

June 9, 2023

National FOIA Office, Office of General Counsel
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Mail Code 2310A
Washington, DC 20460

Dear Records Custodian,

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552 et seq., I request copies of the following records:

1) The most recently updated non-OCA RMP National Database

In this request, I seek an updated version of the records I received in response to FOIA request EPA-2023-000538. That request sought all non-OCA database records in the RMP National Database. It is my understanding that the records have since been updated, and can be transferred via the EPA's CDX website (rather than via mailed DVD). I request a copy of such records.

2) All database documentation discussing the RMP National Database

In FOIA request EPA-2023-000538, I also sought all records documenting the RMP National Database. The EPA responded that it had no such records. I request such records again, in case new records of this type have since been created or discovered.

Production of Responsive Records on a Rolling Basis

In the event that a portion of the present request is completed before the full request is completed, I ask that the records be produced on a rolling basis.

Fee Waiver Request

A waiver of search and review fees is appropriate here because disclosure of the requested information is in the public interest under 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54(a), (b)(1)-(2), and because the request is not primarily in my commercial interest, 45 C.F.R. §§ 5.45(a), (b)(3)(ii).

For evidence supporting this fee waiver request, please see the relevant section of FOIA request EPA-2023-000538, as well my appeal of the initial fee waiver denial and subsequent overturning of that denial by the EPA's Office of General Counsel.

The Data Liberation Project's track record since filing FOIA request EPA-2023-000538 further underscores this request's eligibility for a fee waiver. Upon receiving the RMP records, the Data Liberation Project soon published those records for all members of the public to access,¹ created extensive documentation of the database (likely the most extensive ever available to the public),² built a public interface to explore RMP filings,³ created simplified spreadsheets of the data to expand access to the records,⁴ and provided guidance to a broad range of stakeholders who expressed interest in using the data. Not long afterward, CNN published an in-depth investigation based on the records.⁵

Limitation of Fees

I am also entitled to a limitation of fees because I am a member of the news media. 45 C.F.R. § 5.53(b); 5 U.S.C. § 552(a)(4)(A)(ii)(II). Accordingly, even if my application for a waiver of all fees is denied, I am entitled to a limitation of fees. As a news media requester, I am "entitled to search time, review time, and up to 100 pages of duplication" and can be charged only duplication fees after the first 100 pages or its cost equivalent. 45 C.F.R. § 5.53(b). I request that the information be provided in its native electronic format, and thus there should be no duplication fees.

Request for Explanation of Withholdings and Redactions

If this request is denied in whole or in part, please provide a reasonable description of any withheld materials and a justification for all such withholdings that includes reference to the specific FOIA exemptions authorizing withholding and specific reasons why such exemptions apply. 45 C.F.R. § 5.31. An agency shall withhold information only if "the agency reasonably foresees that disclosure would harm an interest protected by an exemption" or "disclosure is prohibited by law." 5 U.S.C. § 552(a)(8)(A)(i). (Per Attorney General Garland's March 15, 2022 memorandum, "In case of doubt

¹ The Data Liberation Project, "EPA Risk Management Program Database," February 21, 2023.

<https://www.data-liberation-project.org/datasets/epa-risk-management-program-database/>

² The Data Liberation Project, "EPA RMP Database Documentation," February 21, 2023.

<https://docs.google.com/document/d/1jrLXtv0knnACiPXJ1ZRFXR1GaPWCHJWWjin4rsthFbQ/edit>

³ The Data Liberation Project, "RMP Submission Viewer."

<https://data-liberation-project.github.io/epa-rmp-viewer/>

⁴ The Data Liberation Project, "EPA RMP Spreadsheets."

https://docs.google.com/spreadsheets/d/170Uleg_sweeqGWVQrjHWY-HNRqEPE9axbEroSEr4C3M/edit

⁵ Casey Tolan and Isabelle Chapman, "Dangerous chemical leaks have injured workers at one of America's largest meat processors," *CNN*, May 4, 2023.

<https://www.cnn.com/2023/05/04/business/tyson-ammonia-leaks-invs/index.html>.

[regarding foreseeable harm or legal bar to disclosure], openness should prevail.”⁶) I therefore request that if the agency determines that an exemption applies, specific reasons be provided as to why disclosure would harm any interest protected by such exemption. An agency shall also “consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible” and “take reasonable steps necessary to segregate and release nonexempt information.” *Id.* at § 552(a)(8)(A)(ii). I therefore request that the agency release all segregable portions of otherwise exempt material.

I look forward to your reply within the FOIA-specified timeframe of 20 working days. Please let me know if there are any clarifications I can make to make this request easier and/or quicker to complete.

Sincerely,
Jeremy Singer-Vine
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Phone: Available upon request
Mailing address: Available upon request

⁶ Merrick Garland, "Memorandum for Heads of Executive Departments and Agencies" (Subject: "Freedom of Information Act Guidelines"), March 15, 2022. <https://www.justice.gov/ag/page/file/1483516/download>.