

Statutory Appendix

APPENDIX A

5 U.S.C. §552(b)(3), (4), (7).....1a

7 U.S.C. §20182a

APPENDIX B

5 U.S.C. §552b(c)(4).....15a

7 U.S.C. §608d(2).....16a

7 U.S.C. §1508(h)(4)16a

7 U.S.C. §1523(i)(2), (3)(A), (6)(B)17a

7 U.S.C. §2143(a), (6)(B)19a

7 U.S.C. §5662(a)(1)(2)19a

7 U.S.C. §6304(q)(1)(A), (2)(A), (3)(A).....21a

7 U.S.C. §6407(i)(1)-(3).....22a

10 U.S.C. §2306a(d)(2)(C)23a

10 U.S.C. §2367 note24a

15 U.S.C. §46(f)25a

15 U.S.C. §2055(a)(1)(2)26a

15 U.S.C. §2055a(c)(C)27a

† 15 U.S.C. §3710a(a), (c)28a

† 15 U.S.C. §3710a(b)(1)(A).....	30a
† 15 U.S.C. §5103(b)(4)(B).....	31a
15 U.S.C. §5104(a).....	32a
† 15 U.S.C. §5308(a)(b)	33a
15 U.S.C. §8704(k)(3)(A)	34a
16 U.S.C. §3844(b)(1)(A)(B)	35a
19 U.S.C. §2155(g)(1)(C)	36a
19 U.S.C. §2605(i)(1)(A)-(C)	37a
21 U.S.C. §353(e)(2)(A)-(D)	38a
21 U.S.C. §355(1), (2)(A), (C), (E)	40a
21 U.S.C. §357(c)(1), (3)	41a
21 U.S.C. §360a-2 (b)(1), (5).....	42a
21 U.S.C. §360bbb-8(d)(1)(2).....	43a
21 U.S.C. §360j(c).....	44a
21 U.S.C. §384(e)(1), (3)	45a
21 U.S.C. §387f(c).....	46a
21 U.S.C. §387p(a)(2)(A)(B)	46a
21 U.S.C. §830(c)(1).....	48a
22 U.S.C. §2131(b)(6)	48a

22 U.S.C. §6713(g)(2)	49a
26 U.S.C. §48A(d)(1), (2)(A)(B)	50a
26 U.S.C. §6110(c)(4).....	51a
† 33 U.S.C. §2313(b)(1)	51a
41 U.S.C. §3505(b)(3)	52a
42 U.S.C. §282 note.....	53a
42 U.S.C. §287(e).....	54a
42 U.S.C. §289d(e).....	55a
42 U.S.C. §300aa-12(d)(4)(A)(B)	55a
42 U.S.C. §1395y(j)(1)(A)	56a
42 U.S.C. §247d-1(c).....	57a
42 U.S.C. §247d-5 note.....	58a
42 U.S.C. §7256(g)(5)	58a
42 U.S.C. §9122(b)(1)(A)(B), (2)(A)	59a
† 42 U.S.C. §13293(a)(1)(2)	60a
42 U.S.C. §13385(b)(1), (3).....	61a
† 42 U.S.C. §15962(h)(1)(2)	62a
† 42 U.S.C. §17242(c)(2)	63a
† 42 U.S.C. 17244(h)	64a

44 U.S.C. §2204(a)(4)	64a
44 U.S.C. §3501 note	65a
47 U.S.C. §1424(e)(2)	66a
49 U.S.C. §114(r)(1)(B).....	66a
49 U.S.C. §309 note.....	67a
49 U.S.C. §44912(d)(2)(A)	67a
† 51 U.S.C. §20131(b)(1)(2)	68a
51 U.S.C. §50916.....	69a

1a

APPENDIX A

FOIA AND SECTION 2018

5 U.S.C. §552

**§552. Public information; agency rules,
opinion, order, records, and proceedings**

(b) This section does not apply to matters that are—

(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.

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(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;

7 U.S.C. §2018

**§2018. Approval of retail food stores and
wholesale food concerns**

(a) Authorization to accept and redeem benefits

(1) Applications

(A) In general

Regulations issued pursuant to this chapter shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized to accept and redeem benefits under the supplemental nutrition assistance program and for the approval of those applicants whose participation will effectuate the purposes of the supplemental nutrition assistance program.

(B) Factors for consideration

In determining the qualifications of applicants, there shall be considered among such other factors as may be appropriate, the following:

- (i) the nature and extent of the food business conducted by the applicant;
- (ii) the volume of benefit transactions which may reasonably be expected to be conducted by the applicant food store or wholesale food concern;
- (iii) whether the applicant is located in an area with significantly limited access to food;
- (iv) any information, if available, about the ability of the anticipated or existing electronic benefit transfer equipment and service provider of the applicant to provide sufficient information through the electronic benefit transfer system to

4a

minimize the risk of fraudulent transactions;
and

(v) the business integrity and reputation of the applicant.

(C) Certificate

Approval of an applicant shall be evidenced by the issuance to such applicant of a nontransferable certificate of approval.

(D) Visit required

No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the supplemental nutrition assistance program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.

(2) The Secretary shall issue regulations providing for—

(A) the periodic reauthorization of retail food stores and wholesale food concerns; and

(B) periodic notice to participating retail food stores and wholesale food concerns of the

definitions of “retail food store,” “staple foods,” “eligible foods,” and “perishable foods.”

(3) Authorization periods

The Secretary shall establish specific time periods during which authorization to accept and redeem benefits shall be valid under the supplemental nutrition assistance program.

(4) Electronic benefit transfer equipment and service providers

Before implementing clause (iv) of paragraph (1)(B), the Secretary shall issue guidance for retail food stores on how to select electronic benefit transfer equipment and service providers that are able to meet the requirements of that clause.

(b) Effective and efficient operation of program; effect of disqualification; posting of bond

(1) No wholesale food concern may be authorized to accept and redeem benefits unless the Secretary determines that its participation is required for the effective and efficient operation of the supplemental nutrition assistance program. No co-located wholesale-retail food concern may be authorized to accept and redeem benefits as a retail food store, unless (A) the concern does a substantial level of retail food business, or (B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to households that receive supplemental nutrition assistance program benefits. In addition, no firm may be

authorized to accept and redeem benefits as both a retail food store and as a wholesale food concern at the same time.

(2)(A) A buyer or transferee (other than a bona fide buyer or transferee) of a retail food store or wholesale food concern that has been disqualified under section 2021(a) of this title may not accept or redeem benefits until the Secretary receives full payment of any penalty imposed on such store or concern.

(B) A buyer or transferee may not, as a result of the sale or transfer of such store or concern, be required to furnish a bond under section 2021(d) of this title.

(c) Information submitted by applicants; safeguards; disclosure to and use by State agencies

Regulations issued pursuant to this chapter shall require an applicant retail food store or wholesale food concern to submit information, which may include relevant income and sales tax filing documents, purchase invoices, records relating to electronic benefit transfer equipment and related services, transaction and redemption data provided through the electronic benefit transfer system, or program-related records, which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this chapter or the regulations issued pursuant to this chapter. The regulations may require retail food stores and wholesale food concerns to provide written

authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified. Regulations issued pursuant to this chapter shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter, except that such information may be disclosed to and used by Federal law enforcement and investigative agencies and law enforcement and investigative agencies of a State government for the purposes of administering or enforcing this chapter or any other Federal or State law and the regulations issued under this chapter or such law, and State agencies that administer the special supplemental nutrition program for women, infants and children, authorized under section 17 of the Child Nutrition Act of 1966 [42 U.S.C.A. §1786], for purposes of administering the provisions of that Act [42 U.S.C.A. §1771 et seq.] and the regulations issued under that Act. Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law (including a regulation) any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. The regulations shall establish the criteria to be used by the Secretary to determine whether the information is needed. The regulations shall not prohibit the audit and examination of such

information by the Comptroller General of the United States authorized by any other provision of law.

(d) Hearing upon failure of applicant to receive approval; waiting period for new application

Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the supplemental nutrition assistance program may obtain a hearing on such refusal as provided in section 2023 of this title. A retail food store or wholesale food concern that is denied approval to accept and redeem benefits because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.

(e) Reporting of abuses by public

Approved retail food stores shall display a sign providing information on how persons may report abuses they have observed in the operation of the supplemental nutrition assistance program.

(f) Limitation on participation of house-to-house trade routes

In those areas in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the operation of house-to-house trade routes damages the program's

9a

integrity, the Secretary shall limit the participation of house-to-house trade routes to those routes that are reasonably necessary to provide adequate access to households.

(g) EBT service requirement

An approved retail food store shall provide adequate EBT service as described in section 2016(h)(3)(B) of this title.

(h) Private establishments

(1) In general

Subject to paragraph (2), no private establishment that contracts with a State agency to offer meals at concessional prices as described in paragraphs (3), (4), and (9) of section 2012(k) of this title may be authorized to accept and redeem benefits unless the Secretary determines that the participation of the private establishment is required to meet a documented need in accordance with section 2020(e)(25) of this title.

(2) Existing contracts

(A) In general

If, on the day before February 7, 2014, a State has entered into a contract with a private establishment described in paragraph (1) and the Secretary has not determined that the participation of the private establishment is necessary to meet a documented need in accordance with section 2020(e)(25) of this title,

the Secretary shall allow the operation of the private establishment to continue without that determination of need for a period not to exceed 180 days from the date on which the Secretary establishes determination criteria, by regulation, under section 2020(e)(25) of this title.

(B) Justification

If the Secretary determines to terminate a contract with a private establishment that is in effect on February 7, 2014, the Secretary shall provide justification to the State in which the private establishment is located for that termination.

(3) Report to Congress

Not later than 90 days after September 30, 2014, and 90 days after the last day of each fiscal year thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the effectiveness of a program under this subsection using any information received from States under section 2020(e)(25) of this title as well as any other information the Secretary may have relating to the manner in which benefits are used.

(i) Review of program operations

(1) Review by the Secretary

The Secretary—

(A) shall review a representative sample of currently authorized facilities referred to in section 2012(k)(3) of this title to determine whether benefits are properly used by or on behalf of participating households residing in such facilities and whether such facilities are using more than 1 source of Federal or State funding to meet the food needs of residents;

(B) may carry out similar reviews for currently participating residential drug and alcohol treatment and rehabilitation programs, and group living arrangements for the blind and disabled, referred to in section 2012(k) of this title;

(C) shall gather information, and such facilities, programs, and arrangements shall be required to submit information deemed necessary for a full and thorough review; and

(D) shall report the results of these reviews to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 18 months after December 20, 2018, along with recommendations regarding—

(i) any additional requirements or oversight that would be appropriate for such facilities, programs, and arrangements; and

(ii) whether such facilities, programs, and arrangements should continue to be authorized to participate in the supplemental nutrition assistance program.

(2) Limitation

Nothing in this subsection shall authorize the Secretary to deny any application for continued authorization, any application for authorization, or any request to withdraw the authorization of any such facility, program, or arrangement based on a determination that residents of any such facility or entity are residents of an institution for a period of 18 months from December 20, 2018.

(j) Incentives

(1) Definition of eligible incentive food

In this subsection, the term “eligible incentive food” means—

(A) a staple food that is identified for increased consumption, consistent with the most recent dietary recommendations; and

(B) a fruit, vegetable, dairy, whole grain, or product thereof.

(2) Guidance

(A) In general

The Secretary shall issue guidance to clarify the process by which an approved retail food store may seek a waiver to offer an incentive, which may be used only for the purchase of an eligible incentive food at the point of purchase, to a household purchasing food with benefits issued under this chapter.

(B) Guidance

The guidance under subparagraph (A) shall establish a process under which an approved retail food store, prior to carrying out an incentive program under this subsection, shall provide to the Secretary information describing the incentive program, including—

- (i) the types of incentives that will be offered;
- (ii) the types of foods that will be incentivized for purchase; and
- (iii) an explanation of how the incentive program intends to support meeting dietary intake goals.

(3) No limitation on benefits

A waiver granted under this subsection shall not be used to carry out any activity that limits the use of benefits under this chapter or any other Federal nutrition law.

(4) Effect

Guidance provided under this subsection shall not affect any requirements under section 7517 of this title, including the eligibility of a retail food store to participate in a project funded under such section.

(5) Report

The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry

14a

of the Senate an annual report describing the types of incentives approved under this subsection.

15a

APPENDIX B

RATIFICATION STATUTES

5 U.S.C. §552b, Pub. L. 94-409, Sept. 13, 1976, 90
Stat. 1241-42.

§552b. Open meetings

(c) Except in a case where the agency finds that the public interest requires otherwise, the second sentence of subsection (b) shall not apply to any portion of an agency meeting, and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

(4) disclose trade secrets and **commercial or financial information obtained from a person and privileged or confidential;**

16a

7 U.S.C. §608d, Pub. L. No. 99-198, Dec. 23, 1985, 99
Stat. 1631.

§608d. Books and records

(2) ... [A]ll information furnished to or acquired by the Secretary of Agriculture pursuant to this section, as well as information for marketing order programs **that is categorized as trade secrets and commercial or financial information exempt under section 552(b)(4) of Title 5 from disclosure under section 552 of such Title**, shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired.

7 U.S.C. §1508, Pub. L. 106-224, June 20, 2000, 114
Stat.392.

§1508. Crop insurance

(h) Submission of policies and materials to Board

17a

(4) Guidelines for submission and review

(ii) Standard of confidentiality

If information concerning a proposal could be withheld by the Secretary [of Agriculture] under the standard for privileged or confidential information pertaining to trade secrets **and commercial or financial information under section 552(b)(4) of Title 5**, the information shall not be released to the public.

7 U.S.C. §1523, Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 976.

§1523. Pilot programs

(i) Underserved crops and regions pilot programs

(2) Authorization

Notwithstanding subsection (a)(2), the [Federal Crop Insurance] Corporation may conduct 2 or more pilot programs to provide producers of underserved specialty crops and livestock commodities with index-based weather insurance, subject to the

requirements of this section.

(3) Review and approval of submissions

(A) In general

The Board [of the Corporation] shall approve 2 or more proposed policies or plans of insurance from approved insurance providers if the Board determines that the policies or plans provide coverage as specified in paragraph (2), and meet the conditions described in this paragraph.

(6) Confidentiality

(B) Standard

If information concerning a proposal could be withheld by the Secretary [of Agriculture] **under the standard for privileged or confidential information pertaining to trade secrets and commercial or financial information under section 552(b)(4) of Title 5**, the information shall not be released to the public.

19a

7 U.S.C. §2143, Pub. L. 99-198, Dec. 23, 1985, 99
Stat 1646.

**§2143. Standards and certification process for
humane handling, care, treatment, and
transportation of animals**

(a) Promulgation of standards, rules, regulations, and
orders; requirements; research facilities; State
authority

(6)(B) No rule, regulation, order, or part of this
chapter shall be construed to require a research
facility to disclose publicly or to the Institutional
Animal Committee during its inspection, trade
secrets or commercial or financial
information which is privileged or
confidential.

7 U.S.C. §5662, Pub. L. 101-624, Nov. 28, 1990, 104
Stat. 3681.

§5662. Compliance provisions

(a) Records

(1) In general

20a

In the administration of the [export] programs established under sections 5621, 5622, and 5623(b) of this title the Secretary [of Agriculture] shall require by regulation each exporter or other participant under the program to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit the Secretary to have full and complete access, for such 5-year period, to such records.

(2) Confidentiality

The personally identifiable information contained in reports under subsection (a) may be withheld **in accordance with section 552(b)(4) of Title 5.** Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of Title 18 shall be subject to section 1905 of Title 18. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

21a

7 U.S.C. §6304, Pub. L. 101-624, Nov. 28, 1990, 104
Stat. 3897.

§6304. Required terms in orders

(q) Books and records of first purchasers and certain
producers

(1) Recordkeeping

(A) In general

[USDA's order establishing a board to promote the soybean industry] shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection by the [United Soybean] Board or the Secretary such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order shall exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order.

(2) Use of information

(A) In general

Information maintained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement

22a

of this chapter, or any order or regulation issued under this chapter.

(3) Confidentiality

(A) In general

Except as otherwise provided in this chapter, **commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential** shall be kept confidential by all officers and employees of the Department, members of the Board, and agents of the Board.

7 U.S.C. §6407, Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3919.

§6407. Required terms in orders

(i) Books and records of processors

(1) In general

[USDA's order establishing a board to promote the dairy industry] shall require that each fluid milk processor subject to this chapter maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) Use of information

Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate for the effectuation, administration, or enforcement of this chapter, or any order or regulation issued under this chapter.

(3) Confidentiality

(A) In general

Except as provided in subparagraphs (B) and (C), **commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential** shall be kept confidential by all officers and employees of the Department and agents of the [National Processor Advertising and Promotion] Board, and only such information so obtained as the Secretary considers relevant may be disclosed to the public by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

10 U.S.C. §2306a, Pub. L. 104-106, Feb. 10, 1996,
110 Stat. 652.

§2306a. Cost or pricing data: truth in negotiations

(d) Submission of other information.—

24a

(2) Limitations on authority—The Federal Acquisition Regulation shall include the following provisions regarding the types of information that contracting officers may require under paragraph (1):

(C) A statement that **any information received relating to commercial items that is exempt from disclosure under section 552(b) of Title 5** shall not be disclosed by the Federal Government.

10 U.S.C. §2367 note, Pub. L. 114-328, Dec. 23, 2016,
130 Stat. 2064-2066.

**§2367 note. Pilot Program on Disclosure of
Certain Sensitive Information to Federally
Funded Research and Development Centers**

(d) Conditions of Disclosure—Sensitive information may be disclosed under the pilot program only if the federally funded research and development center concerned and its parent organization agree to and acknowledge in the parent organization's contract with the Department of Defense that—[the following conditions limit the center's use of the information].

25a

(g) Sensitive Information Defined—In this section, the term ‘sensitive information’ means **confidential commercial, financial, or proprietary information**, technical data, contract performance, contract performance evaluation, management, and administration data, or other privileged information owned by other contractors of the Department of Defense **that is exempt from public disclosure under section 552(b)(4) of Title 5**, United States Code, or which would otherwise be prohibited from disclosure under section 1832 or 1905 of Title 18, United States Code.

15 U.S.C. §46, Pub. L. 96-252, May 28, 1980, 94
Stat. 374-75.

§46. Additional powers of Commission

(f) Publication of information; reports

To make public from time to time such portions of the information obtained by it hereunder as are in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use:

Provided, that the [Federal Trade] Commission shall not have any authority to make public any trade secret **or any commercial or financial information which is obtained from any person and which is privileged or confidential**, except that the Commission may disclose such information (1) to officers and employees of appropriate Federal law enforcement agencies or to any officer or employee of any State law enforcement agency upon the prior certification of an officer of any such Federal or State law enforcement agency that such information will be maintained in confidence and will be used only for official law enforcement purposes, and (2) to any officer or employee of any foreign law enforcement agency under the same circumstances that making material available to foreign law enforcement agencies is permitted under section 57b-2(b) of this title.

15 U.S.C. §2055, Pub. L. 97-35, Aug. 13, 1981, 95
Stat. 713.

§2055. Public disclosure of information

(a) Disclosure requirements for manufacturers or private labelers; procedures applicable

(1) Nothing contained in this Act shall be construed to require the release of any information described by subsection (b) of section 552 of Title 5 or which is

27a

otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the [Consumer Product Safety] Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of Title 18 **or subject to section 552(b)(4) of Title 5** shall be considered confidential and shall not be disclosed.

15 U.S.C. §2055a, Pub. L. 110-314, August 14,
2008, 122 Stat. 3050.

**§2055a. Publicly available consumer product
safety information database**

(c) Procedural requirements

(C) Confidential matter

(i) In general

If the [Federal Trade] Commission transmits a report [involving harm relating to the use of a consumer product] to a manufacturer or private labeler, the manufacturer or private labeler may review the report for confidential information and request that portions of the report identified as confidential be so designated.

(ii) Redaction

If the Commission determines that the designated information contains, or relates to, a trade secret or other matter referred to in section 1905 of Title 18, or that **is subject to section 552(b)(4) of Title 5**, the Commission shall redact the designated information in the report before it is placed in the database.

†

15 U.S.C. §3710a, Pub. L. 101-189, Nov. 29, 1989,
103 Stat. 1676-77.

§3710a. Cooperative research and development agreements

(a) General authority

Each Federal agency may permit the director of any of its Government-operated Federal laboratories, and, to the extent provided in an agency-approved joint work statement or, if permitted by the agency, in an agency-approved annual strategic plan, the director of any of its Government-owned, contractor-operated laboratories—

(1) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations (including corporations, partnerships, and limited partnerships, and

industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency); and

(2) to negotiate licensing agreements under section 207 of Title 35, or under other authorities (in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for inventions made or other intellectual property developed at the laboratory and other inventions or other intellectual property that may be voluntarily assigned to the Government.

(c) Contract considerations

(7)(A) No trade secrets or **commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of Title 5**, which is obtained in the conduct of research or as a result of activities under this chapter from a non-Federal party participating in a cooperative research and development agreement shall be disclosed.

(B) The director, or in the case of a contractor-operated laboratory, the agency, for a period of up to 5 years after development of information that results from research and development activities conducted under this chapter and that would be a trade secret or **commercial or financial**

information that is privileged or confidential
if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of Title 5.

†

15 U.S.C. §3710a, Pub. L. 104-113, Mar. 7, 1996, 110 Stat. 775-76.

§3710a. Cooperative research and development agreements

(b) Enumerated authority

(1) Under an agreement entered into pursuant to subsection (a)(1), the laboratory may grant, or agree to grant in advance, to a collaborating party patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, or, subject to section 209 of Title 35, may grant a license to an invention which is federally owned, for which a patent application was filed before the signing of the agreement, and directly within the scope of the work under the agreement, for reasonable compensation when appropriate.

In consideration for the Government's contribution under the agreement, grants under this paragraph shall be subject to the following explicit conditions:

(A) A nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party to the laboratory to practice the invention or have the invention practiced throughout the world by or on behalf of the Government. In the exercise of such license, the Government shall not publicly disclose trade secrets **or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of Title 5** or which would be considered as such if it had been obtained from a non-Federal party.

†

15 U.S.C. §5103, Pub. L. 100-680, Nov. 17, 1988, 102 Stat. 4074.

§5103. Establishment of scientific research and development program to develop competitive manufacturing technologies and increase energy efficiency in steel and aluminum industries

(b) Management plan

Within 6 months after November 17, 1988, the Secretary [of Energy] shall publish an update of the management plan to expand the steel research and

32a

development initiative to include aluminum and to carry out the purposes of this chapter.

(4) The Secretary, for a period of up to 5 years after the development of information that—

(B) would be a trade secret or **commercial or financial information that is privileged or confidential**, as described in section 5104(a) [see below] of this title, if the information had been obtained from a domestic company,

may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of Title 5.

15 U.S.C. §5104, Pub. L. 100-680, Nov. 17, 1988, 102 Stat. 4075.

§5104. Protection of proprietary rights [in implementation of steel and aluminum development initiative]

(a) Proprietary rights

No trade secrets or **commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of Title 5** which is obtained from a domestic company shall be

disclosed in the conduct of the management plan or research plan, or as a result of activities under this chapter.

†

15 U.S.C. §5308, Pub. L. 101-425, Oct. 15, 1990, 104 Stat. 919.

§5308. Protection of proprietary rights [in implementation of metal casting competitiveness program]

(a) Proprietary rights

No trade secrets **or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of Title 5**, which is obtained from a company as a result of activities under this chapter shall be disclosed.

(b) Commercial information

The Secretary [of Energy], for a period of up to 5 years after the development of information that—

(2) would be a trade secret or **commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of Title 5**, if the information had been obtained from a company,

34a

may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of Title 5.

15 U.S.C. §8704, Pub. L. 115-254, Oct. 5, 2018, 132 Stat. 3477.

§8704. Required terms in orders

(k) Books and records of persons covered by order [concerning initiative to promote the concrete industry]

(3) Confidentiality of information

(A) In general

Except as otherwise provided in this paragraph, trade secrets and **commercial or financial information that is privileged or confidential** reported to, or otherwise obtained by the ... the Secretary [of Commerce] ... under this chapter shall not be disclosed by any officers, employees, and agents of the Department.

35a

16 U.S.C. §3844, Pub. L. 107-171, May 13, 2002, 116
Stat. 235.

**§3844. Administrative requirements for
conservation programs**

(b) Privacy of personal information relating to natural
resources conservation programs

(1) Information received for technical and financial
assistance

(A) In general

... information described in subparagraph (B)—

(ii) shall not be released to any person or
Federal, State, local agency or Indian tribe (as
defined by the Secretary) outside the
Department of Agriculture.

(B) Information

(ii) that is proprietary (**within the meaning of
section 552(b)(4) of Title 5**) to the agricultural
operation or land that is a part of an agricultural
operation of the owner, operator, or producer.

36a

19 U.S.C. §2155, Pub. L. 93-618, Jan. 3, 1975, 88
Stat. 1997.

**§2155. Information and advice from private
and public sectors**

(g) Trade secrets and confidential information

(1) Trade secrets and **commercial or financial information which is privileged or confidential**, and which is submitted in confidence by the private sector or non-Federal government to officers or employees of the United States in connection with trade negotiations, may be disclosed upon request to—

(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 2211(a)(2) of this title or designated by the chairman of such committee under section 2211(b)(3)(B) of this title and staff members of such committee designated under section 2211(b)(3)(B) of this title, but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

19 U.S.C. §2605, Pub. L. 97-446, Jan. 12, 1983, 96
Stat. 2358.

§2605. Cultural Property Advisory Committee

(i) Confidential information

(1) In general

Any information (including trade secrets and **commercial or financial information which is privileged or confidential**) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the responsibilities of the Committee shall not be disclosed to any person other than to—

(A) officers and employees of the United States designated by the Director of the United States Information Agency;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated by the chairman of either such Committee and members of the staff of either such Committee designated by the chairman for use in connection with negotiation of agreements or other activities authorized by this chapter; and

(C) the Committee established under this chapter.

21 U.S.C. §353, Pub. L. 113-54, Nov. 27, 2013, 127
Stat. 631.

**§353. Exemptions and consideration for certain
drugs, devices, and biological products**

(e) Licensing and reporting requirements for
wholesale distributors; fees; definitions

(2) Reporting and database

(A) Reporting

Beginning January 1, 2015, any person who owns
or operates an establishment that engages in
wholesale distribution shall—

(i) report to the Secretary [of Health and Human
Services], on an annual basis pursuant to a
schedule determined by the Secretary—

(I) each State by which the person is licensed
and the appropriate identification number of
each such license; and

(II) the name, address, and contact information
of each facility at which, and all trade names
under which, the person conducts business;
and

(ii) report to the Secretary within a reasonable
period of time and in a reasonable manner, as

determined by the Secretary, any significant disciplinary actions, such as the revocation or suspension of a wholesale distributor license, taken by a State or the Federal Government during the reporting period against the wholesale distributor.

(B) Database

Not later than January 1, 2015, the Secretary shall establish a database of authorized wholesale distributors. Such database shall—

- (i) identify each authorized wholesale distributor by name, contact information, and each State where such wholesale distributor is appropriately licensed to engage in wholesale distribution;
- (ii) be available to the public on the Internet Web site of the Food and Drug Administration; and
- (iii) be regularly updated on a schedule determined by the Secretary.

(C) Coordination

The Secretary shall establish a format and procedure for appropriate State officials to access the information provided pursuant to subparagraph (A) in a prompt and secure manner.

(D) Confidentiality

Nothing in this paragraph shall be construed as authorizing the Secretary to disclose any

40a

information that is a trade secret **or confidential information subject to section 552(b)(4) of Title 5**, or section 1905 of Title 18.

21 U.S.C. §355, Pub. L. 110-85, Sept. 27, 2007, 121 Stat. 960.

§355. New drugs

(l) Public disclosure of safety and effectiveness data and action package

(2) Action package for approval

(A) Action package

The Secretary [of Health and Human Services] shall publish the action package for approval of an application under subsection (b) or section 262 of Title 42 on the Internet Web site of the Food and Drug Administration—

(C) Contents

An action package for approval of an application under subparagraph (A) shall be dated and shall include the following:

41a

(i) Documents generated by the Food and Drug Administration related to review of the application.

(ii) Documents pertaining to the format and content of the application generated during drug development.

(iii) Labeling submitted by the applicant.

(E) Confidential information

This paragraph does not authorize the disclosure of any trade secret, **confidential commercial or financial information, or other matter listed in section 552(b) of Title 5.**

21 U.S.C. §357, Pub. L. 114-255, Dec. 13, 2016, 130 Stat. 1088.

§357. Qualification of drug development tools

(c) Transparency

(1) In general

Subject to paragraph (3), the Secretary [of Health and Human Services] shall make publicly available, and update on at least a biannual basis, on the Internet website of the Food and Drug Administration the following:

42a

(3) Applicability

Nothing in this section shall be construed as authorizing the Secretary to disclose any information contained in an application submitted under section 355 of this title or section 351 of the Public Health Service Act that is **confidential commercial or trade secret information subject to section 552(b)(4) of Title 5** or section 1905 of Title 18.

21 U.S.C. §360a-2, Pub. L. 114-255, Dec. 13, 2016,
130 Stat. 1117.

**§360a-2. Susceptibility test interpretive criteria
for microorganisms**

(b) Susceptibility test Interpretive Criteria Website

(1) In general

Not later than 1 year after December 13, 2016, the Secretary [of Health and Human Services] shall establish, and maintain thereafter, on the website of the Food and Drug Administration, a dedicated website that contains a list of any appropriate new or updated susceptibility test interpretive criteria standards and interpretive criteria in accordance with paragraph (2) (referred to in this section as the “Interpretive Criteria Website”).

43a

(5) Trade secrets and confidential information

Nothing in this section shall be construed as authorizing the Secretary to disclose any information that is a trade secret or **confidential information subject to section 552(b)(4) of Title 5.**

21 U.S.C. §360bbb-8, Pub. L. 112-144, July 9, 2012,
126 Stat. 1089.

**§360bbb-8. Consultation with external experts
on rare diseases, targeted therapies, and
genetic targeting of treatments**

(d) Protection of confidential information and trade secrets

(1) Rule of construction

Nothing in this section shall be construed to alter the protections offered by laws, regulations, and policies governing disclosure of **confidential commercial or trade secret information, and any other information exempt from disclosure pursuant to section 552(b) of Title 5** as such provisions would be applied to consultation with individuals and organizations prior to July 9, 2012.

(2) Consent required for disclosure

44a

The Secretary [of Health and Human Services] shall not disclose **confidential commercial or trade secret information** to an expert consulted under this section without the written consent of the sponsor unless the expert is a special government employee (as defined under section 202 of Title 18) or the disclosure is otherwise authorized by law.

21 U.S.C. §360j, Pub. L. 94-295, May 28, 1976, 90 Stat. 566.

§360j. General provisions respecting control of devices intended for human use

(c) Trade secrets

Any information reported to or otherwise obtained by the Secretary [of Health and Human Services] or his representative under section 360c, 360d, 360e, 360f, 360h, 360i, or 374 of this title or under subsection (f) or (g) of this section, **which is exempt from disclosure pursuant to subsection (a) of section 552 of Title 5 by reason of subsection (b)(4)**, shall be considered confidential and shall not be disclosed, and may not be used by the Secretary as the basis for the reclassification of a device from class III to class II or class I or as the basis for the establishment or amendment of a performance standard under section 360d of this title for a device reclassified from class III to class II, except (1) in accordance with subsection (h), and (2) that such information may be disclosed to other officers or employees concerned with carrying out this chapter

45a

or when relevant in any proceeding under this chapter (other than section 360c or 360d of this title).

21 U.S.C. §384, Pub. L. 108-173, Dec. 8, 2003, 117
Stat. 2466.

§384. Importation of prescription drugs

(e) Testing

The regulations under subsection (b) shall require—

(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

(3) may include such additional provisions as the Secretary [of Health and Human Services] determines to be appropriate to provide for the protection of trade secrets **and commercial or financial information that is privileged or confidential.**

46a

21 U.S.C. §387f, Pub. L. 111-31, June 22, 2009, 123
Stat. 1796.

**§387f. General provisions respecting control of
tobacco products**

(c) Limited confidentiality of information

Any information reported to or otherwise obtained by the Secretary [of Health and Human Services] or the Secretary's representative under section 387c, 387d, 387g, 387h, 387i, 387j, 387k, or 374 of this title, or under subsection (e) or (f) of this section, **which is exempt from disclosure under subsection (a) of section 552 of Title 5 by reason of subsection (b)(4) of that section** shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this subchapter, or when relevant in any proceeding under this subchapter.

21 U.S.C. §387p, Pub. L. 111-31, June 22, 2009, 123
Stat. 1823-24.

**§387p. Preservation of State and local
authority**

(a) In general

(2) Preemption of certain State and local requirements

(A) In general

No State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this subchapter relating to tobacco product standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.

(B) Exception

Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. **Information** disclosed to a State under subparagraph (A) **that is exempt from disclosure under section 552(b)(4) of Title 5 shall be treated as a trade secret and confidential information** by the State.

48a

21 U.S.C. §830, Pub. L. 100-690, Nov. 18, 1988, 102
Stat. 4313.

**§830. Regulation of listed chemicals and
certain machines**

(c) Confidentiality of information obtained by
Attorney General; non-disclosure; exceptions

(1) Except as provided in paragraph (2), **any
information** obtained by the Attorney General
under this section **which is exempt from
disclosure under section 552(a) of Title 5, by
reason of section 552(b)(4) of such title,** is
confidential and may not be disclosed to any person.

22 U.S.C. §2131, Pub. L. 111-145, Mar. 4, 2010, 124
Stat. 59.

§2131. Travel Promotion Act of 2009

(b) The Corporation for Travel Promotion

(6) Open meetings

Meetings of the board of directors of the
Corporation, including any committee of the board,
shall be open to the public. The board may, by
majority vote, close any such meeting only for the

49a

time necessary to preserve the confidentiality of **commercial or financial information that is privileged or confidential**, to discuss personnel matters, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

22 U.S.C. §6713, Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-866.

§6713. Civil liability of United States

(g) “United States confidential business information” defined

In this section [governing, among other things, sanctions against foreign persons for improperly disclosing confidential business information], the term “United States confidential business information” means any trade secrets or **commercial or financial information that is privileged and confidential**—

(2) **as described in section 552(b)(4) of Title 5,**

50a

26 U.S.C. §48A, Pub. L. 109-58, Aug. 8, 2005, 119
Stat. 1000-1001.

§48A. Qualifying advanced coal project credit

(d) Qualifying advanced coal project program—

(1) Establishment—Not later than 180 days after the date of enactment of this section, the Secretary [of Treasury], in consultation with the Secretary of Energy, shall establish a qualifying advanced coal project program for the deployment of advanced coal-based generation technologies.

(2) Certification—

(A) Application period—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

(B) Requirements for applications for certification—An application under subparagraph (A) shall contain such information as the Secretary may require in order to make a determination to accept or reject an application for certification as meeting the requirements under subsection (e)(1). **Any information contained in the application shall be protected as provided in section 552(b)(4) of Title 5, United States Code.**

51a

26 U.S.C. §6110, Pub. L. 94-455, Oct. 4, 1976, 90
Stat. 1660-61.

**§6110. Public inspection of written
determinations**

(c) Exemptions from disclosure—Before making any written determination [including a ruling, determination letter, technical advice memorandum, or Chief Counsel advice] or background file document open or available to public inspection under subsection (a), the Secretary [of Treasury] shall delete—

(4) trade secrets and **commercial or financial information obtained from a person and privileged or confidential**;

†

33 U.S.C. §2313, Pub. L. 104-303, Oct. 12, 1996, 110
Stat. 3685.

§2313. Collaborative research and development

(b) Pre-agreement temporary protection of technology

52a

(1) In general

If the Secretary [of the Army] determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or **commercial or financial information that would be privileged or confidential** if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. §3710a), the Secretary may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of Title 5, until the earlier of the date the Secretary enters into such an agreement with respect to such technology or the last day of the 2-year period beginning on the date of such determination.

41 U.S.C. §3505, Pub. L. 111-350, Jan. 4, 2011, 124 Stat. 3767-68.

§3505. Submission of other information

(b) Limitations on authority—The Federal Acquisition Regulation shall include the following

53a

provisions regarding the types of information that contracting officers may require under subsection (a):

(3) Information not to be disclosed—A statement that any **information received relating to commercial items that is exempt from disclosure under section 552(b) of Title 5** shall not be disclosed by the Federal Government.

42 U.S.C. §282 note, Pub. L. 114-255, Dec. 13, 2016,
130 Stat. 1051, 1069.

§282 note. Confidentiality

(b) Confidentiality—Nothing in th[is] ... subsection ... authorizes the Secretary of Health and Human Services to disclose any information that is a trade secret, or **other privileged or confidential information, described in section 552(b)(4) of Title 5, United States Code**, or section 1905 of title 18, United States Code, or be construed to require recipients of grants or cooperative agreements through the National Institutes of Health to share such information.

54a

**Enhancing the Rigor and Reproducibility of
Scientific Research**

(e) Confidentiality—Nothing in this section authorizes the Secretary of Health and Human Services to disclose any information that is a trade secret, or other privileged **or confidential information, described in section 552(b)(4) of Title 5, United States Code**, or section 1905 of Title 18, United States Code.

42 U.S.C. §287, Pub. L. 114-255, Dec. 13, 2016, 130
Stat. 1064.

**§287. National Center for Advancing
Translational Sciences**

(e) Rule of construction

Nothing in this section shall be construed as authorizing the Secretary to disclose any information that is a trade secret, or other privileged or **confidential information subject to section 552(b)(4) of Title 5** or section 1905 of Title 18.

55a

42 U.S.C. 289d, Pub. L. 99-158, Nov. 20, 1985, 99
Stat. 877.

§289d. Animals in research

(e) Disclosure of trade secrets or privileged or
confidential information

No guideline or regulation promulgated under
subsection (a) or (c) may require a research entity to
disclose publicly trade secrets or **commercial or
financial information which is privileged or
confidential.**

42 U.S.C. §300aa-12, Pub. L 101-239, Dec. 19, 1989,
103 Stat 2289.

§300aa-12. Court jurisdiction

(d) Special masters

(4)(A) Except as provided in subparagraph (B),
information submitted to a special master or the
court in a proceeding on a petition [relating to the
National Vaccine Injury Compensation Program]
may not be disclosed to a person who is not a party
to the proceeding without the express written
consent of the person who submitted the
information.

56a

(B) A decision of a special master or the court in a proceeding shall be disclosed, except that if the decision is to include information—

(i) which is trade secret **or commercial or financial information which is privileged and confidential**

42 U.S.C. §1395y, Pub. L. 106-554, Dec. 21, 2000,
114 Stat. 2763A-546.

**§1395y. Exclusions from coverage and
medicare as secondary payer**

(j) Nonvoting members and experts

(1) Any advisory committee appointed to advise the Secretary [of Health and Human Services] on matters relating to the interpretation, application, or implementation of subsection (a)(1) of this section shall assure the full participation of a nonvoting member in the deliberations of the advisory committee, and shall provide such nonvoting member access to all information and data made available to voting members of the advisory committee, other than **information that**—

(A) **is exempt from disclosure pursuant to subsection (a) of section 552 of Title 5 by reason of subsection (b)(4) of such section**
(relating to trade secrets);

57a

42 U.S.C. §247d-1, Pub. L. 109-417, Dec. 19, 2006,
120 Stat. 2850.

§247d-1. Vaccine tracking and distribution

(c) Confidentiality

The information submitted to the Secretary [of Health and Human Services] or its contractors, if any, under this section or under any other section of this chapter related to vaccine distribution information shall remain confidential in accordance with the exception from the public disclosure of trade secrets, **commercial or financial information, and information obtained from an individual that is privileged and confidential, as provided for in section 552(b)(4) of Title 5** and subject to the penalties and exceptions under sections 1832 and 1833 of Title 18 relating to the protection and theft of trade secrets, and subject to privacy protections that are consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996. None of such information provided by a manufacturer, wholesaler, or distributor shall be disclosed without its consent to another manufacturer, wholesaler, or distributor, or shall be used in any manner to give a manufacturer, wholesaler, or distributor a proprietary advantage.

58a

42 U.S.C. §247d-5 note, Pub. L. 114-255, Dec. 13,
2016, 130 Stat. 1112.

§247d-5 note. Availability of Data

The Secretary [of Health and Human Services] shall make the data collected pursuant to this subsection public. Nothing in this subsection shall be construed as authorizing the Secretary to disclose any information that is a trade secret or **confidential information subject to section 552(b)(4) of Title 5, United States Code**, or section 1905 of Title 18, United States Code.

42 U.S.C. §7256, Pub. L. 109-58, Aug. 8, 2005, 119
Stat. 932.

**§7256. Contracts, leases, etc., with public
agencies and private organizations and
persons**

(g) Additional authorities

(5) The Secretary [of Energy] may protect from disclosure, for up to 5 years after the date on which the information is developed, **any information** developed pursuant to a transaction under paragraph (1) [providing authority to authorize certain research projects] **that would be protected from disclosure under section**

59a

552(b)(4) of Title 5, if obtained from a person other than a Federal agency.

42 U.S.C. §9122, Pub. L. 96-320, Aug. 3, 1980, 94 Stat. 989.

§9122. Recordkeeping and public access to information

(b) Confidential information

Any information reported to or collected by the Administrator [of the National Oceanic and Atmospheric Administration] under this chapter **which is exempt from disclosure pursuant to section 552(b)(4) of Title 5** (relating to trade secrets and **commercial or financial information which is privileged or confidential**) shall not—

(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(B) notified the person who submitted the information 10 days before the disclosure is to be made, unless the delay resulting from such notice

60a

would be detrimental to the public health or safety or the environment, or

(2) be otherwise disclosed except—

(A)(i) to other Federal and adjacent coastal State government departments and agencies for official use,

(ii) to any committee of the Congress of appropriate jurisdiction, or

(iii) pursuant to court order.

†

42 U.S.C. §13293, Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2905.

§13293. Protection of proprietary information

(a) In general

In the case of activities, including joint venture activities, under this subchapter, and in the case of any existing or future activities, including joint venture activities, related primarily to battery technology for electric motor vehicles under other provisions of law, where the knowledge resulting from research and development activities conducted pursuant to such activities, including joint venture activities, is for the benefit of the participants (particularly domestic companies) that provide financial resources to a project under this subchapter,

61a

the Secretary [of Energy], for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under this subchapter; and

(2) would be a trade secret or **commercial or financial information that is privileged or confidential** if the information had been obtained from a participant,

shall, notwithstanding any other provision of law, provide appropriate protections against the dissemination of such information to the public, and the provisions of section 1905 of Title 18 shall apply to such information. Nothing in this subsection provides protections against the dissemination of such information to Congress.

42 U.S.C. §13385, Oct. 24, 1992, Pub. L. 102-486, 106 Stat. 3003.

§13385. National inventory and voluntary reporting of greenhouse gases

(b) Voluntary reporting

(1) Issuance of guidelines

Not later than 18 months after October 24, 1992, the Secretary [of Energy] shall, after opportunity for public comment, issue guidelines for the voluntary

62a

collection and reporting of information on sources of greenhouse gases.

(3) Confidentiality

Trade secret and commercial or financial information that is privileged or confidential shall be protected as provided in section 552(b)(4) of Title 5.

†

42 U.S.C. §15962, Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 753.

§15962. Project criteria

(h) Data protection

[T]he Secretary [of Energy] may provide appropriate protections (including exemptions from subchapter II of chapter 5 of Title 5) against the dissemination of information that—

(1) results from demonstration activities carried out under the clean coal power initiative program; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a clean coal power initiative project.

63a

†

42 U.S.C. 17242, Pub. L. 110-140, Dec. 19, 2007, 121
Stat. 1695.

**§17242. Commercial insulation demonstration
program**

(c) Demonstration program

(2) Disclosure

The Secretary [of Energy] may, for a period of up to 5 years after an award is granted under the demonstration program [to demonstrate the cost-effectiveness of advanced insulation in refrigeration units], exempt from mandatory disclosure under section 552 of Title 5, (popularly known as the Freedom of Information Act) **information that the Secretary determines would be a privileged or confidential trade secret or commercial or financial information under subsection (b)(4) of such section** if the information had been obtained from a non-Government party.

64a

†

42 U.S.C. 17244, Pub. L. 110-140, Dec. 19, 2007, 121
Stat. 1704.

**§17244. Renewable Energy Innovation
Manufacturing Partnership**

(h) Disclosure

The Secretary [of Energy] may, for a period of up to 5 years after an award is granted under this section, exempt from mandatory disclosure under section 552 of Title 5 (popularly known as the Freedom of Information Act) information that the Secretary determines would be a privileged or confidential trade secret or commercial or financial information under subsection (b)(4) of such section if the information had been obtained from a non-Government party.

44 U.S.C. §2204, Pub. L. 95-591, Nov. 4, 1978, 92
Stat. 2525.

**§2204. Restrictions on access to Presidential
records**

(a) Prior to the conclusion of a President's term of office or last consecutive term of office or last consecutive term of office, as the case may be, the President shall specify durations, not to exceed 12 years, for which access shall be restricted with respect to information,

65a

in a Presidential record, within one or more of the following categories: ...

(4) trade secrets and **commercial or financial information obtained from a person and privileged or confidential**;

44 U.S.C. §3501 note, Pub. L. 107-347, Dec. 17, 2002,
116 Stat. 2941.

**§3501 note. Federal Management and
Promotion of Electronic Government Services**

(c) Report—

(1) In general—Not later than 3 years after the date of enactment of this Act, the Director [of the Office of Management and Budget] shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(e) Protections—The activities authorized under this section shall afford protections for—

(1) **Confidential business information consistent with section 552(b)(4) of Title 5, United States Code**, and other relevant law

66a

47 U.S.C. 1424, Pub. L. 112-96, Feb. 22, 2012, 126
Stat. 210.

**§1424. Establishment of the First Responder
Network Authority**

(e) Meetings

(2) Transparency

Meetings of the Board [in charge of the “First Responder Network Authority”], including any committee of the Board, shall be open to the public. The Board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the First Responder Network Authority, including pending or potential litigation.

49 U.S.C. §114, Pub. L. 107-296 Nov. 25, 2002, 116
Stat. 2312.

§114. Transportation Security Administration

(r) Nondisclosure of security activities—

(1) In general—Notwithstanding section 552 of Title 5, the Administrator shall prescribe regulations

67a

prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107-71) or under chapter 449 of this title if the Administrator decides that disclosing the information would—

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

49 U.S.C. §309 note, Pub. L. 102-240, Dec. 18, 1991,
105 Stat. 1981.

**§309 note. National Magnetic Levitation
Prototype Development Program**

(A) Proprietary rights.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of Title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed.

49 U.S.C. §44912, Pub. L. 115-254, Oct. 5, 2018, 132
Stat. 3634.

§44912. Research and development

(d) Security and research and development activities

68a

(2) Disclosure

(A) In general—Notwithstanding section 552 of Title 5, the Administrator [of the Transportation Security Administration] shall prescribe regulations prohibiting disclosure of information obtained or developed in ensuring security under this title if the Secretary of Homeland Security decides disclosing the information would—

(ii) reveal a trade secret or privileged or confidential commercial or financial information; or

†

51 U.S.C. §20131, Pub. L. 111-314, Dec. 18, 2010, 124 Stat. 3338.

§20131. Public access to information

(b) Special handling of trade secret or confidential information—

(1) In general—The Administrator [of NASA], for a period of up to 5 years after the development of information described in paragraph (2), may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of Title 5.

(2) Information described—Information referred to in paragraph (1) is information that results from

69a

activities conducted under an agreement entered into under subsections (e) and (f) of section 20113 of this title [concerning certain contracts and cooperative agreements], and that would be a trade secret or **commercial or financial information that is privileged or confidential under the meaning of section 552(b)(4) of Title 5** if the information had been obtained from a non-Federal party participating in such an agreement.

51 U.S.C. §50916, Pub. L. 103-272, July 5, 1994, 108 Stat. 1340-41.

§50916. Disclosing information

The Secretary of Transportation, an officer or employee of the United States Government, or a person making a contract with the Secretary under section 50907(b) of this title may **disclose information under this chapter that qualifies for an exemption under section 552(b)(4) of Title 5** or is designated as confidential by the person or head of the executive agency providing the information only if the Secretary decides withholding the information is contrary to the public or national interest.