

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2606

RIN 3209-AA18

#### Privacy Act Rules

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Government Ethics is issuing a proposed rule that would establish procedures relating to access, maintenance, disclosure, and amendment of records which are in OGE systems of records under the Privacy Act of 1974, and that would establish rules of conduct for OGE personnel who have responsibilities under that Act.

**DATES:** Public comments are invited and must be received by March 24, 2003.

**ADDRESSES:** Comments should be sent to the Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, Attention: Ms. Newton. Electronic comments may also be sent to OGE's Internet E-mail address at [usoge@oge.gov](mailto:usoge@oge.gov) (such comments should include the caption "Proposed Privacy Act Rules").

**FOR FURTHER INFORMATION CONTACT:** Elaine Newton, Attorney-Advisor, Office of Government Ethics, telephone: 202-208-8000, extension 1137; TDD: 202-208-8025; FAX: 202-208-8037.

**SUPPLEMENTARY INFORMATION:** The Privacy Act of 1974, at 5 U.S.C. 552a(f), requires every agency that maintains a system of records covered by the Privacy Act to promulgate regulations that: (1) Establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him; (2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual; (3) establish procedures for the

disclosure to the data subject upon his request of his record or information pertaining to him, including special procedures if deemed necessary, for the disclosure to the data subject of medical records, including psychological records, pertaining to him; (4) establish procedures for reviewing a request from the data subject concerning the amendment of any record or information pertaining to the data subject, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each data subject to be able to exercise fully his rights under the Privacy Act; and (5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of the first copy of the record provided as well as the cost of any search for and review of the record. In addition, section 552a(e)(9) of the Privacy Act requires an agency to 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 the Act, including any other rules and procedures adopted pursuant to the Act and the penalties for noncompliance.

The Privacy Act, at 5 U.S.C. 552a(e)(4), also requires each agency that maintains a system of records to publish in the **Federal Register** upon establishment or revision a notice of the existence and character of the system of records. In a separate notice published in the **Federal Register** today, OGE is proposing to revise and rename two existing Government-wide systems of records under the Privacy Act covering Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records (OGE/GOVT-1) and Executive Branch Confidential Financial Disclosure Reports (OGE/GOVT-2). In addition, OGE is issuing, for the first time, five internal systems of records to cover current and former OGE employees: Pay, Leave and Travel Records (OGE/INTERNAL-1), Telephone Call Detail Records (OGE/INTERNAL-2), Grievance Records (OGE/INTERNAL-3), Computer Systems Activity and Access Records (OGE/INTERNAL-4), and Employee

Locator and Emergency Notification Records (OGE/INTERNAL-5).

#### I. General Provisions

As proposed, subpart A of the rule would contain general provisions setting forth the purpose of the regulation (§ 2606.101), definitions that apply throughout the part (§ 2606.102), and a description of OGE's executive branch Governmentwide and internal systems of records (§ 2606.103). As proposed, subpart A of the rule would also specify OGE and agency responsibilities for the records systems (§ 2606.104), and would establish procedures whereby an individual can be notified in response to his request if any OGE system of records named by the individual contains a record pertaining to him (§ 2606.105).

In addition, subpart A would set forth Privacy Act rules of conduct and responsibilities for OGE employees who design, develop, operate, or maintain a system of records (§ 2606.106). These conduct and responsibilities rules would not apply to employees of other agencies concerned; they would be subject to their own agency's Privacy Act conduct and responsibilities rules. These conduct and responsibilities rules are authorized by subsection (e)(9) of the Privacy Act, and therefore are separate from the Standards of Ethical Conduct in 5 CFR part 2635. Various provisions in the Standards of Ethical Conduct (e.g., 5 CFR 2635.703 regarding use of nonpublic information) would also apply to an employee's conduct as to records covered by the Privacy Act.

Overall, these proposed OGE Privacy Act rules would apply both to records in the new OGE internal systems of records as maintained by OGE itself, as well as the newly updated and revised OGE executive branch Governmentwide systems of records which are maintained both by OGE and departments and agencies throughout the executive branch. With respect to those other departments and agencies, these proposed regulations would set forth the overall procedures for the Governmentwide systems, while recognizing that most agencies have their own Privacy Act regulations specifying appropriate appeals officials for access and amendment denials as well as schedules of fees. The details of these agency variations are set forth in