

FOIA-2017-00280



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Received in USDA/FSIS

July 10, 2017

Via email: fsis.foia@usda.gov
Freedom of Information Act Officer
USDA, Food Safety and Inspection Service
Room 1140, South Building
1400 Independence Ave., SW
Washington, DC 20250

JUL 11 2017

FOIA Office

RE: FOIA Request—Noncompliance Records (NRs) and Memoranda of Interview (MOIs) for PPIA Violations

Dear FOIA Officer:

This is a request for public records made by Mercy For Animals (MFA) pursuant to the Federal Freedom of Information Act (FOIA), 5 U.S.C. § 552 et seq. This request satisfies the written request requirement pursuant to 7 C.F.R. § 1.5(a). If this office is not the appropriate place for this request, please forward the request to the correct office or individual, and inform us when doing so.

MFA requests that you please provide any and all records relating or referring to:

- All Noncompliance Records (NRs) and supporting records from NRs for noncompliance to good commercial practices regulations (9 CFR § 381.65) (ISP Code 04C05) under the Poultry Products Inspection Act for the months of April, May, and June 2017.
- All appeals of NRs for noncompliance to good commercial practices regulations (9 CFR § 381.65) (ISP Code 04C05) under the Poultry Products Inspection Act; such records include, but are not limited to, requests for appeal, responses and written (electronic or otherwise) communication regarding appeals, determinations, decisions or denials, and amended NRs as a result of such appeals.
- All Memorandums of Interview (MOIs) and supporting records from MOIs for noncompliance to good commercial practices regulations (9 CFR § 381.65) (ISP Code 04C05) under the Poultry Products Inspection Act for the months of April, May, and June 2017.

If you believe that certain portions of records are subject to an exemption under FOIA, please redact any such portions with direct reference to the claimed exemption, and produce all non-exempt portions of those documents. See 5 U.S.C. § 552(b).

Fee Waiver

MFA is a nonprofit organization dedicated to preventing cruelty to farmed animals and promoting compassionate food choices and policies. As a 501(c)(3) nonprofit organization, Mercy For Animals does not have a commercial, trade, or profit interest in the information requested, and thus is not requesting "trade secrets and commercial or financial information obtained from a person and privileged or confidential", or any other information exempted pursuant to 5 U.S.C. § 552(b).

A waiver of search, review, and duplication fees is warranted here, because disclosure of the requested records meets the two-part public interest test in that "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). Both the legislative history and administrative and

Judicial interpretations of FOIA make clear that the "fee waiver provision is to be liberally construed in favor of waivers for non-commercial requesters." *Schoenman v. F.B.I.*, 604 F. Supp. 2d 174, 192 (D.D.C. 2009); *see also McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282 (9th Cir. 1987).

The request at issue satisfies the legal requirements of a mandatory public interest fee waiver under both 5 U.S.C. § 552(a)(4)(A)(iii) and EPA's implementation of the same set forth in 40 C.F.R. § 2.107. MFA has the ability to contribute to the public's understanding of the operations of the government, specifically the agency's activities relating to the oversight of discharge sources. MFA is particularly well suited to distribute information regarding this topic to concerned citizens and others on a national scale through its website, social media, newsletter, and e-newsletter.

Furthermore, the records covered by this request are not publicly posted or otherwise published. The information they contain would contribute significantly to the public understanding of humane and public health issues at major U.S. slaughter facilities, as well as the evidence relied upon by the agency in reaching decisions regarding the treatment of poultry.

MFA has sufficiently met the criteria for a public interest fee waiver for this records request, because it does not have a commercial interest in the requested records and it is in a unique position to synthesize the information contained in the requested records and disseminate it in order to further public understanding of the plight of farmed animals and the government's role in the meat industry.

If, however, the waiver is denied and the request will involve more than two search hours or more than 100 pages of documents, and the fees will exceed twenty dollars (\$20.00), please notify us immediately by telephone before the request is processed, so we may decide whether to pay the additional fees or to appeal the denial of the request for waiver.

We look forward to your response within twenty business days, as required by law under the FOIA, 5 U.S.C. § 552(a)(6)(A)(i). If you have any questions regarding this request, please contact Vandhana Bala at

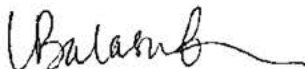
(b) (6) or (b) (6)

The records and any related correspondence should be sent to:

Vandhana Bala
c/o Mercy For Animals
8033 Sunset Blvd., Ste 864
Los Angeles, CA 90046

On behalf of Mercy For Animals, thank you very much for your time and attention.

Sincerely,



Vandhana Bala
General Counsel

Phone: (b) (6)

E-mail: (b) (6)