

EXHIBIT A

September 7, 2017

Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Via online form submission

Re: Freedom of Information Act request for records in regard to EPA's delayed rulemaking of adding natural gas processing facilities to the Toxic Release Inventory

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 551 et seq., I am writing on behalf of the Environmental Integrity Project (EIP) to request records held by the Environmental Protection Agency (EPA).

EIP seeks records related to EPA's decision to designate its rulemaking action, Adding Natural Gas Processing (NGP) Facilities to Toxic Release Inventory (TRI), RIN 2070-AK16, as an "inactive action." *See* EPA, 2017 Inactive Actions, https://www.reginfo.gov/public/jsp/eAgenda/InactiveRINs_2017_Agenda_Update.pdf. EIP specifically seeks three types of records:

1. Records regarding EPA's decision to designate this rulemaking as an inactive action;
2. Records regarding any regulatory definition or effect of the "inactive action" designation; and
3. Records regarding the anticipated schedule for the rulemaking, including any anticipated date for taking final action on the proposed rule.

Please include in your response an explanation of which records, if any, may be privileged or exempt from this FOIA request and why. If you claim that the records should not be disclosed, please justify your refusal by referring to the specific exemption that you are invoking under FOIA. Also, please provide those portions of documents with information requested that are not specifically exempted from disclosure.

Additionally, if the costs of completing this request will exceed \$100, please contact me with the estimated costs at your earliest convenience.

Thank you for your assistance with this request, and I look forward to hearing from you. If I can provide any additional information or answer any questions that can help to clarify or limit this request, please do not hesitate to contact me at (202) 263-4451 or akron@environmentalintegrity.org.

Sincerely,

Adam Kron
Senior Attorney
Environmental Integrity Project

Attachment

EXHIBIT B

Adam Kron

From: foia_hq@epa.gov
Sent: Thursday, September 7, 2017 4:45 PM
To: Adam Kron
Subject: FOIA Request EPA-HQ-2017-011256 Submitted

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: EPA-HQ-2017-011256
- Requester Name: Adam Kron
- Date Submitted: 09/07/2017
- Request Status: Submitted
- Description: Please see attached FOIA request

EXHIBIT C

Adam Kron

From: Turk, David <Turk.David@epa.gov>
Sent: Tuesday, October 17, 2017 5:17 PM
To: Adam Kron
Subject: FOIA Extension Request (EPA-HQ-2017-011256)

Follow Up Flag: Follow up
Flag Status: Completed

Adam,

I'm following up on our recent phone call. It appears that we will need to provide to you a letter indicating the need for an extension. In the online system I'll also need to populate a box that indicates whether or not the requester approved of the extension. My understanding at this point in time is that we do not require a formal response in any particular format other than your general consent to the extension.

I'm proposing 11/30 as EPA's deadline. Let me know if this works for EIP when you have a chance. We will need more time than the current 10/23 deadline. I've asked for records from offices that may potentially have records by the close of October, so, depending on what I receive at that time, we may be able to close out this request before the proposed 11/30 extension deadline.

-Dave

EXHIBIT D

Adam Kron

From: Adam Kron
Sent: Monday, October 23, 2017 2:09 PM
To: Turk, David
Subject: RE: FOIA Extension Request (EPA-HQ-2017-011256)

Hi Dave,

Thanks for your email. The proposed extension until 11/30 works for us, especially if you're able to provide any interim responses that you mentioned as a possibility between now and then.

Thanks again,

Adam

Adam Kron
Senior Attorney
Environmental Integrity Project
1000 Vermont Avenue NW, Suite 1100
Washington, D.C. 20005
(202) 263-4451
Fax: (202) 296-8822

From: Turk, David [mailto:Turk.David@epa.gov]
Sent: Tuesday, October 17, 2017 5:17 PM
To: Adam Kron <akron@environmentalintegrity.org>
Subject: FOIA Extension Request (EPA-HQ-2017-011256)

Adam,

I'm following up on our recent phone call. It appears that we will need to provide to you a letter indicating the need for an extension. In the online system I'll also need to populate a box that indicates whether or not the requester approved of the extension. My understanding at this point in time is that we do not require a formal response in any particular format other than your general consent to the extension.

I'm proposing 11/30 as EPA's deadline. Let me know if this works for EIP when you have a chance. We will need more time than the current 10/23 deadline. I've asked for records from offices that may potentially have records by the close of October, so, depending on what I receive at that time, we may be able to close out this request before the proposed 11/30 extension deadline.

-Dave

EXHIBIT E



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

10/23/2017

Adam Kron
Environmental Integrity Project
1000 Vermont Avenue, NW, Suite 1100
Washington, DC 20005

Re: Freedom of Information Act Request No. EPA-HQ-2017-011256

Dear Mr. Adam Kron:

This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on September 8, 2017, in which you requested records related to EPA's decision to designate as an inactive action the Addition of Natural Gas Processing Facilities to the Toxics Release Inventory (TRI) (EPA-HQ-TRI-2016-0390). On or about October 5, 2017, EPA contacted you to inform you that pursuant to 40 C.F.R. § 2.104(d), that a ten-day extension was necessary. Given the scope of the request, EPA anticipates that to search for and collect the requested records from multiple EPA entities that are separate from the program office processing the request will require additional time.

Pursuant to this initial extension, EPA has initiated the coordination of and search for responsive records in our files. EPA estimates the Agency will be able to complete this request by November 30, 2017. We will be working diligently working on the request and providing the information as feasible on a rolling basis. If we can respond sooner, we will let you know.

If you would like to modify or narrow your request so that it may be processed sooner, please contact David Turk, who can be reached at 202-566-1527 or turk.david@epa.gov.

In addition, you may contact the EPA FOIA Public Liaison, Deborah Williams, at 202-566-1659 or williams.deborah@epa.gov, to assist with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David Turk", is written over a horizontal line.

David Turk
Branch Chief of the Regulatory Development Branch
Office of Chemical Safety and Pollution Prevention

cc: John Latham, Office of Pollution Prevention and Toxics FOIA Officer

EXHIBIT F

Adam Kron

From: Turk, David <Turk.David@epa.gov>
Sent: Tuesday, November 28, 2017 5:22 PM
To: Adam Kron
Subject: FOIA EPA-HQ-2017-011256
Attachments: EPA-HQ-2017-011256_OCSPP_TRIPD_Response_11_28_2017.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Mr. Kron:

See attached letter. The Office of Chemical Safety and Pollution Prevention of the Environmental Protection Agency has completed its review of your FOIA request (EPA-HQ-2017-011256). The request has been transferred to the Administrator's Office, which will respond separately.

-Dave Turk, Toxics Release Inventory (TRI) Program

EXHIBIT G



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV 28 2017

Adam Kron
Environmental Integrity Project
1000 Vermont Avenue NW, Suite 1100
Washington, D.C. 20005

Re: Freedom of Information Act Request No. *EPA-HQ-2017-011256*, Final Response

Dear Mr. Kron:

This letter concerns the above-referenced FOIA request, received by the U.S. Environmental Protection Agency (EPA or Agency) on September 7, 2017, in which you requested records related to EPA's decision to designate as inactive on the 2017 Unified Regulatory Agenda the rulemaking action titled Addition of Natural Gas Processing Facilities to the Toxics Release Inventory (TRI). Specifically, your request sought records regarding "EPA's decision to designate this rulemaking as an inactive action; [...] any regulatory definition or effect of the "inactive action" designation; and [...] the anticipated schedule for the rulemaking, including any anticipated date for taking final action on the proposed rule."

This response is a partial grant/partial denial of your request. Records largely have not been located that are responsive to your request. Some records that do exist are being withheld due to a FOIA exemption. Details for what records have been located as well as which records have not been located are provided below. Please note that this response provides information on the existence of documents that the Office of Chemical Safety and Pollution Prevention has been able to locate. This FOIA request has been transferred to the Administrator's Office for further consideration. There is no cost to process this portion of the response to your request.

1. Records regarding EPA's decision to designate this rulemaking as an inactive action;

The records, in their entirety, will be withheld. To prepare materials for listing actions in the 2017 Unified Agenda, EPA staff exchanged several emails that included mention of the Addition of Natural Gas Processing Facilities to the Toxics Release Inventory rulemaking. These emails relate to the decision to designate the rulemaking as an inactive action only insofar as they address the logistics of providing information from the programmatic level for the fields needed to include this rulemaking as an inactive action in the 2017 Unified Agenda. In addition, these emails included an attached draft document created for tracking purposes that lists actions, statuses, and dates applicable to agency actions. This document contained an entry for the Addition of Natural Gas Processing Facilities to the Toxics Release Inventory rulemaking.

Records are being withheld pursuant to: 5 U.S.C. § 552(b)(5), the Deliberative Process Privilege. The records are exempt from disclosure because they are predecisional and deliberative and would harm agency decision making if released (DPP).

EPA has not located any additional responsive records for this request.

2. Records regarding any regulatory definition or effect of the “inactive action” designation; and

The records, in their entirety, may be released to the requester. According to the preamble to the Update to the 2017 Unified Agenda, the Agenda generally includes activities “that will have a regulatory action within the next 12 months,” although agencies may, in their discretion, include activities that will have a somewhat longer timeframe than 12 months.

(See

https://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201704/Preamble_8888.html).

Further, the 2017 Unified Agenda indicates that “[A]gencies will post and make public their list of “inactive” rules to provide notice to the public of regulations **still being reviewed or considered.**” (See <https://www.reginfo.gov/public/do/eAgendaMain>) (emphasis added).

Thus, including the Addition of Natural Gas Processing Facilities to the Toxics Release Inventory rulemaking on the “inactive” list means only that a Federal Register publication was not anticipated in the next 12 months and that EPA exercised its discretion to not include the rulemaking among its activities that will have a regulatory action within the next 12 months, instead including the rulemaking on its inactive list of regulations still being reviewed or considered.

3. Records regarding the anticipated schedule for the rulemaking, including any anticipated date for taking final action on the proposed rule

EPA has not located any responsive records for this request.

If you have any questions concerning this response, contact Dave Turk of my staff at 202-566-1527.

Sincerely,



Larry Reisman

Acting Director

Toxics Release Inventory Program Division

EXHIBIT H

Request Details

Tracking Number : EPA-HQ-2017-011256

Submitted Evaluation Assignment Processing

Contact Information

Closed

Full Name : Adam Kron	Mailing Location : United States/U.S.
Organization : Environmental Integrity Project	Territories
Email Address : akron@environmentalintegrity.org	Address Line 1 : 1000 Vermont Ave NW
Phone Number : 202-263-4451	Address Line 2 : Suite 1100
Fax Number : 202-296-8822	City : Washington
	State/Province : District of Columbia
	Zip Code/Postal Code : 20005

Request Information

Agency : Office of Pollution Prevention and Toxics	Request Phase : Assignment
Will Pay Up To : \$100.00	Request Track : Complex
Date Submitted : 09/07/2017	Final Disposition : Undetermined
Estimated Date of Completion : 11/30/2017	

Description :

691/2000

EIP seeks records related to EPA's decision to designate its rulemaking action, Adding Natural Gas Processing (NGP) Facilities to Toxic Release Inventory (TRI), RIN 2070-AK16, as an "inactive action." See EPA, 2017 Inactive Actions, https://www.reginfo.gov/public/jsp/eAgenda/InactiveRINs_2017_Agenda_Update.pdf.

EIP specifically seeks three types of records:

Request a Fee Waiver

Made Request ? Yes

Request Expedited Handling

Made Request ? No

Please see attached FOIA request fee waiver

Supporting Files

Attached Files :

Attached File	Type	Size (MB)
2017.09.07 EPA TRIInactiveAction FOIAFeeWaiver.pdf	PDF	0.03
2017.09.07 EPA TRIInactiveAction FOIA.pdf	PDF	0.03
EPA-HQ-2017-011256 EXTENSION_10_23_2017.pdf	PDF	0.34

Payments

No payments to display.

Invoice

Total Amount Billed : \$0.00

Date Sent :

No invoice has been added.

Correspondence with Requester

Subject	From	Date	Detail
FOIA Fee Waiver Disposition Reached for EPA-HQ-2017-011256		2017-10-05	
Fee Waiver Denial	Linda F. Person	2017-10-05	
FOIA Request EPA-HQ-2017-011256 Submitted		2017-09-07	

Released Records

No records have been released.