



Know your environment.
Protect your health.

VIA E-MAIL

July 11, 2023

Freedom of Information Act Officer
USDA, Food Safety and Inspection Service
Room 2168 South Building
1400 Independence Ave., SW
Washington, DC 20250
FSIS.FOIA@usda.gov

Re: Freedom of Information Act Request

Dear FOIA Officer:

Under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, 7 U.S.C. § 8791, and corresponding USDA regulations, 7 C.F.R. Part 1, the Environmental Working Group (EWG) makes the following request for records.

Tyson Fresh Meats, Inc. (“Tyson”) recently launched a new beef brand called Brazen Beef. According to Tyson, Brazen Beef is “climate-friendly” and is cattle produced using 10% less greenhouse gas (“GHG”) emissions.¹ Beef under the Brazen Beef brand is produced from cattle that are part of Tyson’s Climate-Smart Beef Program. The USDA approved Tyson’s use of the “climate friendly” claim with corresponding taglines and qualifiers for Brazen Beef. However, there is no such thing as “climate-friendly” beef. In fact, no food choice results in more greenhouse gas emissions than choosing beef.² Many consumers viewing “climate-friendly” claims, like those being made by Brazen Beef, are likely to falsely assume that consuming beef bearing such a label will help reduce greenhouse gas emissions.

EWG seeks information to determine the extent to which Tyson Foods engaged with the USDA concerning the labeling and claims of its Brazen Beef brand.

Requested Records

EWG requests that USDA produce the following records³ within twenty business days:

¹ Brazen Beef, <https://brazenmeats.com/> (retrieved on July 7, 2023).

² Xiaoming Xu et al., *Global Greenhouse Gas Emissions From Animal-Based Foods are Twice Those of Plant-Based Foods*, *Nature Food* 724 (2021), <https://www.nature.com/articles/s43016-021-00358-x>.

³ For purposes of this FOIA request, “records” means information of any kind, including writings; memoranda; e-mails, including their subject lines, names of recipients and their e-mail addresses, and any attachments; text messages; letters; notes; meeting requests; calendar entries, including the names of invitees and their e-mail addresses, and any attachments; meeting minutes; documents; drawings; graphs; charts; photographs; electronic and



Know your environment.
Protect your health.

All communications between USDA and any employee or representatives of Tyson Foods, Inc. and Tyson Fresh Meats, Inc. (@tyson.com) containing any of the following search terms (whether in the body or subject):

- a. "Tyson Foods, Inc. Animal Welfare CARE Program"
- b. "Tyson Foods' Climate-Smart Beef Program"
- c. "Brazen Beef"
- d. "Brazen Meats"
- e. "Adams Land and Cattle, LLC"
- f. "greenhouse gas emissions"
- g. "GHG emissions"
- h. "climate friendly"
- i. "carbon claims"
- j. "Partnership for Climate Smart Commodities"
- k. "Environmental stewardship claim"
- l. "Truthful and not misleading."
- m. "10% reduction"
- n. "pasture to production"
- o. "third-party verification"

EWG seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, calendar invitations, telephone conversations or discussions. Our request includes any attachments to these records. No category of material should be omitted from search, collection, and production. **EWG can accept these files in a number of formats, including compressed data files transferred to us through the internet File Transfer Protocol (ftp), or on CD-ROM. Please be sure to unpack any "packed" data fields in these tables prior to providing the data to us.**

Please search all records regarding agency business in relation to this matter. You may not exclude searches of files in the personal custody of your officials or files sent to or retained in personal email accounts. EWG has a right to records obtained in those files even if the material has not yet been moved to official systems or if personnel have failed to meet their obligation to move those files to official systems.

EWG respectfully requests that USDA make every reasonable effort to provide the requested records within the 20-working day limit required by USDA regulations, 7 C.F.R. § 1.7.

magnetic meeting recordings; records of telephone conversations, including cell-phone records; and any other compilation of data from which information can be obtained.



Know your environment.
Protect your health.

Copies should be mailed or emailed within 20 working days of receipt of this request to:

Caroline Leary
General Counsel
Environmental Working Group
1250 I Street NW, Suite 1000
Washington, DC 20005
cleary@ewg.org

Should you determine that portions of the requested records are exempt from disclosure under the FOIA, please segregate those portions and mail the remaining records within the statutory time limit. For any records or portions of records that you determine to be exempt, please provide a specific description of the record or portion of the record exempted along with a particularized description of the exemption. EWG will accept the requested records with all federal Privacy Act-protected information redacted.

EWG is a non-profit public interest organization dedicated to using the power of information to protect public health and the environment. EWG works to ensure a sustainable future for America's working farms and ranches. The food the U.S. produces and the way we produce has profound effects—good and bad—on the public's health, quality of life and the environment. EWG also educates consumers on how the way we eat has a direct impact on the climate crisis, and there are steps everyone can take to rethink their diets in order to reduce greenhouse gas emissions. Eating less meat—especially beef—can significantly reduce how much consumer choice contributes to the climate crisis.

EWG's request for the release of pertinent records is consistent with the USDA's goal to support the public's confidence and understanding of meat labeling claims. As such, EWG looks forward to the timely receipt of the requested documents.

Fee Waiver

EWG's request satisfies the statutory requirements for a fee waiver because it is a representative of the news media."⁴

Per USDA regulations, for news media organizations: "Fees for this category of requesters shall also be limited to the cost of providing duplication service alone, minus the charge for the first 100 reproduced pages. No charge shall be made for providing search or review services. Requests in this category must not be made for a commercial use."⁵ EWG is a representative of the news media because it gathers information of interest to a segment of the public, uses its

⁴ 5 U.S.C. §552(a)(4)(A)(iii) (2012). *See also* 7 C.F.R. § 1, Appendix A to Subpart A § 6; *DOJ v. Reporters Comm. for Free Press*, 489 U.S. 749, 773 (1989) (internal citations omitted).

⁵ 7 C.F.R. § 1, Appendix A to Subpart A § 6.



Know your environment.
Protect your health.

editorial skills to turn the raw materials into a distinct work, and distributes that work to a broad audience.⁶ EWG's fundamental purpose is to provide information to the American people, Congress, and other public interest groups to protect human health and the environment. EWG transforms large amounts of data it receives from the government and other sources into distinct works that are available to the public. For example, in 2022 EWG engaged in the following news media activities:

- 38,000 of mentions in print and online media
- 173 news releases
- 129 articles
- 22 reports
- 37 of times quoted or mentioned in New York Times, Wall Street Journal, and Washington Post

EWG plans to use the information gathered from this request, and its analysis of it, to educate the public through various media including reports, blogs, and press releases. For these reasons, EWG is a news media organization under relevant FOIA statutes and is entitled to a waiver of fees. The disclosure of the requested information is purely noncommercial, and wholly in the public interest. Because EWG has no commercial interest, there is no need to balance any commercial interest against the public interest.

For these reasons, EWG asks USDA to waive search or review fees related to EWG's request for a fee waiver should not be construed as an extension of time in which to reply to this request.

Conclusion

EWG looks forward to your response to this request within 20 business days, as provided under 5 U.S.C. § 552(a)(6)(A)(i) and 7 C.F.R. §1.7.

If you require further clarification about this request or anticipate any problems with releasing the requested documents, please contact me at 202-939-9151.

Sincerely,

/s/ Caroline Leary

Caroline Leary
General Counsel
Environmental Working Group

⁶ 5 U.S.C. 552(a)(4)(A)(iii).