



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

Dillon Bergin  
MuckRock News, DEPT MR140818 263 Huntington Ave  
Boston, MA 02115

Re: Freedom of Information Act Request EPA-R9-2023-002468  
Opportunity to Modify Your FOIA Request and Extension of Processing Time

Dear Dillon Bergin:

Thank you for submitting the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA) on February 21, 2023, in which you requested the following records:

All submitted, denied and confirmed exceptional events related to criteria pollutants. A partial list of Example Submissions, Demonstrations and EPA responses prepared under the 2016 Exceptional Events Rule has been publicly posted by the EPA here: <https://www.epa.gov/air-quality-analysis/example-demonstrations-and-epa-responses-prepared-under-2016-exceptional>

#### Document Request

We seek copies of the following records submitted to and prepared by the EPA Regional Office between September 30, 2016, through February 15, 2023:

1. All initial notification packages created by state, local, or tribal agencies now held by the EPA Regional Office. By this language, we intend to include emails or any other records of communication containing, for example, the potential date of event, relevant criteria pollutant, location, and potential regulatory decision affected (such as designation, classification, attainment determination, attainment date extension, or finding of SIP inadequacy leading to SIP call). An example of an Initial Notification Summary for PM<sub>2.5</sub> from EPA Region 9 has been attached to this request.
2. Any acknowledgement or response from EPA to initial notifications or notification packages, as described in 40 C.F.R. 50.14 (Table 2).
3. All submissions of demonstrations of exceptional events related to criteria pollutants, as submitted by state, local, or federal authorities.
4. All subsequent responses and decisions communicated by the EPA, including approvals, denials or requests for more information, as described in 40 C.F.R. 50.14.

#### Opportunity to Modify

EPA has reviewed your request and has questions concerning the scope of the records you are seeking. EPA's FOIA regulations, at 40 C.F.R. § 2.102(c), state:

Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, the requester should include any file designations or descriptions for the records that the requester wants. The more specific the requester is about the records or type of records that the requester wants, the more likely EPA will be able to identify and locate records responsive to the request.

We would like to provide you the opportunity to discuss the request with us and modify your request so that EPA can process your request. As indicated in 40 C.F.R. § 2.102(c), please include or be prepared to discuss any specific information about the records you seek, including time period, authors, or a more detailed description of the records' subject matter. Specifically, after reviewing your request, EPA would like to suggest a search for the following: (1) initial notification submissions that led to exceptional event demonstration submissions, (2) exceptional event demonstration submissions, and (3) EPA's responses to these initial notification and exceptional event demonstration submissions. This more precise search and review would in turn allow us to respond in a timelier manner. We anticipate that this proposed targeted search will take about 4 weeks, while a broader search that includes additional email digital records may take about 12 weeks to respond.

Please respond to this request for modification within twenty (20) calendar days from the date of this letter. You may contact Diego Morales at [Morales.Diego@epa.gov](mailto:Morales.Diego@epa.gov) or at (415) 972-3873 with your response or to schedule a discussion on the scope of your request.

#### Unusual Circumstances and Extension of Time

An extension of time is necessary for EPA to process your FOIA request, pursuant to 40 C.F.R. § 2.104(e), due to the scope of your request and the unusual circumstances involved. The response to your request will require a significant amount of EPA's resources and time to search for and collect the requested records from multiple EPA offices that are separate from the office processing the request.

EPA has initiated the coordination of and search for responsive records in our files. Because of the circumstances described above, it is difficult to predict with certainty when EPA will be able to complete its response to the request. However, at this time, EPA estimates that it will be able to complete this request by April 10, 2023. If circumstances change, we will provide you with an update. Thank you for your patience. We have updated the due date for the final response to this request in EPA's FOIAonline system.

#### Next Steps

As stated above, please contact Diego Morales at [Morales.Diego@epa.gov](mailto:Morales.Diego@epa.gov) or at (415) 972-3873 within twenty (20) calendar days with your response to this request for modification, or to schedule a discussion on the scope of your request. The processing clock is stopped for your FOIA request until we receive your modification. EPA is available to answer questions you may have, or to work with you to modify or narrow your request so that we can process it efficiently and complete our response as soon as possible. Once your FOIA request is modified, we will continue processing it unless a written assurance of payment is required, in which case we will contact you in separate correspondence.

If we do not receive a response from you within twenty (20) calendar days from the date of this letter, and/or if no additional information is provided, EPA may make a further determination about the status of your request.

Additionally, you may seek assistance from EPA's FOIA Public Liaison at [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email: [ogis@nara.gov](mailto:ogis@nara.gov); telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact [press@epa.gov](mailto:press@epa.gov).

Sincerely,

Diego Morales  
Paralegal Specialist