

Project On Government Oversight

September 14, 2011

By email to OMBFOIA@omb.eop.gov

Freedom of Information Act Request

Dionne Hardy, FOIA Officer
Office of Management and Budget
725 17th Street, NW, Room 9026
Washington, DC 20503

Dear Ms. Hardy:

I am making this request under the Freedom Of Information Act (“FOIA”), 5 U.S.C. § 552.

The documents I seek are related to Final Rule RIN 0925-AA53 published in the Federal Register on August 25, 2011. The agency for this Final Rule is the Department of Health and Human Services (DHHS), and the subagency is the National Institutes of Health (NIH).

FOIA request for emails

- o I request certain emails exchanged between the Office of Information and Regulatory Affairs (OIRA) and the NIH during the time period starting January 20, 2009, and ending on September 9, 2011 – namely, all such emails related to OIRA’s review of Final Rule RIN 0925-AA53.
- o I also request certain emails exchanged between OIRA and the DHHS during the same time period – namely, all such emails related to OIRA’s review of Final Rule RIN 0925-AA53.
- o Note that this FOIA request includes emails received or sent by OIRA both before and after the review of Final Rule RIN 0925-AA53 was completed.

For the reasons given in my FOIA request yesterday (September 13), I am sending this request for emails separately from my request yesterday for other documents.

Redaction

The emails that I have requested under FOIA should be provided to me without redaction. The reasons for this – namely, statements by the President and the OMB Director on the need for transparency and openness – are spelled out in the FOIA request I sent you yesterday (September 13).

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested records will contribute significantly to the public's understanding of the operations or activities of the government and would not be primarily in the commercial interest of POGO. Specifically, POGO intends to use the requested records to highlight the FDA's responsibility to ensure compliance with 21 CFR Part 58. POGO will use the records to contribute to the public's understanding of government operations and activities.

Founded in 1981, POGO is a politically independent, nonprofit watchdog organization that promotes a government accountable to the citizenry. POGO disseminates information about its activities to thousands of concerned citizens, policymakers, and the media via email, direct mail, and its web site <http://www.pogo.org>, which receives over 500,000 hits monthly. The records provided by your agency will be used for the following activities: publication by email and on our website; publication in reports and newsletters issued by POGO; publication in the newsletters of affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers in Washington, DC; or investigational projects conducted in conjunction with the news media

If this request is denied in full or in part, please cite each exemptions pursuant to 5 U.S.C. § 552(b) that justifies each denial. If an exemption applies, however, please consider exercising the agency's discretionary release powers to disclose the records. Any such action supports the presumption of "openness" on which FOIA is based upon. Additionally, please release all reasonably segregable portions of the records that do not meet an exemption. 5 U.S.C. § 552(b).

I look forward to your response, including an individualized tracking number, within 20 days of the receipt of this request, unless, in the case of "unusual circumstances," the time limitation is "extended by written notice." 5 U.S.C. § 552(a)(6)(B). I am aware that all fees will be waived if specified time limits are not met. 5 U.S.C. § 552(a)(4)(A)(viii). I have a right to appeal if this request is wholly or partially denied or if the agency fails to respond within 20 days, and that, if successful, a federal district court may assess "reasonable attorney fees and other litigation costs." 5 U.S.C. § 552(a)(4)(E).

Please contact me if this request requires further clarification. Thank you for your prompt attention to this matter.

Sincerely,



Ned Feder, M.D.

Staff Scientist

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