

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Chapter I and Part 5

Freedom of Information Act and Privacy Act Procedures

AGENCY: Office of the Secretary, Homeland Security.

ACTION: Interim final rule.

SUMMARY: This interim final rule establishes procedures for the public to obtain information from the Office of the Secretary, Department of Homeland Security, under the Freedom of Information Act and the Privacy Act.

DATES: This interim final rule is effective January 27, 2003. Written comments may be submitted by February 26, 2003.

ADDRESSES: Submit written comments (preferably an original and three copies) to Associate General Counsel (General Law), Department of Homeland Security, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: D.E. Ogden, (202) 612-1951, 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). Pursuant to the provisions of the Act, the new Department came into existence on January 24, 2003.

In order to establish procedures to facilitate public interaction with the DHS Office of the Secretary, DHS is issuing an initial series of proposed and interim final regulations.

II. The Interim Final Rule

This interim final rule establishes procedures for the DHS Office of the Secretary necessary to implement the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Except to the extent a Department component has adopted separate guidance under FOIA or the Privacy Act, the provisions of this subpart shall to apply each component of the Department.

The Freedom of Information Act provides for the full disclosure of agency records and information to the public unless that information is exempted under clearly delineated statutory language. The Privacy Act

serves to safeguard public interest in informational privacy by delineating the duties and responsibilities of federal agencies that collect, store, and disseminate personal information about individuals. The procedures established here ensure that the Department of Homeland Security fully satisfies its responsibility to the public to disclose departmental information while simultaneously safeguarding individual privacy.

The Privacy Act serves to balance the government's need to maintain information about individuals with the rights of individuals to be protected against unwarranted invasions of their privacy stemming from federal agencies' collection, maintenance, use, and disclosure of personal information about them. Agencies are required to issue regulations outlining the agency's rules and procedures for implementation of the Privacy Act and its provisions in the agency. This includes procedures on how individuals may request access to information about themselves, request amendment or correction of those records, and request an accounting of disclosures of their records by the Department.

III. Procedural Requirements

Because the DHS came into existence on January 24, 2003, it is necessary to promptly establish procedures to facilitate the interaction of the public with the Department. Furthermore, this Interim Final Rule generally parallels the procedures currently used by other agencies to implement the Freedom of Information Act and the Privacy Act. Accordingly the Department has determined that notice and public procedure are impracticable, unnecessary and contrary to the public interest pursuant to 5 U.S.C. 553(b)(B). For the same reasons, the Department has determined that this interim rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply. It has been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

List of Subjects in 6 CFR Part 5

Classified information, Freedom of information, Privacy.

Authority and Issuance

For the reasons set forth above, the Department of Homeland Security establishes 6 CFR Chapter I in new Title 6—Homeland Security, consisting at this time of part 5 to read as set forth below.

Dated: January 24, 2003.

Tom Ridge,

Secretary of Homeland Security.

Title 6—Homeland Security

CHAPTER I—DEPARTMENT OF HOMELAND SECURITY, OFFICE OF THE SECRETARY

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

Subpart A—Freedom of Information Act

Sec.

- 5.1 General provisions.
- 5.2 Public reading rooms.
- 5.3 Requirements for making requests.
- 5.4 Responsibility for responding to requests.
- 5.5 Timing of responses to requests.
- 5.6 Responses to requests.
- 5.7 Classified information.
- 5.8 Business information.
- 5.9 Appeals.
- 5.10 Preservation of records.
- 5.11 Fees.
- 5.12 Other rights and services.

Subpart B—Privacy Act

- 5.20 General provisions.
- 5.21 Requests for access to records.
- 5.22 Responsibility for responding to requests for access to records.
- 5.23 Responses to requests for access to records.
- 5.24 Classified information.
- 5.25 Appeals.
- 5.26 Requests for amendment or correction of records.
- 5.27 Requests for an accounting of record disclosures.
- 5.28 Preservation of records.
- 5.29 Fees.
- 5.30 Notice of court-ordered and emergency disclosures.
- 5.31 Security of systems of records.
- 5.32 Contracts for the operation of record systems.
- 5.33 Use and collection of social security numbers.
- 5.34 Standards of conduct for administration of the Privacy Act.
- 5.35 Sanctions and penalties.
- 5.36 Other rights and services.

Appendix A to Part 5—FOIA/Privacy Act Offices of the Department of Homeland Security

Appendix B to Part 5—Public Reading Rooms of the Department of Homeland Security

Authority: Pub. L. 107-296, 116 Stat. 2135; (6 U.S.C. 101 et seq.); 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.