



DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS-2016-0035]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/U.S. Customs and Border Protection-014 Regulatory Audit Archive System (RAAS) System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is issuing a final rule to extend the exemptions from certain provisions of the Privacy Act to the updated and reissued system of records titled, “DHS/CBP-014 Regulatory Audit Archive System (RAAS) System of Records.” Specifically, the Department exempts portions of the “DHS/CBP-014 Regulatory Audit Archive System (RAAS) System of Records” from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: This final rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: John Connors, (202) 344-1610, Privacy Officer, U.S. Customs and Border Protection, Privacy and Diversity Office, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

For privacy questions, please contact: Karen L. Neuman, (202) 343-1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

SUPPLEMENTARY INFORMATION:

I. Background:

The Department of Homeland Security (DHS) U.S. Customs and Border Protection (CBP) published a notice of proposed rulemaking in the Federal Register, 81 FR 19932, April 6, 2016, 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. DHS reissued the DHS/CBP-014 Regulatory Audit Archive System (RAAS) System of Records in the Federal Register on April 6, 2016 (81 FR 19985), to provide notice to the public that DHS/CBP was updating the categories of records to include the capture of Employer Identification Numbers (EINs) or Social Security numbers (SSNs), also known as a Federal Taxpayer Identifying Number, pursuant to 19 CFR 24.5, 19 CFR 149.3, and E.O. 9397, as amended by E.O. 13748. This final rule exempts portions of the new categories of records pursuant to 5 U.S.C. 552a(k)(2).

II. Public Comments:

DHS received no comments on the NPRM and 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 continues to read as follows:

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.

2. In appendix C to part 5, revise the introductory text of paragraph 25, and paragraph 25(a), to read as follows:

Appendix C to Part 5 – DHS Systems of Records Exempt From the Privacy Act

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25. The Department of Homeland Security (DHS)/U.S. Customs and Border Protection-014 Regulatory Audit Archive System (RAAS) System of Records consists of electronic and paper records and will be used by DHS and its Components. The DHS/CBP-014 RAAS System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: the enforcement of civil and criminal laws; investigations; inquiries; and proceedings there under. The DHS/CBP-014 RAAS 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. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3). 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:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also 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, which would undermine the entire investigative process.

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Dated: May 23, 2016.

Karen L. Neuman,
Chief Privacy Officer,
Department of Homeland Security.

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