Status : *Assignment Determination* **Due Date :** *09/16/2015*

10

Submitted Evaluation Assignment Processing Closed

Tracking Number :	EPA-HQ-2015-009962	Submitted Date :	08/18/2015
Requester :	Ms. Paula Dinerstein	Perfected Date :	08/18/2015
Organization :	PEER	Last Assigned Date :	08/19/2015
Requester Has Account :	No	Fee Limit :	$25.00
Email Address :	pdinerstein@peer.org	Request Track :	Simple
Phone Number :	202-265-7337	Due Date :	09/16/2015
Fax Number :	N/A	Assigned To :	Paul Cestone (Office of Pollution Prevention and Toxics)
Address :	2000 P Street, N.W., Suite 240	Last Assigned By :	Colby Lintner (Office of Pollution Prevention and Toxics)
City :	Washington		
State/Province :	DC		
Zip Code/Postal Code :	20036		

Submission Details | Case File | Admin Cost | Assigned Tasks | Comments (2) | Review

Request Handling

Requester Info Available to the Public :	Yes	Request Perfected :	Yes
Request Track :	Simple	Perfected Date :	08/18/2015
Fee Category :	Select Fee Category	Acknowledgement Sent Date:	
Fee Waiver Requested:	Yes	Unusual Circumstances ? :	No
Fee Waiver Status:	Full Grant	5 Day Notifications:	
Expedited Processing Requested :	No	Litigation :	No
Expedited Processing Status :	N/A		

Request Description

Short Description :

Records concerning EPA's recent changes to its website materials concerning polychlorinated biphenyls (PCBs) in shcools and other buildings, including "Practical Actions for Reducing Exposure to PCBs in Schools and Other Buildings", dated july 28, 2015; "PCBs in Building Materials, Questions and Answers", dated July 28, 2015; and "Exposure Levels for Evaluating PCBs in Indoor Air" (undated).

Description Available to the Public : No

Has Description Been Modified?

Attached Supporting Files

Attachments Available to the Public : No

Attached File	Type	Size (MB)	Remove
FOIA -- REQUEST -- of 8-14-2015 fr Paula Dinerstein.pdf	PDF	0.13	

Upload Supporting Files

No attachments have been added.

PEER
Public Employees for Environmental Responsibility
2000 P Street, NW • Suite 240 • Washington, D.C. 20036 • 202-265-PEER(7337) • fax: 202-265-4192
e-mail: info@peer.org • website: www.peer.org

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
Email: hq.foia@epa.gov

Sent by email and postal mail

August 14, 2015

RE: FOIA REQUEST

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning EPA's recent changes to its website materials concerning polychlorinated biphenyls (PCBs) in schools and other buildings, including "Practical Actions for Reducing Exposure to PCBs in Schools and Other Buildings," dated July 28, 2015; "PCBs in Building Materials, Questions and Answers," dated July 28, 2015; and "Exposure Levels for Evaluating PCBs in Indoor Air" (undated). Specifically, we request the following:

1. Any and all documents, communications (including emails and notes of oral conversations) and scientific data or studies which pertain to, discuss, support or underlie the changes in the "Exposure Levels for Evaluating PCBs in Indoor Air" as compared with the previous "Recommended Public Health Levels for PCBs in Indoor School Air."

2. Any and all documents, communications (including emails and notes of oral conversations) and scientific data or studies which pertain to, discuss, support or underlie the "Recommended Public Health Levels for PCBs in Indoor School Air" which EPA previously posted on its website.

3. Any and all documents, communications (including emails and notes of oral conversations) and scientific data or studies which pertain to, discuss, support or underlie the changes in the "PCBs in Building Materials, Questions and Answers," dated July 28, 2015, as compared with the document "PCBs in Caulk – Q&A" previously posted on EPA's website.

4. Any and all documents, communications (including emails and notes of oral conversations) and scientific data or studies which pertain to, discuss, support or underlie

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the document available on EPA's website entitled "Practical Actions for Reducing Exposure to PCBs in Schools and Other Buildings," dated July 28, 2015.

5. Any and all documents and communications reflecting whether or not the EPA August 2012 document "Preventing Exposure to PCBs in Caulking Material," has been removed from EPA's website, whether or not it is still considered an official EPA document, or whether it has been superseded by "Practical Actions for Reducing Exposure to PCBs in Schools and Other Buildings," dated July 28, 2015.

6. Any and all documents and communications pertaining to or reflecting whether the following statements in the document "Preventing Exposure to PCBs in Caulking Material" reflect current EPA policy, guidance, scientific conclusions or advice to the public, and if not, why not, and in what manner EPA policy, guidance, scientific conclusions or advice to the public have changed from that reflected in the following quotations:

Test for PCBs in buildings built between 1950 and 1979

If school administrators and building owners are concerned about exposure to PCBs and wish to supplement these steps, EPA recommends testing to determine if PCB levels in the air exceed EPA's suggested public health levels. If testing reveals PCB levels above these levels, schools should attempt to identify any potential sources of PCBs that may be present in the building, including testing samples of caulk and other building materials (e.g., paints, floor and ceiling tiles) and looking for other potential PCB sources (e.g., old transformers, capacitors, or fluorescent light ballasts that might still be present at the school).

....

Avoid exposure to PCBs in building caulk

PCBs may be released to air from intact, undisturbed caulk through off-gassing, and people may inhale the released PCBs. The condition of the caulk is not an indicator of the presence of PCBs. The only way to be sure that caulk has PCBs is to have a professional test the caulk. In addition to inhalation from PCBs in the air or dust, exposure may occur when a person comes in contact with the caulk and any surrounding materials into which the PCBs may have been released (e.g., brick, concrete, wood). Exposure may also occur through contact with PCB-contaminated soil adjacent to buildings. Soil may become contaminated with PCBs when caulk weathers.

7. Any and all documents reflecting or concerning whether or not EPA's recommendation to building owners is still that they test caulking if it is brittle,

cracking, or deteriorating or if PCB air levels exceed EPA suggested levels, or whether that recommendation has been superseded or modified, and if so, how and why.

8. Any and all documents and communications pertaining to whether the following statements in the document "How to Test for PCBs and Characterize Suspect Materials" reflect current EPA policy, guidance, scientific conclusions or advice to the public, and if not, why not and in what manner EPA policy, guidance, scientific conclusions or advice to the public have changed from that reflected in the following quotation:

Building Characterization and Sampling Plan

A sampling plan should be developed to characterize the caulk and other potential building materials that might either contain PCBs or be contaminated through contact with PCB-containing caulk such as wood, masonry, or brick. The sampling plan should consider the following steps:

1. Test indoor air to determine if PCBs are present in building indoor air. If your building is a school you can compare the test results to the Exposure Levels for Evaluating PCBs in Indoor School Air.
   If PCBs in indoor school air are above the exposure levels determine the extent of the problem by:
2. Testing suspect building material to determine PCB sources. Building material that is removed and contains 50 ppm PCBs or greater is regulated for disposal (see Abatement Step 3)
3. Evaluate building material sample results and determine if surrounding materials warrant testing.
4. Outline areas requiring corrective action and prioritize contaminated building materials for removal based on their PCB-concentration levels, potential accessibility, and building occupancy (see Abatement Step 1 for more details).

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

> "The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve... All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA."

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

PEER requests that all fees be waived because "disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor" (5 U.S.C. 552 (a)(4)(A)):

1. The records concern the operations or activities of the Government.
The FOIA request is, by its terms, limited to identifiable activities of EPA in providing materials to the public concerning PCBs.

2. The disclosure of the requested records is likely to contribute to public understanding of these operations or activities.
The information we seek concerns changes to information concerning PCBs in buildings and what should be done about them which EPA provides to the public through its website and other means. The records sought are likely to contribute to an understanding of the changes EPA has made to its information and advice to the public and the scientific support and legal and policy considerations that led to these changes.

3. The release of requested records will contribute significantly to public understanding of the governmental activities.
The information sought will contribute to public understanding of EPA decision-making as to how to inform and advise the public concerning the presence of PCBs, a highly toxic chemical largely banned by the Toxic Substances Control Act, in schools and other buildings. It will also contribute to public understanding of the scientific support (or lack thereof) and legal and policy considerations underlying EPA's publicly available materials concerning PCBs.

The general population has a strong interest in what is being done about PCBs in the nation's schools and other buildings, and EPA's role in educating and advising the public concerning the appropriate response to the presence of PCBs in schools and other buildings, in order to protect the health of the nation's school children, teachers, and the general public.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in PEER's newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

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Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, PEER has repeatedly demonstrated the ability to generate nationwide news coverage concerning activities occurring within the EPA.

4. Disclosure would not serve a commercial interest of the requestor.
Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-7337. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Paula Dinerstein
Senior Counsel

ED_002022B_00026960-00007

Lewis, Judith

From: Paula Dinerstein <pdinerstein@peer.org>
Sent: Friday, August 14, 2015 10:37 AM
To: FOIA HQ
Subject: FOIA Request
Attachments: FOIA request 4 PCB guidance 8 15.pdf

Dear National FOIA Officer:

Attached please find a FOIA request, which is also being sent by postal mail. Please contact me with any questions you may have. We look forward to your response to the request within 20 working days.

Paula Dinerstein
Public Employees for Environmental Responsibility
2000 P St., N.W. Suite 240
Washington, D.C. 20036
202-265-7337 (phone)
202-265-4192 (fax)
pdinerstein@peer.org
www.peer.org

ED_002022B_00026960-00008

Status : *Assignment Determination* **Due Date :** *09/16/2015*

10

Submitted Evaluation Assignment Processing Closed

Tracking Number : EPA-HQ-2015-009963
Requester : Ms. Paula Dinerstein
Organization : PEER
Requester Has Account : No
Email Address : pdinerstein@peer.org
Phone Number : 202-265-7337
Fax Number : N/A
Address : 2000 P Street., N.W., Suite 240
City : Washington
State/Province : DC
Zip Code/Postal Code : 20036

Submitted Date : 08/18/2015
Perfected Date : 08/18/2015
Last Assigned Date : 08/19/2015
Fee Limit : $25.00
Request Track : Simple
Due Date : 09/16/2015
Assigned To : Paul Cestone (Office of Pollution Prevention and Toxics)
Last Assigned By : Colby Lintner (Office of Pollution Prevention and Toxics)

Submission Details | Case File | Admin Cost | Assigned Tasks | Comments (2) | Review

Request Handling

Requester Info Available to the Public : Yes
Request Track : Simple
Fee Category : Other
Fee Waiver Requested: Yes
Fee Waiver Status: Full Grant
Expedited Processing Requested : No
Expedited Processing Status : N/A

Request Perfected : Yes
Perfected Date : 08/18/2015
Acknowledgement Sent Date:
Unusual Circumstances ? : No
5 Day Notifications:
Litigation : No

Request Description

Short Description :

Requests records and documents concerning EPA's involvement with matters concerning suspected or actual toxic contamination with polychlorinated biphenyls (PCBs) in schools in the United States.

Description Available to the Public : Yes
Has Description Been Modified?

Attached Supporting Files

Attachments Available to the Public : Yes

Attached File	Type	Size (MB)	Remove
FOIA -- REQUEST of 8-18-2015 fr Paula Dinerstein - ll.pdf	PDF	0.09	

Upload Supporting Files

No attachments have been added.

PEER
Public Employees for Environmental Responsibility
2000 P Street, NW • Suite 240 • Washington, D.C. 20036 • 202-265-PEER(7337) • fax: 202-265-4192
e-mail: info@peer.org • website: www.peer.org

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
Email: hq.foia@epa.gov

Sent by email and postal mail

August 14, 2015

RE: FOIA REQUEST

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning EPA's involvement with matters concerning suspected or actual toxic contamination with polychlorinated biphenyls (PCBs) in schools in the United States. Specifically, we request the following:

1. Any and all documentation of consent orders, agreements, or voluntary actions concerning the identification of, testing for, and/or remediation of PCB-containing materials at schools in the United States.

2. Any and all documents or communications, including but not limited to emails and notes of oral communications, reflecting or relating to the reporting of the presence of PCBs in schools to the U.S. Environmental Protection Agency (EPA) or any of its Regional offices.

3. All correspondence, including emails and notes of oral communications, between officers or employees of EPA and representatives of school districts or school administrations, concerning the matters in the first two requests.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

> "The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of

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Government officials at the expense of those they are supposed to serve... All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA."

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

PEER requests that all fees be waived because "disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor" (5 U.S.C. 552 (a)(4)(A)):

1. The records concern the operations or activities of the Government.
The FOIA request is, by its terms, limited to identifiable activities of EPA employees and entities regulated by EPA concerning PCBs in schools.

2. The disclosure of the requested records is likely to contribute to public understanding of these operations or activities.
The information we seek concerns actions taken by EPA or by parties regulated by EPA to address the presence of PCBs, which are regulated by EPA under the Toxic Substances Control Act (TSCA), in schools. The requested records are likely to reveal information about how EPA is (or is not) addressing the problem and enforcing the law.

3. The release of requested records will contribute significantly to public understanding of the governmental activities
The communications sought here are likely to shed light on how EPA and regulated entities have dealt with the presence of PCBs, a highly toxic substance largely banned by TSCA, in America's schools. It will also shed light on how EPA employees and officials are carrying out their duties to implement the nation's environmental laws.

The general population has a strong interest in what is being done about PCBs in the nation's schools, and EPA's role in enforcing TSCA and protecting the health of the nation's school children and teachers.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in PEER's newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, PEER has repeatedly demonstrated the ability to generate nationwide news coverage concerning activities occurring within the EPA.

4. Disclosure would not serve a commercial interest of the requestor.
Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-7337. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Paula Dinerstein
Senior Counsel

Lewis, Judith

From: Paula Dinerstein <pdinerstein@peer.org>
Sent: Friday, August 14, 2015 10:35 AM
To: FOIA HQ
Subject: FOIA request
Attachments: FOIA request 3 PCBs in schools 8 15.pdf

Dear National FOIA Officer:

Attached please find a FOIA request, which is also being sent by postal mail. Please contact me with any questions you may have. We look forward to your response to the request within 20 working days.

Paula Dinerstein
Public Employees for Environmental Responsibility
2000 P St., N.W. Suite 240
Washington, D.C. 20036
202-265-7337 (phone)
202-265-4192 (fax)
pdinerstein@peer.org
www.peer.org

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