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Comment from Sarah Serdin

Posted by the **Food and Drug Administration** on Aug 7, 2025

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Comment

Docket No. FDA-2025-N-1732 for “Agency Information Collection Activities; Proposed Collection; Comment Request; Certification of Identity for Freedom of Information Act and Privacy Act Requests.”

Certification of Identity; Form FDA 3975 within OMB Control Number 0910-0832—Extension SHOULD NOT be approved.

Privacy Act (PA) requests already require a verification of Requestor's identity. Freedom of Information Act (FOIA) requests DO NOT, nor is such a consideration included in the language of the statute. Imposing one against FOIA Requestors (as this form proposes) is a poorly conceived action which can make for additional work for all parties (Requestor AND Processor) and contravenes the existing laws (notably the Paperwork Reduction Act (PRA)) - significantly adding to the Public Burden as well as the Agency burden. It unduly restricts access to records which are intended to be made available to the widest extent possible (barring adherence to the appropriate exemptions, NO Federal records SHOULD "not normally be prepared for public distribution").

If there is doubt regarding the veracity or identity of a FOIA requestor, the intent of their request, how the records may be used when released, or any other concern or confusion regarding the Requestor or the request, the Processor (hopefully a FOIA Professional!) CAN and SHOULD contact them directly to verify. Every FOIA processor worth their pay learns how to judge whether or not a request passes the "sniff test" of validity. If they don't, they won't last long in the role.

The whole point of FOIA is to allow access to the public of the workings of their government via the ability to review records. The FOIA is designed to disclose information UNLESS there are valid reasons (exemptions, security, privacy, etc. - see the Exemptions...) not to.

The PA is NOT a disclosure requirement. It allows individuals (citizens or legal aliens with permanent residency) to request records about themselves that can be retrieved by name (or other identifier), and to

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request correction of inaccuracies, and to protect their own privacy. The Processor is charged with considering whether or not the information is protected by one of the PA exemptions (again, see the Exemptions). See United States DOJ v. Reporters Comm. for Freedom of Press, 489 U.S. 749, 109 S. Ct. 1468 (1989) (Stating that Privacy includes “individual’s control of information concerning his or her person”). Both are well thought out programs and should not be manipulated by any one particular Agency for their own purposes or considerations. Each Agency should improve their operations and policies without potentially imposing additional burden on anyone.

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