This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2011–0114]


AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a newly established system of records titled, “Department of Homeland Security/U.S. Customs and Border Protection, DHS/CBP—017 Analytical Framework for Intelligence (AFI) System of Records” from certain provisions of the Privacy Act.

Specifically, the Department exempts portions of the “Department of Homeland Security/U.S. Customs and Border Protection, DHS/CBP—017 Analytical Framework for Intelligence (AFI) System of Records” from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Effective Date: This final rule is effective August 10, 2012.


SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) U.S. Customs and Border Protection (CBP) published a notice of proposed rulemaking in the Federal Register, 77 FR 33683 (June 7, 2012) proposing 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. The system of records is the DHS/CBP—017 Analytical Framework for Intelligence (AFI) System of Records. The DHS/CBP—017 Analytical Framework for Intelligence (AFI) system of records notice was published concurrently in the Federal Register, 77 FR 33753, June 7, 2012, and comments were invited on both the Notice of Proposed Rulemaking (NPRM) and System of Records Notice (SORN).

Public Comments

DHS received no comments with respect to the NPRM and five submissions commenting on the SORN.

NPRM

DHS received no comments on the NPRM.

SORN

DHS received twelve distinct comments from four individuals in response to the SORN.

Comment: DHS/CBP received two comments inquiring as to whether or not the results generated from AFI will be released to the public, or if applicable, a statement from DHS that all of the expected results generated will not be permitted to be disclosed to the public.

Response: DHS/CBP has taken an exemption from the access provisions of the Privacy Act for the information created in AFI. The applicability of this exemption will be reviewed in the context of each request for access. DHS/CBP separately may share information generated through AFI with the public, or specific members of the public, in accordance with three specific routine uses identified in the AFI SORN: routine use K where the member of the public is a possible informant; routine use O where the member of the public is a possible target of terrorist activity; and routine use Q where the DHS Chief Privacy Officer in consultation with the Office of General Counsel identifies a legitimate public interest in the disclosure of information. In all instances, application of a particular routine use is subject to the limitations set forth in each respective routine use.

Comment: DHS/CBP received one comment requesting the name of the Congressional oversight committees that will have access to the information concerning AFI.

Response: DHS/CBP has briefed the House Permanent Select Committee on Intelligence, the Senate Select Committee on Intelligence, and the House Committee on Homeland Security on AFI. These Committees and the Senate Committee on Homeland Security and Government Affairs retain jurisdiction over the purpose and mission of AFI and will receive future briefings upon request and as appropriate. See 5 U.S.C. § 552a(6). The Committees and their staff will not have regular log-in access to AFI.

Comment: DHS/CBP received nine comments related to the staffing requirements, capital costs, and operating costs of AFI and the length of time the system is expected to operate before it must be replaced with new technologies.

Response: This information can be found on the Federal IT Dashboard available through the following link: http://www.itdashboard.gov/investment?buscid=315.

After consideration of public comments, the Department will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS amends 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 reads as follows:


2. Add at the end of Appendix C to Part 5, the following new paragraph “69”:
Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

69. The DHS/CPB—017 Analytical Framework for Intelligence (AFI) System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/CPB—017 Analytical Framework for Intelligence (AFI) System of Records is a repository of information held by DHS to enhance DHS’s ability to: Identify, apprehend, and/or prosecute individuals who pose a potential law enforcement or security risk; aid in the enforcement of the customs and immigration laws, and other laws enforced by DHS at the border; and enhance United States security. This system also supports certain other DHS programs whose functions include, but are not limited to, the enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; and national security and intelligence activities. The DHS/CPB—017 Analytical Framework for Intelligence (AFI) System of Records contains 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.

(a) The Secretary of Homeland Security has exempted this system from certain provisions of the Privacy Act as follows:

1. Pursuant to 5 U.S.C. 552a(j)(2), the system is exempt from 5 U.S.C. 552a(c)(3) and (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).
2. Pursuant to 5 U.S.C. 552a(j)(2), the system (except for any records that were ingested by AFI where the source system of records already provides access and/or amendment under the Privacy Act) is exempt from 5 U.S.C. 552a(d)(1), (d)(2), (d)(3), and (d)(4).
3. Pursuant to 5 U.S.C. 552a(k)(1), the system is exempt from 5 U.S.C. 552a(c)(3); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).
4. Pursuant to 5 U.S.C. 552a(k)(1), the system is exempt from (d)(1), (d)(2), (d)(3), and (d)(4).
5. Pursuant to 5 U.S.C. 552a(k)(2), the system is exempt from 5 U.S.C. 552a(c)(3); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).
6. Pursuant to 5 U.S.C. 552a(k)(2), the system (except for any records that were ingested by AFI where the source system of records already provides access and/or amendment under the Privacy Act) is exempt from (d)(1), (d)(2), (d)(3), and (d)(4).

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

1. From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation to tamper with evidence or to avoid detection or apprehension, which would undermine the entire investigative process.
2. From subsection (d)(2) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of the identity of those involved in that investigation and reveal investigative interest in the part of DHS or another agency. Access to the records could permit the individual who is 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 reinvigorated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.
3. 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 and national security, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.
4. 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 and national security activities.
5. From subsection (e)(3) (Notice to Individuals) because by providing such detailed information could impede law enforcement and national security by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.
6. 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.

PROTECTION OF STRATOSPHERIC OZONE: DETERMINATION 27 FOR SIGNIFICANT NEW ALTERNATIVES POLICY PROGRAM

AGENCY: Environmental Protection Agency (EPA).

ACTION: Determination of Acceptability.

SUMMARY: This Determination of Acceptability expands the list of acceptable substitutes for ozone-depleting substances under the U.S. Environmental Protection Agency’s (EPA) Significant New Alternatives Policy (SNAP) program. This action lists as acceptable four additional substitutes for use in the refrigeration and air conditioning sector; two additional substitutes in the foam blowing sector; one additional substitute in the solvent cleaning sector; two additional substitutes in the aerosol sector; and one additional substitute in the fire suppression sector.

DATES: This determination is effective on August 10, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0118 (continuation of Air Docket A–91–42). All electronic documents in the docket are listed in the index at http://www.regulations.gov. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82


RIN 2060–AG12

Protection of Stratospheric Ozone: Determination 27 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Determination of Acceptability.

SUMMARY: This Determination of Acceptability expands the list of acceptable substitutes for ozone-depleting substances under the U.S. Environmental Protection Agency’s (EPA) Significant New Alternatives Policy (SNAP) program. This action lists as acceptable four additional substitutes for use in the refrigeration and air conditioning sector; two additional substitutes in the foam blowing sector; one additional substitute in the solvent cleaning sector; two additional substitutes in the aerosol sector; and one additional substitute in the fire suppression sector.

DATES: This determination is effective on August 10, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0118 (continuation of Air Docket A–91–42). All electronic documents in the docket are listed in the index at http://www.regulations.gov. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other