



## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 310

[Docket ID: DoD-2023-OS-0076]

RIN 0790-AL68

#### Privacy Act of 1974; Implementation

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

**ACTION:** Technical amendment.

**SUMMARY:** The DoD is amending this part to correct an error in the Privacy Act exemption rule associated with the Privacy Act system of records DoD-0007, “Defense Reasonable Accommodation and Assistive Technology Records.”

**DATES:** The rule will be effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rahwa Keleta,  
OSD.DPCLTD@mail.mil, (703) 571-0070.

**SUPPLEMENTARY INFORMATION:** The Privacy Act permits Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including the provisions providing individuals with a right to request access to and amendment of their own records and accountings of disclosures of such records. If an agency intends to exempt a particular system of records, it must first go through the rulemaking process to provide public notice and an opportunity to comment on the exemption.

DoD is amending 32 CFR 310.13(e)(6) to correct an error in the Privacy Act exemption rule associated with the Privacy Act system of records notice DoD-0007, “Defense Reasonable Accommodation and Assistive Technology Records.” Section 310.13(e)(6) erroneously claims an exemption for this system of records from 5 U.S.C. 552a(c)(4), which generally requires the

agency maintaining the system of records to inform recipients with whom it has shared a record if later the record was corrected or disputed pursuant to the requirements of the Privacy Act. DoD's inclusion of subsection 552a(c)(4) was an error and DoD is removing it from the exemption rule as well as the DoD-0007 system of records notice, which is being modified in a notice published concurrently in today's issue of the *Federal Register*.

## **Regulatory Analysis**

### **Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"**

Executive Orders 12866 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, distribute 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 (5 U.S.C. 804(2))**

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).

### **Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) 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.

**Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601 et seq.)**

The ATSD(PCLT) has certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) 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.

**Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 501 et seq.)**

The Paperwork Reduction Act (PRA) (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 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 imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. 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 part 310 continues to read as follows:

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

#### **§ 310.13 [Amended]**

2. Section § 310.13 is amended by:

- a. Removing the first “and (4)” from paragraph (e)(6)(i).
- b. Removing “(c)(4),” from the title of paragraph (e)(6)(iii)(A).

Dated: August 24, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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