

§ 3.9

§ 3.9 Responding to a rulemaking petition.

(a) *Public procedure.* DHS may, in its discretion, seek broader public comment on a rulemaking petition prior to its disposition under this section.

(b) *Disposition.* DHS may respond to the petition by letter or by FEDERAL REGISTER publication. DHS may grant or deny the petition, in whole or in part.

(c) *Grounds for denial.* DHS may deny the petition for any reason consistent with law, including, but not limited to, the following reasons: The petition has no merit, the petition is contrary to pertinent statutory authority, the petition is not supported by the relevant information or data, or the petition cannot be addressed because of other priorities or resource constraints.

(d) *Summary disposition.* DHS may, by written letter, deny or summarily dismiss without prejudice any petition that is moot, premature, repetitive, or frivolous, or that plainly does not warrant further consideration.

PART 4 [RESERVED]

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act

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- 5.1 General provisions.
- 5.2 Proactive disclosures of DHS records.
- 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 Confidential commercial information.
- 5.8 Administrative appeals.
- 5.9 Preservation of records.
- 5.10 FOIA requests for information contained in a Privacy Act system of records.
- 5.11 Fees.
- 5.12 Confidential commercial information; CBP procedures.
- 5.13 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.

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- 5.23 Responses to requests for access to records.
- 5.24 Classified information.
- 5.25 Administrative appeals for access requests.
- 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 systems of records.
- 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.

Subpart C—Disclosure of Information in Litigation

- 5.41 Purpose and scope; definitions.
- 5.42 Service of summonses and complaints.
- 5.43 Service of subpoenas, court orders, and other demands or requests for official information or action.
- 5.44 Testimony and production of documents prohibited unless approved by appropriate Department officials.
- 5.45 Procedure when testimony or production of documents is sought; general.
- 5.46 Procedure when response to demand is required prior to receiving instructions.
- 5.47 Procedure in the event of an adverse ruling.
- 5.48 Considerations in determining whether the Department will comply with a demand or request.
- 5.49 Prohibition on providing expert or opinion testimony.

APPENDIX A TO SUBPART C OF PART 5—SERVICE OF PROCESS OF SUMMONSES, COMPLAINTS, AND SUBPOENAS

APPENDIX A TO PART 5—FOIA/PRIVACY ACT OFFICES OF THE DEPARTMENT OF HOMELAND SECURITY

APPENDIX B TO PART 5 [RESERVED]

APPENDIX C TO PART 5—DHS SYSTEMS OF RECORDS EXEMPT FROM THE PRIVACY ACT

AUTHORITY: 6 U.S.C. 101 *et seq.*; Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301; 6 U.S.C. 142; DHS Del. No. 13001, Rev. 01 (June 2, 2020).

Subpart A also issued under 5 U.S.C. 552.

Subpart B also issued under 5 U.S.C. 552a and 552 note.

SOURCE: 68 FR 4056, Jan. 27, 2003, unless otherwise noted.