

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

State of Florida, *et al.*,

Plaintiffs,

v.

Food and Drug Administration, *et al.*,

Defendants.

Case No. 8:22-cv-01981-TPB-JSS

**Joint Status Report for the FOIA Claims Subject to Special Handling
(Counts 2, 3, and 4)**

The parties, by counsel, respectfully submit this Joint Status Report for the claims advanced under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as directed in the Court's January 4, 2023 Case Management and Scheduling Order. ECF No. 44, ¶ 2.¹

1. Plaintiffs seek the production of records from Defendant Food and Drug Administration ("FDA") in response to a FOIA request submitted by Plaintiff, the Agency for Health Care Administration ("AHCA"), about the State of Florida's Section 804 Importation Program ("SIP") Proposal, other states' SIP Proposals, and various other records about the Section 804 Importation Program,

¹ This status report does not address Plaintiffs' claims brought under the Administrative Procedure Act ("APA"), which are proceeding separately.

generally. The relevant time period for the FOIA request is January 1, 2019, to July 6, 2022, the date the request was submitted to FDA.

2. By its Order, dated November 21, 2023, the Court imposed the following schedule in this case and in the related case, *Florida v. FDA*, Case No. 8:23-cv-877-TPB-TGW (M.D. Fla.) (hereinafter, “*Florida II*”):

Event	Deadline
Defendants complete all productions in response to Plaintiffs’ July 2022, March 2023, and May 2023 FOIA requests	November 21, 2028
Defendants serve Plaintiffs with a <i>Vaughn</i> index for the productions dated March 27, 2023, May 4, 2023, May 23, 2023, June 28, 2023, and July 26, 2023	February 20, 2024
Defendants serve Plaintiffs with a <i>Vaughn</i> index for the productions dated August 28, 2023, September 28, 2023, and October 30, 2023	March 20, 2024
Defendants serve Plaintiffs with a <i>Vaughn</i> index for the productions made after October 30, 2023.	Rolling, 120 Days After Each Production
Deadline for Motions for Partial Summary Judgment on Redactions and Withholdings for Defendants’ Productions Through October 30, 2023	May 20, 2024

See Order, ECF No. 110.

3. FDA is currently reviewing the potentially responsive records

identified in its searches to determine whether any pages are responsive to AHCA's request and, if so, whether any exemptions from disclosure apply under the FOIA. To date, FDA has produced ten interim responses to AHCA on March 27, May 4, May 22, June 28, July 26, August 28, September 28, October 30, November 27, and December 26, 2023, and comprising 6,296 pages (Bates numbered FDACDER000001 - FDACDER006296).

4. FDA is also working toward the production of *Vaughn* index materials in accordance with the Court-ordered deadlines identified above.

5. The parties' next joint status report is currently due in 90 days, on Monday, April 1, 2024. *See* ECF No. 44, ¶ 2.

Dated: January 2, 2024

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Respectfully submitted,

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