



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

200 PORTLAND STREET
BOSTON, MASSACHUSETTS 02114

THOMAS F. REILLY
ATTORNEY GENERAL

(617) 727-2200
www.ago.state.ma.us

July 15, 2003

BY MAIL AND FAX (202-456-0753)

Edward Boling
Freedom of Information Officer
Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

Re: Freedom of Information Act Request

Dear Mr. Boling:

I hereby request, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, records in the categories listed below, on behalf of the Commonwealth of Massachusetts and the States of Connecticut and Maine. Please send a copy of the requested records to my attention at the Office of the Attorney General, 200 Portland Street, Boston, Massachusetts 02114.

I request "records," as that term is used in FOIA, 5 U.S.C. § 552(f), in the following categories:

All records of, or concerning, communications by or to CEQ in 2002 or 2003 concerning either the *U.S. Climate Action Report 2002*, which was submitted to the United Nations in May 2002 (Climate Action Report), or drafts or revisions of the Climate Action Report.

I hereby also request a waiver of fees associated with this request for the following reasons. FOIA provides for waiver of fees "if disclosure of the 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 is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). Our request meets this test.

The requesters are the Commonwealth of Massachusetts and the States of Connecticut and Maine, acting through their respective Attorneys General. On behalf of their States and the citizens thereof, the Attorneys General are investigating the status of national and international resources, mechanisms and initiatives that may be brought to bear on the problem of climate change, particularly as that problem will affect public health and welfare within the requesting States. In that connection, we have determined that (UNFCCC), which the United States signed and ratified in



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1992, establishes a basis for and commitment to action to address the problem of climate change within the United States.

The purpose of our FOIA request is to elucidate actions taken by the United States pursuant to the United Nations Framework Convention on Climate Change (UNFCCC) and their significance to existing Federal programs that may also bear upon the problem of climate change, particularly the Clean Air Act. We expect to make our analysis public in pending litigation (including Massachusetts et al. v. Whitman, CA 303cv984 (D. Conn.)) and/or reports to our respective executive and legislative departments in connection with recommendations for legislative action. In either case, we expect to advise the citizens of our States as to our conclusions and recommendations through public dissemination of our litigation documents and reports and by other means.

For these reasons, we believe that our request serves the public interest in understanding the reasons for the inaction of the national government on a matter of surpassing public concern. In particular: (1) the subject matter of our request concerns the actions and operations of CEQ and certain other agencies with respect to the Climate Action Report; (2) our request is tailored to focus on such actions and operations, and disclosure pursuant to FOIA is in fact likely to contribute to an understanding of CEQ's and EPA's actions concerning climate change; (3) disclosure will contribute to the understanding of the public at large, inasmuch as we expect to publish our analysis of the Government's actions in public litigation and/or public reports to our respective executive and legislative departments; (4) disclosure will contribute significantly to public understanding of the Government's actions in response to the problem of climate change in that we expect it to elucidate the Government's decisionmaking mechanisms and processes, and influences on those processes; (5) our interest lies in ensuring the proper functioning of government institutions and protecting the public health and welfare, and we have no commercial interest in this request; (6) the public interest manifestly predominates over any private or commercial interest.

We are not requesting documents that are published on CEQ's or EPA's public websites. To the extent that some of the records requested are so available, have already been published in the Federal Register, or are otherwise already in the public domain, please identify such records so that we may evaluate how to proceed with regard to them.

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Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at (617) 727-2200, extension 3353.

Sincerely,

A handwritten signature in cursive script, appearing to read "William L. Pardee".

William L. Pardee
Assistant Attorney General

cc: Kimberly Massicotte, Connecticut Assistant Attorney General
Gerald D. Reid, Maine Assistant Attorney General