Proposed Rules

Federal Register
Vol. 85, No. 47
Tuesday, March 10, 2020

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2019–0034]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL–038 Insider Threat Program System of Records

AGENCY: Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security is giving concurrent notice of a modified system of records pursuant to the Privacy Act of 1974 for the ''Department of Homeland Security/ALL–038 Insider Threat Program System of Records'' and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before April 9, 2020.

ADDRESSES: You may submit comments, identified by docket number DHS–2019–0034 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions please contact: Jonathan R. Cantor, (202–343–1717), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to modify a DHS system of records titled ''DHS/ALL–038 Insider Threat Program System of Records.''

DHS is modifying the Insider Threat Program System of Records Notice (SORN) to account for the new population affected and new types of information the program is now authorized to collect and maintain pursuant to a memorandum, *Expanding the Scope of the Department of Homeland Security Insider Threat Program,* submitted to the Secretary of Homeland Security on December 7, 2016 and approved on January 3, 2017. Originally, the Insider Threat Program (ITP) focused on the detection, prevention, and mitigation of unauthorized disclosure of classified information by DHS personnel with active security clearances. The Secretary's memorandum expands the scope of the ITP to its current breadth: Threats posed to the Department by *all* individuals who have or had access to the Department's facilities, information, equipment, networks, or systems. Unauthorized disclosure of classified information is merely one way in which this threat might manifest. Therefore, the expanded scope increases the population covered by the system to include all those with past or current access to DHS facilities, information, equipment, networks, or systems. The ITP system may include information from any DHS Component, office, program, record, or source, and includes records from information security, personnel security, and systems security for both internal and external security threats. Moreover, the Insider Threat Program system of records may cover information lawfully obtained from any United States Government Agency, DHS Component, other domestic or foreign government entity, and from a private sector entity.

Consistent with DHS's information sharing mission, information stored in the DHS/ALL–038 Insider Threat Program system of records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in the associated system of records notice.

DHS is issuing this Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act. The system of records notice is published elsewhere in this **Federal Register**. This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Similarly, the Judicial Redress Act (JRA) provides a statutory right to covered persons to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

The Privacy Act allows government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act

for DHS/ALL–038 Insider Threat Program System of Records. Some information in this system of records relates to official DHS national security, law enforcement, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to: Preclude subjects of these activities from frustrating these processes; avoid disclosure of insider threat techniques; protect the identities and physical safety of confidential informants and law enforcement personnel; ensure DHS's ability to obtain information from third parties and other sources; protect the privacy of third parties; and safeguard classified information. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

In appropriate circumstances, when compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records DHS/ALL–038 Insider Threat Program System of Records is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend chapter I of title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301.

■ 2. In Appendix C to Part 5, add new paragraph 82 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

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82. The DHS/ALL–038 Insider Threat Program System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL–038 Insider Threat Program System of Records covers information held by DHS in connection with various missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The system of records covers information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies.

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (e)(12); (f); and (g)(1). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f).

Where a record received from another system has been exempted in that source system under 5 U.S.C. 552a(j)(2), 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

Exemptions from these particular subsections are justified on a case-by-case basis and determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS and the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and efforts to preserve national security. Disclosure of the accounting would also permit the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process. When an investigation has been completed, information on disclosures made may continue to be exempted if the fact that an investigation occurred remains sensitive after completion.

(b) From subsection (d) (Access and Amendment to Records) because providing access or permitting amendment to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (e)(12) (Matching Agreements) because requiring DHS to provide notice of a new or revised matching agreement with a non-Federal agency, if one existed, would impair DHS operations by indicating which data elements and information are valuable to DHS's analytical functions, thereby providing harmful disclosure of information to individuals who would seek to circumvent or interfere with DHS's missions.

(j) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2020–04796 Filed 3–9–20; 8:45 am]

BILLING CODE 9910–9B–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Document Number AMS–SC–17–0076, SC–18–327]

U.S. Standards for Grades of Grapefruit (Texas and States Other Than Florida, California, and Arizona), and U.S. Standards for Grades of Oranges (Texas and States Other Than Florida, California, and Arizona)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to revise the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona). The revision would convert the Acceptable Quality Level (AQL) tables from showing the acceptable number of allowable defective fruit in each grade to showing the percentage of defects permitted in each grade; revise the minimum sample size to 25 fruit; update size classifications; remove references to Temple oranges from the orange standards for grade; and more closely align terminology in both grade standards with Florida and California citrus standards.

DATES: Comments must be submitted on or before May 11, 2020.

ADDRESSES: Interested persons are invited to submit written comments to the USDA, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406; fax: (540) 361–1199; or at *www.regulations.gov.* Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours. Comments can also be viewed as submitted, including any personal information you provide, on the *www.regulations.gov* website.

FOR FURTHER INFORMATION CONTACT: Olivia L. Banks at the address above, or by phone (540) 361–1120; fax (540) 361–1199; or, email *olivia.banks@usda.gov.* Copies of the proposed U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) may be viewed at *http://www.regulations.gov.* Copies of the current U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) are available on the AMS website at *https://www.ams.usda.gov/grades-standards/fruits.*

SUPPLEMENTARY INFORMATION: The proposed changes would convert the AQL tables in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) and the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) from showing the acceptable number of allowable defective fruit in each grade to showing the percentage of defects permitted in each grade, revise minimum sample size to 25 fruit, update size classifications, remove reference to Temple orange in the orange standards for grade and more closely align terminology in both grade standards with Florida and California citrus standards. These revisions also affect the grade requirements under the marketing order (Order) Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas, 7 CFR part 906, issued under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601–674) and applicable imports.

Executive Orders 12866, 13771, and 13563

This proposed rule is not expected to be an Executive Order 13771 regulatory action because it is not significant under Executive Order 12866. See the Office of Management and Budget's memorandum, ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs''' (February 2, 2017). Executive Orders 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, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments nor significant Tribal implications.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

AMS continuously reviews fruit and vegetable grade standards to assess their effectiveness in the industry and to modernize language. On September 20, 2016, AMS received a request from the Texas Valley Citrus Committee (TVCC) to modernize the language of and clarify the Texas citrus standards by removing outdated AQL tables. The standards were last revised in September 2003. AMS worked closely with the TVCC throughout the development of the proposed revisions, soliciting their comments and suggestions about the standards through discussion drafts that outlined the conversion from AQL tables to a defined percentage of defects permitted in each grade. The proposed percentages correspond to those currently allowed in the AQL tables and more closely align with California and Florida orange and grapefruit standards.

Additional proposed revisions to the Texas grapefruit standard include adding size 64 to the size classifications to align with sizes in the Order; changing the minimum sample size from 33 to 25 fruit; and changing the scoring basis for defects from a 70-size fruit to a 4⅛-inch grapefruit. Proposed revisions to the Texas orange standard also include adding size 163 to the size classifications to align with sizes in the Order; changing the minimum sample size from 50 to 25 fruit; changing the scoring basis for defects from a 200-size fruit to a 2⅞-inch orange; and removing Temple oranges from the standard.

AMS also conducted a grapefruit shape survey with the TVCC to identify areas of the standards for revision in