

DEPARTMENT OF HOMELAND SECURITY

6 CFR Part 29

RIN 1601-AA14

Procedures for Handling Critical Infrastructure Information

AGENCY: Office of the Secretary, Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking establishes for Federal agencies the uniform procedures to implement Section 214 of the Homeland Security Act of 2002 regarding the receipt, care, and storage of Critical Infrastructure Information (CII) voluntarily submitted to the Federal Government. The protection of critical infrastructure reduces the vulnerability of the United States to acts of terrorism.

DATES: Written comments on this notice of proposed rulemaking may be submitted to the Department of Homeland Security on or before June 16, 2003.

ADDRESSES: Submit written comments (preferably an original and three copies) to Associate General Counsel (General Law), Department of Homeland Security, Washington, DC 20528. Electronic comments may be submitted to cii.regcomments@DHS.gov.

FOR FURTHER INFORMATION CONTACT: Frank Nolan, (202) 282-8495, not a toll free call.

SUPPLEMENTARY INFORMATION:

I. Background

On November 25, 2002, the President signed into law the Homeland Security Act (Pub. L. 107-296), which created the new Department of Homeland Security (DHS) and established its responsibilities. Pursuant to the provisions of the Act, the Department came into existence on January 24, 2003.

The responsibilities of the Department include the taking of action to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to acts of terrorism. The reduction of that vulnerability includes the protection of vital physical or computer-based systems and assets, collectively referred to as "critical infrastructure," the incapacitation or destruction of which would have a debilitating impact on national security, national economic security, national public health or safety, or any combination of these matters. The Department of Homeland Security recognizes the importance of receiving

information from those with direct knowledge on the security of that critical infrastructure in order to reduce the vulnerability of this critical infrastructure to acts of terrorism.

The Department recognizes that its receipt of information pertaining to the security of critical infrastructure, much of which is not customarily within the public domain, is best encouraged through the assurance that such information will be utilized for securing the United States and will not be disseminated to the general public. Accordingly, section 214 of the Homeland Security Act, subtitle B of Title 2, which is referenced as the Critical Infrastructure Information Act of 2002 ("CII Act"), provides for the establishment of a critical infrastructure protection program that protects from disclosure to the general public any critical infrastructure information which the public may voluntarily provide to the Department.

Although the Homeland Security Act establishes a working definition of critical infrastructure information, the Department relies upon the discretion of the submitter as to whether the volunteered information meets the definition of critical infrastructure information. These procedures establish how critical infrastructure information volunteered by the public will be protected pursuant to section 214 of the Homeland Security Act.

II. Notice of Proposed Rulemaking

This notice of proposed rulemaking establishes the procedures for protecting critical infrastructure information which are referenced in section 214(e) of the CII Act of 2002.

This regulation establishes uniform procedures for the receipt, care, and storage of Critical Infrastructure Information (CII) voluntarily provided to the Federal Government by the public. These procedures apply to all Federal agencies that receive, care for, or store CII that is voluntarily submitted to the Federal Government pursuant to the CII Act of 2002. 6 U.S.C. 130, *et seq.* In addition, these procedures apply to United States Government contractors, to Foreign, State, and local governments, and to government authorities, pursuant to their express agreements.

III. Procedural Requirements

In recognition of the importance of these procedures, the Department is providing this notice of proposed rulemaking of uniform procedures for the receipt, care, and storage of voluntarily submitted CII. As these procedures will affect Federal, State,

and local governments and entities, the Department recognizes the importance of providing the opportunity for comment upon these procedures by both the government and private sector.

Executive Order 12866

It has been determined that this rulemaking is a significant regulatory action for purposes of section 3(f)(4) of Executive Order 12866. This rulemaking is, however, not considered an economically significant regulatory action for the purposes of Executive Order 12866. This rulemaking has been reviewed and approved by the Office of Management and Budget.

Regulatory Flexibility Act Certification

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

Paperwork Reduction Act of 1995

OMB does not consider nonspecific or nondirective reporting—such as the information requested in the rule—that the respondent wishes to provide on a specific topic without further specification being sought to be subject to the Paperwork Reduction Act.

List of Subjects in 6 CFR Part 29

Classified information, Confidential business information, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth above, 6 CFR is proposed to be amended by adding part 29 to read as follows:

PART 29—CRITICAL INFRASTRUCTURE INFORMATION

Sec.

- 29.1 Purpose and scope.
- 29.2 Definitions.
- 29.3 Effect of provisions.
- 29.4 Critical Infrastructure Information Program administration.
- 29.5 Authority to receive Critical Infrastructure Information.
- 29.6 Acknowledgment, validation, and marking of receipt.
- 29.7 Safeguarding of protected Critical Infrastructure Information.
- 29.8 Disclosure of information.
- 29.9 Investigation and reporting of violation of CII procedures.

Authority: Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); 5 U.S.C. 301.

§ 29.1 Purpose and Scope.

(a) *Purpose.* This part implements Section 214 of Title II, Subtitle B, of the Homeland Security Act of 2002 through the establishment of uniform procedures for the receipt, care, and storage of Critical Infrastructure Information (CII)