

It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

*Section 202, Public Law 104-4,
"Unfunded Mandates Reform Act"*

It has been determined that this Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been determined that this Privacy Act rule for the Department of Defense does not have federalism implications. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 322

Privacy.

■ Accordingly, 32 CFR part 322 is revised to read as follows:

**PART 322—NATIONAL SECURITY
AGENCY/CENTRAL SECURITY
SERVICES PRIVACY ACT PROGRAM**

Sec.

- 322.1 Purpose and applicability.
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- 322.5 Procedures.
- 322.6 Establishing exemptions.
- 322.7 Exempt systems of records.

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

§ 322.1 Purpose and applicability.

(a) This part implements the Privacy Act of 1974 (5 U.S.C. 552a), as amended and the Department of Defense Privacy Program (32 CFR part 310) within the National Security Agency/Central Security Service (NSA/CSS); establishes policy for the collection and disclosure of personal information about individuals; assigns responsibilities and establishes procedures for collecting personal information and responding to first party requests for access to records, amendments of those records, or an accounting of disclosures.

(b) This part applies to all NSA/CSS elements, field activities and personnel and governs the release or denial of any information under the terms of the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

§ 322.2 Definitions.

Access. The review of a record or a copy of a record or parts thereof in a system of records by an individual.

Confidential source. A person or organization who has furnished information to the federal government under an express promise that the person's or the organization's identity will be held in confidence or under an implied promise of such confidentiality if this implied promise was made before September 27, 1975.

Disclosure. The transfer of any personal information from a system of records by any means of communication (such as oral, written, electronic, mechanical, or actual review) to any person, private entity, or government agency, other than the subject of the record, the subject's designated agent or the subject's legal guardian.

Employees of NSA/CSS. Individuals employed by, assigned or detailed to the NSA/CSS. This part also applies to NSA/CSS contractor personnel who administer NSA/CSS systems of records that are subject to the Privacy Act.

FOIA Request. A written request for NSA/CSS records, made by any person, that either explicitly or implicitly invokes the Freedom of Information Act (FOIA) (5 U.S.C. 552), as amended. FOIA requests will be accepted by U.S. mail or its equivalent, facsimile, or the Internet, or employees of NSA/CSS may hand deliver them.

Individual. A living person who is a citizen of the United States or an alien lawfully admitted for permanent residence. The parent of a minor or the legal guardian of any individual also may act on behalf of an individual. Corporations, partnerships sole proprietorships, professional groups, businesses, whether incorporated or unincorporated, and other commercial entities are not individuals.

Maintain. Includes maintain, collect, use or disseminate.

Medical Records. Documents relating to the physical care and treatment of an individual.

Privacy Act Request. A written request containing a signature submitted by a U.S. citizen or alien admitted for permanent residence for access to or amendment of records on himself/ herself which are contained in a PA system of records. PA requests will be accepted via mail or facsimile, or NSA/CSS employees may hand deliver them.

Digital signatures will be accepted via the Internet by October 21, 2003. Until then, PA requests will not be accepted via the Internet. Requests received via the Internet will not be acknowledged. Regardless of whether the requester cites the FOIA, PA, or no law, the request for records will be processed under both this part and the FOIA. Requests for amendments will be processed pursuant to the PA.

Personal information. The collection of two or more pieces of information that is about an individual: e.g. name and date of birth, Social Security Number.

Personal notes. Notations created in paper or electronic form for the convenience and at the discretion of the originator, for the originator's eyes only, and over which NSA/CSS exercises no control. Personal notes are not agency records within the meaning of the Privacy Act (PA) or the Freedom of Information Act (FOIA). However, once the personal note, or information contained therein, is shared with another individual, it becomes an Agency record and is subject to the provisions of the FOIA and, if appropriate, the PA.

Psychological Records. Documents relating to the psychological care and treatment of an individual.

Record. Any item, collection, or grouping of information, whatever the storage media (paper, electronic, etc.) about an individual or his or her education, financial transactions, medical history, criminal or employment history, and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voice print, or a photograph. The record must be in existence and under the control of NSA/CSS at the time a request is made.

Routine use. The disclosure of a record outside NSA/CSS or the DoD for a use that is compatible with the purpose for which the information was collected and maintained by NSA/CSS. The routine use must be included in the published system of records.

System of Records. A group of records under the control of a federal agency from which personal information is retrieved by the individual's name or by some identifying number, symbol, or other identifying particular assigned to an individual.

§ 322.3 Policy.

(a) The National Security Agency/Central Security Service shall maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of