



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

May 28, 2014

VIA FOIAonline

Lawrence Kogan
ITSSD

Re: FOIA Request No. DOC-NOAA-2014-000714

Dear Mr. Kogan:

This letter is in regards to your Freedom of Information Act (FOIA) request entered into FOIAonline on March 27, 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 "ITSSD is primarily an educational nonprofit nongovernmental organization that takes a scholarly approach to publicly disseminating information about government activities...."

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 sent you correspondence via FOIAonline on April 1, 2014 asking for additional information. Based on your original request and additional information provided on May 5, 2014, I determined that your fee waiver justification was insufficient in detail for the

records listed above. The fee waiver request does not show that you would significantly advance the public understanding of a specific government operation or activity.

You have not expressed a distribution plan with details about which websites will distribute the records, if any, to the general public or publication where your staff and Board of Advisor members have written commitments to publish the information that would then be accessible to the general public. Accordingly, there is no need for this office to address the remaining prongs of the fee waiver criteria.

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
14th and Constitution Avenue, N.W.
Washington, D.C. 20230

Your appeal may also be sent by e-mail to FOIA 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.

Any questions may be directed to me on (301) 628-5658.

Sincerely,
/S/
Wendy Schumacher
NOAA FOIA Officer