



May 9, 2018

**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 Records Related to MY 2017 and Later  
Glider Vehicles**

Dear National Freedom of Information Officer:

Environmental Defense Fund ("EDF") respectfully requests records, as that term is described at 5 U.S.C. § 552(f)(2) of the Freedom of Information Act ("FOIA"), of the U.S. Environmental Protection Agency ("EPA" or the "Agency") related to certification of model year ("MY") 2017 and later glider vehicles. Specifically, EDF requests:

- (1) all certificates issued for a glider vehicle;
- (2) all certification applications for MY 2017 and later glider vehicles;
- (3) all notifications from small business manufacturers of glider vehicles claiming exempt status under 40 C.F.R. § 1037.150(t)(1)(i); and
- (4) all annual reports required by 40 C.F.R. § 1037.250 and § 1037.150(t)(1)(iii) identifying the number of exempt glider vehicles produced by each notifying manufacturer in model year 2017 or thereafter.

EDF respectfully seeks records produced, modified, transmitted or received by the agency from January 1, 2016, until the date that EPA begins searching for records responsive to this request. The requested records 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.

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.” In relation to five other FOIA requests, EPA recently recognized EDF’s eligibility for expedited processing on this basis.<sup>1</sup> In 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, daily efforts to inform the public about matters involving environmental policy. 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.<sup>2</sup>
- (2) In October 2016, EPA promulgated various provisions related to “glider” vehicles—a new truck body into which an old, rebuilt engine and powertrain is placed.<sup>3</sup> These provisions generally require engines in glider vehicles to be certified to meet the standards applicable to the year of the vehicle, so that a rebuilt engine in a MY 2017 glider truck would need to meet the same pollution standards as any other MY 2017 heavy duty truck. The rule contains various exemptions to this general requirement. For instance, small business manufacturers of model year 2017 glider vehicles may produce up to their highest production level from 2010–2014 using engines certified to the year of the engine (rather than the year of the vehicle).<sup>4</sup> Starting in January 2018, this allowance is capped, so that even the largest glider vehicle manufacturers may produce no more than 300 glider vehicles

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<sup>1</sup> 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 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).

<sup>2</sup> See, e.g., Alice Henderson, *Public Speaks Out Against Pruitt’s Effort to Reopen a Loophole for Super-Polluting Glider Trucks*, EDF Climate 411 Blog (Dec. 8, 2017), <http://blogs.edf.org/climate411/2017/12/08/public-speaks-out-against-pruitts-effort-to-reopen-a-loophole-for-super-polluting-glider-trucks/>; Press Release, EDF, EDF Calls on EPA to Protect Americans’ Health from Super-Polluting Glider Trucks at Public Hearing Today (Dec. 4, 2017), <https://www.edf.org/media/edf-calls-epa-protect-americans-health-super-polluting-glider-trucks-public-hearing-today>; Alice Henderson, *EPA’s Pruitt Tries to Open a Loophole to Allow Super-Polluting Trucks on Our Roads*, EDF Climate 411 Blog (Nov. 16, 2017), <http://blogs.edf.org/climate411/2017/11/16/epas-pruitt-tries-to-open-a-loophole-to-allow-super-polluting-trucks-on-our-roads/>.

<sup>3</sup> EPA, Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2, 81 Fed. Reg. 73,748 (Oct. 25, 2016); see also 40 C.F.R. §§ 1037.150(t), 1037.635.

<sup>4</sup> 40 C.F.R. § 1037.150(t)(3).

per model year.<sup>5</sup> This cap has been in effect for several months now.

- (3) In November 2017, EPA issued a proposed rule that would repeal pollution standards for glider vehicles, glider engines, and glider kits.<sup>6</sup> Repeal of these requirements would have disastrous air pollution effects: glider trucks emit harmful air pollution such as nitrogen oxides and particulate matter at a rate as much as forty times that of new engines.<sup>7</sup> Glider trucks also emit diesel exhaust, which has been classified as a known human carcinogen by the World Health Organization,<sup>8</sup> and a likely human carcinogen by EPA.<sup>9</sup>
- (4) It is therefore critical that the public obtain access to information regarding how EPA is presently enforcing the glider pollution standards, specifically with respect to the limited permitted exemptions. As EPA moves to repeal glider pollution standards, the public must have access to relevant information about the functioning of the program in order to fully participate in the rulemaking process and provide meaningful comment on the proposed action. Expedited processing is therefore critical so that the American public can obtain and analyze this information in a timely manner.

#### *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 issues of considerable public interest: exemptions granted to manufacturers of glider vehicles and EPA's monitoring and enforcement of its pollution standards pertaining to super-polluting gliders. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate the records to the public, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. These outreach channels are proven effective: for example, a press release that EDF released in response to a partial production of EPA records was quickly picked up by a major media outlet.<sup>10</sup> We fully intend to disseminate newsworthy information received in response to this request.

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<sup>5</sup> 40 C.F.R. § 1037.150(t)(1)(ii).

<sup>6</sup> EPA, Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits, 82 Fed. Reg. 53,442 (Nov. 16, 2017).

<sup>7</sup> Henderson, *EPA's Pruitt Tries to Open a Loophole to Allow Super-Polluting Trucks on our Roads*, *supra* note 2.

<sup>8</sup> Bulletin of the World Health Organization, <http://www.who.int/bulletin/volumes/90/7/12-010712/en/> (last visited December 21, 2017).

<sup>9</sup> U.S. Environmental Protection Agency, Chemical Assessment Summary – diesel engine exhaust, *available at* [https://cfpub.epa.gov/ncea/iris/iris\\_documents/documents/subst/0642\\_summary.pdf](https://cfpub.epa.gov/ncea/iris/iris_documents/documents/subst/0642_summary.pdf).

<sup>10</sup> 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).

Accordingly, we respectfully request that EPA furnish the records 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 (202) 572-3525 or by email at [emurphy@edf.org](mailto:emurphy@edf.org).

Respectfully submitted,

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