

(5) Modify the way the system operates at its location(s) in such a manner as to alter the procedures by which individuals can exercise their rights under this subpart; or

(6) Change the equipment configuration on which the system is operated so as to create the potential for greater access (e.g., adding a telecommunications capability).

SEC. 3 *Accounting of certain disclosures.* Each agency, with respect to each system of records under its control, shall:

(a) Except for disclosures made under 5 U.S.C. 552a(b)(1) and (2), keep an accurate account of:

(1) The date, nature, and purpose of each disclosure of a record to any person or agency outside the Department; and

(2) The name and address of the person or agency to whom the disclosure is made;

(b) Retain the accounting made under paragraph (a) of this section for the longer of a period of five years, after the date of the disclosure for which the accounting is made, or the life of the record disclosed;

(c) Except for disclosures made under 5 U.S.C. 552a(b)(7), make the accounting required under paragraph (a) of this section available to the individual named in the record at his or her request.

SEC. 4 *Government contractors.* When an agency within the Department provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this subpart to be applied to such system. For purposes of 5 U.S.C. 552a(i) any such contractor or any employee of such contractor shall be considered to be an employee of an agency and therefore subject to the criminal penalties set forth in 5 U.S.C. 552a(i).

SEC. 5 *Mailing lists.* No agency within the Department shall sell or rent any individual's name and address unless such action is specifically authorized by law. This section shall not be construed to require, or to authorize, the withholding of names and addresses whose disclosure is required by 5 U.S.C. 552.

SEC. 6 *Social security account numbers.* (a) No agency shall deny, or permit any State or local government with whom it is involved in a cooperative venture to deny, to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security account number.

(b) Paragraph (a) of this section shall not apply with respect to:

(1) Any disclosure required by Federal statute; or

(2) Any disclosure to any agency relating to a system of records it maintained prior to January 1, 1975, if such disclosure was required under statute or regulation adopted

prior to that date, to verify the identity of an individual.

(c) Any agency in the Department which requests an individual to disclose his or her social security account number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and what uses will be made of it. The agency shall also insure that this information is provided by a State or local government with whom it is involved in a cooperative agreement.

SEC. 7. *Annual report.* Each agency in the Department shall submit to the Office of the General Counsel prior to March 30 of each year a report containing the following information related to implementation of 5 U.S.C. 552a:

(a) A summary of major accomplishments;

(b) A summary of major plans for activities in the upcoming year;

(c) A list of the systems which were exempted during the year from any of the operative provisions of this subpart pursuant to 5 U.S.C. 552a (j) and (k), whether or not the exemption was effected during that year, the number of instances with respect to each system exempted in which the exemption was invoked to deny access, and the reasons for invoking the exemption;

(d) A brief summary of changes to the total inventory of personal data system subject to this subpart including reasons for major changes; and

(e) A general description of operational experiences including estimates of the number of individuals (in relation to the total number of records in the system):

(1) Requesting information on the existence of records pertaining to them;

(2) Refusing to provide information;

(3) Requesting access to their records;

(4) Appealing initial refusals to amend records; and

(5) Seeking redress through the courts.

SEC. 8. *Effect of 5 U.S.C. 552.* No agency in the Department shall rely on any exemption in 5 U.S.C. 552 to withhold from an individual any record which is otherwise accessible to such individual under 5 U.S.C. 552a and this subpart.

[40 FR 44480, Sept. 26, 1975, as amended at 62 FR 33982, June 24, 1997]

### Subpart H—Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 61, 87e, 228, 268, 499o, 608c(14), 1592, 1624(b), 2151, 2279e, 2621, 2714, 2908, 3812, 4610, 4815, 4910, 6009, 6107,

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6207, 6307, 6411, 6808, 7107, 7734, 8313; 15 U.S.C. 1828; 16 U.S.C. 620d, 1540(f), 3373; 21 U.S.C. 104, 111, 117, 120, 122, 127, 134e, 134f, 135a, 154, 463(b), 621, 1043; 43 U.S.C. 1740; 7 CFR 2.35, 2.41.

SOURCE: 42 FR 743, Jan. 4, 1977, unless otherwise noted.

### § 1.130 Meaning of words.

As used in this subpart, words in the singular form shall be deemed to import the plural, and vice versa, as the case may require.

### § 1.131 Scope and applicability of this subpart.

(a) The rules of practice in this subpart shall be applicable to all adjudicatory proceedings under the statutory provisions listed below as those provisions have been or may be amended from time to time,<sup>1</sup> except that those rules shall not be applicable to reparation proceedings under section 6(c) of the Perishable Agricultural Commodities Act, 1930. Section 1.26 shall be inapplicable to the proceedings covered by this subpart.

Act of May 29, 1884, commonly known as the Animal Industry Act, section 7, as amended (21 U.S.C. 117).

Act of August 30, 1890, section 6, as amended (21 U.S.C. 104).

Act of February 2, 1903, commonly known as the Cattle Contagious Diseases Act of 1903, section 3, as amended (21 U.S.C. 122).

Act of March 3, 1905, section 6, as amended (21 U.S.C. 127).

Act of July 2, 1962, section 6(a), as amended (21 U.S.C. 134e).

Act of May 6, 1970, section 2, as amended (21 U.S.C. 135a).

Agricultural Marketing Agreement Act of 1937, as amended, section 8c(14), 7 U.S.C. 608c(14).

Animal Health Protection Act, section 10414 (7 U.S.C. 8313).

Animal Welfare Act, section 19 (7 U.S.C. 2149).

Beef Promotion and Research Act of 1985, section 9 (7 U.S.C. 2908).

Egg Products Inspection Act, section 18 (21 U.S.C. 1047).

Endangered Species Act of 1973, as amended, section 11(a) (16 U.S.C. 1540(a)).

Egg Research and Consumer Information Act, as amended, 7 U.S.C. 2714, Pub. L. 96-276, 94 Stat. 541.

<sup>1</sup>See also the regulations promulgated under these statutes for any supplemental rules relating to particular circumstances arising thereunder.

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Federal Land Policy and Management Act of 1976, section 506 (43 U.S.C. 1766).

Federal Meat Inspection Act, sections 4, 6, 7(e), 8, and 401 (21 U.S.C. 604, 606, 607(e), 608, 671).

Federal Seed Act, section 409 (7 U.S.C. 1599).

Fluid Milk Promotion Act of 1990, section 1999L [7 U.S.C. 6411].

Forest Resources Conservation and Shortage Relief Act of 1990, section 492 (16 U.S.C. 620d)

Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act of 1993, section 9 [7 U.S.C. 6808].

Honey Research, Promotion, and Consumer Information Act, section 11 (7 U.S.C. 4610).

Horse Protection Act of 1970, sections 4(c) and 6 (15 U.S.C. 1823(c), 1825).

Lacey Act Amendments of 1981, section 4 (a) and (b) (16 U.S.C. 3373 (a) and (b)).

Lime Research, Promotion, and Consumer Information Act of 1990, as amended, section 1958 [7 U.S.C. 6207]

Mushroom Promotion, Research, and Consumer Information Act of 1990, section 1928 [7 U.S.C. 6107]

Packers and Stockyards Act, 1921, as supplemented, sections 203, 312, and 401 of the Act, and section 1, 57 Stat. 422, as amended by section 4, 90 Stat. 1249 (7 U.S.C. 193, 204, 213, 221)

Pecan Promotion and Research Act of 1990, section 1914 [7 U.S.C. 6009]

Perishable Agricultural Commodities Act, 1930, sections 1(b)(9), 3(c), 4(d), 6(c), 8(a), 8(b), 8(c), 8(e), 9, and 13(a) (7 U.S.C. 499a(b)(9), 499c(c), 499d(d), 499f(c), 499h(a), 499h(b), 499h(c), 499h(e), 499i, 499m(a))

Plant Protection Act, section 424 (7 U.S.C. 7734).

Pork Promotion, Research, and Consumer Information Act of 1985, section 1626 (7 U.S.C. 4815).

Potato Research and Promotion Act, as amended, 7 U.S.C. 2621, Pub. L. 97-244, 96 Stat. 310.

Poultry Products Inspection Act, sections 6, 7, 8(d), and 18 (21 U.S.C. 455, 456, 457(d), 467).

Sheep Promotion, Research, and Information Act of 1994 [7 U.S.C. 7107].

Soybean Promotion, Research, and Consumer Information Act, section 1972 [7 U.S.C. 6307].

Swine Health Protection Act, sections 5 and 6 (7 U.S.C. 3804, 3805).

Title V of the Agricultural Risk Protection Act of 2000, section 501(a) (7 U.S.C. 2279e).

United States Cotton Standards Act, as supplemented, section 3 of the Act and section 2 of 47 Stat. 1621 (7 U.S.C. 51b, 53).

United States Grain Standards Act, sections 7(g)(3), 9, 10, and 17A(d) (7 U.S.C. 79(g)(3), 85, 86, 87f-1(d)).

United States Warehouse Act, sections 12 and 25 (7 U.S.C. 246, 253).

Virus-Serum-Toxin Act (21 U.S.C. 156).