



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
Office of the Chief Information Officer  
High Performance Computing and Communications

October 10, 2014

VIA FOIAonline

Lawrence Kogan  
ITSSD

Re: FOIA Request No. DOC-NOAA-2014-001694

Dear Mr. Kogan:

This letter is in regards to your Freedom of Information Act (FOIA) request entered into FOIAonline on September 22, 2014, in which you requested records regarding enactment by the USEPA of a series of national greenhouse gas emission regulations.

You asked for a waiver of fees because “(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government; and (ii) Disclosure of the information is not primarily in the commercial interest of the requester. For these reasons, NOAA should grant ITSSD’s new FOIA Fee Waiver Request.”

Pursuant to procedures established in 15 CFR, Section 4.11(k), we rely on the following factors in determining whether the statutory standard for granting a fee waiver has been met:

- 1) The subject of the requested records must concern identifiable operations or activities of the Federal Government.
- 2) The disclosable portions of the requested records must be meaningfully informative about Government operations or activities in order to be “likely to contribute” to and increase public understanding of those operations or activities.
- 3) The disclosure of the requested information must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. The requester’s ability and intention to effectively convey information to the public shall be considered.
- 4) The disclosure of the requested information is likely to contribute “significantly” to the public’s understanding of Government operations or activities.
- 5) Whether the requester has a commercial interest that would be furthered by the requester.
- 6) Whether any identified commercial interest of the requester is sufficiently great, in comparison with the public interest in disclosure, such that the disclosure is not primarily in the commercial interest of the requester.

After reviewing your request I determined that your fee waiver justification was insufficient in detail to enable me to grant your fee waiver request. Gerard Fox, OAR FOIA Liaison, asked for clarification in a letter dated September 30, 2014, to which you replied on October 1, 2014. He phoned you on October 1, 2014. After that exchange of emails and the phone call, NOAA is still without the clarity and information required to grant you a fee waiver.

This constitutes a denial of your fee waiver. You have the right to appeal. Your appeal must be received within 30 calendar days of the date of this initial denial letter by the Assistant General Counsel for Administration. Address your appeal to the following office:

Assistant General Counsel for Administration (Office)  
Room 5898-C  
U.S. Department of Commerce  
14<sup>th</sup> and Constitution Avenue, N.W.  
Washington, D.C. 20230

Your appeal may also be sent by e-mail to FOIA [Appeals@doc.gov](mailto:Appeals@doc.gov) or by facsimile (fax) to area code (202) 482-2552. Your appeal must include a copy of the original request, the response to your request, and a statement of the reason why the denial of your fee waiver request was in error. **The submission of your appeal (including e-mail and fax submissions) is not complete without the required attachments.** The appeal letter, the envelope, the e-mail subject line, and the fax cover sheet should be clearly marked “**Freedom of Information Act Appeal.**”

The e-mail, fax machine, and Office of the General Counsel mailbox are monitored only on working days during the normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail box, fax machine, or Office of the General Counsel mailbox after normal business hours will be deemed received on the next normal business day.

If you would like Mr. Fox and his colleagues to continue working on your request pursuant to the Code of Federal Regulations 15 CFR Part 4.11(e) the initial fee estimate is \$7500 for search fees. The fee estimate is determined in accordance with the uniform fee schedule established in 15 CFR Part 4.11(c) (i) for requesters that fall in the “other” requesters’ category.

The Department of Commerce regulations requires that you pay the estimated fee prior to receiving the requested documents pursuant to 15 CFR 4.11(i) (2). Please make your check or money order payable to the "Treasury of the United States," and send it to the NOAA Public Reference Facility (SOU 10000), 1315 East West Highway (SSMC3), Room 9719, Silver Spring, Maryland 20910. In compliance with the FOIA regulations, the 20-business-day time frame for completing your FOIA request stops until payment is received. Once your payment and authorization are received, we will continue to process your request. If payment is not received by October 31, 2014, your FOIA request will be considered "closed."

Please be aware that not all responsive documents are necessarily releasable under the FOIA.

Any questions may be directed to me on (301) 628-5658 or Mr. Fox at (301) 734-1106.

Sincerely,

/S/

Wendy Schumacher , Ph.D.

NOAA FOIA Officer