



August 16, 2022

Harry Duty
3697 Family Circle Road
Vernon, FL 32462

Re: Docket No. FDA-2022-P-0210

Dear Mr. Duty:

We are granting your Citizen Petition (FDA-2022-P-0210) filed with the Food and Drug Administration (FDA) on February 19, 2022.

The petition requests FDA to “comply with FOIA law and post publicly on the FDA FOIA reading room all documents requested through various FOIA requests pertaining to *Video Of FDA Employee Sean Duke on 01.23.19 Assaulting Citizen, After Being Caught Regulating By Opinion Instead Of Law.*”

As grounds for the petition, you claim the “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[.]”

Your petition did not provide the control numbers for, or otherwise identify with any specificity, the FOIA requests that you claim triggered this provision of the FOIA. Nevertheless, we have been able to locate at least 3 FOIA requests for *"Video Of FDA Employee Sean Duke on 01.23.19 Assaulting Citizen, After Being Caught Regulating By Opinion Instead Of Law."* Although we disagree with the requests' characterization of this video, we confirm that video responsive to these requests has been released under FOIA.

Consistent with Agency practice, we intend to post this record to the ORA FOIA Electronic Reading Room. When posting records to our electronic reading room or elsewhere on our website, however, FDA is required to comply with the electronic and information technology requirements in the Rehabilitation Act of 1973 (Pub. L. 93-112), section 508 [29 U.S.C. § 794d(a)]. Section 508 requires us to ensure that individuals with disabilities have access to and use of these records.

We will post this video after we have made it compliant with section 508's requirements. It will be posted to the ORA FOIA Electronic Reading Room at:



<https://www.fda.gov/about-fda/office-regulatory-affairs/ora-foia-electronic-reading-room>, in the “Resources for You” section, under the heading “Other Requested Records.”

Sincerely,

Judy McMeekin, Pharm.D.
Associate Commissioner for Regulatory Affairs