

November 16, 2021

VIA ELECTRONIC MAIL: [ost.foia@dot.gov](mailto:ost.foia@dot.gov)

U.S. Dept. of Transportation  
Office of the Secretary  
Departmental FOIA Office  
1200 New Jersey Ave, SE, W94-122  
Washington, DC 20590

To the responsible FOIA Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, on behalf of the Cato Institute I request records (as defined in 44 U.S.C. § 3301) regarding the following:

Records (including emails) that mention the Cato Institute (a.k.a. Cato) in connection with the Jones Act (a.k.a. the Merchant Marine Act of 1920, 46 U.S. Code § 50101 et. seq.) or the Open America's Water Act, including communications between and among:

1. Department of Transportation (DoT) officials and DoT contractors, consultants, or parties representing non-governmental entities concerned with the Jones Act;
2. Officials in the Office of the Secretary of Transportation, including the immediate Office of the Secretary; the Office of the Undersecretary for Policy; the Office of General Counsel; the Office of Government Affairs; the Office of Intelligence, Security and Emergency Response; and the Office of Public Affairs.

The date range of this request is June 27, 2018 to January 20, 2021.

In order to help to determine Cato's status to assess fees, you should know that the Cato Institute is an IRS-recognized 501(c)(3) nonprofit educational and public interest organization. As Cato is an educational or noncommercial scientific institution, this request is made for a scholarly or scientific purpose and not for a commercial use. Cato requests a waiver of all fees for this request.

Disclosure of the requested information to Cato 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 in Cato's commercial interest.

Whenever possible, please provide the requested information in electronic Portable Document Format (PDF).

If Cato's request is denied in whole or part, Cato asks that you justify all deletions by reference to specific exemptions of the act. Cato will also expect you to release all segregable portions of otherwise exempt material. Cato reserves the right to appeal your decision to withhold any information or to deny a waiver of fees.

As Cato's point of contact for this request, I would appreciate your communicating with me by email or telephone, rather than by mail. My email address is [peddington@cato.org](mailto:peddington@cato.org) and my cell number is 571-215-3468. If you need clarification regarding any aspect of this request, please call or email me and I will be happy to discuss the matter in detail.

Please provide expedited processing of this request which concerns a matter of urgency. Cato's mission is educating and disseminating information to the public. The public has an urgent need for information about efforts by the Department, MARAD, and related stakeholders to oppose Jones Act reform or repeal, given the enormous and unnecessary cost to taxpayers and businesses imposed by the Jones Act.

This year, Representative Tom McClintock and Senator Mike Lee introduced the Open America's Water Act, a bill that would repeal the Jones Act and allow all qualified vessels to engage in trade between U.S. ports. Their release on the legislation can be found at the following URL:

<https://www.lee.senate.gov/2021/5/lee-mcclintock-introduce-bill-to-repeal-jones-act>

Literally dozens of stories on the negative effects of the Jones Act have appeared in the press this year alone.

Cato meets the statutory definition of a “representative of the news media” per *Cause of Action v. F.T.C.*, 799 F.3d 1108 (D.C. Cir. 2015) as Cato and its scholars (1) gather information of potential interest (2) to a segment of the public; (3) use editorial skills to turn the raw materials into a distinct work; and (4) distribute that work (5) to one or more audiences.

Cato publishes a range of materials:

- Cato@Liberty blog: <https://www.cato.org/blog>
- Cato Commentary: <https://www.cato.org/commentary> which includes op-eds and articles written by Cato scholars and staff.
- Cato Publications: <https://www.cato.org/publications> which include a range of Policy Analysis papers, white papers, and other products.
- Cato Books: <https://www.cato.org/archives/type/books> the book publishing arm of the Cato Institute.
- Cato Multimedia: <https://www.cato.org/archives/type/multimedia/category/9393> which features radio, television and podcast appearances by Cato scholars and staff.

Accordingly, on Cato's behalf I ask for expedited processing on that basis. I certify that my statements regarding the need for fee waivers and expedited processing are true and correct to the best of my knowledge and belief. I look forward to your determination regarding my request for expedited processing within 10 calendar days, as the statute requires. Thank you for your assistance.

Sincerely,



Patrick G. Eddington  
Senior Fellow  
Cato Institute  
1000 Massachusetts Ave., NW  
Washington, DC 20001  
571-215-3468 (cell)

[peddington@cato.org](mailto:peddington@cato.org)



**U.S. Department  
of Transportation**

**General Counsel**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

Office of the Secretary  
of Transportation

11/17/2021

Patrick G. Eddington  
Senior Fellow  
Cato Institute  
1000 Massachusetts Ave., NW  
Washington, DC 20001  
[peddington@cato.org](mailto:peddington@cato.org)

**File No. OST-2022-0070**

Dear Mr. Eddington:

The purpose of this letter is to acknowledge receipt of your recent request for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. You requested

Records (including emails) that mention the Cato Institute (a.k.a. Cato) in connection with the Jones Act (a.k.a. the Merchant Marine Act of 1920, 46 U.S. Code § 50101 et. seq.) or the Open America's Water Act, including communications between and among:

1. Department of Transportation (DoT) officials and DoT contractors, consultants, or parties representing non-governmental entities concerned with the Jones Act;
2. Officials in the Office of the Secretary of Transportation, including the immediate Office of the Secretary; the Office of the Undersecretary for Policy; the Office of General Counsel; the Office of Government Affairs; the Office of Intelligence, Security and Emergency Response; and the Office of Public Affairs.

The date range of this request is June 27, 2018 to January 20, 2021.

Please be advised that all FOIA requests will be handled on a first-in/first-out basis. Your request will be addressed in the order it was received. We regret any inconvenience caused by the delay.

Processing fees may apply for FOIA requests as set forth in the Department of Transportation's (DOT) FOIA regulation (49 CFR Part 7.41).

If you have questions concerning your request, please call our FOIA Request Service Center at (202) 366-4542.

Sincerely,

*Darlene A. Wallace*

Darlene A. Wallace  
Office of the Secretary  
FOIA Program Assistant

\*CAUTION: External Email\*

Good afternoon Mr. Eddington,

I hope you are doing well. I am Michael Bell, the DOT/OST FOIA Officer. I apologize for the delay in responding to your request, but unfortunately we have a backlog of requests. We are still in the process of collecting the records you seek. I estimate that we will receive the records for review within the next 3 to 4 weeks and I estimate we will be able to respond to you approximately in the next 6 to 8 weeks. I appreciate your patience and please let me know if you have any other questions regarding your request.

Sincerely,  
Mike

Michael C. Bell  
DOT/OST FOIA Officer  
Phone: 202-366-5546  
E-mail: Michael.bell1@dot.gov

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**From:** Patrick Eddington <[PEddington@cato.org](mailto:PEddington@cato.org)>  
**Sent:** Thursday, January 20, 2022 2:15 PM  
**To:** OST.FOIA (OST) <[ost.foia@dot.gov](mailto:ost.foia@dot.gov)>  
**Subject:** ECD inquiry re: Cato FOIA OST-2022-0070 (Jones Act)  
**Importance:** High

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To the DoT FOIA staff:

Please provide an estimated completion date for Cato FOIA OST-2022-0070 (Jones Act).

Sincerely,

Patrick G. Eddington  
Senior Fellow  
Cato Institute  
5106 Southampton Drive  
Annandale, VA 22003  
[peddington@cato.org](mailto:peddington@cato.org)  
571-215-3468 (cell)  
<https://www.cato.org/people/patrick-g-eddington>