UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

January 17, 2018

MEMORANDUM FOR: Mark Graff, NOAA Bobbie Parsons, IOS

FROM: Michael J. Toland, Ph.D.
Deputy Chief Freedom of Information Act (FOIA) Officer

SUBJECT: FOIA Request Alicia Cate DOC-OS-2018-000373

The U.S. Department of Commerce's FOIA Office, Office of Privacy and Open Government, received a request seeking:

> "On June 29, 2017, the National Oceanic and Atmospheric Administration ("NOAA") and National Marine Fisheries Service ("NMFS"), through the Department of Commerce, submitted a Final Rule to the Office of Management and Budget ("OMB") for review. The Final Rule is entitled "Regulation to Reduce Incidental Bycatch and Mortality of Sea Turtles in the Southeastern U.S. Shrimp Fisheries." This matter has been assigned Regulation Identifier Number ("RIN") 0648-BG45. The status of the Final Rule is listed as "Pending [Executive Order ("EO")] 12866 Regulatory Review," per the Office of Information and Regulatory Affairs website. Oceana requests copies of all documents, records, and materials, including but not limited to all memoranda, studies, reports, data, correspondence, comments, conversation records, meeting notes, files, electronic mail records, or other documents, which have been generated, received, kept, and/or considered by the Department of Commerce, including but not limited to NOAA and/or NMFS, relating to the OMB's review of final rule RIN 0648-BG45."

I am sending this FOIA request to you for your attention, since your office has been identified as possibly having records that may be responsive to the request. Please take the following actions:

- Please notify our office if you know of any other bureau/office that may also have responsive documents.
- Conduct a search for responsive records.
  - You must search every place that could reasonably be expected to have responsive documents.
  - The date range for records that may be responsive to this request is December 15, 2016 to December 12, 2017; records created after December 12 are not responsive to the request.
- If you identify any records:
  - Please provide electronic copies of the records to me within ten (10) business days of the date of this letter—on or before January 31, 2018.
    - Upload documents in FOIAonline following the instructions in the attachment entitled "Instructions for uploading documents into FOIAonline."
  - Identify whether you believe the records, or any portions thereof, should be withheld from disclosure.

        - Attached is a copy of FOIA Exemptions to assist you with making withholding determinations.
        - Ayana Crawford is also available to answer any questions you may have about FOIA Exemptions or the FOIA request by phone at 202-482-9109, or by email at acrawford@doc.gov.
    - Sign and date the attached Certification of Search.
    - Return the completed Certification of Search along with the responsive records to my office.
- If you do not identify any responsive records:
    - Check the box "My Office has found no responsive document" on the attached Certification of Search.
    - Sign and date the Certification of Search.
    - Return the completed Certification of Search to my office.

Attachments
1. Instructions for uploading documents into FOIAonline
2. Certification of Search
3. FOIA Exemptions

Instructions for uploading documents into FOIAonline

A signed Certification of Search should be uploaded separately in Case File/Correspondence/Other. Only the Certification of Search signed by the FOIA Officer/Senior Official from the Bureau should be uploaded. Please do not upload Sub-Agency Taskers.

Responsive documents are to be uploaded in Case File/Records. Please identify whether you believe the document, or any portion of it, should be withheld from disclosure. You must include the FOIA exemption next to any information you identify as protected from disclosure.

- A clean copy and redacted copy shall be uploaded on FOIAonline.
- The clean copy will be uploaded with an UU (Unredacted – Unreleaseable) Publish Option.
- Redacted copy will be uploaded and grouped by exemptions applied, i.e., RR (Redacted-Releasable) - (b)6, (b)5 (please include the privilege used).
- The format to be used for "Title" of uploaded documents: ITA - 24 documents, RR, (b)4, (b)6. (Bureau [not sub agency] - number of documents - Publish Options – exemptions).
- For documents that are completely withheld UU-Unredacted – Unreleasable; and RU-Redacted-Unreleasable (you must apply an Exemption in the Action Column).
- For referred documents use the following format for "Title:" 15 documents refer to NTIA.

Certification of Search for FOIA Request No. DOC-OS-2018- 000373

THIS RESPONSE MUST BE SIGNED BY A SENIOR OFFICIAL IN YOUR OFFICE.

Please contact me if you have any questions about the scope of this request or the FOIA exemptions, at 202-482-3842.

Please sign this sheet of paper and check all of the appropriate boxes

☐ Uploaded in FOIAonline are all documents in the possession of my office which are responsive and can be released in entirety.

☐ Uploaded in FOIAonline are all documents within the possession of my office which are responsive and we have found reason to partially withhold. One clean copy and one redacted copy have been uploaded.

☐ Uploaded in FOIAonline are all documents within the possession of my office which are responsive and we have found reason to withhold entirely, each document to be withheld entirely has been noted.

☐ Uploaded in FOIAonline are all documents within the possession of my office which are responsive and must be referred to the originating office, bureau, or federal agency for disclosure determinations.

☐ My office has found no responsive documents.

☐ All disclosure determinations have been made by the Commerce Office that originated or has control of the documents

☐ A foreseeable harm review and analysis has been completed for all withheld documents and portions of documents and it has been determined that disclosure of the withheld material would result in harm to an interest protected by the asserted exemption or that disclosure is prohibited by law. Name of person most knowledgeable with the issue of foreseeable harm: _____.

☐ Interim response ☐ Final response

_____ _____

Signature (Senior Official) Date

FOIA Exemptions

Exemption 1: classified national defense and foreign relations information;

Exemption 2: internal agency personnel rules and practices;

Exemption 3: information that is prohibited from disclosure by another federal law;

Exemption 4: trade secrets and other confidential or privileged commercial or financial information;

Exemption 5: inter-agency or intra-agency communications that are protected by legal privileges, including the deliberative process, attorney-client and attorney work-product privileges;

Exemption 6: information involving matters of personal privacy;

Exemption 7: records or information compiled for law enforcement purposes, to the extent that the production of those records:

> Exemption (7)(A) could reasonably be expected to interfere with enforcement proceedings,
>
> Exemption (7)(B) would deprive a person of a right to a fair trial or an impartial adjudication,
>
> Exemption (7)(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
>
> Exemption (7)(D) could reasonably be expected to disclose the identity of and/or information provided by a confidential source,
>
> Exemption (7)(E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or
>
> Exemption (7)(F) could reasonably be expected to endanger the life or physical safety of any individual;

Exemption 8: information relating to the supervision of financial institutions; and

Exemption 9: geological information on wells.