



March 8, 2018

Mr. Jonathan Morrison
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
West Building, W41-227
Washington, DC 20590

Dear Mr. Morrison:

This is an appeal pursuant to 5 U.S.C. § 552(a)(6)(A)(i) and 49 C.F.R. § 7.21. By letter dated January 4, 2018, the Center for Auto Safety ("Center") filed the attached Freedom of Information Act ("FOIA") request with the National Highway Traffic Safety Administration ("NHTSA") seeking the following:

All non-confidential submissions to NHTSA regarding Goodyear G159 tires, including, but not limited to, the following:

- **Death, Injury, and Property damage claims**
- **Correspondence between NHTSA and Goodyear**
- **Tire endurance testing and field performance data**
- **Court Records**

Additionally, the Center requests that any documents released pursuant to this request be placed in the PE17-008 investigative file.

The Center received an acknowledgment of receipt from NHTSA dated January 9, 2018 (attached), however to date, the Center has received no response to our request. This appeal seeks a response to our request.

Also, please note that our original request improperly identified the NHTSA ID# for the Goodyear G159 investigation docket in which all documents deemed non-confidential should be placed, that should be PE17-009 rather than PE17-008.

Thank you for your time and consideration. Should you have any questions concerning this appeal, please do not hesitate to contact me via email to mbrooks@autosafety.org. We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'm/brooks', written in a cursive style.

Michael Brooks
Staff Attorney

Attachments: 2



January 4, 2018

National Highway Traffic Safety Administration (NHTSA)
Executive Secretariat
1200 New Jersey Ave. SE
West Building
Washington, DC 20590

FOIA REQUEST

Dear FOIA Officer:

The Center for Auto Safety (“Center”) files this request pursuant to the Freedom of Information Act (“FOIA”). The Center is an independent nationwide nonprofit membership organization established in 1970 to be a voice for all consumers. The Center advocates for improved safety, environmental responsibility, and fair dealing in the automotive industry and the marketplace.

The Center seeks the following information:

All non-confidential submissions to NHTSA regarding Goodyear G159 tires, including, but not limited to, the following:

Death, Injury, and Property damage claims

Correspondence between NHTSA and Goodyear

Tire endurance testing and field performance data

Court Records

Additionally, the Center requests that any documents released pursuant to this request be placed in the PE17-008 investigative file.

The Center believes that the requested records are likely to be located within the Office of Defect Investigation, Office of Chief Counsel, and office of the Administrator and/or Acting Administrator. Also, pursuant to 5 U.S.C. § 552(a)(4)(A) and U.S. Department of Transportation regulations set forth at 49 C.F.R. § 7.44, the Center requests, and NHTSA should grant, a waiver and/or reduction of fees for processing this FOIA request, including search, review, and duplication charges, for the reasons given below.

49 C.F.R. § 7.44(a) and (c) provide that a fee is not to be charged for the first two hours of search time or the duplication of the first 100 pages, “unless the records are requested for commercial use.” In addition, 49 C.F.R. § 7.44(d) states that review fees for determining whether the requested records are exempt from mandatory disclosure may not be charged when records are not requested for a commercial use. The above information request is of a very limited and highly specific nature, and these records have no commercial value whatsoever. Even if the requested records had some potential commercial value, the Center has no commercial purpose or interest in requesting them. See Attachment A. Therefore, NHTSA should fully apply the subsection (a), (c) and (d) allowances to this request.

Should NHTSA deny the waiver of fees, the Center asks that the Agency to obtain authorization before delivery of any materials. If the agency refuses access to any of the requested records, please describe the materials it wishes to withhold and specify the statutory justifications for the refusal. Also, please state separately NHTSA’s reasons for failing to invoke its discretionary powers to release the materials in the public interest.

If you have any questions about the scope of this request, or if you believe there are any ambiguities in the way this request is framed, please let me know as soon as possible.

The Center looks forward to a response within twenty working days, as required under the FOIA, and will interpret any delay in response as a denial of this request. Thank you for your very prompt attention to this matter. Please contact me at (202) 328-7700 or by email at mbrooks@autosafety.org if you have any questions about this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'm/brooks', written in a cursive style.

Michael Brooks
Chief Counsel

Attachment



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

January 9, 2018

Mr. Michael Brooks
Chief Counsel
Center for Auto Safety
1825 Connecticut Avenue, NW
Suite 330
Washington, DC 20009

Re: Freedom of Information Act Request No.: ES18-000090

Dear Mr. Brooks:

This acknowledges receipt of your January 4, 2018, Freedom of Information Act (FOIA) request to the National Highway Traffic Safety Administration (NHTSA). Your request was received by mail on January 9, 2018.

NHTSA may assess fees to process your FOIA request. We may not process your request until all fee issues are resolved. Fees may be assessed even if the search does not produce responsive records or the agency withholds them from disclosure.

NHTSA employs a multitrack system for processing FOIA requests that: 1) distinguishes between a simple request and a complex request that may require more time to process; and 2) the number of records involved with respect to the request. In general, a simple request for a specific record or a small number of records is typically processed within 20-30 business days. A complex request that requires a broad search and/or a review of a voluminous amount of records may take longer. When NHTSA determines a request is complex, we notify the requester of estimated processing time. We process complex requests on a first-in, first-out basis.

Currently, the agency is experiencing a significant backlog of simple and complex FOIA requests. If you submitted a request that appears to seek a significant number of records, we strongly encourage you to reformulate or narrow your request to limit the scope of your request in order to qualify for the simple track. Processing complex requests can take over a year given current conditions and agency resources.

You may find more information related to the FOIA process and how NHTSA processes your FOIA here: <http://www.dot.gov/foia>. If you have any questions, or have an interest in narrowing your request to ensure timely processing of your request, please contact us at (202) 366-1834.

Sincerely,

NHTSA's FOIA Office