



## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1202

[FDMS No. NARA-24-0004; NARA-2024-017]

RIN 3095-AC21

### Making a Privacy Act Request

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Direct final rule.

**SUMMARY:** The National Archives and Records Administration (NARA) is amending our regulations on the Privacy Act to allow individuals to submit electronic Privacy Act requests.

**DATES:** This rule is effective [INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], without further action, unless we receive actionable adverse comments by [INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will publish a withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** You may submit comments, identified by RIN 3095-AC21 by the following method:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov>. Follow the online instructions for submitting comments. All submissions must include NARA's name and the regulatory information number for this rule (RIN 3095-AC21). We may publish any comments we receive without changes, including any personal information you include.
- Mail (for paper, flash drive, or CD-ROM submissions. Include "RIN 3095-AC21" on the submission): National Archives and Records Administration; Regulation Comments Desk, Suite 4100; 8601 Adelphi Road; College Park, MD 20740-6001.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Richardson, Strategy and Performance Division, by email at [regulation\\_comments@nara.gov](mailto:regulation_comments@nara.gov), by email at

kimberly.richardson@nara.gov, or by phone at 301-837-2902. Contact [privacy@nara.gov](mailto:privacy@nara.gov) with any questions on NARA's privacy program.

**SUPPLEMENTARY INFORMATION:** The National Archives and Records Administration (NARA) is amending our regulations to allow individuals to submit electronic Privacy Act requests. The revision will incorporate the requirements of the CASES Act and OMB Memo M-21-04. These authorities require agencies to provide a digital service option for individuals to make a digital Privacy Act request. The revised regulation will describe how individuals can make a digital Privacy Act request through NARA's website.

### **Regulatory Analysis**

**Review under Executive Order 12866, Regulatory Planning and Review, 58 FR 51735; Executive Order 13563, Improving Regulation and Regulation Review, 76 FR 23821; and Executive Order 14094 Modernizing Regulatory Review, 88 FR 21879**

The Office of Management and Budget (OMB) has reviewed this rule and determined it is not “significant” under section 3(f) of Executive Order 12866. It is not significant because it consists of administrative and minor revisions, involves agency organization and management, does not change substantive requirements, and imposes no costs on the public.

### **Review under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.)**

This review requires an agency to prepare an initial regulatory flexibility analysis and publish it when the agency publishes the proposed rule. This requirement does not apply if the agency certifies that the rulemaking will not, if promulgated, have a significant economic impact on a substantial number of small entities (5 U.S.C. 603). We certify, after review and analysis, that this rule will not have a significant adverse economic impact on small entities.

### **Review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)**

This rule does not impose additional information collection requirements on the public that are subject to the Paperwork Reduction Act.

### **Review under Executive Order 13132, Federalism, 64 FR 43255**

Review under Executive Order 13132 requires that agencies review regulations for federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, prepare a federalism assessment to assist senior policy makers. This rule will not have any effects on state and local governments within the meaning of the Executive order. Therefore, no federalism assessment is required.

**Review under the Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4; 2 U.S.C. 1532)**

Review under the Unfunded Mandates Reform Act requires that agencies determine whether any Federal mandate in the rulemaking may result in state, local, and tribal governments, in the aggregate, or the private sector, expending \$100 million in any one year. NARA certifies that this rule does not contain a Federal mandate that may result in such an expenditure, and this rule is therefore not subject to this requirement.

**List of Subjects in 36 CFR Part 1202**

Privacy.

For the reasons stated in the preamble, NARA amends 36 CFR part 1202 as follows:

**PART 1202 – REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974**

1. The authority citation for part 1202 continues to read as follows:

**Authority:** 5 U.S.C. 552a; 44 U.S.C. 2104(a).

2. Revise § 1202.40 to read as follows:

**§ 1202.40 How can I gain access to NARA records about myself?**

(a) If you wish to request access to information about yourself contained in a NARA Privacy Act system of records, you may do so in writing or electronically.

(1) Written requests must be directed to the NARA Privacy Act Officer, National Archives and Records Administration, Rm. 3110, 8601 Adelphi Rd., College Park, MD 20740–6001. Your request should be clearly marked on the letter and the envelope as a “Privacy Act Request.”

(2) Electronic requests may be initiated online at <https://www.archives.gov/privacy>.

(b) If you wish to allow another person to review or obtain a copy of your record, you must provide authorization in writing or electronically for that person to obtain access as part of your request.

(c) Your request must contain:

(1) The complete name and identifying number of the NARA system as published in the *Federal Register*;

(2) A brief description of the nature, time, place, and circumstances of your association with NARA;

(3) Any other information which you believe would help NARA to determine whether the information about you is included in the system of records;

(4) If you are authorizing another individual to have access to your records, the name of that person; and

(5) A Privacy Act certification of identity. When you make a request for access to records about yourself, you must verify your identity.

(i) If you are submitting a written request, you must sign your request and your signature must either be notarized or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain a Certification of Identity form for this purpose from the NARA Privacy Act Officer. The following information is required:

(A) Your full name;

(B) An acknowledgment that you understand the criminal penalty in the Privacy Act for requesting or obtaining access to records under false pretenses (5 U.S.C. 552a(i)(3)); and

(C) A declaration that your statement is true and correct under penalty of perjury (18 U.S.C. 1001).

(ii) If you are submitting an electronic request, you must provide an electronically signed statement on the electronic form. The statement affirms your identity and the fact that you understand penalties associated with requesting information under false pretenses.

(d) The procedure for accessing an accounting of disclosure is identical to the procedure for access to a record as set forth in this section.

**Colleen J. Shogan,**

*Archivist of the United States.*

[FR Doc. 2024-04939 Filed: 3/7/2024 8:45 am; Publication Date: 3/8/2024]