



November 10, 2022

Via FOIA Portal

U.S. Department of Agriculture
Office of Information Affairs
1400 Independence Avenue, SW
Washington, DC 20250

Freedom of Information Act Request: U.S. Diesel Fuel Shortages

Dear FOIA Officer:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 33,900 unique addresses, our Facebook page has 80,000 followers, our Twitter page has over 23,000 followers, the Twitter page of our Founder and President has over 280,000 followers, and we have another 31,400 followers on GETTR.

I. Background

On October 28, 2022, Mansfield Energy—a major fuel and supply logistics company—warned of an impending diesel shortage in the southeastern United States. “Poor pipeline shipping economics and historically low diesel inventories are combining to cause shortages in various markets throughout the Southeast.”¹ Reportedly, the States likely to suffer the most are Alabama, Georgia, Tennessee, North Carolina, Maryland, Virginia, and South Carolina.²

¹ Timothy Nerozzi, *Fuel Company Issues Diesel Shortage Warning, Says Conditions ‘Rapidly Devolving*, FOX BUSINESS (Oct. 29, 2022), <https://fxn.ws/3U5QZVX>; Chunzi Xu, *The US Diesel Crisis is Here and it’s Spreading Along the East Coast*, BLOOMBERG (Oct. 25, 2022), <https://bloom.bg/3UsxWff>.

² *Id.*

Also, on October 25, 2022, the Energy Information Administration reported that the United States only had 25 days of fuel supply remaining.³ Even as domestic fuel inventories are at historic seasonal lows with pockets along the East Coast running out of—or rationing—supplies, the United States is exporting record amounts of both crude and fuel oil.⁴ At the same time, apparently to mitigate the increased cost of gasoline in advance of the 2022 midterm elections, the Strategic Petroleum Reserve has been emptied substantially.⁵

Facially, the diesel fuel shortage is eerily reminiscent of the ongoing baby formula shortage. Here too, the American people have had little to no advance warning of the diesel shortage. And despite similar warning signs, President Biden and his Administration appear to have taken little action to prevent a fuel shortage and are providing scant information about concrete plans to remedy the shortage and effectively address the associated food supply and other national security risks. Accordingly, AFL requests the following records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a).

II. Requested Records

- A. All communications, from any of the custodians mentioned in Part III, containing the word “diesel” or “fuel” and any of the following terms: “shortage,” “rationing,” “supply chain” or “prices.” The timeframe for this request is April 1, 2022, through the date of processing.
- B. All communications with an email address ending in “eop.gov” from any of the custodians mentioned in Part III containing the words “diesel” or “fuel.” The timeframe for this request is April 1, 2022, through the date of processing.
- C. All records relating to or regarding the processing of the above items.

III. Custodians

- 1) Tom Vilsack, Secretary of Agriculture
- 2) Timothy Gannon, Chief of Staff for Farm Production and Conservation
- 3) Sean Babington, Senior Advisor

³ Serah Louis, *The US Now Has Just 25 Days of Diesel Supply – the Lowest Since 2008. Here’s Why That’s More Alarming than a Dwindling ‘Oil Piggy Bank’*, MONEYWISE (Oct. 25, 2022), <https://bit.ly/3NzI9gO>.

⁴ Devika Krishna Kumar and Chunzi Xu, *The US Is Exporting Record Oil and Fuel Even as East Coast Faces Shortages*, BLOOMBERG (Oct. 25, 2022), <https://bit.ly/3NIOKpe>.

⁵ Alexander Zemek, *Biden’s America is Running on Empty*, WALL STREET JOURNAL (Sep. 22, 2022), <https://on.wsj.com/3UzuloJ>.

- 4) Gloria Greene Montano, Deputy Undersecretary, Farm Production and Conservation
- 5) Michael Joseph Amato, Director of Communications, Office of Communications
- 6) Katharine Ferguson, Chief of Staff, Office of the Secretary
- 7) Marjorie Beibhinn Steiner, Confidential Assistant, Office of the Secretary
- 8) Gregory L. Parham, Senior Advisor, Office of the Secretary
- 9) Olugbenga Ajilore, Senior Advisor, Office of the Secretary
- 10) John Michael Schmidt, Senior Advisor, Office of the Secretary
- 11) Robert F. Bonnie, Senior Advisor to the Secretary
- 12) Bidisha Bhattacharyya, Senior Policy Advisor, Farm Service Agency, Farm Production and Conservation
- 13) Mickeala York Carter, Deputy Director, Office of Communications
- 14) Anne Knapke, Deputy Assistant Secretary for Congressional Relations
- 15) Sanah Pervaiz Baig, Chief of Staff, Research, Education, and Economics
- 16) Eyang Garrison, Chief of Staff, Office of the Deputy Secretary

IV. Processing Requirements

Processing should occur in strict compliance with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines.⁶ If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org.

V. Expedited Processing

AFL requests expedited processing for the above-requested items under 5 U.S.C. § 552(a)(6)(E) and 7 C.F.R. § 1.6(e).

Our status as a qualified non-commercial public education and news media requester has been recognized by the Department of Defense, Education, Energy, Interior, Health and Human Services, and Homeland Security, and the Office of the Director of National Intelligence. Additionally, as reflected by the widespread and exceptional media interest in and attention to the reported diesel shortage, there is an urgency to inform the public regarding the circumstances surrounding the shortage of diesel fuel, the risks such shortages pose to the U.S. supply chain, particularly the food and heating fuel supply throughout the country, and the Department's efforts to address the shortage.⁷

⁶ U.S. DEPT JUST. (Mar. 15, 2022), <https://bit.ly/3zvpxb6>.

⁷ Devika Krishna Kumar and Chunzi Xu, *The US Is Exporting Record Oil and Fuel Even as East Coast Faces Shortages*, BLOOMBERG (Oct. 25, 2022), <https://bit.ly/3NIOKpe>; Alyssa Sporrer, *Diesel rationing could hit East Coast this summer, refinery owner says*, FREIGHTWAVES (May 13, 2022), <https://bit.ly/3GgZIkj>.

AFL certifies that this statement is a true and correct explanation of the basis for AFL's request for expedited processing.

VI. Fee Waiver Request

Per 5 U.S.C. § 552(a)(4)(A)(iii), AFL requests a waiver of all search and duplication fees associated with this request.

VII. Production

To accelerate your release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

VIII. Conclusion

If you have any questions about how to construe this request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at FOIA@aflegal.org. Finally, if AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

Thank you,

/s/ Tyler J. Sanderson

Tyler J. Sanderson

Counsel

America First Legal Foundation