



DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

[Docket No. APHIS-2015-0008]

RIN 0579-AE68

Privacy Act Regulations

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is amending its Privacy Act regulations to exempt a system of records, Smuggling Interdiction and Trade Compliance (SITC) National Information Communication Activity System (SNICAS), USDA/APHIS-21, from certain provisions of the Privacy Act. USDA is further amending its Privacy Act regulations to reflect an administrative change to the list of system of records that are exempt from certain provisions of the Privacy Act.

DATES: Effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Ms. Tonya Woods, Director, Freedom of Information Act and Privacy Act Staff, 4700 River Road Unit 50, Riverdale, MD 20737; (301) 851-4076.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended, 5 U.S.C. 552a, governs the means by which an agency collects, maintains, uses, and disseminates information about individuals that is maintained in a “system of records.” A system of records is any group of records under the control of an agency from which information about an individual is retrieved by the name, identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act generally grants individuals the right to access Privacy Act records

maintained by an agency about themselves, as well as the right to request amendment of those records if they are not accurate, relevant, timely, or complete. The Privacy Act also allows the head of a Federal agency to promulgate rules to exempt a system of records from certain provisions of the Privacy Act, if the system of records contains “investigatory material compiled for law enforcement purposes, other than material within the scope of [5 U.S.C. 552a(j)(2)]: Provided, however, that if any individual is denied a right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such 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 the effective date of this section [September 27, 1975], under an implied promise that the identity of the source would be held in confidence.” 5 U.S.C. 552a(k)(2).

The U.S. Department of Agriculture’s (USDA’s) Animal and Plant Health Inspection Service (APHIS) published a proposed rule in the *Federal Register* on July 11, 2022 (87 FR 41077-41078, Docket No. APHIS-2015-0008)¹ to exempt a system of records, Smuggling Interdiction and Trade Compliance (SITC) National Information Communication Activity System (SNICAS), USDA/APHIS-21, from certain provisions of the Privacy Act in order to avoid interference with law enforcement functions.²

We also proposed to update the list of systems exempt from certain provisions of the Privacy Act in accordance with 5 U.S.C. 552a(k)(2) to reflect administrative changes as a result of a notice published in the *Federal Register* on November 16, 2001 (66 FR 57698-57700, Docket No. 99-024-1), announcing that USDA combined three system of records (Plant

¹ To view the proposed rule, go to www.regulations.gov, and enter APHIS-2015-0008 in the Search field.

² To view the SNICAS notice associated with the proposed rule and this final rule, go to www.regulations.gov and enter APHIS-2014-0062 in the Search field.

Protection and Quarantine Program-Regulatory Actions, USDA/APHIS-1; Veterinary Services Programs-Animal Quarantine Regulatory Actions, USDA/APHIS-3; and Veterinary Services Programs-Animal Welfare and Horse Protection Regulatory Actions, USDA/APHIS-4) into one system of record: Investigative and Enforcement Records Regarding Regulatory Activities, USDA/APHIS-1. The reason for combining the system of records was to bring all records concerning investigation and enforcement together. However, USDA's Privacy Act regulations were not amended to reflect this consolidation, which we proposed to rectify in the proposed rule.

We solicited comments on the proposed rule for 30 days ending August 10, 2022. We received no comments by that date. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule without change.

Executive Orders 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. This final rule would not impose a requirement for small businesses to report or keep records as a result of any of the provisions contained in this rulemaking. The exemptions to the Privacy Act apply to individuals, not to entities covered under the Regulatory Flexibility Act.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this final rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule;

and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Blind, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of information, Lawyers, Privacy.

Accordingly, we are amending 7 CFR part 1 as follows:

PART 1—ADMINISTRATIVE REGULATIONS

Subpart G—Privacy Act Regulations

1. The authority citation for part 1, subpart G, continues to read as follows:

Authority: 5 U.S.C. 301 and 552a; 31 U.S.C. 9701.

2. Section 1.123 is amended by revising the entries under the heading “Animal and Plant Health Inspection Service” to read as follows:

§ 1.123 Specific exemptions.

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ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Investigative and Enforcement Records Regarding Regulatory Activities, USDA/APHIS-1.

Veterinary Services Programs-Records of Accredited Veterinarians, USDA/APHIS-2.

Smuggling Interdiction and Trade Compliance (SITC) National Information Communication Activity System (SNICAS), USDA/APHIS-21.

* * * * *

Done in Washington, DC, this 12th day of December 2024.

Gary Washington,

Chief Information Officer,

U.S. Department of Agriculture.

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