OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20460

March 23, 2026

Kyle Moring
[redacted]

Re: Freedom of Information Act Appeal No. 2026-EPA-03099 (Request No. 2026-EPA-02222)

Dear Kyle Moring:

I am responding to your Freedom of Information Act (FOIA) appeal submitted to and received by the U.S. Environmental Protection Agency (EPA or Agency) on February 23, 2026. Your appeal challenges EPA Region 6's February 20, 2026, decision issued in response to your FOIA request dated January 8, 2026 and received on January 9, 2026. Your request sought the following:

> I am seeking records related to this disclosed enforcement matter, as well as records concerning a specific Walmart facility (Store #131, Mount Pleasant, Texas) that may be connected to the same or similar violations.
>
> **Records Requested**
> I request copies of the following records:
>
> 1. **October 2023 Finding of Violation**: The Finding of Violation issued to Walmart Inc. in October 2023, alleging violations of the Clean Air Act in connection with refrigeration leak detection and repair programs, including any attachments, exhibits, or supporting documentation.
> 2. **Related Enforcement Records**: All records relating to the investigation, enforcement action, or compliance proceedings arising from or related to the October 2023 Finding of Violation, including but not limited to:
>   a. Inspection reports, field notes, and investigation memoranda
>   b. Correspondence between EPA and Walmart Inc. or its representatives
>   c. Any consent agreements, administrative orders, or settlement documents
>   d. Penalty calculations or assessments e. Compliance schedules or corrective action plans
>   e. Any amendments to or updates of the original Finding of Violation
> 3. **Facility List**: Any list, index, or identification of the specific Walmart facilities

referenced in the October 2023 Finding of Violation or subject to the related investigation, including facility addresses, store numbers, and the nature of alleged violations at each location.

4. **Walmart Store #131 (Mount Pleasant, Texas) Records**:

All records in EPA's possession relating to environmental compliance, violations, complaints, inspections, or enforcement actions at Walmart Store #131, located at 2311 S. Jefferson Avenue, Mount Pleasant, Texas 75455, including but not limited to:

   a. Records indicating whether this facility is included in the scope of the October 2023 Finding of Violation or related investigation
   b. b. Any NESHAP (National Emission Standards for Hazardous Air Pollutants) notifications, complaints, or enforcement records
   c. c. Any referrals to or from EPA concerning this facility (including referrals to/from Texas DSHS, TCEQ, or other agencies)
   d. d. Refrigeration-related compliance records, including leak detection and repair program documentation e. Asbestos-related records, including any NESHAP demolition/renovation notifications f. Complaints received by EPA concerning this facility from January 1, 2023 to present

5. **Referral Records**: Records of any referrals from EPA to state agencies (including Texas Commission on Environmental Quality and Texas Department of State Health Services) or from state agencies to EPA concerning Walmart facilities in Texas, from January 1, 2023 to present.
6. **Clean Air Act Section 113 Records**: Any notices of violation, administrative penalty orders, compliance orders, or civil referrals issued to Walmart Inc. under Clean Air Act Section 113 from January 1, 2020 to present.

On February 20, 2026, Region 6 issued a final response letter indicating that it did not locate any records responsive to your request.

Your appeal challenges the sufficiency of Region 6’s search efforts and specifically requests that EPA:

a. Reverse the "no responsive records" determination and remand this request for additional searches reasonably calculated to locate responsive records;
b. Direct EPA to conduct searches in all offices and systems reasonably likely to contain responsive records, including headquarters enforcement components and any relevant air enforcement/case-tracking repositories, as well as Region 6 program and counsel files;
c. Ensure that searches use reasonable search terms and identifiers, including variations on "Walmart," "Finding of Violation," "FOV," "Clean Air Act," "refrigeration," "refrigerant," "leak detection," "leak repair," and location terms for Walmart Store #131 in Mount Pleasant, Texas; and
d. If responsive records are located but withheld in whole or in part, provide the legal basis for each withholding, release all reasonably segregable non-exempt portions, and provide sufficient descriptions of withheld material to permit meaningful review on appeal.

I have carefully considered your request, EPA's decision, and your appeal. For the reasons set forth below, I have determined that your appeal should be, and is, granted.

Analysis

Generally, agencies must conduct a search that is "reasonably calculated to uncover all relevant documents.[1] "[T]he adequacy of a FOIA search is generally determined not by the fruits of the search, but by the appropriateness of the methods used to carry out the search.[2]

Here, I find that the Agency's search efforts were not reasonably calculated to uncover all relevant documents. Region 6's search efforts were limited to records related to Walmart Store #131, located at 2311 S. Jefferson Avenue, Mount Pleasant, Texas 75455, and I find that those search efforts were reasonably calculated to uncover all relevant documents related to that specific store. However, there are additional file locations which are reasonably likely to contain records potentially responsive to the other portions of your request which are not specific to store #131 which were not searched.

Accordingly, pursuant to 40 C.F.R. § 2.108(e)(2), I am remanding your FOIA request for a supplemental search to be conducted for records potentially responsive to subparts 1, 2, 3, 5 and 6 of your request. On remand, Region 6 will coordinate with other offices that may be in possession of such records and reassign the remanded request if necessary for purposes of conducting supplemental searches. Region 6 will contact you within 10 business days with an estimated timeline for completion.

Conclusion

This letter constitutes EPA's final determination on this matter. Pursuant to 5 U.S.C. § 552(a)(4)(B), you may obtain judicial review of this determination by filing a complaint in the United States District Court for the district in which you reside or have your principal place of business, or the district in which the records are situated, or in the District of Columbia. Additionally, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) within the National Archives and Records Administration was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD, 20740-6001; e-mail, ogis@nara.gov; telephone, 202-741-5770 or 1-877-684-6448; and fax, 202-741-5769.

[1] *See, e.g., Campbell v. Soc. Sec. Admin.*, 446 F. App'x 477, 480 (3d Cir. 2011) (citing *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1350–51 (D.C. Cir. 1983)).
[2] *Iturralde v. Comptroller of Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003) (citing *Steinberg v. U.S. Dep't of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994)).

Should you have any questions concerning this matter, please contact You Na Han, at han.youna@epa.gov.

Sincerely,

Lynn Kelly
Assistant General Counsel
General Law Office

cc: Jacob Gallegos, Assistant Regional Counsel, Region 6
Lynde Schoellkopf, Acting Deputy Regional Counsel, Region 6