U.S. FOOD & DRUG ADMINISTRATION

September 19, 2022

Harry Duty
(b) (6)

Re: Docket No. FDA-2022-P-0395

Dear Mr. Duty:

Pursuant to 21 CFR 10.30, this is a tentative response to your Citizen Petition (FDA-2022-P-0395) filed by the Food and Drug Administration on March 21, 2022.

The petition requests "FDA-CVM to comply with FOIA law and post publicly on the FDA FOIA reading room all documents requested through various FOIA requests pertaining to *Testing Records From 2019 Warning Letter Against Answers Pet Food Due To FDA-CVM Regulating By Their Opinion Instead of Law*." As grounds for the petition, you state, "The following information has been requested through FOIA '3 or more times' and FDA is now required to comply with 5 U.S.C. § 552(a)(2)(D) and publish these records on the FDA FOIA reading room."

5 U.S.C. § 552(a)(2)(D) states, in part:

> Each agency … shall make available for public inspection in an electronic format … copies of all records … that have been released to any person under [FOIA]; and … that have been requested 3 or more times[.]

Although your petition does not specify three Freedom of Information Act (FOIA) requests that pertain to the same records, or whether any records have been released in response to any of the unidentified FOIA requests, to the extent we have three or more FOIA requests for the same records and those records have been released under FOIA, we will post those records on the CVM Electronic Reading Room, https://www.fda.gov/about-fda/center-veterinary-medicine/cvm-foia-electronic-reading-room.

FDA will issue a final response to your citizen petition once records that are the subject of three or more FOIA requests as described in your petition are released, or we determine either that there are no responsive records or that responsive records are not releasable under FOIA.

Sincerely,

Steven Solomon -S
Digitally signed by Steven Solomon -S
Date: 2022.09.19 07:56:30 -04'00'

Steven M. Solomon, DVM, MPH
Director, Center for Veterinary Medicine