

§ 1301.22 Penalties.

Section 552a(i), Title 5, United States Code provides that:

(1) *Criminal Penalties.* Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

§ 1301.23 General exemptions.

(a) Individuals may not have access to records maintained by TVA but which were provided by another agency which has determined by regulation that such information is subject to general exemption under 5 U.S.C. 552a(j). If such exempt records are within a request for access, TVA will advise the individual of their existence and of the name and address of the source agency. For any further information concerning the record and the exemption, the individual must contact that source agency.

(b) The TVA system "Land Between The Lakes Register of Law Violations—TVA" is exempted from subsections (c)(3), (4); (d); (e)(1), (2), (3), (4)(G), (4)(H), (4)(I), (5); (f); (g); and (h) of 5 U.S.C. 552a and corresponding sections of these rules pursuant to section (j)(2) of 5 U.S.C. 552a (section 3 of the Privacy Act). Application of these provisions of the Privacy Act to the criminal law enforcement records in this system might interfere with effective law enforcement at the Land Between The Lakes.

[40 FR 45313, Oct. 1, 1975. Redesignated at 44 FR 30682, May 29, 1979, and amended at 53 FR 30253, Aug. 11, 1988]

§ 1301.24 Specific exemptions.

(a) The TVA system "Employee Alleged Misconduct Investigatory Files—TVA" is exempted from subsections (c)(3); (d); (e)(1), (4)(G), (4)(H), (4)(I); and (f) of 5 U.S.C. 552a and corresponding sections of these rules pursuant to section (k)(2) of 5 U.S.C. 552a (section 3 of the Privacy Act). This TVA system is exempted because applications of these provisions to this system might impair investigations of employee misconduct.

(b)(1) The TVA systems "Apprentice Training Record System-TVA," "Consultant and Personal Service Contractor Records-TVA," "Upgrade Craft Training Program-TVA," "Employment Applicant Files-TVA," "Personnel Files-TVA," and "Nuclear Quality Assurance Personnel Records-TVA" are exempted from subsections (d); (e)(4)(H); (f)(2), (3), and (4) of 5 U.S.C. 552a and corresponding sections of these rules to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. These TVA systems are exempted pursuant to section (k)(5) of 5 U.S.C. 552a (section 3 of the Privacy Act).

(2) Each of these TVA systems contain reference letters and information concerning employees and other individuals who perform services for TVA. TVA has received this information in the past under both express and implied promises of confidentiality and consistent with the Privacy Act these promises will be honored. Pledges of confidentiality will be necessary in the future to ensure that unqualified or unsuitable individuals are not selected for TVA positions. Without the ability to make these promises, a potential source of information may be unwilling to provide needed information, or may not be sufficiently frank to be of value in personnel screening.

(c)(1) The TVA systems "Apprentice Training Record System-TVA," "Consultant and Personal Service Contractor Records-TVA," "Upgrade Craft

§ 1301.41

Training Program-TVA,” “Employment Applicant Files-TVA,” and “Personnel Files-TVA,” are exempted from subsections (d); (e)(4)(H); (f)(2), (3), and (4) of 5 U.S.C. 552a and corresponding sections of these rules to the extent that disclosure of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service would compromise the objectivity or fairness of the testing or examination process. These systems are exempted pursuant to section (k)(6) of 5 U.S.C. 552a (section 3 of the Privacy Act).

(2) This material is exempted because its disclosure would reveal information about the testing process which would potentially give an individual an unfair competitive advantage in selection based on test performance.

(d) The TVA system OIG Investigative Records is exempt from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), and (I) and (f) of 5 U.S.C. 552a (section 3 of the Privacy Act) and corresponding sections of these rules pursuant to 5 U.S.C. 552a(k)(2). The TVA system OIG Investigative Records is exempt from subsections (c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), and (g) pursuant to 5 U.S.C. 552a(j)(2). This system is exempt because application of these provisions might alert investigation subjects to the existence or scope of investigations, lead to suppression, alteration, fabrication, or destruction of evidence, disclose investigative techniques or procedures, reduce the cooperativeness or safety of witnesses, or otherwise impair investigations.

(e) The TVA system TVA Police Records is exempt from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), and (I) and (f) of 5 U.S.C. 552a (section 3 of the Privacy Act) and corresponding sections of these rules pursuant to 5 U.S.C. 552a(k)(2). The TVA system Police Records is exempt from subsections (c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), and (g) pursuant to 5 U.S.C. 552a(j)(2). This system is exempt because application of these provisions might alert investigation subjects to the existence or scope of investigations, lead to suppression, alteration, fabrication, or de-

18 CFR Ch. XIII (4-1-07 Edition)

struction of evidence, disclose investigative techniques or procedures, reduce the cooperativeness or safety of witnesses, or otherwise impair investigations.

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Subpart C—Government in the Sunshine Act

AUTHORITY: 16 U.S.C. 831-831dd, 5 U.S.C. 552b.

SOURCE: 42 FR 14086, Mar. 15, 1977, unless otherwise noted. Redesignated at 44 FR 30682, May 29, 1979.

§ 1301.41 Purpose and scope.

(a) The provisions of this subpart are intended to implement the requirements of section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b, consistent with the purposes and provisions of the Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

(b) Nothing in this subpart expands or limits the present rights of any person under the Freedom of Information Act (5 U.S.C. 552) and the provisions of Subpart A of this part, except that the exemptions set forth in § 1301.46 shall govern in the case of any request made pursuant to the Freedom of Information Act and Subpart A to copy or inspect the transcripts, recordings, or minutes described in § 1301.47.

(c) Nothing in this subpart authorizes TVA to withhold from any individual any record, including transcripts, recordings, or minutes required by this subpart, which is otherwise accessible to such individual under the Privacy Act (5 U.S.C. 552a) and the provisions of Subpart B.

(d) The requirements of Chapter 33 of Title 44 of the United States Code shall not apply to the transcripts, recordings, and minutes described in § 1301.47.

§ 1301.42 Definitions.

For the purposes of this subpart:

(a) The term *Board* means the Board of Directors of the Tennessee Valley Authority;