

July 25, 2018

Via Fedex to:

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

Re: FOIA Request for Records concerning OMEGA model

Dear FOIA Officer:

We write on behalf of the Natural Resources Defense Council (NRDC) and the Environmental Defense Fund (EDF) to request disclosure of records pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and applicable Environmental Protection Agency (EPA) regulations at 40 C.F.R. § 2.100-2.406.

I. Requested Records and Disclosure Method

Please produce records¹ of the following types in EPA's possession, custody, or control:

1. Any and all versions of the Optimization Model for Emissions of Greenhouse Gases from Automobiles (OMEGA models), not previously made public, including but not limited to any OMEGA models used to inform EPA's Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles (the MTE), 83 FR 16077 (Apr. 13, 2018); and/or EPA and the National Highway Traffic Safety Administration's (NHTSA) expected joint notice of proposed rulemaking to revise model year 2021-26 light-duty vehicle (LDV) greenhouse gas (GHG) and augural Corporate Average Fuel Economy (CAFE) standards (the MY

¹ "Records" means anything denoted by the use of that word or its singular form in the text of FOIA and includes correspondence, minutes of meetings, memoranda, notes, emails, notices, facsimiles, charts, tables, presentations, orders, filings, internal messaging systems, and other writings (handwritten, typed, electronic, or otherwise produced, reproduced, or stored). *See* 5 U.S.C. § 552(f)(2). NRDC seeks responsive records in the custody of any EPA office, including, but not limited to, EPA Headquarters and EPA's Office of Transportation and Air Quality.

2021-26 Proposal),² including any and all source code for the various OMEGA models' components and any and all documentation describing the logical flow and relationship between those components;

2. The "decision trees" utilized by the most recent version of the OMEGA models referred to in #1, above;
3. Any and all input files for all OMEGA models referred to in #1, above;
4. Any and all data and analysis supporting the development of baseline vehicles and the OMEGA models' baseline fleet(s) of LDV;
5. Any and all data and analysis supporting cost estimates and/or cost projections for any and all technologies identified by EPA as having the potential to decrease GHG emissions in LDV;
6. Any and all data and analysis supporting estimates and/or projections regarding the actual or potential effectiveness in decreasing GHG emissions of all technologies described in #5, above;
7. Any and all data and analysis supporting the development of estimates and/or projections regarding maximum feasible penetrations of the technologies described in #5, above, across the U.S. fleet including all data and analysis related to the development of constraints to market penetration below what would otherwise be dictated by market economics;
8. Any and all data and analysis regarding the cadence, timing, and duration of product redesign and refresh cycles assumed for vehicles in the baseline fleet;

² EPA and NHTSA have already submitted the MY 2021-26 Proposal to the Office of Management and Budget. Office of Information and Government Affairs, *Rulemaking to Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy*, <https://www.reginfo.gov/public/do/eoDetails?rrid=128128> (last visited June 27, 2018); see also Office of Information and Government Affairs, *2021-2026 Model Year Corporate Average Fuel Economy Standards and Light-Duty Vehicle Greenhouse Gas Emissions Standards*, <https://www.reginfo.gov/public/do/eoDetails?rrid=128124> (last visited June 27, 2018).

9. The methodology and results of all Advanced Light-Duty Powertrain and Hybrid Analysis (ALPHA) modeling used to develop the estimates for the effectiveness of all technologies described in #5, above;
10. Any and all documents, instructions, and data methodology (computer programs and/or computer files, as appropriate) used to convert the vehicle data, technology costs, effectiveness estimates, and any other relevant information described in #4 through #9 into inputs to the OMEGA models; and
11. Any and all models and/or components, as well as all data and analysis, regarding impacts on vehicle sales, including sale prices (including both Manufacturer's Suggested Retail Prices and prices actually paid by consumers), consumer demand, consumer willingness to pay, consumer choice, consumer preference, vehicle mix across the US fleet, vehicle performance, scrappage rates, fleet size, fleet mix, vehicle miles traveled, safety, and/or fleet turnover rates used to inform the MTE or the MY 2021-26 Proposal.
12. Any data and/or analysis pertaining to the impact of vehicle fuel economy and/or vehicle price on the amount of driving done by vehicle operators.

Please either email responsive records to Irene Gutierrez at igutierrez@nrdc.org, or mail a CD or flash drive with responsive records. Please release responsive records on a rolling basis. If you determine that any of the records described above are already publicly available, please let us know where to find them. If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, *see* 5 U.S.C. § 552(b), please provide an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

II. Request for a Fee Waiver (or Reduction) and Willingness to Pay Fees Under Protest (Up to \$250)

NRDC and EDF request that EPA waive any fee it would otherwise charge for searching for and producing the requested records. FOIA dictates that requested records be provided without charge "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); *see also* 40 C.F.R. §2.107(l)(1). As explained below, the requested disclosure meets both requirements. NRDC is also "a representative of the news media" entitled to fee reduction. 5 U.S.C. § 552(a)(4)(A)(ii)(II); *see also* 40 C.F.R. § 2.107(c)(1)(iii).

Please disclose the records requested above regardless of your decision on whether to waive or reduce fees. To expedite disclosure, NRDC and EDF will, if necessary and under protest, pay fees in accordance with EPA's FOIA regulations, 40 C.F.R. § 2.107(c)(1)(iv), for all or a portion of the requested records. *See* 40 C.F.R. § 2.107(l)(4). Please contact us before doing anything that would cause the fee to exceed \$250.

A. NRDC and EDF Satisfy the First Fee Waiver Requirement

The disclosure requested here is “likely to contribute significantly to public understanding of the operations or activities of the government.” 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l)(1). Each of the four factors used by EPA to evaluate the first fee waiver requirement indicates that a fee waiver is appropriate for this request. *See* 40 C.F.R. § 2.107(l)(2).

1. Subject of the request

The records requested here underlie EPA and NHTSA rulemakings to withdraw and revise GHG standards that were supported in part by previous OMEGA modeling runs. Therefore, they directly concern “the operations or activities of the government.” 40 C.F.R. § 2.107(l)(2)(i).

2. Informative value of the records to be disclosed

The requested records are “likely to contribute to” the public’s understanding of government operations and activities. 40 C.F.R. § 2.107(l)(2)(ii). The public does not currently possess comprehensive information regarding how EPA’s modeling (including any changes to the OMEGA model itself) support the MTE or the MY 2021-26 Proposal. EPA has not released any updated models, model inputs, or model constraints to date, despite EPA’s prior reliance on the OMEGA model for LDV GHG standard rulemakings. *See, e.g., Proposed Rulemaking to Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards*, 74 FR 49454, 49541 (Sept. 28, 2009). Further, in the MTE, EPA cited revised expectations of several factors that EPA uses as OMEGA model parameters to justify the withdrawal of the already promulgated GHG standards:

[I]t is clear that many of the key assumptions EPA relied upon in its January 2017 Determination, including gas prices, and the consumer acceptance of advanced technology vehicles, were optimistic or have significantly changed.

EPA has also both developed and received additional data and assessments since the January 2017 Determination regarding technology effectiveness and technology costs which warrant additional consideration. In addition, the reach and success of the program is significantly limited when consumers do not purchase new vehicles with low GHG emissions, either because they are priced out of them or are unwilling to spend additional money on advanced fuel-saving technologies.

83 FR 16077, 16087 (Apr. 13, 2018). Therefore, there is more than a reasonable likelihood that these records have informative value to the public. *See Citizens for Responsibility & Ethics in Washington v. U.S. Dep't of Health & Human Servs.*, 481 F. Supp. 2d 99, 109 (D.D.C. 2006) (finding this factor satisfied whenever there is more than “rank speculation” that the requested records would increase public knowledge of government operations).

3. Likely contribution to public understanding

Disclosure of the records sought by NRDC and EDF will “contribute to the understanding of a reasonably broad audience of persons interested in the subject,” 40 C.F.R. § 2.107(l)(2)(iii), 40 C.F.R. § 260.10, because the records will help stakeholders understand how EPA’s OMEGA model was used in relation to the MTE and the development of the proposed MY 2021-26 standards. The requesting organizations have the expertise to analyze the information in the OMEGA model and affiliated data, and will be able to convey that analysis and understanding to the public. Thus, disclosure of the requested records will result in a contribution to public understanding of what support the agency has for its proposal to roll back the Clean Car standards, and to what extent the agency relied on the OMEGA model to develop its proposal for MY 2021-26.

i. NRDC is equipped to convey information to the public

Because NRDC is a “representative of the news media,” as explained in Part II.C below, EPA must presume that this disclosure is likely to contribute to public understanding of its subject. 40 C.F.R. § 2.107(l)(2)(iii). Even if NRDC were not a media requester, its expertise in LDV GHG standards (including the effectiveness and cost of LDV emission reduction technologies), extensive communications capabilities, and proven history of dissemination of information of public interest—including information obtained from FOIA records requests—show that NRDC has the ability and will to use disclosed records and analysis of such disclosed records to reach a broad audience of interested persons with any relevant and newsworthy information the records reveal. There is

accordingly a strong likelihood that disclosure of the requested records will increase public understanding of the subject matter. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003) (finding that a requester that specified multiple channels of dissemination and estimated viewership numbers demonstrated a likelihood of contributing to public understanding of government operations and activities).

NRDC's more than three million members and online activists are "a broad audience of persons interested in the subject" of the LDV GHG standards and the OMEGA model. 40 C.F.R. § 2.107(l)(2)(iii). When this group is combined with NRDC's coalition partners, the other audiences for the numerous publications and other platforms to which NRDC contributes, the likely audience of interested persons to be reached is certainly "reasonably broad." 40 C.F.R. § 2.107(l)(2)(iii); *see also* 83 FR 16077, 16078 (Apr. 13, 2018) (noting that the public submitted more than 290,000 comments concerning the MTE).

NRDC can disseminate newsworthy information collected through this FOIA request to its members, online activists and other members of the public through many channels, free of charge. As of summer 2017, these channels include:

- NRDC's website, <http://www.nrdc.org> (sample homepage at Att. 1), is updated daily, features blogs by NRDC's scientific, legal, and other staff experts, and draws approximately 1.3 million page views and 510,000 unique visitors per month.
- NRDC updates and maintains several social media accounts with tens to hundreds of thousands of followers. Its major accounts include Facebook (906,992 followers) (Att. 2), Twitter (271,551 followers) (Att. 3), Instagram (108,315 followers) (Att. 4), YouTube (Att. 5), and LinkedIn (Att. 6).
- NRDC's Activist email list includes more than three million members and online activists who receive regular communications on urgent environmental issues. (sample at Att. 7) This information is also made available through NRDC's online Action Center at <https://www.nrdc.org/actions> (Att. 8).
- NRDC is a regular contributor to Medium (1,478 followers) (Att. 9) and the Huffington Post (Att. 10).
- NRDC staff also write papers and reports; provide legislative testimony; present at conferences; direct and produce documentary films; and contribute to national radio, television, newspaper, magazine and web stories and academic journals.

Moreover, NRDC's legal, scientific, and other experts have a history of using information obtained through FOIA requests to inform the public about a variety of issues,

including energy policy, climate change, wildlife protection, nuclear weapons, pesticides, drinking water safety, and air quality. For example:

- Through FOIA and other sources, NRDC obtained information on levels of arsenic in drinking water nationwide and used it in a report, *Arsenic and Old Laws* (2000) (Att. 11). The report explained how interested members of the public could learn more about arsenic in their own drinking water supplies. *Id.* See also Steve LaRue, "EPA Aims to Cut Levels of Arsenic in Well Water," *San Diego Union-Tribune*, June 5, 2000, at B1 (referencing NRDC's report) (Att. 12).
- Through FOIA, NRDC obtained an ExxonMobil memorandum advocating the replacement of the sitting head of the Intergovernmental Panel on Climate Change, and used the document to help inform the public about what may have been behind the Bush administration's decision to replace Dr. Robert Watson. See NRDC Press Release and attached Exxon memorandum, "Confidential Papers Show Exxon Hand in White House Move to Oust Top Scientist from International Global Warming Panel," Apr. 3, 2002 (Att. 13). See also Elizabeth Shogren, "Charges Fly Over Science Panel Pick," *L.A. Times*, Apr. 4, 2002, at A19 (Att. 14).
- NRDC scientists have used information obtained through FOIA to publish analyses of the United States' and other nations' nuclear weapons programs. In 2004, for example, NRDC scientists incorporated information obtained through FOIA into a feature article on the United States' plans to deploy a ballistic missile system and the implications for global security. Hans M. Kristensen, Matthew G. McKinzie, and Robert S. Norris, "The Protection Paradox," *Bulletin of Atomic Scientists*, Mar./Apr. 2004 (Att. 15).
- NRDC has used White House documents obtained through FOIA and other sources to inform the public about EPA's decision not to protect wildlife and workers from the pesticide atrazine in the face of industry pressure. See *Still Poisoning the Well: Atrazine Continues to Contaminate Surface Water and Drinking Water in the United States*, <http://www.nrdc.org/health/atrazine/files/atrazine10.pdf> (Apr. 2010) (update to 2009 report) (Att. 16). See also William Souder, "It's Not Easy Being Green: Are Weed-Killers Turning Frogs Into Hermaphrodites?" *Harper's Magazine*, Aug. 1, 2006 (referencing documents obtained and posted online by NRDC) (Att. 17).
- NRDC obtained, through FOIA, FDA review documents on the nontherapeutic use of antibiotic additives in livestock and poultry feed. NRDC used these documents to publish a January 2014 report, titled *Playing Chicken with Antibiotics*, that reveals decades of FDA hesitancy to ensure the safety of these drug additives (Att. 18). See

also P.J. Huffstutter and Brian Grow, “Drug critic slams FDA over antibiotic oversight in meat production,” *Reuters*, Jan. 27, 2014 (discussing report) (Att. 19).

- In April 2014, NRDC used FOIA documents to prepare a report on potentially unsafe chemicals added to food, without FDA oversight or public notification. The report, *Generally Recognized as Secret: Chemicals Added to Food in the United States*, reveals concerns within the agency about several chemicals used as ingredients in food that manufacturers claim are “generally recognized as safe” (Att. 20). See also Kimberly Kindy, “Are secret, dangerous ingredients in your food?” *Wash. Post*, Apr. 7, 2014 (discussing report) (Att. 21).
- NRDC recently obtained through FOIA and publicized emails between the Trump transition team and industry officials regarding reversal of Obama-era preliminary restrictions on the proposed Pebble Mine. This cast light on an issue of considerable public interest. See, e.g., Kevin Bogardus and Dylan Brown, “‘Homework assignment’ — how Pebble lobbied Trump’s EPA,” *E&E News*, June 8, 2017 (Att. 22).

In short, NRDC has proven its ability to digest, synthesize, and quickly disseminate to a broad audience newsworthy information gleaned through FOIA requests like this one.

ii. EDF is equipped to convey information to the public

EDF has “expertise in the subject area” through its staff of legal and vehicles experts working in this arena. 40 C.F.R. § 2.107(l)(2)(iii). EDF has been engaged throughout the Mid-Term Evaluation process—in 2016, we submitted comments on the draft Technical Assessment Report, and on EPA’s Proposed Determination that the standards remain appropriate.³ In 2017, we submitted comments strongly opposing the agency’s decision to launch a reconsideration of the MTE,⁴ and testified at the Fall 2017 hearing on the reconsideration.⁵ EDF has also commissioned experts to analyze the impacts of the Clean

³ Comment of Environmental Defense Fund on *Draft Technical Assessment Report: Midterm Evaluation of Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards for Model Years 2022-2025*, Docket ID EPA-HQ-OAR-2015-0827-4086 (Sept. 26, 2016); Comment of Environmental Defense Fund on *Proposed Determination on the Appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards Under the Midterm Evaluation*, Docket ID EPA-HQ-OAR-2015-0827-6201 (Dec. 30, 2016).

⁴ Comment of Environmental Defense Fund on *Request for Comment on Reconsideration of the Final Determination of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles*, Docket ID EPA-HQ-OAR-2015-0827 (Oct. 5, 2017), https://www.edf.org/sites/default/files/content/final_edf_ld_epa_reconsideration_comments_10.5.17.pdf.

⁵ Martha Roberts, *Americans speak up for clean cars at EPA public hearing*, Environmental Defense Fund Climate 411 Blog (Sept. 6, 2017), <http://blogs.edf.org/climate411/2017/09/06/americans-speak-up-for-clean-cars-at-epa-public-hearing/>.

Car standards on all Americans.⁶ Thus, EDF is adequately prepared to review the records sought in this FOIA request.

EDF also has the “ability and intention to effectively convey information to the public,” 40 C.F.R. § 2.107(l)(2)(iii), because EDF regularly communicates with more than two million members, as well as with the broader public, about topics of importance to human health and the environment.⁷ EDF has more than 175,000 followers on Twitter and more than 300,000 followers on Facebook, providing ample pathways for distributing information. In addition to its own capacity to convey information to the public, EDF shares important data with journalists to help enhance public knowledge.⁸

4. Significance of the contribution to public understanding

The records requested here shed light on a matter of considerable public interest and concern: whether and how EPA modified and applied the OMEGA model and its inputs to support the withdrawal and revision of GHG standards. Media reports reveal that both the MTE and the MY 2021-26 Proposal have attracted intense public interest. *See, e.g.*, Hiroko Tabuchi et al., “E.P.A. Readies Plan to Weaken Rules That Require Cars to Be Cleaner,” *N.Y. Times*, Apr. 27, 2018 (Att. 23); Maxine Joselow, “OMB Changes Details of Fuel Efficiency Proposal,” *E&E News*, June 4, 2018 (Att. 24); Juliet Eilperin & Brady Dennis, “EPA

⁶ See EDF Press Release, New Analysis: Americans in All Fifty States Save Hard-Earned Money with Clean Car Standards (July 23, 2018), <https://www.edf.org/media/new-analysis-americans-all-fifty-states-save-hard-earned-money-clean-car-standards> (conveying analysis by M.J. Bradley).

⁷ See Alice Henderson, *Five things you need to know about the U.S. Clean Car Standards*, EDF Climate 411 Blog (Apr. 30, 2018), <http://blogs.edf.org/climate411/2018/04/30/five-things-you-need-to-know-about-the-u-s-clean-car-standards/>; Martha Roberts, *An outpouring of support for clean car standards, in the face of Pruitt's attempted rollback*, EDF Climate 411 Blog (Apr. 6, 2018), <http://blogs.edf.org/climate411/2018/04/06/an-outpouring-of-support-for-clean-car-standards-in-the-face-of-pruitts-attempted-rollback>; Associated Press, *EPA to Ease Back Emission Standards*, US News (Apr. 2, 2018), <https://www.usnews.com/news/business/articles/2018-04-02/epa-to-ease-back-emissions-standards> (quoting EDF President Fred Krupp about the Clean Car Standards); Environmental Defense Fund, *Federal clean car standards*, <https://www.edf.org/federal-clean-car-standards>, last visited June 18, 2018.

⁸ See, e.g., Ryan Beene, *White House Told EPA to Ready California Autos Challenge in 2017*, Bloomberg (June 1, 2018), <https://www.bloomberg.com/news/articles/2018-06-01/white-house-told-epa-to-ready-california-autos-challenge-in-2017> (reporting information disclosed through an EDF FOIA request); Ellen Knickmeyer, *Emails Show Cooperation Among EPA, Climate-Change Deniers*, Assoc. Press (May 26, 2018), <https://apnews.com/64cd37b0503440c0b92e6ca075f87dd4> (same); Michael Biesecker, *Emails: Pruitt Monitored Changes to EPA Webpages on Climate*, Assoc. Press (Feb. 2, 2018), <https://www.apnews.com/85e69300761040a2995f5b457f2ac9f4> (same); 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> (same).

to Roll Back Car Emissions Standards, Handing Automakers a Big Win,” *Wash. Post*, Apr. 2, 2018 (Att. 25).

Public understanding of the MTE and the MY 2021-26 Proposal would be significantly enhanced by disclosure of the requested records concerning the OMEGA model. *See* 40 C.F.R. § 2.107(l)(2)(iv). Disclosure would help the public to effectively evaluate whether EPA’s actions are grounded in sound modeling and data. Without the requested records, NRDC, EDF, and other members of the public cannot conduct this analysis. Moreover, the requested records are indispensable to the public’s ability to meaningfully comment on the MY 2021-26 Proposal. For past rulemakings, EPA has released the most recent version of the OMEGA model (as well as inputs, outputs, and underlying analyses) because it is otherwise impossible to adequately respond to the agency’s conclusions. *See, e.g., Proposed Rulemaking to Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards*, 74 FR 49454, 49541 (Sept. 28, 2009). Notably, the public already submitted more than 290,000 comments concerning the MTE. 83 FR 16077, 16078 (Apr. 13, 2018).

B. NRDC and EDF Satisfy the Further Fee Waiver Requirement

Disclosure of the requested records would also satisfy the further prerequisite of a fee waiver request because NRDC and EDF do not have any commercial interest that would be furthered by the disclosure. 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l)(1), (3). NRDC and EDF are not-for-profit organizations that use information obtained under FOIA for public-information and advocacy purposes, and do not resell this information. “Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’” *Rossotti*, 326 F.3d at 1312 (internal citation omitted); *see Natural Res. Def. Council v. United States Env’tl. Prot. Agency*, 581 F. Supp. 2d 491, 498 (S.D.N.Y. 2008) (“The EPA does not dispute that NRDC is a noncommercial requester, nor that the fee waiver provision must be construed liberally for noncommercial requesters.”). NRDC and EDF wish to serve the public by reviewing, analyzing, and disclosing newsworthy and presently non-public information about the relationship between the OMEGA model and revised LDV GHG standards. As noted at Part II.A, any EPA revisions of the OMEGA model or inputs relate to a matter of considerable public interest and concern. Disclosure of the requested records will contribute significantly to public understanding of the MTE and the MY 2021-26 Proposal.

C. NRDC Is a Media Requester

Even if NRDC were not entitled to a public interest waiver of all costs and fees, it would be a representative of the news media entitled to a reduction of fees under FOIA, 5 U.S.C. § 552(a)(4)(A)(ii), and EPA's FOIA regulations. 40 C.F.R. § 2.107(c)(1)(iii); *see also* 40 C.F.R. § 2.107(b)(6) (defining "[r]epresentative of the news media"). A representative of the news media is "any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii); *see also Elec. Privacy Info. Ctr. v. Dep't of Def.*, 241 F. Supp. 2d 5, 6, 11-15 (D.D.C. 2003) (a "non-profit public interest organization" qualifies as a representative of the news media under FOIA where it publishes books and newsletters on issues of current interest to the public); Letter from Alexander C. Morris, FOIA Officer, United States Dep't of Energy, to Joshua Berman, NRDC (Feb. 10, 2011) (granting NRDC media requester status) (Att. 26).

NRDC is in part organized and operated to gather and publish or transmit news to the public. For example, NRDC publishes original reporting of environmental news stories on its website, <http://www.nrdc.org>. Previously, NRDC published stories like these in its magazine, *OnEarth*, which has won numerous news media awards, including the Independent Press Award for Best Environmental Coverage and for General Excellence, a Gold Eddie Award for editorial excellence among magazines, and the Phillip D. Reed Memorial Award for Outstanding Writing on the Southern Environment. As explained in Part II.A, NRDC also publishes a regular newsletter for its more than three million members and online activists. *See* 40 C.F.R. § 2.107(b)(6) ("Examples of news media include . . . publishers of periodicals."). NRDC also maintains a significant additional communications presence through its staff blogs on www.nrdc.org, which are updated regularly and feature writing about current environmental issues, through daily news messaging on "Twitter" and "Facebook," and through content distributed to outlets such as Medium. *See* OPEN Government Act of 2007, Pub. L. No. 110-175, § 3, 121 Stat. 2524 (2007) (codified at 5 U.S.C. § 552(a)(4)(A)(ii)) (clarifying that "as methods of news delivery evolve . . . such alternative media shall be considered to be news-media entities"). These and the other communications channels referenced earlier in this letter routinely include information about current events of interest to the readership and the public. NRDC employs more than fifty specialized communications staff, including accomplished journalists and editors, and numerous other advocates able to disseminate, through these and other channels, newsworthy information acquired through FOIA.

Organizations with NRDC's characteristics "are regularly granted news representative status." *Serv. Women's Action Network v. Dep't of Def.*, 888 F. Supp. 2d 282,

287-88 (D. Conn. 2012) (accordng media requester status to the American Civil Liberties Union); *see also Cause of Action v. Fed. Trade Comm'n*, 961 F. Supp. 2d 142, 163 (D.D.C. 2013) (explaining that an organization can qualify for media-requester status if it “distributes work to an audience and is especially organized around doing so”).

III. Conclusion

We appreciate your attention to this matter. Please call or email us with any questions.

Sincerely,

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Enclosures in support of fee waiver and reduction requests:
Attachments 1 through 26