



22 CFR Part 171

[Public Notice: 12014]

RIN 1400-AF62

Access to Information; Privacy Act Provisions

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is removing Email Archive Management Records, State-01, from the list of system of records notices (SORNs) for which Privacy Act exemptions are claimed. The Department has determined that the system covered by this SORN, eRecords Archive, does not constitute a system of records under the Privacy Act of 1974.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Eric F. Stein, Senior Agency Official for Privacy; U.S. Department of State; Office of Global Information Services, A/GIS; Room 4534, 2201 C St., N.W.; Washington, DC 20520 or by calling on (202) 485-2051.

SUPPLEMENTARY INFORMATION: Email Archive Management Records, State-01 must be rescinded because the characteristics of the eRecords Archive system, which State-01 covers, do not render it a system of records within the meaning of 5 U.S.C. 552a. The millions of e-mails, diplomatic cables, and other files that the system ingests are not “records” as defined by § 552a(a)(4), as they are not records “about” the individuals incidentally mentioned in the files. eRecords is not a “system of records” as defined by section 552a(a)(5) because it (1) does not index files by personal identifier and (2) is not used to retrieve data by using a personal identifier. Pursuant to 5 U.S.C. 552a (j)(2), records in State-01 were exempted from subsections (c)(3) and (4), (d), (e)(1), (2), (3), and (e)(4)(G), (H), and (I), and (f) of the Privacy Act. Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7), records in State-01 were

exempted from subsections (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), (f)(1), (f)(2), (f)(3), (f)(4), and (f)(5). This rulemaking amends 22 CFR 171.26 by removing STATE-01 from the lists of exemptions.

REGULATORY ANALYSIS

This rulemaking is published as a final rule with immediate effect due to the good cause exemption of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B) and 553(d). The Department finds that public comment on this rulemaking would be unnecessary.

List of Subjects in 22 CFR Part 171

Privacy.

For the reasons stated in the preamble, 22 CFR part 171 is amended as follows:

PART 171 – PUBLIC ACCESS TO INFORMATION

1. The authority citation for part 171 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 5 U.S.C. 552, 552a; 5 U.S.C. Ch. 131; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; 5 CFR part 2634.

2. Section 171.26 is amended by revising paragraphs (a)(2)(iii) and (b)(1) through (7) to read as follows:

§ 171.26 Exemptions.

* * * * *

(a) * * *

(2) * * *

(iii) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. The reason for invoking these exemptions is to ensure effective criminal law enforcement processes. Records maintained by the Department in the following systems of records are exempt from all of the provisions of the PA except paragraphs (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (e)(7), (e)(9), (e)(10), and (e)(11), and (i), to the extent to which they meet the criteria of section

(j)(2) of 5 U.S.C. 552a. The names of the systems correspond to those published in the **Federal Register** by the Department.

Table 1 to Paragraph (a)(2)(iii)

Title	Number
Information Access Program Records	STATE-35
Office of Inspector General Investigation Management System	STATE-53
Risk Analysis and Management	STATE-78
Security Records	STATE-36

(b) * * *

(1) *Exempt under 5 U.S.C. 552a(k)(1)*. Records contained within the following systems of records are exempt under this section to the extent that they are subject to the provisions of 5 U.S.C. 552(b)(1).

Table 2 to Paragraph (b)(1)

Title	Number
Board of Appellate Review Records	STATE-02
Congressional Correspondence	STATE-43
Congressional Travel Records	STATE-44
Coordinator for the Combating of Terrorism Records	STATE-06
External Research Records	STATE-10
Extradition Records	STATE-11
Family Advocacy Case Records	STATE-75
Foreign Assistance Inspection Records	STATE-48
Human Resources Records	STATE-31
Information Access Programs Records	STATE-35
Intelligence and Research Records	STATE-15
International Organizations Records	STATE-17
Law of the Sea Records	STATE-19
Legal Case Management Records	STATE-21
Munitions Control Records	STATE-42
Office of Inspector General Investigation Management System	STATE-53
Overseas Citizens Services Records	STATE-05
Passport Records	STATE-26
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE-28
Personality Index to the Central Foreign Policy Records	STATE-29
Personnel Payroll Records	STATE-30
Records of Domestic Accounts Receivable	STATE-23

Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes	STATE-54
Records of the Office of White House Liaison	STATE-34
Refugee Records	STATE-59
Risk Analysis and Management Records	STATE-78
Rover Records	STATE-41
Security Records	STATE-36
Visa Records	STATE-39

(2) *Exempt under 5 U.S.C. 552a(k)(2)*. Records contained within the following systems of records are exempt under this section to the extent that they consist of investigatory material compiled for law enforcement purposes, subject to the limitations set forth in 5 U.S.C. 552a(k)(2).

Table 3 to Paragraph (b)(2)

Title	Number
Board of Appellate Review Records	STATE-02
Coordinator for the Combating of Terrorism Records	STATE-06
Extradition Records	STATE-11
Family Advocacy Case Records	STATE-75
Foreign Assistance Inspection Records	STATE-48
Garnishment of Wages Records	STATE-61
Information Access Program Records	STATE-35
Intelligence and Research Records	STATE-15
Munitions Control Records	STATE-42
Office of Foreign Missions Records	STATE-81
Office of Inspector General Investigation Management System	STATE-53
Overseas Citizens Services Records	STATE-05
Passport Records	STATE-26
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE-28
Personality Index to the Central Foreign Policy Records	STATE-29
Risk Analysis and Management Records	STATE-78
Security Records	STATE-36
Visa Records	STATE-39

(3) *Exempt under 5 U.S.C. 552a(k)(3)*. Records contained within the following systems of records are exempt under this section to the extent that they are maintained in connection with providing protective services pursuant to 18 U.S.C. 3056.

Table 4 to Paragraph (b)(3)

Title	Number
Extradition Records	STATE-11
Information Access Programs Records	STATE-35
Intelligence and Research Records	STATE-15
Overseas Citizens Services Records	STATE-05
Passport Records	STATE-26
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE-28
Personality Index to the Central Foreign Policy Records	STATE-29
Security Records	STATE-36
Visa Records	STATE-39

(4) *Exempt under 5 U.S.C. 552a(k)(4)*. Records contained within the following systems of records are exempt under this section to the extent that they are required by statute to be maintained and are used solely as statistical records.

Table 5 to Paragraph (b)(4)

Title	Number
Foreign Service Institute Records	STATE-14
Human Resources Records	STATE-31
Information Access Programs Records	STATE-35
Overseas Citizens Services Records	STATE-05
Personnel Payroll Records	STATE-30
Security Records	STATE-36

(5) *Exempt under 5 U.S.C. 552a(k)(5)*. Records contained within the following systems of records are exempt under this section to the extent that they consist of 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 disclosure of such material would reveal the identity of a confidential informant.

Table 6 to Paragraph (b)(5)

Title	Number
Foreign Assistance Inspection Records	STATE-48
Foreign Service Grievance Board Records	STATE-13
Human Resources Records	STATE-31
Information Access Programs Records	STATE-35
Legal Adviser Attorney Employment Application Records	STATE-20

Office of Inspector General Investigation Management System	STATE-53
Overseas Citizens Services Records	STATE-25
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE-28
Records Maintained by the Office of Civil Rights	STATE-09
Records of the Office of White House Liaison	STATE-34
Risk Analysis and Management Records	STATE-78
Rover Records	STATE-41
Security Records	STATE-36
Senior Personnel Appointments Records	STATE-47

(6) *Exempt under 5 U.S.C. 552a(k)(6)*. Records contained within the following systems of records are exempt under this section to the extent that they consist of 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.

Table 7 to Paragraph (b)(6)

Title	Number
Foreign Service Institute Records	STATE-14
Human Resources Records	STATE-31
Information Access Programs Records	STATE-35
Records Maintained by the Office of Civil Rights	STATE-09
Security Records	STATE-36

(7) *Exempt under 5 U.S.C. 552a(k)(7)*. Records contained within the following systems of records are exempt under this section to the extent that they consist of evaluation material used to determine potential for promotion in the armed services, but only to the extent that such disclosure would reveal the identity of a confidential informant.

Table 8 to Paragraph (b)(7)

Title	Number
Human Resources Records	STATE-31
Information Access Programs Records	STATE-35
Overseas Citizens Services Records	STATE-25
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE-28
Personality Index to the Central Foreign Policy Records	STATE-29

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