

not relieve the DIB CS Program participant or the Government from obligations to continue to protect against the unauthorized use or disclosure of GFI, attribution information, contractor proprietary information, third-party proprietary information, or any other information exchanged under this program, as required by law, regulation, contract, or the FA.

(f) Upon termination of the FA, change of status as a defense contractor, and/or change of Facility Security Clearance (FCL) status below Secret, GFI must be returned to the Government or destroyed pursuant to direction of, and at the discretion of, the Government.

(g) Participation in these activities does not abrogate the Government's, or the DIB CS Program participants' rights or obligations regarding the handling, safeguarding, sharing, or reporting of information, or regarding any physical, personnel, or other security requirements, as required by law, regulation, policy, or a valid legal contractual obligation. However, participation in the voluntary activities of the DIB CS Program does not eliminate the requirement for DIB CS Program participants to report cyber incidents in accordance with § 236.4.

■ 9. Revise § 236.7 to read as follows:

§ 236.7 DoD's DIB CS Program requirements.

(a) To participate in the DIB CS Program, a contractor must own or operate a covered contractor information system and shall execute the standardized FA with the Government (available during the application process), which implements the requirements set forth in §§ 236.5 and 236.6.

(b) In order for DIB CS Program participants to receive classified cyber threat information electronically, the company must be a cleared defense contractor and must:

(1) Have an existing active facility clearance level (FCL) to at least the Secret level in accordance with 32 CFR part 117;

(2) Have or acquire a Communication Security (COMSEC) account in accordance with 32 CFR part 117, which provides procedures and requirements for COMSEC activities;

(3) Have or acquire approved safeguarding for at least Secret information, and continue to qualify under 32 CFR part 117 for retention of its FCL and approved safeguarding; and

(4) Obtain access to DoD's secure voice and data transmission systems supporting the voluntary DIB CS Program.

Dated: March 1, 2024.

Patricia L. Toppings,

*OSD Federal Register Liaison Officer,
Department of Defense.*

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[Docket ID: DoD-2023-OS-0060]

RIN 0790-AL64

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary of Defense (OSD), Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Department of Defense (Department or DoD) is issuing a final rule to amend its regulations to exempt portions of the system of records titled DoD-0019, "Information Technology Access and Audit Records," from certain provisions of the Privacy Act of 1974.

DATES: This rule is effective on March 12, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa Keleta, Privacy and Civil Liberties Directorate, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350-1700; *OSD.DPCLTD@mail.mil*; (703) 571-0070.

SUPPLEMENTARY INFORMATION:

Discussion of Comments and Changes

The proposed rule published in the **Federal Register** (88 FR 60411-60413) on September 1, 2023. Comments were accepted for 60 days until October 31, 2023. No comments were received.

I. Background

In finalizing this rule, DoD is exempting portions of this system of records titled, DoD-0019, "Information Technology Access and Audit Records," from certain provisions of the Privacy Act of 1974. The purpose of this system of records is to support information systems being established within the DoD using the same categories of data for the same purposes. This system of records covers DoD's maintenance of records related to requests for user access, attempts to access, granting of access, records of user actions for DoD information technology (IT) systems,

and user agreements. This includes details of programs, databases, functions, and sites accessed and/or used, and the information products created, received, or altered during the use of IT systems. The system consists of both electronic and paper records and will be used by DoD components and offices to maintain records about individuals who have user agreements, user access to and activity on networks, computer systems, applications, databases, or other digital technologies.

II. Privacy Act Exemption

The Privacy Act allows Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including those that provide individuals with a right to request access to and amendment of their own records. If an agency intends to exempt a particular system of records, it must first go through the rulemaking process pursuant to 5 U.S.C. 553(b)(1)-(3), (c), and (e). The OSD is amending 32 CFR part 310 to add a new Privacy Act exemption rule for this system of records. The DoD is adding exemptions for this system of records pursuant to 5 U.S.C. 552a(k)(1) and (2) because some of its records may contain classified national security information or investigatory material compiled for law enforcement purposes. The DoD is claiming an exemption from several provisions of the Privacy Act, including various access, amendment, disclosure of accounting, and certain recordkeeping and notice requirements, to avoid, among other harms, frustrating the underlying purposes for which the information was gathered.

Regulatory Analysis

Executive Order 12866—Regulatory Planning and Review; Executive Order 13563—Improving Regulation and Regulatory Review; and Executive Order 14094—Modernizing Regulatory Review

Executive Orders 12866 (as amended by Executive Order 14094) and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not a significant regulatory action under these Executive orders.

Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*) generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. DoD will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule may take effect no earlier than 60 calendar days after Congress receives the rule report or the rule is published in the **Federal Register**, whichever is later. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4; 2 U.S.C. 1532(a)) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates may result in the expenditure by State, local and Tribal governments in the aggregate, or by the private sector, in any one year of \$100 million in 1995 dollars, updated annually for inflation. This rule will not mandate any requirements for State, local, or Tribal governments, nor will it affect private sector costs.

Regulatory Flexibility Act

The Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency has certified that this rule is not subject to the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is concerned only with the administration of Privacy Act systems of records within the DoD. Therefore, the Regulatory Flexibility Act, as amended, does not require DoD to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) (Pub. L. 96–511; 44 U.S.C. 3501 *et seq.*) was enacted to minimize the paperwork burden for individuals; small businesses; educational and nonprofit institutions; Federal contractors; State, local and Tribal governments; and other persons resulting from the collection of information by or for the Federal Government. The Act requires agencies to obtain approval from the Office of Management and Budget before using identical questions to collect information from ten or more persons.

This rule does not impose reporting or recordkeeping requirements on the public.

Executive Order 13132—Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that has federalism implications, imposes substantial direct requirement costs on State and local governments, and is not required by statute, or has federalism implications and preempts State law. This rule will not have a substantial effect on State and local governments.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on one or more Indian Tribes, preempts Tribal law, or affects the distribution of power and responsibilities between the Federal Government and Indian Tribes. This rule will not have a substantial effect on Indian Tribal governments.

List of Subjects in 32 CFR Part 310

Privacy.

Accordingly, 32 CFR part 310 is amended as follows:

PART 310—PROTECTION OF PRIVACY AND ACCESS TO AND AMENDMENT OF INDIVIDUAL RECORDS UNDER THE PRIVACY ACT OF 1974

■ 1. The authority citation for 32 CFR part 310 continues to read as follows:

Authority: 5 U.S.C. 552a.

■ 2. Amend § 310.13 by adding paragraph (e)(14) to read as follows:

§ 310.13 Exemptions for DoD-wide systems.

* * * * *

(e) * * *

(14) *System identifier and name.*

DoD–0019, “Information Technology Access and Audit Records.”

(i) *Exemptions.* This system of records is exempt from 5 U.S.C. 552a (c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(1) and (2).

(iii) *Exemption from the particular subsections.* Exemption from the particular subsections is justified for the following reasons:

(A) *Subsections (c)(3), (d)(1), and (d)(2)—(1) Exemption (k)(1).* Records in this system of records may contain information that is properly classified

pursuant to executive order.

Application of exemption (k)(1) may be necessary because access to and amendment of the records, or release of the accounting of disclosures for such records, could reveal classified information. Disclosure of classified records to an individual may cause damage to national security.

(2) *Exemption (k)(2).* Records in this system of records may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2). Application of exemption (k)(2) may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could: inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement or disciplinary investigation, and thereby seriously impede law enforcement efforts by permitting the record subject and other persons to whom he might disclose the records or the accounting of records to avoid criminal penalties, civil remedies, or disciplinary measures; interfere with a civil or administrative action or investigation by allowing the subject to tamper with witnesses or evidence, and to avoid detection or apprehension, which may undermine the entire investigatory process; reveal confidential sources who might not have otherwise come forward to assist in an investigation and thereby hinder DoD’s ability to obtain information from future confidential sources; and result in an unwarranted invasion of the privacy of others. Amendment of such records could also impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(B) *Subsections (d)(3) and (4).* These subsections are inapplicable to the extent an exemption is claimed from subsections (d)(1) and (2). Accordingly, exemptions from subsections (d)(3) and (4) are claimed pursuant to (k)(1) and (2).

(C) *Subsection (e)(1).* Additionally, records within this system may be properly classified pursuant to executive order. The collection of information pertaining to the use of government information technology and data systems may include classified records, and it is not always possible to conclusively determine the relevance and necessity of such information in the early stages of a collection. In some instances, it will be only after the collected information is evaluated in light of other information that its relevance and necessity can be assessed. Further, disclosure of classified records

to an individual may cause damage to national security. Additionally, in the collection of information for investigatory or law enforcement purposes it is not always possible to conclusively determine the relevance and necessity of particular information in the early stages of the investigation or adjudication. In some instances, it will be only after the collected information is evaluated in light of other information that its relevance and necessity for effective investigation and adjudication can be assessed. Collection of such information permits more informed decision-making by the Department when making required investigatory or law enforcement determinations. Accordingly, application of exemptions (k)(1) and (2) may be necessary.

(D) *Subsections (e)(4)(G) and (H).* These subsections are inapplicable to the extent exemption is claimed from subsections (d)(1) and (2).

(E) *Subsection (e)(4)(I).* To the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect national security, the confidentiality of sources of information and to protect the privacy and physical safety of witnesses and informants. Accordingly, application of exemptions (k)(1) and (2) may be necessary.

(F) *Subsection (f).* The agency's rules are inapplicable to those portions of the system that are exempt. Accordingly, application of exemptions (k)(1) and (2) may be necessary.

(iv) *Exempt records from other systems.* In the course of carrying out the overall purpose for this system, exempt records from other systems of records may in turn become part of the records maintained in this system. To the extent that copies of exempt records from those other systems of records are maintained in this system, the DoD claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the prior system(s) of which they are a part, provided the reason for the exemption remains valid and necessary.

Dated: March 6, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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BILLING CODE 6001-FR-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0155]

RIN 1625-AA00

Safety Zone; Gulf of Mexico and South Bay, Boca Chica Beach, TX

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones to protect personnel, vessels, and the marine environment from potential hazards created by commercial spaceflight activities. One safety zone is in the navigable waters of South Bay, TX and the other is in the navigable waters of the Gulf of Mexico, within 12 nautical miles. Entry of vessels or persons into these zones are prohibited unless specifically authorized by the Captain of the Port, Sector Corpus Christi (COTP) or a designated representative.

DATES: This rule is effective from March 14, 2024 through March 26, 2024, and subject to enforcement between the hours of 6 a.m. to noon, each day.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0155 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361-939-5130, email Anthony.M.Garofalo@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment

when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. Space Exploration Technologies Corporation (SpaceX) will begin operation of its Starship/Super Heavy launch operations on March 14, 2024, through March 26, 2024, each day. There is insufficient time between now and then to provide notice of a proposal to create these safety zones, consider comments received, and publish a final rule.

In addition, the Coast Guard finds that good cause also exists under 5 U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register** because the safety zones must be in effect in fewer than 30 days to serve their purpose and it would be contrary to the public interest to delay their effective date until after the hazardous activities begin.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Sector Corpus Christi (COTP) has determined that hazards inherent in rocket launching activity necessitate provisions to protect personnel, vessels, and the marine environment while it is taking place. The hazards inherent in SpaceX's rocket launching activities include free falling debris and/or descending vehicles or vehicle components.

IV. Discussion of the Rule

This rule is subject to enforcement from 6 a.m. to noon each day, from March 14, 2024, through March 26, 2024. No vessel or person will be permitted to enter the temporary safety zones during the period in which the rule is subject to enforcement without obtaining permission from the COTP or a designated representative, who may be contacted on Channel 16 VHF-FM (156.8 MHz) or by telephone at 361-939-0450. The Coast Guard will issue Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.