

§ 20.65

§ 20.65 National defense and foreign policy.

(a) Records or information may be withheld from public disclosure if they are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(2) In fact properly classified under such Executive order.

(b) [Reserved]

[70 FR 41958, July 21, 2005]

§ 20.66 Internal personnel rules and practices.

Records or information may be withheld from public disclosure if they are related solely to the internal personnel rules and practices of the Food and Drug Administration (FDA). Under this exemption, FDA may withhold records or information about routine internal agency practices and procedures. Under this exemption, the agency may also withhold internal records whose release would help some persons circumvent the law.

[70 FR 41958, July 21, 2005]

§ 20.67 Records exempted by other statutes.

Records or information may be withheld from public disclosure if a statute specifically allows the Food and Drug Administration (FDA) to withhold them. FDA may use another statute to justify withholding records and information only if it absolutely prohibits disclosure, sets forth criteria to guide our decision on releasing material, or identifies particular types of matters to be withheld.

[70 FR 41958, July 21, 2005]

Subpart E—Limitations on Exemptions

§ 20.80 Applicability of limitations on exemptions.

(a) The limitations on exemptions established in this subpart shall apply to all Food and Drug Administration records, except as specifically provided herein. Accordingly, a record that is ordinarily exempt from public disclosure in accordance with the provisions

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in subpart D of this part is available for such disclosure to the extent that it falls within a limitation on the exemption contained in this subpart. For example, an investigatory record that is ordinarily exempt from disclosure under § 20.64 is disclosable to Congress in accordance with the provisions of § 20.87.

(b) Disclosure of a record to any member of the public pursuant to the provisions in § 20.81, data and information previously disclosed to the public, in § 20.82, discretionary disclosure by the Commissioner, and in § 20.83, disclosure pursuant to a court order, shall involve the rule established in § 20.21 that the record shall be made available for disclosure to all members of the public who request it. Disclosure of a record only to the limited categories of persons and under the conditions specified in § 20.84, special government employees, in § 20.85, other Federal government departments and agencies, in § 20.86, in camera disclosure in administrative or court proceedings, in § 20.87(b), Congress, in § 20.88, State and local government officials, in § 20.89, foreign government officials, and in § 20.90, contractors, which does not result in disclosure of the record to any member of the public in an authorized manner, shall not invoke the rule established in § 20.21.

(c) Disclosure to government employees and special government employees of records exempt from public disclosure shall subject those persons to the same restrictions with respect to the disclosure of such records as any Food and Drug Administration employee.

(d) In the case of a record in a Privacy Act Record System, as defined in § 21.3(c) of this chapter:

(1) The availability to an individual, as defined in § 21.3(a), of a record about himself that is retrieved by the individual's name or other personal identifier and is contained in a Privacy Act Record System shall be subject to the special requirements of part 21 of this chapter (the privacy regulations) and shall not be subject to the exemptions in subpart D of this part except that where the system is exempt and the requested record is not available under § 21.61 of this chapter, the provisions of this part shall apply.