

**DEPARTMENT OF HOMELAND SECURITY****Office of Security****6 CFR Part 5**

[Docket No. DHS-2008-0116]

**Privacy Act of 1974: Implementation of Exemptions; DHS/USCG-028 Family Advocacy Program****AGENCY:** Privacy Office, DHS.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Homeland Security (DHS) is giving concurrent notice of a revised and updated system of records pursuant to the Privacy Act of 1974 for the Department of Homeland Security to administer the DHS/USCG-028 Family Advocacy Program system of records and this proposed rulemaking. In this proposed rulemaking, the Department proposes 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.

**DATES:** Comments must be received on or before January 20, 2009.

**ADDRESSES:** You may submit comments, identified by docket number DHS-2008-0116, by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 1-866-466-5370.
- *Mail:* Hugo Teufel III, Chief Privacy Officer, Department of Homeland Security, Washington, DC 20528.

*Instructions:* All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general questions please contact: David Roberts (202-475-3521), United States Coast Guard Privacy Officer, United States Coast Guard. For privacy issues please contact: Hugo Teufel III (703-235-0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

**SUPPLEMENTARY INFORMATION:**

*Background:* Pursuant to the savings clause in the Homeland Security Act of 2002, the Department of Homeland Security (DHS) United States Coast

Guard (USCG) have relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records that concern the Department of Homeland Security to administer the DHS/USCG-028 United States Coast Guard Family Advocacy Program.

As part of its efforts to streamline and consolidate its record systems, DHS is updating and reissuing a DHS/USCG system of records under the Privacy Act (5 U.S.C. 552a) that deals with USCG Family Advocacy Program. The collection and maintenance of this information will assist DHS/USCG in meeting its obligation to administer the USCG Family Advocacy Program.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals in finding such files within the agency.

The Privacy Act allows Government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/USCG-028 Family Advocacy Case Records. Some information in DHS/USCG-028 Family Advocacy Case Records relates to law enforcement. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude

subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS's ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for DHS/USCG-028 Family Advocacy Program is also published in this issue of the **Federal Register**.

**List of Subjects in 6 CFR Part 5**

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend 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:** 6 U.S.C. 101 *et seq.*; Public Law 107-296, 116 Stat. 2135; 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. Add at the end of Appendix C to Part 5, the following new paragraph "14":

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

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14. The Department of Homeland Security/United States Coast Guard-028 Family Advocacy Case Records system of records consists of electronic and paper records and will be used by DHS and its components. DHS/USCG-028 Family Advocacy Case 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 thereunder. DHS/USCG-028 Family Advocacy Case 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.

Pursuant to 5 U.S.C. 552a(k)(2) this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). 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 the 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.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on 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 impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) 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, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (H), and (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. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses,

and potential witnesses, and confidential informants.

Dated: December 10, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. E8-29842 Filed 12-18-08; 8:45 am]

**BILLING CODE 4410-10-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 2

[Docket No. APHIS-2006-0159]

#### Handling of Animals; Contingency Plans

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** We are extending the comment period for our proposed rule that would amend the Animal Welfare Act regulations to add requirements for contingency planning and training of personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** We will consider all comments that we receive on or before February 20, 2009.

**ADDRESSES:** You may submit comments by either of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0159> to submit or view comments and to view supporting and related materials available electronically.

- **Postal Mail/Commercial Delivery:** Please send two copies of your comment to Docket No. APHIS-2006-0159, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0159.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jodie Kulpa-Eddy, Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; (301) 734-7833.

**SUPPLEMENTARY INFORMATION:** On October 23, 2008, we published in the **Federal Register** (73 FR 63085-63090, Docket No. APHIS-2006-0159) a proposal to amend the Animal Welfare Act regulations to add requirements for contingency planning and training of personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers.

Comments on the proposed rule were required to be received on or before December 22, 2008. We are extending the comment period on Docket No. APHIS-2006-0159 for an additional 60 days. This action will allow interested persons additional time to prepare and submit comments.

**Authority:** 7 U.S.C. 2131-2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 16th day of December 2008.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8-30220 Filed 12-18-08; 8:45 am]

**BILLING CODE 3410-34-P**

## FEDERAL RESERVE SYSTEM

[Docket No. R-1340]

### 12 CFR Part 226

#### Regulation Z; Truth in Lending

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On December 10, 2008, the Board published a proposal to amend Regulation Z that would conform the regulation to reflect recent amendments to the Truth in Lending Act (73 FR 74989). The Board is extending the public comment period on the proposal.

**DATES:** Comments must be received on or before February 9, 2009.

**ADDRESSES:** You may submit comments on the proposed amendments to Regulation Z, identified by Docket No. R-1340, by any of the following methods:

- **Agency Web site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at