the finding that the group claims are flawed and warrant scrapping the finding.

The request

<http://nebula.wsimg.com/86e0c3d9f0c18e77b33e25d935498bcc?AccessKeyId=39A2DC689E4CA87C906D&disposition=0&alloworigin=1> by **the Institute for Trade, Standards and Sustainable Development (ITSSD)** dated Sept. 22, which supersedes earlier requests, comes months after the group filed a FOIA request with EPA in late June for information that it claims will show EPA's climate risk finding is scientifically flawed. The fight over the finding is central to EPA's climate agenda, because the agency used the finding as the basis for its slew of GHG rules.

The U.S. Court of Appeals for the District of Columbia Circuit in a 2012 ruling rejected challenges to the endangerment finding that EPA issued in December 2009. But ITSSD is looking to revive the fight over the finding with its FOIA requests, hoping to gather data that it says show the flaws in its conclusions.

The EPA FOIA request

<http://nebula.wsimg.com/e155ee64b03ea37237297cdbab7a2854?AccessKeyId=39A2DC689E4CA87C906D&disposition=0&alloworigin=1> claims the documents the group is seeking may show the agency failed to adhere to Information Quality Act (IQA) requirements in crafting the finding, because -- the group claims -- the various scientific studies that make up the finding failed to undergo adequate peer review processes.

The new FOIA request filed with NOAA seeks documents from between 2006 and 2011 for which NOAA was the lead agency. It calls into question assertions by NOAA staffers that the agency's scientists did not know their work would form the basis for EPA's endangerment finding, despite the existence of explicit information-sharing agreements between the two agencies in the climate change sphere.

An ITSSD source says the FOIA request “provides compelling evidence that NOAA and NOAA third party contractor peer reviews of such assessments had not conformed with applicable IQA standards due to pervasive bias, lack of intellectual independence, institutional conflicts-of-interest and peer review panel imbalances.”

ITSSD questions the independence and fairness of NOAA scientists' conclusions. For example, in one part of the new FOIA request, the group questions the work of NOAA official and climate scientist Susan Solomon, who conducted research into stratospheric ozone depletion.

“Professor Solomon’s work has long been credited by advocates of the politics, social values and interests-laden, information-framing and language-engineered new paradigm of postmodern *policy*-based 'science' premised on the precautionary principle (with its attendant focus on hazard rather than risk assessment and on plausible correlative rather than actual causal proof of harm) as providing *the* catharsis for 'knowledge brokers' (whose 'most important asset is their flair for translating science, often with a spin, into language accessible to decision-makers,') to forge a discursive shift that successfully persuaded governments to strengthen the 1985 United Nation Environment Program’s Vienna Convention for the Protection of the Ozone Layer via adoption of the 'landmark' 1989 Montreal Protocol on Substances that Deplete the Ozone Layer,” the FOIA request says, citing Karen T. Liftin, writing in *Millennium*, the London School of Economics' journal of international studies, in 1995.

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