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FOIA Exemptions and Exclusions

Last Modified:

FOIA Exemptions

A request for records may be denied if the requested record contains information that falls into one or more of the nine categories listed below. If the requested record contains both exempt and nonexempt information, the nonexempt portions that may reasonably be segregated from the exempt portions will be released to the requester.

Categories of Exempt Information:

Exemption One: Records which are specifically authorized under criteria established by an Executive Order to be kept secret in interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Exemption Two: Records related solely to the internal personnel rules and practices of APHIS.

Exemption Three: Records specifically exempted from disclosure by statute, provided that such statute: a. Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issues; or b. Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Exemption Four: Trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

Exemption Five: Interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with APHIS.

Exemption Six: Personnel, medical, and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Exemption Seven: Records compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records:

(7)(A) Could reasonably be expected to interfere with enforcement proceedings;

(7)(B) Would deprive a person of a right to a fair trial or an impartial adjudication;

(7)(C) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(7)(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 records on a confidential basis;

(7)(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

(7)(F) Could reasonably be expected to endanger the life or physical safety of any individual.

Exemption Eight: Records that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

Exemption Nine: Geological and geophysical information and data, including maps, concerning wells.

What are FOIA Exclusions?

Congress has provided special protection in the FOIA for three narrow categories of law enforcement and national security records. The provisions protecting those records are known as "exclusions." The first exclusion protects the existence of an ongoing criminal law enforcement investigation when the subject of the investigation is unaware that it is pending and disclosure could reasonably be expected to interfere with enforcement proceedings. The second exclusion is limited to criminal law enforcement agencies and protects the existence of informant records when the informant's status has not been officially confirmed. The third exclusion is limited to the Federal Bureau of Investigation and protects the existence of foreign intelligence or counterintelligence, or international terrorism records when the existence of such records is classified. Records falling within an exclusion are not subject to the requirements of the FOIA. So, when an office or agency responds to your request, its response will encompass those records that are subject to the FOIA.

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