



U.S. Department of Justice
Drug Enforcement Administration
FOI/Records Management Section
8701 Morrisette Drive
Springfield, Virginia 22152

AUG 06 2018

Case Number: 17-00308-F

Subject: Information regarding any documents, letters, or communications from persons or entities requesting an upward or downward adjustment of the aggregate production quota of any opioid at year-end and any documents, letters, decisions, or communications from the DEA granting or denying the request, etc. (2013)

Patrick Morrissey, Attorney General
c/o Michael Greibrok
Special Assistant to the Attorney General
Office of the West Virginia Attorney General
State Capitol, Building 1, Rm. 26 E
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Via Email: Michael.D.Greibrok@wvago.gov

Dear Mr. Morrissey:

This letter responds to your Freedom of Information/Privacy Act request dated January 26, 2017 and your reformulated request dated June 1, 2017, addressed to the Drug Enforcement Administration (DEA), Freedom of Information/Privacy Act Unit, seeking access to information regarding the above subject.

After reviewing your request, we conducted a search for responsive records pertaining to the above subject. To search for responsive records, we forwarded a search memorandum to DEA's Diversion Control Division, UN Reporting & Quota Section (DRQ). The processing of your request identified records responsive to your request. Please note, this response represents quota records for 2013.

Portions of the records not released are being withheld pursuant to the Freedom of Information Act, 5 U.S.C. § 552. Please refer to the list enclosed with this letter that identifies the authority for withholding the deleted material, which is indicated by a mark appearing in the block next to the exemption. An additional enclosure with this letter explains these exemptions in more detail. The documents are being forwarded to you with this letter.

Additionally, information pertaining to policies and protocols for setting annual quotas is set forth in 21 C.F.R. Part 1303. Furthermore, a training presentation which describes the quota process can be found online by following this link:

https://www.deadiversion.usdoj.gov/mtgs/pharm_train/conf_2017/may_2017/kavanagh_2.pdf.

Also, public comments filed in response to DEA's proposed adjustments to aggregate quota production are available at www.regulations.gov.

Certain records contain information that was furnished by the Food and Drug Administration (FDA). That information and a copy of your request have been referred for a decision as to access and the FDA will respond directly to you in accordance with 28 C.F.R § 16.4 and/or 16.42.

The rules and regulations of the Drug Enforcement Administration applicable to Freedom of Information Act requests are contained in the Code of Federal Regulations, Title 28, Part 16, as amended. They are published in the Federal Register and are available for inspection by members of the public.

After your review of the enclosed records, please advise this office if you would like for us to continue searching for and processing documents for the additional years requested (2010-2012 and 2014-2016). To this end, no further action will be initiated on this request until we are in receipt of your response. If this office does not receive your response within 30 days, we will assume that you do not wish to pursue this matter and your request will be administratively closed.

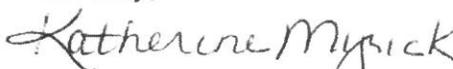
For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison at 202-307-7596 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you have any questions regarding this letter, you may contact Paralegal Chris Haugen at 202-307-6080.

Sincerely,



Katherine L. Myrick, Chief
Freedom of Information/Privacy Act Unit
FOI/Records Management Section

Number of pages withheld: 34

Number of pages released: 164

Number of pages referred: 28 (FDA)

APPLICABLE SECTIONS OF THE FREEDOM OF INFORMATION AND/OR PRIVACY ACT:

**Freedom of Information Act
5 U.S.C. 552**

**Privacy Act
5 U.S.C. 552a**

(b)(1) (b)(5) (b)(7)(C)

(d)(5) (k)(2)

(b)(2) (b)(6) (b)(7)(D)

(j)(2) (k)(5)

(b)(3) (b)(7)(A) (b)(7)(E)

(k)(1) (k)(6)

(b)(4) (b)(7)(B) (b)(7)(F)

Enclosures

EXPLANATION OF EXEMPTIONS
SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute- (A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.