

PART 2015 - INFORMATION

Subpart E - Availability of Information Under the Privacy Act

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PART 2015 - INFORMATION

Subpart E - Availability of Information Under the Privacy Act

§2015.201 General purpose and scope.

The intent of the [Privacy Act](#) is to enable an individual to determine what records Federal agencies possess that pertain to him/her; to prevent the use of such records for improper purposes; and to review and correct such records. The Privacy Act is also intended to require Federal agencies to use care in collecting and maintaining information relating to individuals and to make agencies and their employees subject to suit for damages that occur as a result of violations of the Privacy Act. The protections afforded and the rights conferred by the Privacy Act extend only to "individuals" who are citizens of the United States and aliens lawfully admitted for permanent residence, but do not extend to nonresident aliens, foreign nationals, or fictional persons such as corporations, proprietorships, and businesses. (Revised 12-05-13, PN 466.)

§2015.202 Delegation of authority and available assistance.

The Freedom of Information Officer (FOIO), Freedom of Information/Privacy Act Specialist, and Management Analyst in the National Office, each State Director, each State Administrative Officer/Administrative Program Chief, District Director, and County Supervisor are authorized to act, respectively, at the National, State, District, and County level on behalf of Rural Development on all requests for materials and records. Administrative Officers and Program Chiefs in each State Office will provide administrative and technical support regarding Privacy Act matters to field offices. All employees are advised that assistance is readily available, upon request, from their State Office, the National Office, and the Office of the General Counsel (OGC). (Revised 01-26-94, PN 218.)

§2015.203 Access to records.

Rural Development employees and program applicants, borrowers, and grantees must be afforded the opportunity to inspect and photocopy their records or any information pertaining to them that is in a "[System of Records](#)" and is in the custody of the Agency when requested. There is a Privacy Act exemption to the release of information contained in an individual's Privacy Act record that has been compiled in reasonable anticipation of litigation. Thus, particular scrutiny should be given to any information that is responsive to a request but that consists of an investigative report, tort claim, or communication with the Office of Inspector General (OIG) or with the OGC. Rural Development employees should not release information concerning

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other employees, applicants, or borrowers to the general public or employees of agencies other than the United States Department of Agriculture (USDA) without consulting with the FOIO, unless written consent of the individual is obtained before the release of any such information. In addition, there is a well-recognized privacy interest in protecting both the identity of individuals who provide information to the Agency and the content of the information provided under an expressed promise of confidentiality, particularly where informants reasonably fear reprisal. (Revised 12-05-13, PN 466.)

(a) When Rural Development employees are interviewed unexpectedly or during news media coverage of a controversial action, care should be taken to couch comments in general terms relating to program objectives and positive program accomplishments. Avoid specific information and details of individual borrower or applicant cases.

(b) If news media groups or individuals persist in wanting specific information regarding individual applicant or borrower cases, Rural Development employees should obtain from applicants or borrowers a written waiver of their rights in accordance with the Privacy Act of 1974 before releasing any such information. (See Exhibit D of this Instruction.) If a waiver is obtained, Rural Development employees should be prepared to discuss relevant material regarding the case in question. Items of importance may be past production as compared to county or State averages, delinquencies, total debt as it relates to repayment ability and/or unauthorized disposition of secured property or proceeds. If a controversy concerning a particular case is anticipated, the County Supervisor should prepare the information in advance and have it readily available. Rural Development employees should not express their opinions or beliefs in regard to the particular case in question. Comments must be limited to "statements of fact."

(c) In the event the Agency receives a request pursuant to the Privacy Act for access to medical records (including psychological records), and it determines that their disclosure would be harmful to the individual to whom they relate, it may refuse to disclose the records directly to the requester but must transmit them to a doctor designated by that individual.

(d) If the Agency withholds any of the individual's records, it must state which statutory exemption it is claiming as a justification. Many records which might be exempt from disclosure under the Privacy Act are, however, available pursuant to the Freedom of Information Act (FOIA). This is why many requests for disclosure cite both statutes. Thus, if denial is contemplated, it is not sufficient for the Agency to cite a Privacy Act exemption alone. It must also cite an appropriate exemption under the FOIA.

§ 2015.203 (Con.)

(e) Upon request from an individual for access to records pertaining to himself or herself, the Agency, subject to applicable exemptions found in § 2015.204 of this subpart, must:

- (1) inform the individual whether it has such records;
- (2) permit the individual to review the records if they exist;
- (3) permit the individual to be accompanied by a person of his/her choosing at the review; and,
- (4) permit the individual to obtain a copy of all or any portions of such records in a comprehensible format.

(f) The Privacy Act prohibits general disclosure of any record in a system of records to any person other than the subject individual unless the subject individual consents. This provision, which is subject to 12 enumerated exemptions in the Act, was intended to give the individual who is the subject of the record assurance against uncontrolled dissemination of personal data. (Revised 10-09-02, PN 351.)

§ 2015.204 Legal basis for withholding information (exemptions from disclosure).

Except for certain medical records discussed in § 2015.203 of this subpart, and the mandatory nondisclosures under 5 U.S.C. 552a(b) general rule which "would constitute a clearly unwarranted invasion of personal privacy," there is only one Privacy Act exemption invoked by Rural Development in denying a request for Privacy Act records. This exemption is 5 U.S.C. 552a(d)(5). (Revised 10-09-02, PN 351.)

(a) 5 U.S.C. 552a(d)(5) - "Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding." This ground for denial is relevant to material Rural Development has "compiled in reasonable anticipation of a civil action or proceeding" where such information is developed relative to a problem case for which Rural Development intends to seek litigation. It should also be invoked where there is a request for a tort claim file, for investigative reports from the OIG, or where communications with the OIG or OGC are responsive to a request. (Revised 10-09-02, PN 351.)

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§ 2015.205 Amendment of records.

The standard for amending records is set forth in U.S.C. 552a(e)(5), which requires records to be "accurate, relevant, timely, and as complete as is reasonably necessary to assure fairness in determinations about the individual made on the basis of the records." The amendment provisions relate to factual errors only. If the record contains a statement of opinion that the requestor believes is inaccurate, it is not subject to amendment on request. When a request has been made, not to amend a record, but rather to delete information from a file, the applicable standard is found in 5 U.S.C. 552a(e)(1) of the Act, which requires that information contained in Federal records be "relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President."

(a) The Agency must give a written acknowledgement of a request for amendment of records within 10 business days of receipt of the request. Promptly thereafter, the Agency must either make the requested correction or inform the individual of its refusal to amend the record. If the Agency refuses amendment, it should state the reason for the refusal, set out the procedures whereby a request for review of the refusal may be made, and provide the name and address of the appropriate Rural Development Administrator to whom the appeal should be addressed. (Revised 10-09-02, PN 351.)

(b) The Agency must make a final determination on the request for review within 30 days. If, after review, the Agency determines not to amend the record, it must permit the individual to file a concise statement setting forth the reasons for disagreement with the Agency's refusal to amend and notify the individual of the provisions for judicial review of the refusal under 5 U.S.C. 552a(g)(1)(A) of the Act.

§ 2015.206 Accounting for disclosure.

A written accounting will be made of all disclosures made by Rural Development and will be retained as part of the record from which disclosure was made. This accounting, which will be retained for five years or the life of the record, whichever is longer, will include the name and address of the person or agency to whom the disclosure was made and the date, nature, and purpose of each disclosure. (Revised 10-09-02, PN 351.)

§ 2015.207 Civil remedies.

The Privacy Act authorizes individuals to bring injunctive actions to enforce access and amendment rights. An individual may also sue to recover damages when adversely affected by the Agency's failure to comply with any provision of the Act or implementing regulation. By providing for these civil actions, Congress sought to ensure that individuals would have ready access to the courts.

(a) The civil actions provided for in the Act may be brought only against the Agency itself or against the Administrator in his official capacity. Civil suit may not be brought against subordinate Agency officials.

(b) The Act provides that actions seeking damages, as opposed to those seeking injunctive relief, may be filed in two situations: (1) where the Agency has failed to maintain a record relating to an individual in an accurate, relevant, timely, and complete manner, and the individual has been adversely affected by a determination made on the basis of the record relating to his or her qualifications, character, rights, opportunities, or benefit, and (2) where an individual is adversely affected by the Agency's failure to comply with any provision of the Act or any rule promulgated under the Act. Adverse effect includes not only monetary damage, but also nonpecuniary and nonphysical harm such as mental distress or embarrassment.

(c) In order to actually recover damages, however, the Act requires a showing that the Agency's action was intentional or willful. If such a showing is made, the court must award both (1) actual damages or \$1,000, whichever is higher, and (2) the complainant's cost of bringing the action and reasonable attorney fees. Punitive damages may not be imposed.

§ 2015.208 Criminal penalties.

In addition to civil remedies, the Act creates three criminal offenses and classifies each of them as a misdemeanor subject to a maximum fine of \$5,000. Specifically, the Act makes it unlawful:

§ 2015.208 (Con.)

- (a) for any Agency officer or employee to knowingly and willfully disclose individually identifiable information, the disclosure of which is prohibited by the Act or rules or regulations promulgated under the Act, to any person or Agency not entitled to receive it;
- (b) for any Agency officer or employee to willfully maintain a system of records without meeting the notice requirements of the Act; or
- (c) for any person to knowingly and willfully request or obtain any record concerning an individual from the Agency under false pretenses.

§ 2015.209 Fees.

Fees can only be charged for the duplication of the records at \$.20 per page, minus the charge for the first 100 reproduced pages. No fees will be charged for the time it takes to search for records, or for the time it takes to review the records to determine if any exemptions apply, or to a requester who sought to make a physical inspection but is instead provided copies at the discretion of the Agency. We will waive all fees in all circumstances where the amount of the fee is \$25.00 or less. (Revised 10-09-02, PN 351.)

§ 2015.210 Exhibits.

Exhibits A and B are Departmental Regulations published in the Federal Register as part of Title 7 of the Code of Federal Regulations. Exhibit D may be used to secure permission to release Privacy Act records. The Exhibits provide material necessary for proper administration of the Act. (Revised 12-05-13, PN 466.)

§ 2015.211 - 2015.250 [Reserved]

ATTACHMENTS: Exhibits A, B, C [Reserved], D, E [Reserved]

Privacy Act Regulations

Sec.

- 1.110 Purpose and scope.
- 1.111 Definitions.
- 1.112 Procedures for requests pertaining to individual records in a record system.
- 1.113 Times, places, and requirements for identification of individuals making requests.
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AUTHORITY: 5 U.S.C. 552a.

Privacy Act Regulations

§1.110 Purpose and scope.

This subpart contains the regulations of the U.S. Department of Agriculture (USDA) implementing the Privacy Act of 1974 (5 U.S.C. 552a). It sets forth the basic responsibilities of each agency of USDA with regard to USDA's compliance with the requirements of the Act, and offers guidance to members of the public who wish to exercise any of the rights established by the Act with regard to records maintained by an agency of USDA.

§1.111 Definitions.

For the purpose of this subpart the terms "individual," "maintain," "record," "system of records," "statistical record," and "routine use" shall have the meanings set forth in 5 U.S.C. 552a(a). The term "agency" shall mean an agency of USDA, unless otherwise indicated.

§1.112 Procedures for requests pertaining to individual records in a record system.

a) Any individual who wishes to be notified if a system of records maintained by an agency contains any record pertaining to him, or to request access to such records, shall submit a written request in accordance with the instructions set forth in the system notice for that system of records. This request shall include:

- (1) The name of the individual making the request;
- (2) The name of the system of records (as set forth in the system notice to which the request relates);
- (3) Any other information specified in the system notice; and
- (4) When the request is one for access, a statement as to whether the requester desires to make a personal inspection of the records, or be supplied with copies by mail.

(b) Any individual whose request under paragraph (a) of this section is denied may appeal that denial to the head of the agency which maintains the system of records to which the request relates.

(c) In the event that an appeal under paragraph (b) of this section is denied, the requester may bring a civil action in federal district court to seek review of the denial.

§1.113 Times, places, and requirements for identification of individuals making requests.

(a) If an individual submitting a request for access under §1.112 has asked that an agency authorize a personal inspection of records pertaining to him, and the agency has granted that request, the requester shall present himself at the time and place specified in the agency's response or arrange another mutually convenient time with the appropriate agency official.

(b) Prior to inspection of the records, the requester shall present sufficient identification (e.g., driver's license, employee identification card, social security card, credit cards) to establish that he is the individual to whom the records pertain. If the requester is unable to provide such identification, he shall complete and sign in the presence of an agency official a signed statement asserting his identity and stipulating that he understands that knowingly or

willfully seeking or obtaining access to records about another individual under false pretenses is a misdemeanor punishable by fine up to \$5,000. No identification shall be required, however, when the records are ones whose disclosure is required by 5 U.S.C. 552.

(c) Any individual who has requested access to records about him via personal inspection, and who wishes to have another person or persons accompany him during this inspection, shall submit a written statement authorizing disclosure of the record in their presence.

(d) Any individual having made a personal inspection of records pertaining to him may request the agency to provide him copies of those records of any portion thereof. Each agency shall grant such requests but may charge fees in accordance with §1.120.

(e) If an individual submitting a request for access under §1.112 wishes to be supplied with copies of the records by mail, he shall include with his request sufficient data for the agency to verify his identity. If the sensitivity of the records warrant it, however, the agency to which the request is directed may require the requester to submit a signed, notarized statement indicating that he is the individual to whom the records pertain and stipulating he understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is a misdemeanor punishable by fine up to \$5,000. No identification shall be required, however, when the records are ones whose disclosure is required by 5 U.S.C. 552. If the agency to which this request is directed determines to grant the requested access, it may charge fees in accordance with §1.120 before making the necessary copies.

§1.114 Disclosure of requested information to individuals.

(a) Any agency which receives a request or appeal under §1.112 should acknowledge the request or appeal within 10 days of its receipt (excluding Saturdays, Sundays, and legal public holidays). Wherever practicable, the acknowledgement should indicate whether or not access will be granted and, if so, when and where. When access is to be granted, the agency should provide the access within 30 days of receipt of the request or appeal (excluding Saturdays, Sundays and legal public holidays) unless, for good cause shown, it is unable to do so. If the agency is unable to meet this deadline, it shall inform the requester of this fact, the reasons for its inability to do so, and an estimate of the date on which access will be granted.

(b) Nothing in 5 U.S.C. 552a or this subpart shall be interpreted to require that an individual making a request under §1.112 be granted access to the physical record itself. The form in which a record is kept (e.g., on magnetic tape), or the content of the record (e.g., a record indexed under the name of the requester may contain records which are not about the requester) may require that the record be edited or translated in some manner. Neither of these procedures may be utilized, however, to withhold information in a record about the requester.

(c) No agency shall deny any request under §1.112 for information concerning the existence of records about the requester in any system of records it maintains, or deny any request for access to records about the requester in any system of records it maintains, unless that system is exempt from the requirements of 5 U.S.C. 552a(d).

(d) If an agency receives a request pursuant to §1.112(a) for access to records in a system of records it maintains which is so exempted, the system manager shall determine if the exemption is to be asserted. If he determines to deny the request, he shall inform the requester of that determination, the reason for the determination, and the title and address of the agency head to whom the denial can be appealed.

(e) If the head of an agency determines that an appeal pursuant to §1.112(b) is to be denied, he shall inform the requester of that determination, the reason therefore, and his right under 5 U.S.C. 552a(g) to seek judicial review of the denial in federal district court.

(f) Nothing in 5 U.S.C. 552a or this subpart shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§1.115 Special procedures: Medical records.

In the event an agency receives a request pursuant to §1.112 for access to medical records (including psychological records) whose disclosure it determines would be harmful to the individual to whom they relate, it may refuse to disclose the records directly to the requester but shall transmit them to a doctor designated by that individual.

§1.116 Request for correction or amendment to record.

(a) Any individual who wishes to request correction or amendment of any record pertaining to him contained in a system of records maintained by an agency shall submit that request in writing in accordance with the instructions set forth in the system notice for that system of records. This request shall include:

- (1) The name of the individual making the request;
- (2) The name of the system of records (as set forth in the system notice to which the request relates);
- (3) A description of the nature (e.g., modification, addition, or deletion) and substance of the correction or amendment requested; and
- (4) Any other information specified in the system notice.

(b) Any individual submitting a request pursuant to paragraph (a) of this section shall include sufficient information in support of that request to allow the agency to which it is addressed to apply the standards set forth in 5 U.S.C. 552a(e)(1) and (5).

(c) Any individual whose request under paragraph (a) of this section is denied may appeal that denial to the head of the agency which maintains the system of records to which the request relates.

(d) In the event that an appeal under paragraph (c) of this section is denied, the requester may bring a civil action in federal district court to seek review of the denial.

§1.117 Agency review of request for correction or amendment of record.

(a) Any agency which receives a request for amendment or correction under §1.116 shall acknowledge that request within 10 days of its receipt (excluding Saturdays, Sundays and legal public holidays). It shall also promptly, either:

- (1) Make any correction, deletion or addition with regard to any portion of a record which the requester believes is not accurate, relevant, timely or complete; or
- (2) Inform the requester of its refusal to amend the record in accordance with his request; the reason for the refusal; the procedures whereby he can appeal the refusal to the head of the agency; and the title and business address of that official. If the agency informs the requester of its determination within the 10-day deadline, a separate acknowledgement is not required,

(b) If an agency is unable to comply with either paragraphs (a) (1) or (2) of this section within 30 days of its receipt of a request for correction or amendment, (excluding Saturdays, Sundays and legal public holidays), it should inform the requester of that fact, the reasons therefore, and the approximate date on which a determination will be reached.

(c) In conducting its review of a request for correction or amendment, each agency shall be guided by the requirements of 5 U.S.C. 552a(e)(1) and (5).

(d) If an agency determines to grant all or any portion of a request for correction or amendment, it shall:

(1) Advise the individual of that determination;

(2) Make the requested correction or amendment; and

(3) Inform any person or agency outside USDA to whom the record has been disclosed, and where an accounting of that disclosure is maintained in accordance with 5 U.S.C. 552a(c), of the occurrence and substance of the correction or amendments.

(e) If an agency determines not to grant all or any portion of a request for correction or amendment, it shall:

(1) Comply with paragraph (d) of this section with regard to any correction or amendment which is made;

(2) Advise the requester of its determination and the reasons therefore;

(3) Inform the requester that he may appeal this determination to the head of the agency which maintains the system of records; and

(4) Describe the procedures for making such an appeal, including the title and business address of the official to whom the appeal is to be addressed.

(f) In the event that an agency receives a notice of correction or amendment to information in a record contained in a system of records which it maintains, it shall comply with paragraphs (d)(2) and (3) of this section in the same manner as if it had made the correction or amendment itself.

§1.118 Appeal of initial adverse agency determination on correction or amendment.

(a) Any individual whose request for correction or amendment under §1.116 is denied, and who wishes to appeal that denial, shall address such appeal to the head of the agency which maintains the system of records to which the request relates, in accordance with the procedures set forth in the agency's initial denial of the request.

(b) The head of each agency shall make a final determination with regard to an appeal submitted under paragraph (a) of this section not later than 30 days (excluding Saturdays, Sundays and legal public holidays) from the date on which the individual requests a review, unless, for good cause shown, the head of the agency extends this 30-day period and so notifies the requester, together with an estimate of the date on which a final determination will be made. Such extension should be utilized only in exceptional circumstances and should not normally exceed 30 days. The delegation of authority set forth in this paragraph may not be redelegated.

(c) In conducting his review of an appeal submitted under paragraph (a) of this section, the head of an agency shall be guided by the requirements of 5 U.S.C. 552a(e)(1) and (5).

(d) If the head of an agency determines to grant all or any portion of an appeal submitted under paragraph (a) of this section, he shall inform the requester and the agency shall comply with the procedures set forth in §1.117(d)(2) and (d)(3).

(e) If the head of an agency determines in accordance with paragraph (c) of this section not to grant all or any portion of an appeal submitted under paragraph (a) of this section, he shall inform the requester:

- (1) Of this determination and the reasons therefore;
- (2) Of the requester's right to file a concise statement of his reasons for disagreeing with the agency's decision;
- (3) Of the procedures for filing such a statement of disagreement;
- (4) That such statements of disagreement will be made available to anyone to whom the record is subsequently disclosed, together with (if the agency deems it appropriate) a brief statement by the agency summarizing its reasons for refusing to amend the record;
- (5) That prior recipients of the disputed record will be provided with a copy of the statement of disagreement, together with (if the agency deems it appropriate) a brief statement of the agency's reasons for refusing to amend the record, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and
- (6) Of the requester's right to seek judicial review of the agency's determination in accordance with 5 U.S.C. 552a(g). The agency shall insure that any statements of disagreement submitted by the requester are handled in accordance with paragraphs (e)(4) and (5) of this section.

§1.119 Disclosure of record to person other than the individual to whom it pertains.

No agency shall disclose any record which is contained in a system of records it maintains, by any means of communication to any person, or to another agency outside USDA, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless the disclosure is authorized by one or more provisions of 5 U.S.C. 552a(b).

§1.120 Fees.

Any agency which provides copies of records pursuant to a request under this subpart may charge fees for the direct costs of producing such copies in accordance with Appendix A to Subpart A of this Part. No agency, however, shall charge any fee for searches necessary to locate records. Nor shall an agency charge any fees for copies or searches, when the requester sought to make a personal inspection but was provided copies instead at the discretion of the agency.

§1.121 Penalties.

The criminal penalties which have been established for violations of the Privacy Act of 1974 are set forth in 5 U.S.C. 552a(i). These penalties are applicable to any officer or employee of an agency who commits any of the enumerated acts. These penalties also apply to contractors and employees of such contractors who enter into contracts with an agency of USDA on or after September 27, 1975, and who are considered to be employees of the agency within the meaning of 5 U.S.C. 552a(m).

Internal Directives

Sec. 1 General Requirements. Each agency that maintains a system of records subject to 5 U.S.C. 552a and the regulations of this subpart shall:

(a) Maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(b) Collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(c) Inform each individual whom it asks to supply information, on the form which it uses to collect the information, or on a separate form that can be retained by the individual:

(1) The authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses which may be made of the information, as published pursuant to paragraph (d)(4) of this section; and

(4) The effects on him, if any, of not providing all or part of the requested information.

(d) Subject to the provisions of section 2 of this appendix, prepare for publication in the Federal Register at least annually a notice of the existence and character of each system it maintains, which notice shall include:

(1) The name and location(s) of the system;

(2) The categories of individuals on whom records are maintained in the system;

- (3) The categories of records maintained in the system;
 - (4) Each routine use of the records contained in the system, including the categories of uses and the purpose of such use;
 - (5) The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;
 - (6) The title and business address of the agency official who is responsible for the system of records;
 - (7) The agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;
 - (8) The agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and
 - (9) The categories of sources of records in the system.
- (e) Maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in the determination;
- (f) Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to 5 U.S.C. 552a(b)(2), make reasonable efforts to assure that such records are accurate, complete, timely and relevant for agency purposes;
- (g) Maintain no record describing how any individual exercises rights guaranteed by the first Amendment unless expressly authorized by statute or by the individual about whom the record is maintained, or unless pertinent to and within the scope of an authorized law enforcement activity;
- (h) Make reasonable efforts to serve notice on an individual when any record on such an individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(i) Establish rules of conduct for persons involved in the design, development, operation or maintenance of any system of records, or in maintaining any record and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(j) Establish appropriate administrative, technical and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience or unfairness to any individual on whom information is maintained.

Sec. 2 Amendment of routine use for an existing system of records, or establishment of a new system of records.

(a) Any agency which intends to add a routine use, or amend an existing one, in a system of records it maintains, shall, in accordance with 5 U.S.C. 552a(e)(11), insure that 30 days advance notice of such action is given by publication in the Federal Register and an opportunity provided for interested persons to submit written data, views or arguments to the agency.

(b) Any agency which intends to establish a new system of records, or to alter any existing system of records, shall insure that adequate advance notice is provided to Congress and the Office of Management and Budget to permit an evaluation of the probable or potential effect of such action on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers. Such notice is required for any new system of records and for any alteration in an existing one which will:

- (1) Increase the number or types of individuals on whom records are maintained;
- (2) Expand the type or amount of information maintained;
- (3) Increase the number or categories of agencies or other persons who may have access to those records;

(4) Alter the manner in which the records are organized so as to change the nature or scope of those records (e.g., the combining of two or more existing systems);

(5) Modify the way the system operates at its location(s) in such a manner as to alter the procedures under 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 above available to the individual named in the record at his 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, if such contract is agreed to on or after September 27, 1975, shall be considered to be an employee of an agency and therefore subject to the criminal penalties set forth in that section.

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 social security account number.

(b) The provisions of 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 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 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 (beginning March 30, 1976) 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 systems 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 records which is otherwise accessible to such individual under the provisions of 5 U.S.C. 552a and this subpart.

AUTHORIZATION TO MAKE INQUIRY OF RURAL DEVELOPMENT, A GOVERNMENT
MISSION AREA, AND WAIVER OF PROVISIONS OF
THE PRIVACY ACT OF 1974

TO WHOM IT MAY CONCERN:

I (WE), DO HEREBY AUTHORIZE RURAL DEVELOPMENT TO RELEASE TO
(Name of Third Party Requester) ANY INFORMATION WHICH THEY MAY SEEK
OR REQUEST FROM RECORDS OF RURAL DEVELOPMENT CONCERNING MY
(Rural Development personnel will fill out here exactly what the third
party requester wants from this individual's file) TO RURAL DEVELOPMENT.
ANY RIGHTS WHICH I MAY HAVE TO THE CONTRARY PURSUANT TO THE PRIVACY
ACT ARE HEREBY EXPRESSLY WAIVED.

(Signature of Applicant, Borrower, or Grantee) (Date of Signature)

WITNESS: (Name of Witness) SIGNED: (Signature of Witness)

WITNESS: (Name of Witness) SIGNED: (Signature of Witness)

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