From: Powell-Dickson, Antoinette

Sent: Tuesday, October 29, 2019 06:08 PM

To: Mia, Marcia

CC: Scinta, Robert; Cox, John; Newman, Maya; Bunnell, Julia; Battle, Jernell; Albergottie, Daniele

Subject: RE: Response to clarification comments for EPA-HQ-2019-001669 and EPA-HQ-2019-008232

Importance: High

Hi Marcia,

I've been on travel for the last week and a half. I need to complete some work projects before I can attend to this matter. I am available anytime on Monday or Tuesday of next week to discuss both FOIAs.

The CA AG would like to have a conference call tomorrow @ 3pm ET but I will need to rescheduled. Are you available next Wednesday, Nov. 6th @ 2pm for the call? If, not, please provide some available times next week for a call with the AG.

Thanks

APD

From: Mia, Marcia <Mia.Marcia@epa.gov>

Sent: Monday, October 28, 2019 1:35 PM

To: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>

Cc: Scinta, Robert <scinta.robert@epa.gov>; Cox, John <cox.john@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Bunnell, Julia <Bunnell.Julia@epa.gov>

Subject: FW: Response to clarification comments for EPA-HQ-2019-001669

Hi Antoinette,

Not sure where this put us? Also, did you hear from CA AG?

Marcia B Mia

Air Branch

Office of Compliance

2227A WJCS

U.S. Environmental Protection Agency

202-564-7042

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From: Jessica Christy <jchristy@edf.org>

Sent: Friday, October 18, 2019 1:23 PM

To: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>; Peter Zalzal <pzalzal@edf.org>; Benjamin Levitan <blevitan@edf.org>

Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Scinta, Robert <scinta.robert@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Battle, Jernell <Battle.Jernell@epa.gov>; Cox, John <cox.john@epa.gov>; Albergottie, Daniele <Albergottie.Daniele@epa.gov>

Subject: RE: Response to clarification comments for EPA-HQ-2019-001669

Good Afternoon Ms. Powell-Dickson,

There is no dispute regarding the scope of this request as it pertains to the reports requested and EPA should begin the task assignment to the regions immediately.

EPA is aware of which reports EDF is seeking and has indicated this will need to be tasked to the regions. EDF is confused regarding what additional information is needed to begin the search for this part of the request. EDF does not agree to a six month extension, but expects EPA to begin the search and release records on an interim basis as they become available. EDF understands that EPA cannot give EDF a specific timeline for releases due to the complexities involved in the CBI verification process, but would appreciate an update on the status of this portion of the request until EPA begins interim productions.

This is also no dispute as to the scope of the correspondence portion of the request and EPA should begin this search immediately. As stated on both the phone call on September 10th and in my follow up email, at this point in time, EDF declines EPA's suggestion to replace our search terms with references to the regulatory scheme. As stated in my email (attached for ease of reference):

"I understand that EPA will begin the search for responsive HQ correspondence immediately. This includes correspondence with industry and other outside correspondence, as well as correspondence internal to EPA. I understand that EPA will start its search with records that reference "OOOOa" and one of the search terms contained in EDF's request letter. EDF agrees, on a tentative basis to limit the specific word "compliance" to those instances where it is used within 10 words of "OOOOa," in order to limit the number of emails that appear in the search results due to signatures from OECA employees. EDF is reserving the right to remove this consent if it appears relevant correspondence is not captured by the search limitation."

The only dispute is to the timeline. EDF does not consent to a six month extension, but that in no way should prevent EPA from beginning its search for relevant correspondence (particularly within OECA, which EPA stated was a prerequisite to searching in the regional offices "The production of records under Item 2 of your request, will begin once we have determined the search terms which are used for the production of records for OECA are usable." (emphasis added and email attached for ease of reference)).

EDF anticipates EPA will, in good faith, begin the search under this FOIA request as soon as possible as the search terms were agreed upon over 1 month ago and this request has been pending for over six months. Please contact me immediately if, based on the agreement on the scope of search terms, EPA disputes that it is able to begin the search for this long-overdue request within the next two weeks.

Regards,

Jessica Christy

(303) 447-7234

From: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>

Sent: Wednesday, October 16, 2019 3:03 PM

To: Jessica Christy <jchristy@edf.org>; Peter Zalzal <pzalzal@edf.org>; Benjamin Levitan <blevitan@edf.org>

Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Scinta, Robert <scinta.robert@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Battle, Jernell <Battle.Jernell@epa.gov>; Cox, John <cox.john@epa.gov>; Albergottie, Daniele <Albergottie.Daniele@epa.gov>

Subject: Response to clarification comments for EPA-HQ-2019-001669

Ms. Christy,

On September 26, 2019, EPA sent you a clarifying email outlining the collection process for records responsive to your request. In that email, EPA Headquarters (OECA) committed to the following:

Performance Tests

EPA stated that all performance tests are publicly available. You were directed to Webfire to obtain copies of the reports.

Semi-annual, Annual, and Annual for Sweeteners Reports

The 0000a reports are submitted to the appropriate regional office and not to OECA in headquarters. The reports are publicly available through Webfire.

On the call you also indicated that you wanted copies of reports that were not online. We stated that for any paper reports, OCEA would task the regions to produce responsive paper records within the six (6) month extension timeframe. The production of the reports would consist of:

All hard copy reports filed with the region after November 21, 2017 until September 11, 2019 and has not been uploaded to CEDRI:

- semiannual reports required by 40 C.F.R. § 60.5422(a)

- annual reports, required by 40 C.F.R. § 60.5420a(b)

- annual reports of excess emissions for sweetening Units, as required by 40 C.F.R. § 60.5423a(b)

We explained that while the publicly available reports had been vetted for potential CBI, the paper records have not. The paper records for the 0000a reports may need to go through a CBI review process before the regions could release them.

Correspondence

EPA agreed to search for responsive HQ correspondence once search terms were agreed upon. We carefully reviewed your request for copies of all internal correspondence between EPA and outside parties containing reference to the new source performance standards and the search terms provided. We determined that your search terms would result in a collection of correspondence which would be overly broad and largely non-responsive. We proposed narrowing the search terms to the following:

("40 C.F.R. §60.5420a(b)(9)(i)" OR "40 C.F.R. §60.5422a(b)" OR "40 C.F.R. §60.5420a(b)"

"OOOOa" and w/10 ("comply" OR "complies" OR "complying" OR "compliant" OR "compliance")

"OOOOa" AND ("deadlines" OR "delay" OR "delays" OR "delayed" OR "delaying" OR "extend" OR "extends" OR "extending" OR "extension" OR "extensions" OR "postpone" OR "postpones" OR "postponed" OR "postponing" OR "postponement" OR "variance" OR "variances")

Upon agreement of the parties, EPA will task the regions to produce responsive paper reports and anticipates being able to produce an interim set of correspondence records within two months. EPA will continue to provide correspondence records on an interim basis, with all the correspondence productions expected to be finished within the six (6) month extension timeframe. The extension will begin when agreement is reached on the modification of the request.

As of the date of this email, we have received no response from you. EPA would like to give you the opportunity to discuss and modify your request so that we may process it. Please respond by email to powell-dickson.antoinette@epa.gov. If you would like to discuss your request, you may contact me at 202-564-5136.

Please reply within 20 calendar days from the date of this email. If we do not hear back from you, EPA may issue a final determination to close out your request. Please note that you are not prohibited from submitting additional Freedom of Information Act requests in the future. For more information, please visit our website at: https://www.epa.gov/foia.

We look forward to your prompt reply.

Regards

Antoinette Powell Dickson

Antoinette Powell Dickson, Esq.

FOIA Coordinator/Records Manager

U.S. Environmental Protection Agency | Office of Site Remediation Enforcement | 1200 Pennsylvania Ave, N.W. | WJC South Mailcode: 2272A | Washington, D.C. 20460 | phone: (202) 564-5136 | email: powell-dickson.antoinette@epa.gov

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