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*Issued by the EPA Chief Information Officer,
Pursuant to Delegation 1-19, dated 7/7/2005*

Processing Privacy Act Requests Procedure

1. PURPOSE

This procedure provides the instructions for processing requests for records contained in Agency Privacy Act (PA) systems. The PA provides individuals the right to request access to their records maintained in Agency System of Records (SOR) and to request that their records be amended or corrected. This procedure also establishes instructions for processing administrative appeals.

2. SCOPE AND APPLICABILITY

This procedure applies only to requests from individuals seeking to access, amend or correct records about themselves maintained in a SOR. PA requests will also be processed as Freedom of Information Act (FOIA) requests to ensure the fullest disclosure of responsive records to the individual. All Agency SORs are covered under these procedures.

3. AUDIENCE

All Agency employees and contractors who respond to requests for Agency records.

4. BACKGROUND

The PA regulation of 1974, 5 U.S.C. 552a, prescribes requirements for federal agencies to follow when collecting, maintaining or disseminating information about individuals. More specifically, the Act provides individuals the right to access records maintained about them and have records amended if the records are not accurate, relevant, timely or complete. The Act also requires agencies to safeguard personal information against unwarranted invasions and unauthorized disclosures.

EPA's Privacy Act regulation, 40 CFR Part 16, Section 16.3, sets forth the procedures individuals must follow to access, correct or amend personal records. (See <http://www.epa.gov/fedrgstr/EPA-GENERAL/2006/January/Day-04/g45.htm>.)

5. AUTHORITY

Privacy Act of 1974, 5 USC 552a
Freedom of Information Act, 5 USC 552
EPA Privacy Act Regulations, 40 CFR Part 16

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6. PROCEDURES

All requests to access, correct or amend personal records should cite the Privacy Act of 1974 and reference the type of request being made. The requests must include:

1. The name and signature of the individual making the request;
2. The name of the PA SOR from where the information is being sought, if known; and
3. A notarized statement declaring the individual's identity and stipulating that he/she understands that it is a misdemeanor to knowingly and willfully seek or obtain access to records about another individual under false pretenses.

[In order to verify the identity of the individual, the Agency may require additional documentation (e.g., driver's license, passport, government ID, etc.)].

If an individual requests to personally inspect the records, the Agency must specify the time and place for the review if the request is granted. If an individual wishes that another individual accompany him/her during the inspection, the Agency official may require the individual to sign a statement authorizing disclosure of the record in the presence of another person.

All Privacy Act requests received directly in program offices and regions must be transmitted to the Headquarters FOIA Office for administrative processing and assignment to the responsible Liaison Privacy Official (LPO).

The FOIA Office

- Log the request into the Agency's tracking system;
- Assign the request a PA control number and due date; and
- Transfer the request to the National Privacy Staff.

National LPO

- Verify the identity of the individual**;
- Finalize the request. (The request must contain the information in Items 1-3, above.); and
- Forward the request to the appropriate Program or Regional LPO.

** No verification of identity will be required when the records sought have been determined to be publicly available under FOIA.

HQ Program or Regional LPO

The LPO will promptly forward the request to the appropriate system owner or Information Security Official (ISO) with instructions for responding to the requester by the assigned due date.

ISO or System Owner

- Locate the responsive records;
- Make a determination whether to grant or deny the request;
- Inform the individual in writing of the decision. If the request is denied, provide the reason for

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the decision and the procedures to file an appeal. (See section 2.104(b) of the Agency's FOIA regulations, 40 CFR Part 2, Subpart A, for appeal procedures.); and

- Provide a copy of the response letter and other written correspondence with the requestor to the LPO when the request is closed.

To officially close the PA request file, the Program or Regional LPO must:

Forward a copy of the information provided by the ISO or System Owner to the National LPO.

If an extension of time to respond is required:

The ISO or System Owner who is unable to respond to the request by the due date will inform the individual of the reason(s) for the delay and will provide an estimated time for when a decision will be made. The extension of time to respond must be provided in writing and a copy sent to the HQ LPO.

If an appeal is filed:

- If a request for access to a record is initially denied by any Agency organization (with the exception of Office of the Inspector General (OIG)) and the decision is appealed by the individual, the National Privacy Staff will forward the appeal to the Office of General Counsel (OGC) for a final decision.
- If a request for access to a record is initially denied by OIG and the decision is appealed by the individual, the National Privacy Staff will forward the appeal to the Counsel to the Inspector General for a final decision.

OGC and OIG will:

- Issue Agency decisions on PA appeals;
- Notify the requestor of appeal decisions, including the right to seek judicial review in federal district court; and
- Provide a copy of the Agency's decision to the National Privacy Staff.

Copying Fees

There is no charge to the individual for the first copy of his/her PA records. If additional copies are requested, the Agency's FOIA fee schedule applies. (See Sec. 2.107 (a) of the Agency's FOIA regulations, 40 CFR Part 2, Subpart A, for fee schedule.) <http://www.epa.gov/foia/2107.htm>
Requesters may pay fees by check or money order made payable to the U.S. Environmental Protection Agency, FOIA and Miscellaneous Payments, CFC, P.O. Box 979078, St. Louis, MO 63197-9000. Individuals may also pay fees at www.pay.gov.

7. RELATED DOCUMENTS

- Privacy Act of 1974 (5 USC 552a) (<http://www.nara.gov/fedreg/legal/apa/552a.html>)
- M-99-18 Privacy Policies of Federal Web Sites (<http://www.whitehouse.gov/omb/memoranda/m99-18.html>), June 2, 1999
- M-01-05, Guidance of Inter-Agency Sharing of Personal Data – Protecting Personal Privacy, (<http://www.whitehouse.gov/omb/memoranda/m01-05.html>), December 20, 2000
- [M-05-04, Policies for Federal Agency Public Websites](#), December 17, 2004

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8. ROLES AND RESPONSIBILITIES

FOIA Office – Logs, tracks, assigns due dates for PA requests and responses.

Information Security Officer – Make initial determination on responses to PA requests.

National Liaison Privacy Official – Maintains the official records for PA requests. Provides instructions and guidance to Program and Regional LPOs in processing of PA requests.

National Privacy Staff – Agency Privacy Officer and HQ LPO in Office of Environmental Information.

Office of General Counsel – Makes final Agency determinations on PA requests and maintains the official appeal files.

Office of Inspector General – Makes final determinations on PA requests for records under the jurisdiction of the OIG and maintains the official appeal files for that office.

Program/Regional Liaison Privacy Official – Track and maintain PA requests assigned to respective organization.

System Owners – Make initial determination on responses to PA requests.

9. DEFINITIONS

Access. The ability or opportunity to gain knowledge of personal information.

Appeal. A request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the Agency at the initial request level.

Individual. A citizen of the United States or an alien lawfully admitted to the United States.

Maintain. To collect, use or disseminate.

Personal Identifier. Any information about an individual maintained by an agency, which can be used to distinguish, trace, or identify an individual's identity, including personal information which is linked or linkable to an individual.

Privacy Act Information. Data about an individual that is retrieved by name or other personal identifier assigned to the individual.

Privacy Act. The federal statute that sets forth requirements for agencies when they collect, maintain or disseminate information about individuals.

Record. Any item, collection or grouping of information about an individual maintained by an agency (e.g., the individual's education, financial transactions and medical, criminal or employment history.)

System Owner. Individual with the primary responsibility for the development or maintenance of a paper or electronic system.

System of Records. A group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

10. WAIVERS

None.

11. RELATED POLICIES, STANDARDS AND GUIDANCE

- EPA Privacy Act regulations http://intranet.epa.gov/privacy/privacy_act.htm
 - EPA Freedom of Information Act regulations <http://www.epa.gov/foia/foiaregs.htm>
 - Privacy Act Manual <http://www.epa.gov/privacy/policy/2190/index.htm>
 - Privacy Act Statement http://intranet.epa.gov/privacy/guidance_document.htm
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- Privacy Policy <http://www.epa.gov/privacy/policy/index.htm>
- System of Records Notice http://intranet.epa.gov/privacy/policies_procedures.htm

12. MATERIAL SUPERSEDED

None.

13. ADDITIONAL INFORMATION

For further information, please contact the FOIA and Privacy Branch, Collection Strategies Division, Office of Information Collection, Office of Environmental Information or visit http://intranet.epa.gov/privacy/policies_procedures.htm.



*Malcolm D. Jackson, Assistant Administrator
and Chief Information Officer
Office of Environmental Information*