



SELECTIVE SERVICE SYSTEM

32 CFR Part 1665

RIN 3240-AA05

PRIVACY ACT PROCEDURES

AGENCY: United States Selective Service System.

ACTION: Final rule.

SUMMARY: The Selective Service System (SSS) is finalizing revisions to its Privacy Act regulations to ensure processes and procedures for requesting access and amendments to records by electronic means and appeals from denials of request for access to or amendments of records is clearly spelled out within the SSS regulations.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Daniel A. Lauretano, Sr., General Counsel, 703-605-4012, dlauretano@sss.gov.

SUPPLEMENTARY INFORMATION: SSS published a proposed rule on February 5, 2024 (89 FR 7655). No public comments were received and SSS is finalizing this rule without change.

A. Summary of New Regulatory Provisions and their Impact.

The revision to 32 CFR part 1665 adds clarity for how to make online inquiries, and how inquiries will be processed, allows for electronic requests, and makes several stylistic and grammatical changes.

B. Background and Legal Basis for this Rule.

The Housekeeping Statute, 5 U.S.C. 301, authorizes agency heads to promulgate regulations governing “the custody, use, and preservation of its records, papers, and property.” The Privacy Act is a Federal statute that establishes a Code of Fair

Information Practice that governs the collection, maintenance, use, and dissemination of personally identifiable information about individuals that is maintained in systems of records by Federal agencies. A system of records is a group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifier assigned to the individual. The Privacy Act requires that agencies give the public notice of their systems of records by publication in the *Federal Register*. The Privacy Act prohibits the disclosure of information from a system of records absent the written consent of the subject individual unless the disclosure is pursuant to one of 12 statutory exceptions. The Act also provides individuals with a means by which to seek access to and amendment of their records and sets forth various agency record-keeping requirements. Additionally, with people granted the right to review what was documented with their name, they are also able to find out if the “records have been disclosed” and are also given the right to make corrections. The Privacy Act also provides an avenue for appeal from denials of request for access to or amendment of records. This final rule amends part 1665 to ensure processes and procedures for appeals from denials of request for access to or amendments of records is clearly spelled out within the SSS regulations.

C. Expected Impact of the Final Rule.

This final rule will not impose any new costs. These regulations will clarify and streamline appeals from denials of request for access to or amendment of records. This revision will produce efficiency and uniformity to the public's benefit.

D. Executive Order (E.O.) 12866, “Regulatory Planning and Review,” E.O. 13563, “Improving Regulation and Regulatory Review,” and Congressional Review Act (5 U.S.C. 801-08).

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches

that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Following the requirements of these E.O.s, the Office of Management and Budget (OMB) has determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

E. Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601).

SSS certifies that this final rule is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, because it would not have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require SSS to prepare a regulatory flexibility analysis.

F. Section 202 of Public Law 104-4, “Unfunded Mandates Reform Act” (2 U.S.C. 1532).

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require the expenditure of \$100 million or more (in 1995 dollars, adjusted annually for inflation) in any one year. This final rule will not mandate any requirements for State, local, or Tribal governments, nor will it affect private sector costs.

G. Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35). It has been determined that 32 CFR part 1665 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act.

H. Congressional Review Act.

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2)

E.O. 13132, “Federalism”.

E.O. 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. This final rule will not have a substantial effect on State and local governments.

J. Compliance with Pay-As-You-Go Act of 2023 (Fiscal Responsibility Act of 2023, Pub. L. 118-5, div. B, title III).

In accordance with Compliance with Pay-As-You-Go Act of 2023 (Fiscal Responsibility Act of 2023, Pub. L. 118-5, div. B, title III) and OMB Memorandum (M-23-21) dated September 1, 2023, SSS has determined that this final rule is not subject to the Act because it will not increase direct spending beyond specified thresholds.

K. E.O. 11623, Delegation of Authority & Coordination Requirements.

In E.O. 11623, the President delegated to the Director of Selective Service the authority to prescribe the necessary rules and regulations to carry out the provisions of the Military Selective Service Act. In carrying out the provisions of E.O. 11623, as amended by E.O. 13286, the Director shall request the views of the Secretary of Defense, the Attorney General, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Homeland Security (when the Coast Guard is serving under the Department of Homeland Security), the Director of the Office of Emergency Preparedness, and the Chairman of the National Selective Service Appeal Board with regard to such proposed rule or regulation, and shall allow not less than 10 days for the submission of such views before publication of the proposed rule or regulation. On January 24, 2024, the SSS completed its coordination requirements, and the Director certifies that he has requested the views of the officials required to be consulted pursuant to subsection (a) of E.O. 11623, considered those views, and, as

appropriate, incorporated those views in these regulations, and that none of them has timely requested that the matter be referred to the President for decision.

List of Subjects in 32 CFR Part 1665

Personally identifiable information, Privacy, Procedural rules.

For the reasons stated in the preamble, SSS amends 32 CFR part 1665 as set forth below:

PART 1665—PRIVACY ACT PROCEDURES

1. The authority citation for part 1665 is revised to read as follows:

Authority: 50 U.S.C. 3801 *et seq.*; and 5 U.S.C. 552a.

2. Amend § 1665.1 by:

a. Revising paragraph (a);

b. Removing paragraph (b);

c. Redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively;

d. In newly redesignated paragraph (b), revising the first sentence; and

e. In newly redesignated paragraph (c), removing the word “the” before the words “10 days” in the first sentence.

The revisions reads as follows:

§ 1665.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Selective Service System (SSS) contains a record pertaining to them should address their inquiries in writing or by electronic means to the Selective Service System, ATTN: Records Manager, Public and Intergovernmental Affairs Directorate, Arlington, VA 22209-2425. Online inquiries in English and Spanish may be made at: Contact Us | Selective Service System : Selective Service System (sss.gov) or by email using PrivacyAct@sss.gov. The written or electronic inquiry should contain the following information: name and address of the requester, email address of subject (for

electronic requests only), identity of the systems of records, and nature of the request. It should also include identifying information specified in the applicable SSS System of Record Notices to assist in identifying the request, such as location of the record, if known, full name, birth date, time periods in which the records are believed to have been compiled, etc. SSS Systems of Record Notices subject to the Privacy Act is in the *Federal Register* and copies of the notices will be available upon request to the records manager. A compilation of such notices will also be made and published by the Office of Federal Register, in accord with 5 U.S.C. 552a(f). Requesters seeking copies of their registration records with the SSS may first seek to obtain their registration number and related information by visiting <https://www.sss.gov/verify/> and making the request. To make this request, the individual must provide their last name, social security number and date of birth when completing the required fields to access their registration information online. For other documentation requests such as for a registration Status of Information Letter (SIL), the individual must make the request electronically or in writing and send via the United States Postal Service (USPS).

(b) For requesters who make a hand-written request for USPS delivery or electronic request for information to SSS, will ordinarily be informed of whether the named system of records contains a record pertaining to the requester within 10 days of receipt of such a request (excluding Saturdays, Sundays, and legal Federal holidays).

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§ 1665.2 [Amended]

3. Amend § 1665.2 by:

a. In paragraph (a):

i. Adding the words “or electronic” after the words “Requirement for written” in the paragraph heading; and

ii. Adding the words “or electronically (as specified in § 1665.1(a))” after the words “request in writing” in the first sentence.

§ 1665.4 [Amended]

4. Amend § 1665.4 by:

a. In paragraph (a):

i. Adding the words “or electronic” after the words “Requirement for written” in the paragraph heading; and

ii. Adding the words “or electronically (as specified in § 1665.1(a))” after the words “request in writing” in the first sentence.

5. Amend § 1665.5 by:

a. Revising the section heading;

b. Removing the words “request for review” and adding in their place the word “appeal” wherever it appears;

c. Revising paragraphs (a) and (d); and

d. Adding paragraphs (e) and (f).

The revisions and additions read as follows:

§ 1665.5 Appeals.

(a) If the requester is dissatisfied with the SSS response, the requester can appeal an adverse determination denying the request to the appellate authority listed in the notification of denial letter. The appeal must be made in writing or electronically (as specified in § 1665.1(a)), and it must be postmarked (or sent by email) within 60 calendar days of the date of the letter denying the initial request for records or amendment of information. The appeal should include a copy of the SSS determination (including the assigned request number, if known). For the quickest possible handling, the appeal whether in writing or by email should specify that it is a “Privacy Act Appeal.”

If the requester is dissatisfied with the SSS response, the requester can appeal an

adverse determination denying an initial request to access or amend a record in accordance with the provisions of §§ 1665.2 and 1665.4. The requester should submit the appeal in writing or electronically (as specified in § 1665.1(a)) and, to the extent possible, include the information specified in paragraph (b) of this section. Individuals desiring assistance in the preparation of their appeal should contact the records manager at the address provided herein.

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(d) The appellant will be notified of the decision on his or her appeal in writing or by email within 20 days (excluding Saturdays, Sundays, and legal Federal holidays) from the date of receipt by SSS of the individual's request for review unless the *appeal authority* extends the 20 days period for good cause. The extension and the reasons therefore will be sent by SSS to the requester within the initial 20-day period. Such extensions should not be routine and should not normally exceed an additional 30 days. If the decision affirms the adverse determination in whole or in part, the notification will include a brief statement of the reason(s) for the affirmation, including any exemptions applied, and will inform the appellant of the Privacy Act provisions for judicial review of the appellate authority's decision, a description of the steps the individual may take to obtain judicial review of such a decision, a statement that the individual may file a concise statement with SSS setting forth the individual's reasons for his disagreement with the decision, and the procedures for filing such a statement of disagreement. The Director of Selective Service has the authority to determine the *conciseness* of the statement, *considering* the scope of the disagreement and the complexity of the issues. Upon the filing of a proper, concise statement by the individual, any subsequent disclosure of the information in dispute will be clearly noted so that the fact that the record is disputed is apparent, which shall include a copy of the concise statement furnished and a concise statement by SSS setting forth its reasons for not making the

requested changes, if SSS chooses to file such a statement. A notation of a dispute is required to be made only if an individual informs SSS of their disagreement with its determination in accordance with paragraphs (a) through (c) of this section. A copy of the individual's statement, and if it chooses, SSS's statement will be sent to any prior transferee of the disputed information who is listed on the accounting required by 5 U.S.C. 552a(c). If the reviewing official determines that the record should be amended in accord with the individual's request, SSS will promptly correct the record, advise the individual, and inform previous recipients if an accounting of the disclosure was made pursuant to 5 U.S.C. 552a(c). The notification of correction pertains to information actually disclosed. If the adverse determination is reversed or modified, in whole or in part, the appellant will be notified in writing of this decision and the request will be reprocessed in accordance with that appeal decision.

(e) In order to seek a judicial review of a denial of a request for access to records, a requester must first file an appeal under this section.

(f) An appeal ordinarily will not be acted on if the request becomes a matter of litigation.

6. Amend § 1665.6 by revising paragraph (c)(3) to read as follows:

§ 1665.6 Schedule of fees.

* * * * *

(c) * * *

(3) Remittance shall be in the form of cash, a personal check or bank draft drawn on a bank in the United States, or postal money order. Remittances shall be made payable to the order of the Selective Service System and mailed or delivered to the records manager, Selective Service System, 1501 Wilson Blvd., Suite 700, Arlington, VA 22209.

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7. Amend § 1665.7 by revising the section heading and paragraphs (a) and (b) and removing paragraph (c) to read as follows:

§ 1665.7 Information available to the public or to those seeking confirmation of SSS registration status to convey benefits related to registration.

(a) SSS maintains a record which contains the name, Selective Service number, and registration status of those that have registered with SSS.

(b) Any compensated employee of SSS may disclose to an entity seeking to convey a benefit related to SSS registration status by law whether the individual has or has not registered with SSS.

8. Revise § 1665.8 to read as follows:

§ 1665.8 Systems of records exempted from certain provisions of this act.

The SSS will not provide requesters information exempt from disclosure pursuant to 5 U.S.C. 552a(k), (e.g., the SSS will not reveal to the suspected violator the informant's name or other identifying information relating to the informant).

These final regulations were reviewed and approved by Joel C. Spangenberg, Acting Director of Selective Service.

Daniel A. Lauretano, Sr.,

Selective Service System General Counsel & Federal Register Liaison Officer.

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