



4191-02U

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 401

[Docket No. SSA-2018-0004]

RIN 0960-AH97

Security and Suitability Files

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Social Security Administration (SSA) separately published, in today's Federal Register, notice of a new system of records, entitled Security and Suitability Files. This rulemaking proposed to remove two systems of records listed in our exemptions, but which do not exist, and will replace them with a new exemption for this specified system of records from specific provisions of the Privacy Act, under 5 U.S.C. 552a(k)(5).

DATES: To ensure that your comments are considered, we must receive them no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2018-0004, so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. Internet: We strongly recommend that you submit your comments via the Internet.

Please visit the Federal eRulemaking portal at <http://www.regulations.gov>. Use the Search function to find docket number SSA–2018-0004. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. Fax: Fax comments to (410) 966–2830.

3. Mail: Address your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 3100 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Jasson Seiden, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G-401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, telephone: (410) 597-4307, e-mail:

Jasson.Seiden@ssa.gov. For information on eligibility or filing for benefits, call our

national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Privacy Act (5 U.S.C. 552a) we are issuing public notice of our intent to establish a new system of records entitled, Security and Suitability Files (60-0377).

We are establishing the Security and Suitability Files to govern the information we generate in conducting personnel security and suitability background investigations. With limited exceptions, persons appointed to, and under consideration for, Federal service or contract employment are required to submit to a suitability background investigation. The Deputy Commissioner for Human Resources, Office of Personnel, Center for Suitability and Personnel Security (CSPS) oversees and is responsible for adjudicating these investigations. Information collected as part of the agency's suitability and background investigations process that is sent to the Office of Personnel Management (OPM) is covered by OPM/Central-9, Personnel Investigations Records. The Security and Suitability Files we are creating covers any additional security and suitability related information generated by SSA that is not sent to OPM. We will use the information we collect to conduct background investigations to establish that individuals employed by SSA, working for SSA under contract, or otherwise granted access to agency facilities and records are suitable for such employment or access.

Due to the investigatory nature of information that will be maintained in this system of records, this rule would add the Security and Suitability Files to the list of SSA systems that are exempt from specific provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).

Rulemaking Analyses and Notices

All comments received on or before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. A final rule may be published at any time after close of the comment period.

Clarity of This Rule

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this interim final rule, we invite your comments on how to make the rule easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand, e.g. grouping and order of sections, use of headings, paragraphing?

REGULATORY PROCEDURES

SSA will publish a final rule responding to any comments received and, if appropriate, will amend provisions of the rule.

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this proposed rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563.

We also determined that this proposed rule meets the plain language requirement of Executive Order 12866.

Executive Order 13132 (Federalism)

This proposed rule was analyzed in accordance with the principles and criteria established by Executive Order 13132, and SSA determined that the proposed rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. SSA also determined that this proposed rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed rule.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

List of Subjects

20 CFR Part 401

Privacy and disclosure of official records and information.

Nancy A. Berryhill,
Acting Commissioner of Social Security.

For the reasons stated in the preamble, we propose to amend part 401 of title 20 of the Code of Federal Regulations as set forth below:

PART 401—PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

1. The authority citation for part 401 continues to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b-11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

2. Amend §401.85 by revising paragraph (b)(2)(iii)(A) and removing and reserving paragraph (b)(2)(iii) (B):

(b) ***

(2) * * *

(iii) * * *

(A) Security and Suitability Files.

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[FR Doc. 2018-24851 Filed: 11/14/2018 8:45 am; Publication Date: 11/15/2018]