

## Department of State

## § 215.14

(1) *Criminal Law Enforcement Records.* This system of records is to be exempted from sections (c) (3) and (4); (d); (e) (1), (2), and (3); (e) (4) (G), (H), and (I); (e) (5) and (8); (f), (g) and (h) of the Act. These exemptions are necessary to insure the proper functioning of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to maintain the integrity of the law enforcement procedures, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, to prevent interference with law enforcement proceeding, to avoid the disclosure of investigative techniques, and to avoid the endangering the law enforcement personnel.

(2) [Reserved]

### § 215.14 Specific exemptions.

(a) Pursuant to 5 U.S.C. 552a(k), the Director or the Administrator may, where there is a compelling reason to do so, exempt a system of records, from any of the provisions of subsections (c) (3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Act if a system of records is:

(1) Subject to the provisions of 5 U.S.C. 552(b)(1);

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Act: Provided, however, That if any individual is denied any right, privilege, or benefit to which he or she would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) Each notice of a system of records that is the subject of an exemption under 5 U.S.C. 552a(k) will include a statement that the system has been exempted, the reasons therefore, and a reference to the FEDERAL REGISTER, volume and page, where the exemption rule can be found.

(c) The systems of records to be exempted under section (k) of the Act, the provisions of the Act from which they are being exempted, and the justification for the exemptions, are set forth below:

(1) *Criminal Law Enforcement Records.* If the 5 U.S.C. 552a(j)(2) exemption claimed under paragraph (c) of § 215.13 and on the notice of systems of records to be published in the FEDERAL REGISTER on this same date is held to be invalid, then this system is determined to be exempt, under 5 U.S.C. 552(a)(k) (1) and (2) of the Act, from the provisions of 5 U.S.C. 552a (c)(3); (d); (e)(1);

(e)(4); (G); (H); (I); and (f). The reasons for asserting the exemptions are to protect the materials required by executive order to be kept secret in the interest of the national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel.

(2) *Personnel Security and Suitability Investigatory Records.* This system is exempt under U.S.C. 552a (k)(1), (k)(2), and (k)(5) from the provisions of 5 U.S.C. 552a (c)(3); (d); (e)(1); (e)(4); (G); (H); (I); and (f). These exemptions are claimed to protect the materials required by executive order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering those sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted.

(3) *Litigation Records.* This system is exempt under 5 U.S.C. 552(k)(1), (k)(2), and (k)(5) from the provisions of 5 U.S.C. 552a (c)(3); (d); (e)(1); (e)(4) (G), (H), (I); and (f). These exemptions are claimed to protect the materials required by executive order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain candid

and necessary information, to fulfill commitments made to sources to protect the confidentiality of information.

(4) *Employee Equal Employment Opportunity Complaint Investigatory Records.* This system is exempt under 5 U.S.C. 552a (k)(1) and (k)(2) from the provisions of 5 U.S.C. 552a (c)(3); (d); (e)(1); (e)(4) (G), (H), (I); and (f). These exemptions are claimed to protect the materials required by executive order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources.

(5) The following systems of records are exempt under 5 U.S.C. 552a (k)(5) from the provision of 5 U.S.C. 552a (c)(3); (d); (e)(1); (e)(4) (G), (H), (I); and (f):

(i) Employee Conduct and Discipline Records.

(ii) Employee Relations Records.

This exemption is claimed for these systems of records to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted. The existence and general character of the information exempted will be made known to the individual to whom it pertains.

## PART 216—ENVIRONMENTAL PROCEDURES

|       |                                  |
|-------|----------------------------------|
| Sec.  |                                  |
| 216.1 | Introduction.                    |
| 216.2 | Applicability of procedures.     |
| 216.3 | Procedures.                      |
| 216.4 | Private applicants.              |
| 216.5 | Endangered species.              |
| 216.6 | Environmental assessments.       |
| 216.7 | Environmental impact statements. |