



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

December 11, 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.” On October 10, 2014, I sent you a letter denying your fee waiver request and on December 5, 2014, you submitted a second request for a fee waiver.

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 and additional information provided on December 5, 2014, I determined that your fee waiver justification was insufficient in detail to enable me to grant your fee waiver request. Bruce Gibbs and Gerard Fox, OAR FOIA Liaison, will continue working with you on a fee estimate.

You have the right to appeal this denial of the fee waiver request. An appeal must be received within 30 calendar days of the date of this response letter by the Assistant General Counsel for Administration (Office), Room 5898-C, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. An appeal may also be sent by e-mail to FOIAAppeals@doc.gov, by facsimile (fax) to 202-482-2552, or by FOIAonline, if you have an account in FOIAonline, at <https://foiaonline.regulations.gov/foia/action/public/home#>. The appeal should include a copy of the original request and initial denial, if any. All appeals should include a statement of the reasons why the records requested should be made available and why the adverse determination was in error. 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, FOIAonline, and Office are monitored only on working days during 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, FOIAonline, or Office after normal business hours will be deemed received on the next normal business day. If the 30th calendar day for submitting an appeal falls on a Saturday, Sunday or legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely.

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) please follow the instructions in the fee letter sent via FOIAonline on November 12, 2014. 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 January 2, 2015, 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