



DEPARTMENT OF COMMERCE

15 CFR Part 4

[Docket No. 260107-0008]

RIN 0605-AA84

Updating and Streamlining the Department of Commerce's Privacy Act Regulations

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Final rule.

SUMMARY: By this rule, the Department of Commerce (“Department”) amends its regulations implementing the Privacy Act of 1974. Specifically, this rule amends those regulations by updating the position title of an agency official, removing unnecessary language related to judicial review, eliminating a provision that merely cross-references and restates statutory criminal penalty provisions, updating the name and number of an existing Privacy Act system of records, and updating the list of denying officials set forth in an appendix to the regulations.

This action is necessary to ensure that the Department’s regulations are up-to-date, to reduce regulatory complexity and clutter, and to minimize the potential for confusion among the public.

This action is intended to promote regulatory accuracy, clarity, and efficiency without diminishing any substantive right or obligation established by the Privacy Act.

DATES: The rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Daniel Sweeney, Senior Counsel, Office of the General Counsel, at (202) 482-1395.

SUPPLEMENTARY INFORMATION: This action amends the Department’s regulations at 15 CFR part 4, subpart B, which are the Department’s regulations implementing the Privacy Act

of 1974, as amended (5 U.S.C. 552a). By this rule, the Department is amending its Privacy Act regulations in five ways.

First, the Department is updating all references to the “Assistant General Counsel for Litigation, Employment, and Oversight” to use the current title for the referenced position: “Assistant General Counsel for Employment, Litigation, and Information.” *See* 15 CFR 4.23(d)(2), 4.25(a)(2), 4.25(g)(3)(ii), 4.28(a)(1)(ii), 4.28(a)(2)(ii)(D), 4.29(b)(1), 4.29(c), 4.29(e), 4.29(g)(1), 4.29(h), 4.29(i); Appendix B to Part 4.

Second, the Department is removing from the regulations outlining the administrative review process certain language discussing finality for purposes of judicial review. Specifically, this rule removes the following statement where it appears in three sections: “No failure of a Privacy Act Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.” *See* 15 CFR 4.23(d)(2), 4.25(a)(2), 4.28(a)(1)(ii). No statutory provision requires the promulgation of this statement in the Department’s regulations; nor is it necessary for the operation of the administrative review processes established by the Privacy Act or these regulations. Deletion of this statement is intended to avoid creating confusion regarding judicial review, which is ordinarily a matter left for the courts to decide based on the particular laws and facts at issue.

Third, the Department is removing an unnecessary section in the regulations that merely cross-references and restates statutory criminal penalty provisions, which sufficiently speak for themselves. *See* 15 CFR 4.32, referencing 5 U.S.C. 552a(i)(3), 18 U.S.C. 494, 495, 1001. It is the Department’s policy to eliminate regulations like § 4.32 to reduce redundancy, to streamline the Code of Federal Regulations, to promote efficiency in connection with any statutory amendments, and to facilitate the direct review and consultation of statutory provisions without introducing any potential inconsistencies or source of confusion.

Fourth, the Department is updating all references to the name and number of a system of records, “Investigative and Inspection Records, COMMERCE/DEPT-12,” to use the system’s

current name and number, “OIG Investigative Records, COMMERCE/OIG-1,” as well as all references to the current number alone when referenced without the name (updating “COMMERCE/DEPT-12” to “COMMERCE/OIG-1”). *See* 15 CFR 4.33(b)(3), 4.34(a)(1), 4.34(b)(1), 4.34(b)(2)(i)(D), 4.34(b)(4)(i)(H).

Fifth, the Department is updating the list of officials within the Office of the Secretary who are authorized to deny requests under part 4 by adding the Deputy General Counsel for Administration.

These amendments are meant to promote regulatory accuracy, clarity, and efficiency without diminishing any substantive rights or obligations under the Privacy Act.

REGULATORY CLASSIFICATIONS

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the Department finds good cause to waive the prior notice and opportunity for public participation requirements of the Administrative Procedure Act for this final rule. The Department considers this rule to be uncontroversial, and has determined that prior notice and opportunity for public participation is unnecessary, because this rule only updates some outdated language and removes some other language that is insignificant and clearly not required by statute; public participation would not justify the continued inclusion of any of the relevant language, as is, in 15 CFR part 4 under the Department’s regulatory policy. For the same reasons, the Department has determined that delaying the effectiveness of these amendments would be contrary to the public interest. All of the language being replaced or removed by this rule contributes to regulatory complexity and poses some risk of inconsistency or confusion; the amendments described herein will immediately benefit the public at little to no cost. The Department therefore finds good cause to waive the public notice and comment period under 553(b)(B) and to waive the 30-day delay in effectiveness under 553(d).

B. Executive Orders 12866, 14192, and 13132

The Office of Management and Budget has determined this rule is not significant pursuant to Executive Order (E.O.) 12866. This rule is an E.O. 14192 deregulatory action. This rule does not contain policies having federalism implications as the term is defined in E.O. 13132.

C. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public participation are not required to be given for this rule by 5 U.S.C. 553(b)(B), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

D. Paperwork Reduction Act

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects in 15 CFR Part 4

Administrative practice and procedure, Archives and records, Freedom of information, Penalties, Privacy.

Dated: January 13, 2026.

Paul Dabbar,
Deputy Secretary of Commerce.

Accordingly, for the reasons set forth above part 4 of title 15 of the Code of Federal Regulations is amended as follows:

PART 4 – DISCLOSURE OF GOVERNMENT INFORMATION

1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 553; 31 U.S.C. 3717; 44 U.S.C. 3101; Reorganization Plan No. 5 of 1950.

Subpart B – Privacy Act

2. Amend § 4.23 by revising paragraph (d)(2) to read as follows:

§ 4.23 Procedures for making inquiries.

* * * * *

(d) * * *

(2) If the Privacy Act Officer fails to send an acknowledgment within ten working days, as provided in paragraph (d)(1) of this section, the requester may ask the Assistant General Counsel for Employment, Litigation and Information to take corrective action.

* * * * *

3. Amend § 4.25 by revising paragraphs (a)(2) and (g)(3)(ii) to read as follows:

§ 4.25 Disclosure of requested records to individuals.

(a) * * *

(2) If the Privacy Act Officer fails to send an acknowledgment within ten working days, as provided in paragraph (a)(1) of this section, the requester may ask the Assistant General Counsel for Employment, Litigation and Information to take corrective action.

* * * * *

(g) * * *

(3) * * *

(ii) As to denial under paragraphs (g)(1)(ii) of this section, (g)(1)(iv) of this section or (to the limited extent provided in paragraph (g)(3)(i)(A) of this section) paragraph (g)(1)(i) of this section, the individual may file for review with the Assistant General Counsel for Employment, Litigation and Information, as indicated in the Privacy Act Officer's initial denial notification. The individual and the Department shall follow the procedures in § 4.28 to the maximum extent practicable.

* * * * *

4. Amend § 4.28 by revising paragraphs (a)(1)(ii) and (a)(2)(ii)(D) to read as follows:

§ 4.28 Agency review of requests for correction or amendment.

(a)

(1) * * *

(ii) If the Privacy Act Officer fails to send the acknowledgment within ten working days, as provided in paragraph (a)(1)(i) of this section, the requester may ask the Assistant General Counsel for Employment, Litigation and Information, or in the case of a request to the Office of the Inspector General, the Counsel to the Inspector General, to take corrective action.

(2) * * *

(ii) * * *

(D) The procedures for appeal of the denial as set forth in § 4.29, including the address of the Assistant General Counsel for Employment, Litigation and Information, or in the case of a request to the Office of the Inspector General, the address of the Counsel to the Inspector General.

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5. Amend § 4.29 by revising paragraphs (b)(1), (c), (e), (g) introductory text, (g)(1) to read as follows:

§ 4.29 Appeal of initial adverse agency determination on correction or amendment.

* * * * *

(b) * * *

(1) An appeal from a request to a component other than the Office of the Inspector General should be addressed to the Assistant General Counsel for Employment, Litigation and Information, U.S. Department of Commerce, Room 5896, 14th and Constitution Avenue NW., Washington, DC 20230. An appeal should include the words

“Privacy Act Appeal” at the top of the letter and on the face of the envelope. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified, and will be forwarded immediately to the Assistant General Counsel for Employment, Litigation and Information. An appeal which is not properly addressed by the individual will not be deemed to have been “received” for purposes of measuring the time periods in this section until actual receipt by the Assistant General Counsel for Employment, Litigation and Information. In each instance when an appeal so forwarded is received, the Assistant General Counsel for Employment, Litigation and Information shall notify the individual that his or her appeal was improperly addressed and the date on which the appeal was received at the proper address.

* * * * *

(c) The individual’s appeal shall be signed by the individual, and shall include a statement of the reasons for why the initial denial is believed to be in error, and the Department’s control number assigned to the request. The Privacy Act Officer who issued the initial denial shall furnish to the Assistant General Counsel for Employment, Litigation and Information, or in the case of an initial denial by the Office of the Inspector General, to the Counsel to the Inspector General, the record(s) the individual requests to be corrected or amended, and all correspondence between the Privacy Act Officer and the requester. Although the foregoing normally will comprise the entire record on appeal, the Assistant General Counsel for Employment, Litigation and Information, or in the case of an initial denial by the Office of the Inspector General, the Counsel to the Inspector General, may seek any additional information necessary to ensure that the final determination is fair and equitable and, in such instances, disclose the additional information to the individual to the greatest extent possible, and provide an opportunity for comment thereon.

* * * * *

(e) The Assistant General Counsel for Employment, Litigation and Information, or in the case of an initial denial by the Office of the Inspector General, the Counsel to the Inspector General, shall act upon the appeal and issue a final determination in writing not later than thirty working days (*i.e.*, excluding Saturdays, Sundays and legal public holidays) from the date on which the appeal is received, except that the Assistant General Counsel for Employment, Litigation and Information, or in the case of an initial denial by the Office of the Inspector General, the Counsel to the Inspector General, may extend the thirty days upon deciding that a fair and equitable review cannot be made within that period, but only if the individual is advised in writing of the reason for the extension and the estimated date by which a final determination will be issued. The estimated date should not be later than the sixtieth day after receipt of the appeal unless unusual circumstances, as described in § 4.25(a), are met.

* * * * *

(g) If the appeal is denied, the final determination shall be transmitted promptly to the individual and state the reasons for the denial. The notice of final determination shall inform the individual that:

(1) The individual has a right under the Act to file with the Assistant General Counsel for Employment, Litigation and Information, or in the case of an initial denial by the Office of the Inspector General, the Counsel to the Inspector General, a concise statement of reasons for disagreeing with the final determination. The statement ordinarily should not exceed one page, and the Department reserves the right to reject an excessively lengthy statement. It should provide the Department control number assigned to the request, indicate the date of the final determination and be signed by the individual. The Assistant General Counsel for Employment, Litigation and Information, or in the case of an initial denial by the Office of the Inspector General, the Counsel to the

Inspector General, shall acknowledge receipt of such statement and inform the individual of the date on which it was received;

* * * * *

(h) In making the final determination, the Assistant General Counsel for Employment, Litigation and Information, or in the case of an initial denial by the Office of the Inspector General, the Counsel to the Inspector General, shall employ the criteria set forth in § 4.28(c) and shall deny an appeal only on grounds set forth in § 4.28(e).

(i) If an appeal is partially granted and partially denied, the Assistant General Counsel for Employment, Litigation and Information, or in the case of an initial denial by the Office of the Inspector General, the Counsel to the Inspector General, shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

* * * * *

§ 4.32 [Removed and Reserved]

6. Remove and reserve § 4.32.

7. Amend § 4.33 by revising the heading of paragraph (b)(3) to read as follows:

§ 4.33 General exemptions.

* * * * *

(b) * * *

(3) *OIG Investigative Records—COMMERCE/OIG-1.* * * *

* * * * *

8. Amend § 4.34 by revising paragraphs (a)(1), (b)(1), (b)(2)(i)(D), and (b)(4)(i)(H) to read as follows:

§ 4.34 Specific exemptions.

(a)(1) Certain systems of records under the Act that are maintained by the Department may occasionally contain material subject to 5 U.S.C. 552a(k)(1), relating to national defense

and foreign policy materials. The systems of records published in the Federal Register by the Department that are within this exemption are: COMMERCE/BIS-1, COMMERCE/ITA-2, COMMERCE/ITA-3, COMMERCE/NOAA-11, COMMERCE/PAT-TM-4, COMMERCE/OIG-1, COMMERCE/DEPT-13, COMMERCE/DEPT-14, COMMERCE/DEPT-25, and COMMERCE/DEPT-27.

* * * * *

(b) * * *

(1) Exempt under 5 U.S.C. 552a(k)(1). The systems of records exempt are COMMERCE/BIS-1, COMMERCE/ITA-2, COMMERCE/ITA-3, COMMERCE/NOAA-11, COMMERCE/PAT-TM-4, COMMERCE/OIG-1, COMMERCE/DEPT-13, COMMERCE/DEPT-14, COMMERCE/DEPT-25, and COMMERCE/DEPT-27. The claims for exemption of COMMERCE/OIG-1, COMMERCE/BIS-1, COMMERCE/NOAA-5, COMMERCE/DEPT-25, and COMMERCE/DEPT-27 under this paragraph (b)(1) are subject to the condition that the general exemption claimed in § 4.33(b) is held to be invalid.

(2) * * *

(i) * * *

(D) OIG Investigative Records—COMMERCE/OIG-1, but only on condition that the general exemption claimed in § 4.33(b)(2) is held to be invalid.

* * * * *

(4) * * *

(i) * * *

(H) OIG Investigative Records—COMMERCE/OIG-1, but only on condition that the general exemption claimed in § 4.33(b)(3) is held to be invalid.

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9. In appendix B to part 4 revise the entry for “Office of the General Counsel” under the heading “Office of the Secretary” to read as follows:

Appendix B to Part 4—Officials Authorized To Deny Requests for Records Under the Freedom of Information Act, and Requests for Records and Requests for Correction or Amendment Under the Privacy Act

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OFFICE OF THE SECRETARY

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Office of the General Counsel: Deputy General Counsel; Deputy General Counsel for Administration; Assistant General Counsel for Employment, Litigation and Information

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