



7536-01-P

## **NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

### **45 CFR Part 1115**

**RIN 3135-AA34; 3136-AA40; 3137-AA28**

### **Privacy Act Regulations**

**AGENCY:** National Endowment for the Arts, National Endowment for the Humanities, Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

**ACTION:** Final rule.

**SUMMARY:** This document removes the National Foundation on the Arts and the Humanities’ (the “Foundation”) regulations implementing the Privacy Act of 1974.

These regulations are obsolete because each of the Foundation’s constituent agencies—the National Endowment for the Arts (“NEA”), the National Endowment for the Humanities (“NEH”), the Institute of Museum and Library Services (“IMLS”), and the Federal Council on the Arts and the Humanities (“FCAH”)—either have adopted their own, agency-specific regulations, or are not required to implement Privacy Act regulations.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Deputy General Counsel, National Endowment for the Humanities, (202) 606-8322; [gencounsel@neh.gov](mailto:gencounsel@neh.gov).

### **SUPPLEMENTARY INFORMATION:**

#### **1. Background**

The Foundation operates under the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*), and consists of NEA, NEH, IMLS, and FCAH (collectively, the “Foundation’s constituent agencies”). The Privacy Act regulations published at part 1115 within Subchapter A of 45 CFR Chapter XI apply to the entire Foundation.

As of August 19, 2019, however, the Foundation’s Privacy Act regulations are obsolete because NEA, NEH, and IMLS have each adopted their own, agency-specific regulations, and FCAH is not required to implement Privacy Act regulations. On that date, NEH added NEH-specific Privacy Act regulations to 45 CFR Chapter XI, Subchapter D (45 CFR part 1169), replacing the Foundation’s Privacy Act regulations with respect to NEH. NEA and IMLS had previously added NEA- and IMLS-specific Privacy Act regulations to 45 CFR, Subchapters B and E (45 CFR parts 1159 and 1182), respectively, which replaced the Foundation’s Privacy Act regulations with respect to NEA and IMLS. FCAH relies upon NEA and NEH for its administration and does not maintain any systems of records of its own; thus, it has no need or obligation to publish Privacy Act regulations. *See* 5 U.S.C. 552a(f) (requiring that only an agency that “maintains a system of records shall promulgate rules” implementing the Privacy Act).

Because the Foundation’s Privacy Act regulations are now obsolete, NEA, NEH, and IMLS are issuing this joint final rule to remove them.

## **2. Public Notice and Comment**

Consistent with the Administrative Procedure Act (APA), the Foundation’s constituent agencies find that there is “good cause” to remove the Foundation’s obsolete Privacy Act regulations without public notice and comment. *See* 5 U.S.C. 553(b)(3)(B). Public

notice and comment is unnecessary because this final rule is a minor, non-controversial technical amendment that is unlikely to attract public comment. Moreover, NEA, NEH, and IMLS previously issued their own Privacy Act regulations subject to public notice and comment, and at that time they indicated that the Foundation's regulations would no longer apply to their specific agency. *See* 84 FR 34788 (July 19, 2019); 65 FR 46371 (July 28, 2000); and 71 FR 6374 (February 8, 2006).

In addition, the Foundation's constituent agencies find "good cause" to issue this final rule without a delayed effective date. *See* 5 U.S.C. 553(d)(8). A delayed effective date is not necessary in this instance because NEA's, NEH's, and IMLS's agency-specific regulations are already in effect, and thus the public does not need advance notice to prepare for the removal of the Foundation's obsolete regulations.

### **3. Regulatory Analyses**

*Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

*Paperwork Reduction Act of 1995 ("PRA")*

This action does not impose an information collection burden under the PRA. This action contains no provisions constituting a collection of information under the PRA.

*Regulatory Flexibility Act of 1980 ("RFA")*

This action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

*Unfunded Mandates Reform Act of 1995 (“UMRA”)*

This action does not contain any unfunded mandate as described in the UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments.

*Executive Order 13132 (Federalism)*

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This final rule does not have tribal implications as specified in Executive Order 13175.

Thus, Executive Order 13175 does not apply to this action.

**List of Subjects in 45 CFR Part 1115**

Administrative practice and procedure, Privacy.

**PART 1115—[REMOVED]**

For the reasons stated in the preamble, and under the authority of 5 U.S.C. 552a(f), NEA, NEH (for itself and on behalf of FCAH, for which NEH provides legal counsel), and IMLS amend 45 CFR Chapter XI Subchapter D by removing part 1115

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[FR Doc. 2019-25929 Filed: 12/3/2019 8:45 am; Publication Date: 12/4/2019]