

November 1, 2017

SUBMITTED ELECTRONICALLY

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request for All Records Related to Reporting Required by 40 C.F.R. Part 60 Subpart OOOOa

Dear National Freedom of Information Officer:

Environmental Defense Fund (“EDF”) respectfully requests records under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. EDF seeks copies of all records, as that term is described at 5 U.S.C. § 552(f)(2), related to reporting made pursuant to 40 C.F.R. Part 60 Subpart OOOOa (“Subpart OOOOa”). These include, but are not limited to, communications, documents, letters, information, notes, memoranda, electronic mail transmissions or other electronic forms of information, telephone logs and records, meeting records, reports, analyses, assessments, data, and modeling, including all drafts and preliminary forms of any such records. Specifically, EDF requests:

(1) Copies of all reports submitted to EPA pursuant to Subpart OOOOa’s reporting requirements including, but not limited to, the following reports:

- Results of the Performance Test, as required by 40 C.F.R. § 60.5420a(b)(9)(i);
- Initial Semiannual Reports, as required by 40 C.F.R. § 60.5422a(b), including but not limited to the two Initial Semiannual Reports EPA has already received;¹
- Semiannual Reports, as required by 40 C.F.R. § 60.5422a(a), including but not limited to the six Semiannual Reports EPA has already received;²
- Annual Reports, as required by 40 C.F.R. § 60.5420a(b); and
- Annual Reports of Excess Emissions for Sweetening Units, as required by 40 C.F.R. § 60.5423a(b).

¹ U.S. EPA, Part 60 Stats, <https://www3.epa.gov/ttn/chief/cedri/Part60stats.pdf>.

² *Id.*

(2) Copies of all internal correspondence and all correspondence between EPA and outside parties containing:

- reference to the new source performance standards for the oil and gas sector, Subpart OOOOa, or any of the specific reports or regulatory provisions listed above in paragraph (1) of this request; and
- containing one or more of the following terms:
 - “comply,” including any inflection thereof (e.g., “complies,” “complying,” “compliant,” or “compliance”);
 - “deadline” or “deadlines”;
 - “delay,” including any inflection thereof (e.g., “delays,” “delayed,” or “delaying”);
 - “due”;
 - “enforce,” including any inflection thereof (e.g., “enforces,” “enforcing,” or “enforcement”);
 - “extend,” including any inflection thereof (e.g., “extends,” “extending,” “extension,” or “extensions”);
 - “postpone,” including any inflection thereof (e.g., “postpones,” “postponed,” “postponing,” or “postponement”); or
 - “variance” or “variances.”

Beginning on July 29, 2016, as part of compliance with EPA’s New Source Performance Standards (“NSPS”) for oil and gas facilities,³ owners and operators of regulated facilities were able to submit reports made pursuant to Subpart OOOOa through EPA’s Compliance and Emissions Data Reporting Interface (“CEDRI”). Accordingly, EDF respectfully seeks any information responsive to paragraph (1) of this request that was transmitted, produced, or modified by the agency from July 29, 2016, until the date that EPA begins searching for records responsive to this request. EDF respectfully seeks any information responsive to paragraph (2) of this request that was transmitted, produced, or modified by the agency from January 20, 2017, until the date that EPA begins searching for records responsive to this request.

If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

Request for Expedited Processing

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” With respect to five other FOIA requests, EPA recently recognized EDF’s eligibility for expedited processing on this basis.⁴ In

³ Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources, 81 Fed. Reg. 35,824 (June 3, 2016).

⁴ See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-003545 (Feb. 23, 2017); Letter from Larry F. Gottesman (EPA) to

support of this request for expedited processing, I certify that the following information is true and correct to the best of my knowledge and belief:

- (1) EDF engages in extensive, frequent efforts to inform the public about matters involving environmental policy, including standards applicable to oil and natural gas facilities and the emission of air pollutants from these facilities. For example, EDF has multiple channels for distributing information to the public, including through direct communication with its more than 2 million members, press releases, blog posts, active engagement on social media, and frequent appearances by staff in major media outlets.⁵
- (2) Expedited processing is critical so that the American public has access to information on the effectiveness of EPA's standards for oil and natural gas facilities, including information on the critical emission reductions these standards are delivering.

Request for Fee Waiver

As a non-partisan, non-profit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking information for any commercial purpose and the records received will contribute to a greater public understanding of key methane and air pollution issues of considerable public interest. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate to the public information submitted pursuant to Subpart OOOOa, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. These outreach channels are proven effective: a press release that EDF released in response to a recent partial production of EPA records was quickly picked up by a major media outlet.⁶ We fully intend to disseminate newsworthy

Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 13, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009579 (July 26, 2017).

⁵ See, e.g., Peter Zalzal, *Suspension of Clean Air Standards for the Oil and Gas Industry: An Urgent Health Threat for Americans*, EDF Energy Exchange Blog (June 5, 2017), <http://blogs.edf.org/energyexchange/2017/06/05/suspension-of-clean-air-standards-for-the-oil-and-gas-industry-an-urgent-health-threat-for-americans/>; Press Release, EDF, Over 375,000 Americans Voice Clear Support for Federal Limits on Dangerous Methane Pollution Leaking from Thousands of New U.S. Oil and Gas Operations (Aug. 9, 2017), <https://www.edf.org/media/over-375000-americans-voice-clear-support-federal-limits-dangerous-methane-pollution-leaking>.

⁶ See Press Release, EDF, Environmental Defense Fund Obtains Information on Over 1,900 Climate-Related Items Removed from or Modified on EPA Website (Aug. 11, 2017), <https://www.edf.org/media/environmental-defense-fund-obtains-information-over-1900-climate-related-items-removed-or>; Coral Davenport & Eric Lipton, *Scott Pruitt Is Carrying Out His E.P.A. Agenda in Secret, Critics Say*, N.Y. Times (Aug. 11, 2017), <https://www.nytimes.com/2017/08/11/us/politics/scott-pruitt-epa.html> (citing EDF's press release).

information received in response to this request. Accordingly, we respectfully request that the documents be furnished without charge. 5 U.S.C. § 552(a)(4)(A)(iii).

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (303) 447-7214 or by email at pzalzal@edf.org.

Respectfully submitted,

Peter Zalzal
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