



United States Department of Agriculture

Food Safety and
Inspection Service

May 27, 2021

1400 Independence
Avenue, SW.
Washington, D.C.
20250

TRANSMITTED VIA ELECTRONIC MAIL

Emily von Klemperer
General Counsel
Farm Sanctuary
3100 Aikens Road
Watkins Glen, NY 14891
evonklemperer@farmsanctuary.org

RE: FOIA-2019-00298
04C02 Inspection Task Records

Dear Ms. von Klemperer:

This is the amended final response to your Freedom of Information Act (FOIA) request, dated April 17, 2019, to the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS), in which you requested a copy of 04C02 inspection task records relating to humane handling, from October 1, 2017 to April 17, 2019. You also requested that FSIS post all inspection task records for non-compliance related to the humane slaughter of livestock under the Humane Methods of Slaughter Act (HMSA). We received your request in our office on April 17, 2019.

On December 29, 2020, you amended this request to a list of Noncompliance Reports and Memorandum of Interview without descriptions, from October 1, 2017 to April 17, 2019. On January 8, 2021, after receiving our final response, along with the records satisfying your amended request, you determined you wanted to keep the original scope of the request. Thus, this amended final response addresses the scope of your original April 17, 2019, request.

The FSIS FOIA staff works with subject matter experts across the Agency to locate responsive documents. For this request, we conducted a record search in the Office of Planning, Analysis and Risk Management, the Office of Investigation, Enforcement and Audit and the Office of Field Operations. FSIS' search began on April 19, 2019. Our search includes responsive records in FSIS' control on that date.

We have processed an additional 1,569 pages that are responsive to your requests. After a thorough review, we have determined that portions of these documents are exempt from disclosure under (b)(4) and (b)(6) of the FOIA, 5 U.S.C. § 552, as amended. Accordingly, this request is granted in part.

Exemption 4 of the FOIA protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." 5 U.S.C. § 552(b)(4). The exemption covers two distinct categories of information in federal agency records, (1) trade secrets, and (2) information that is (a) commercial or financial,

and (b) obtained from a person, and (c) privileged or confidential. In this instance, the agency is withholding confidential business information, such as Hazard Analysis and Critical Control Point information, equipment information and proprietary processing procedures, which are customarily treated as private by the business submitters. Therefore, the information is considered confidential.

Portions of the responsive records are exempt from disclosure under FOIA Exemption 6, 5 U.S.C. § 552(b)(6). Exemption 6 protects information that would constitute an unwarranted invasion of an individual's personal privacy. The types of information withheld under Exemption 6 include the names, addresses, or cell phone numbers of employees of Establishments and third parties, including, but not limited to interviewees or customers.

With respect to the portion of your request seeking online posting of records, we consider your request under Section (a)(2)(D) of the FOIA. As you know, the FOIA affirmative disclosure requirements of Section (a)(2)(D) only applies to copies of records that have been released to any person pursuant to a valid FOIA request under 5 U.S.C. 552(a)(3), and that the agency has determined have become or are likely to become the subject of subsequent requests for substantially the same records or have been requested three or more times. For records that meet this criterion, FOIA requires the agency make copies of these records available for public inspection in an electronic format. See 5 USC 552(a)(2)(D) and 7 C.F.R. 1.2. FSIS has determined that the records provided in response to the (a)(3) portion of this request meet the requirements for public inspection in an electronic format. As such, FSIS will post these records to its public reading room within 45 days of the date of this amended final response letter.

You may appeal this determination no later than 90 days from the date of this letter. Your appeal should include copies of your original requests and this response, as well reasons supporting your appeal. The envelope should be plainly marked to indicate that it contains a FOIA appeal. If you decide to appeal, please send your appeal to:

Paul Kiecker
Administrator
U.S. Department of Agriculture
Food Safety and Inspection Service
1400 Independence Avenue, SW.
Room 1170, South Building
Washington, DC 20250-3700
FSIS.FOIA@USDA.GOV

Please be advised that your FOIA requests, including your identity and the information made available, is releasable to the public under any subsequent FOIA requests. However, FSIS does not release your personal privacy information, such as home addresses, telephone numbers, or Social Security Numbers, all of which are protected from disclosure under FOIA Exemption 6.

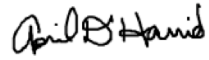
If you have any questions about the processing of your requests or about the USDA's FOIA regulations, please contact Ethan Pickrell at 202-260-8912 or via email at Ethan.Pickrell@usda.gov. If you have general questions about FSIS' FOIA procedures or regulations, please contact me, Acting FOIA Director/ FOIA Public Liaison at 202-720-8215 or via email at April.Harrid@usda.gov.

Emily von Klemperer
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You also have the option to seek assistance from the Office of Government Information Services (OGIS). Please visit <https://www.archives.gov/ogis/mediation-program/request-assistance> for information about how to request OGIS assistance in relation to a FOIA request.

Thank you for your interest in FSIS programs and policies.

Sincerely,



April D. Harrid
Acting Director, Freedom of Information Act Staff
Office of Public Affairs and Consumer Education

Enclosure