Statutes Found to Qualify under Exemption 3 of the FOIA

Exemption 3 of the Freedom of Information Act incorporates certain nondisclosure provisions contained in federal statutes other than the FOIA. To assist agencies in properly processing FOIA requests and in preparing their Annual FOIA Reports, the Office of Information Policy has compiled a list of statutes currently in effect that courts have found to qualify as Exemption 3 statutes. This chart does not include statutes which have been found not to qualify under Exemption 3, nor does it include any statute which has not yet been considered by a court as a possible Exemption 3 statute. In addition, on occasion a statutory provision has been found to qualify under Exemption 3 by one court and found not to qualify by another. Those statutes are marked with asterisks.

<table>
<thead>
<tr>
<th>Statute/Rule</th>
<th>Type of Information Withheld</th>
<th>Case Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>7 U.S.C. § 136i-1 (Federal Insecticide, Fungicide, and Rodenticide Act)</td>
<td>Data &quot;that would directly or indirectly reveal the identity of individual producers [of certain pesticides]&quot;</td>
<td>Doe v. Veneman, 380 F.3d 807, 818 (5th Cir. 2004).</td>
</tr>
<tr>
<td>7 U.S.C. § 2018(c)</td>
<td>Information obtained pursuant to chapter 51 of title 7 of the United States Code, which concerns the handling of information submitted by applicants to the Supplemental Nutrition Assistance Program</td>
<td>Argus Leader Media v. USDA, 740 F.3d 1172, 1175-76 (8th Cir. 2014).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>7 U.S.C. § 2276(a)(2) (Food Security Act of 1985)</td>
<td>&quot;[I]nformation furnished under a provision of law referred to in subsection (d) of this section . . . unless such information has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information&quot;</td>
<td>Strunk v. U.S. Dept. of Interior, 752 F. Supp. 2d 39, 44 (D.D.C. 2010).</td>
</tr>
<tr>
<td>7 U.S.C. § 8791</td>
<td>&quot;[I]nformation provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department&quot; and certain &quot;geospatial information . . . maintained by the Secretary&quot;</td>
<td>Ctr. for Biological Diversity v. USDA, 626 F.3d 1113, 1118 (9th Cir. 2010); Zanoni v. USDA, 605 F. Supp. 2d 230, 237-38 (D.D.C. 2009).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>------------------------------</td>
<td>--------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>----------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>----------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>15 U.S.C. § 1314(g) (Antitrust Civil Process Act)</td>
<td>&quot;Any documentary material, answers to written interrogatories, or transcripts of oral testimony&quot; provided pursuant to certain civil investigative demands pertaining to antitrust investigations</td>
<td>Motion Picture Ass'n of Am. v. DOJ, No. 80 Civ. 6612, slip op. at 1 (S.D.N.Y. Oct. 6, 1981).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>15 U.S.C. § 3710a(c) (Federal Technology Transfer Act)</td>
<td>&quot;[T]rade 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,&quot; which pertains to cooperative research and development agreements for the purpose of technological and industrial innovation</td>
<td>Pub. Citizen Health Research Group v. NIH, 209 F. Supp. 2d 37, 43, 51 (D.D.C. 2002); DeLorme Pub. Co., Inc. v. NOAA, 917 F. Supp. 867, 871-72 (D. Me. 1996), appeal dismissed per stipulation, No. 96-1601 (1st Cir. July 8, 1996).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>18 U.S.C. § 208(d)(1)</td>
<td>Providing that &quot;a copy of any determination granting an exemption under subsection (b)(1) or (b)(3) [from application of penalties for acts affecting personal financial interests determined to constitute bribery, graft, or conflicts of interest] shall be made available to the public,&quot; but exempting from this disclosure requirement &quot;any information contained in the determination that would be exempt from disclosure under section 552 of title 5&quot;</td>
<td>Seife v. NIH, 874 F. Supp. 2d 248, 256 (S.D.N.Y. 2012).</td>
</tr>
<tr>
<td>18 U.S.C. § 701</td>
<td>Likeness of any badge, identification card, or other insignia, of the design prescribed by the head of any department or agency of the United States for use by any officer or employee thereof, or any colorable imitation thereof</td>
<td>Jones v. IRS, No. 06-CV-322, 2008 WL 1901208, at *3-4 (W.D. Mich. Apr. 25, 2008).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>18 U.S.C. § 3123(d) (Pen Register Act)</td>
<td>Certain court &quot;order[s] authorizing or approving the installation and use of a pen register or a trap and trace device&quot;; information pertaining to &quot;the existence of the pen register or trap and trace device or the existence of the investigation&quot;</td>
<td>Labow v. DOJ, No. 11-1256, 2014 WL 4368954, at *8 (D.D.C. Sept. 4, 2014); Stephens v. DOJ, 26 F. Supp. 3d 59, 68 (D.D.C. 2014); Jennings v. FBI, No. 03-1651, slip op. at 11-12 (D.D.C. May 6, 2004); Manna v. DOJ, 815 F. Supp. 798, 812 (D.N.J. 1993), aff'd on other grounds, 51 F.3d 1158 (3d Cir. 1995).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>19 U.S.C. §§ 2605(h), 2605(i) (Convention on Cultural Property Implementation Act)</td>
<td>Certain records pertaining to Cultural Property Advisory Committee proceedings where &quot;it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiating objectives or [certain] bargaining positions&quot;; certain &quot;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 [Cultural Property Advisory Committee]&quot;</td>
<td>Ancient Coin Collectors Guild v. U.S. Dep't of State, 641 F.3d 504, 511 (D.C. Cir. 2011) (19 U.S.C. § 2605(h)); Ancient Coin Collectors Guild v. U.S. Dep't of State, 866 F. Supp. 2d 28, 32 (D.D.C. 2012) (19 U.S.C. § 2605(i)).</td>
</tr>
<tr>
<td>21 U.S.C. § 331(j) (Food, Drug, and Cosmetic Act)</td>
<td>Certain information &quot;concerning any method or process which as a trade secret is entitled to protection&quot;</td>
<td>Anderson v. HHS, 907 F.2d 936, 950-51 (10th Cir. 1990).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>38 U.S.C. § 5701</td>
<td>&quot;All files, records, reports, and other papers and documents pertaining to any claim under any claim under any of the laws administered by the Secretary and the names and addresses of present or former members of the Armed Forces, and their dependents, in the possession of [VA]&quot;</td>
<td>Ashton v. VA, No. 99-6018, 1999 WL 753331, at *1 (2d Cir. Sept. 3, 1999) (unpublished disposition).</td>
</tr>
<tr>
<td>38 U.S.C. § 5705</td>
<td>Records created by VA as part of its medical quality-assurance program; certain other information pertaining to VA's medical quality-assurance program</td>
<td>Schulte &amp; Sun-Sentinel Co. v. VA, No. 86-6251, slip op. at 3-4, 12 (S.D. Fla. Feb. 2, 1996).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>42 U.S.C. § 300aa-12(d)(4)(A) (National Childhood Vaccine Injury Act of 1986)</td>
<td>&quot;Except as provided in subparagraph (B), information submitted to a special master or the court in a proceeding on a petition [for compensation under the National Vaccine Injury Compensation Program] . . . without the express written consent of the person who submitted the information&quot;</td>
<td>Long v. DOI, 778 F. Supp. 2d 222, 234 (N.D.N.Y. 2011).</td>
</tr>
<tr>
<td>42 U.S.C. § 405(r) (Social Security Act)</td>
<td>Death certificates and records pertaining to deaths provided to the Commissioner of Social Security under this subsection</td>
<td>Int'l Diatomite Producers Ass'n v. SSA, No. 92-1634, 1993 WL 137286, at *3 (N.D. Cal. Apr. 28, 1993), appeal dismissed per stipulation, No. 93-16204 (9th Cir. Oct. 27, 1993).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>42 U.S.C. § 3610(d) (Fair Housing Act)</td>
<td>Records pertaining to conciliation of disputes regarding allegations of unfair housing practices; information derived from housing discrimination investigations and any final investigative reports pertaining to such investigations</td>
<td>West v. Jackson, 448 F. Supp. 2d 207, 212-13 (D.D.C. 2006), summary affirmance granted &amp; motion to remand denied, No. 06-5281, 2007 WL 1723362 (D.C. Cir. Mar. 6, 2007).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>49 U.S.C. § 1114(c) (Transportation Safety Act of 1974)</td>
<td>Certain &quot;cockpit voice or video recorder recording[s] or transcript[s] of communications by and between flight crew members and ground stations pertaining to [] incident[s] investigated by the [National Transportation Safety Board]&quot;</td>
<td>McGilvra v. NTSB, 840 F. Supp. 100, 102 (D. Colo. 1993).</td>
</tr>
<tr>
<td>49 U.S.C. § 40119(b) (Federal Aviation Act)</td>
<td>Certain information obtained or developed in ensuring transportation security if disclosure of that information would: constitute an invasion of personal privacy, reveal a trade secret or confidential commercial or financial information, or be detrimental to transportation safety</td>
<td>Pub. Citizen, Inc. v. FAA, 988 F.2d 186, 194 (D.C. Cir. 1993); Gordon v. FBI, 390 F. Supp. 2d 897, 900 (N.D. Cal. 2004).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>50 U.S.C. § 402 note (National Security Agency Act of 1959)</td>
<td>Information pertaining to the functions or organization of NSA; certain information pertaining to NSA employees</td>
<td>ACLU v. DOJ, 681 F.3d 61, 72-75 (2d Cir. 2012); Elec. Priv. Info. Ctr. v. NSA, 678 F.3d 926, 931 (D.C. Cir. 2012); Houghton v. NSA, 378 F. App’x 235, 238-39 (3d Cir. 2010) (per curiam); Lahr v. NTSB, 569 F.3d 964, 985 (9th Cir. 2009); Larson v. Dep’t of State, 565 F.3d 857, 868-69 (D.C. Cir. 2009); Founding Church of Scientology v. NSA, 610 F.2d 824, 827-28 (D.C. Cir. 1979); Roman v. NSA, No. 07-CV-4502, 2009 WL 303686, at *5-6 (E.D.N.Y. Feb. 9, 2009), summary affirmance granted, 354 F. App’x. 591 (2d Cir. 2009).</td>
</tr>
<tr>
<td>50 U.S.C. § 403g (currently at 50 U.S.C. § 3507) (Central Intelligence Agency Act of 1949)</td>
<td>Intelligence sources and methods; certain information pertaining to Agency employees, specifically: &quot;the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency&quot;</td>
<td>ACLU v. DOJ, 681 F.3d 61, 72-75 (2d Cir. 2012); Larson v. Dep’t of State, 565 F.3d 857, 865 n.2 (D.C. Cir. 2009); Berman v. CIA, 501 F.3d 1136, 1137-38, 1140 (9th Cir. 2007); Makky v. Chertoff, 489 F. Supp. 2d 421, 442 (D.N.J. 2007), aff’d on other grounds, 541 F. 3d 205 (3d Cir. 2008).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>50 U.S.C. § 1702(a)(1) (International Emergency Economic Powers Act)</td>
<td>Authorizes the President to &quot;regulate . . . prevent or prohibit . . . importation or exportation of . . . any property in which any foreign country or a national thereof has any interest . . . by any person, or with respect to any property, subject to the jurisdiction of the United States&quot;</td>
<td>Wis. Project on Nuclear Arms Control v. U.S. Dep't of Commerce, 317 F.3d 275, 284 (D.C. Cir. 2003).</td>
</tr>
<tr>
<td>50 U.S.C. app. § 2411(c) (Export Administration Act of 1979)</td>
<td>Information pertaining to license applications under the Export Administration Act</td>
<td>Wis. Project on Nuclear Arms Control v. U.S. Dep't of Commerce, 317 F.3d 275, 284 (D.C. Cir. 2003); Times Pub'l'g Co. v. U.S. Dep't of Commerce, 236 F.3d 1286, 1292 (11th Cir. 2001); Lessner v. U.S. Dep't of Commerce, 827 F.2d 1333, 1336-37 (9th Cir. 1987).</td>
</tr>
<tr>
<td>Statute/Rule</td>
<td>Type of Information Withheld</td>
<td>Case Citation</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------------------------</td>
<td>---------------</td>
</tr>
</tbody>
</table>