

Rules and Regulations

Federal Register

Vol. 68, No. 99

Thursday, May 22, 2003

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2606

RIN 3209-AA18

Privacy Act; Implementation

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is adopting as final, with two minor changes, a proposed rule establishing procedures relating to access, maintenance, disclosure, and amendment of records which are in OGE systems of records under the Privacy Act of 1974. This rule also establishes rules of conduct for OGE personnel who have responsibilities under that Act.

EFFECTIVE DATE: May 22, 2003.

FOR FURTHER INFORMATION CONTACT: Elaine Newton, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917; telephone: 202-208-8000; TDD: 202-208-8025; FAX: 202-208-8037.

SUPPLEMENTARY INFORMATION: In this rulemaking document, OGE is adopting final rules under the Privacy Act, 5 U.S.C. 552a. On January 22, 2003, at 68 FR 2923-2929, OGE published a proposed rule that would establish procedures relating to OGE systems of records under the Privacy Act, for codification at 5 CFR part 2606. The proposed rule invited comments from the public, to be received by OGE on or before March 24, 2003. No comments were received. After consultation with the Office of Management and Budget during the course of Executive Order 12866 review of this final rule, OGE has determined that only two minor changes are needed to the proposed rule in adopting it as final. The first change is that OGE is dropping the proposed

reference in § 2606.203(c) to any possible fee for certified copies of records when such are provided. Instead, the section simply provides that OGE and concerned agencies generally will not furnish certified copies of records. The second change is that OGE is clarifying in § 2606.206(a)(2)(ii)(B) that only a previous failure to timely pay a *Privacy Act* fee can serve as an alternate basis for the possible requirement of an advance payment for additional copies of records being provided under the Privacy Act.

In addition, OGE published in the **Federal Register** on January 22, 2003 (in a separate part II), at 68 FR 3097-3109, a notice of proposed new and revised systems of records under the Privacy Act. Public comments were invited, to be received by OGE by March 24, 2003. Likewise, OGE did not receive any comments on the notice. Pursuant to that notice, the new and revised records systems will become effective on May 22, 2003 without change (except for the correction of some minor errors, *see* 68 FR 24744 (May 8, 2003)). Therefore, OGE is making this final rule effective on the same date, May 22, 2003.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(d), as Director of the Office of Government Ethics, I find good cause exists for waiving the 30-day delay in effectiveness as to this final rule. The delayed effective date provision is being waived in part because this final OGE Privacy Act rule makes only two minor changes to the previously published proposed rule (as explained above). Furthermore, it is in the public interest that this OGE Privacy Act regulation become effective on the same date, May 22, 2003, as OGE's new and revised Privacy Act systems of records.

Executive Order 12866

In promulgating this final rule, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This regulation has also been approved by the Office of Management and Budget under the Executive order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this

final rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities, because it will primarily affect current and former executive branch Federal employees.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subpart II), this regulation would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this regulation because it does not contain information collection requirements that require the approval of the Office of Management and Budget.

Congressional Review Act

The Office of Government Ethics has determined that this regulation involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law at the same time this rulemaking document is sent to the Office of the Federal Register for publication in the **Federal Register**.

List of Subjects in 5 CFR Part 2606

Administrative practice and procedure, Archives and records, Conflict of interests, Government employees, Privacy Act.

Approved: May 16, 2003.

Amy L. Comstock,
Director, Office of Government Ethics.

■ Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending subchapter A of chapter XVI of title 5 of