

# TITLE 10: ENERGY

## CHAPTER XVII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

### PART 1705—PRIVACY ACT

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AUTHORITY: 5 U.S.C. 552a(f).

SOURCE: 56 FR 47144, Sept. 18, 1991, unless otherwise noted.

#### **§1705.01 Scope.**

This part contains the Board's regulations implementing the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a.

#### **§1705.02 Definitions.**

The following terms used in these regulations are defined in the Privacy Act, 5 U.S.C. 552a(a): *agency, individual, maintain, record, system of records, statistical record, and routine use*. The Board's use of these terms conforms with the statutory definitions. References in this part to “the Act” refer to the Privacy Act of 1974.

#### **§1705.03 Systems of records notification.**

(a) *Public notice*. The Board has published in the FEDERAL REGISTER its systems of records. The Office of the Federal Register biennially compiles and publishes all systems of records maintained by all Federal agencies, including the Board.

(b) *Requests regarding record systems.* Any person who wishes to know whether a system of records contains a record pertaining to him or her may file a request in person or in writing. Written requests should be directed to: Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004. Telephone requests should be made by calling the Board at 202-208-6400, and asking to speak to the Privacy Act Officer.

## **§1705.04 Requests by persons for access to their own records.**

(a) *Requests in writing.* A person may request access to his or her own records in writing by addressing a letter to: Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004. The request should contain the following information:

- (1) Full name, address, and telephone number of requester,
- (2) Proof of identification, which should be a copy of one of the following: Valid driver's license, valid passport, or other current identification which contains both an address and picture of the requester,
- (3) The system of records in which the desired information is contained, and
- (4) At the requester's option, authorization for copying expenses (see §1705.10 below).

(b) *Requests in person.* Any person may examine his or her own records on the Board's premises. To do so, the person should call the Board's offices at 202-208-6400 and ask to speak to the Privacy Act Officer. This call should be made at least two weeks prior to the time the requester would like to see the records. During this call, the requester should be prepared to provide the same information as that listed in paragraph (a) of this section, except for proof of identification.

## **§1705.05 Processing of requests.**

(a) *Requests in writing.* The Privacy Act Officer will acknowledge receipt of the request within five working days of its receipt in the Board's offices. The acknowledgment will advise the requester if any additional information is needed to process the request. Within fifteen working days of receipt of the request, the Privacy Act Officer will provide the requested information or will explain to the requester why additional time is needed for response.

(b) *Requests in person.* Following the initial call from the requester, the Privacy Act Officer will determine (1) whether the records identified by the requester exist, and (2) whether they are subject to any exemption under §1705.11 below. If the records exist and are not subject to exemption, the Privacy Act Officer will call the requester and arrange an appointment at a mutually agreeable time when the records can be examined. The requester may be accompanied by one person of his or her own choosing, and should state during this call whether or not a

second individual will be present at the appointment. At the appointment, the requester will be asked to present identification as stated in §1705.04(a)(2).

(c) *Excluded information.* If a request is received for information compiled in reasonable anticipation of litigation, the Privacy Act Officer will inform the requester that this information is not subject to release under the Privacy Act (*see* 5 U.S.C. 552a(d)(5)).

## **§1705.06 Appeals from access denials.**

When access to records has been denied by the Privacy Act Officer, the requester may file an appeal in writing. This appeal should be directed to The Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., suite 700, Washington, DC 20004. The appeal letter must (a) specify those denied records which are still sought, and (b) state why the denial by the Privacy Act Officer is erroneous. The Chairman or his designee will respond to such appeals within twenty working days after the appeal letter has been received in the Board's offices. The appeal determination will explain the basis for continuing to deny access to any requested records.

## **§1705.07 Requests for correction of records.**

(a) *Correction requests.* Any person is entitled to request correction of a record pertaining to him or her. This request must be made in writing and should be addressed to Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004. The letter should clearly identify the corrections desired. An edited copy of the record will usually be acceptable for this purpose.

(b) *Initial response.* Receipt of a correction request will be acknowledged by the Privacy Act Officer in writing within five working days of receipt of the request. The Privacy Act Officer will endeavor to provide a letter to the requester within thirty working days stating whether or not the request for correction has been granted or denied. If the Privacy Act Officer decides to deny any portion of the correction request, the reasons for the denial will be provided to the requester.

## **§1705.08 Appeals from correction denials.**

(a) When amendment of records has been denied by the Privacy Act Officer, the requester may file an appeal in writing. This appeal should be directed to The Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004. The appeal letter must (1) specify the records subject to the appeal, and (2) state why the denial of amendment by the Privacy Act Officer is erroneous. The Chairman or his designee will respond to such appeals within thirty working days (subject to extension by the Chairman for good cause) after the appeal letter has been received in the Board's offices.

(b) The appeal determination, if adverse to the requester in any respect, will: (1) Explain the basis for denying amendment of the specified records, (2) inform the requester that he or she

may file a concise statement setting forth reasons for disagreeing with the Chairman's determination, and (3) inform the requester of his or her right to pursue a judicial remedy under 5 U.S.C. 552a(g)(1)(A).

## **§1705.09 Disclosure of records to third parties.**

Records subject to the Privacy Act that are requested by any person other than the individual to whom they pertain will not be made available except in the following circumstances:

(a) Their release is required under the Freedom of Information Act in accordance with the Board's FOIA regulations, 10 CFR part 1703;

(b) Prior consent for disclosure is obtained in writing from the individual to whom the records pertain; or

(c) Release is authorized by 5 U.S.C. 552a(b) (1) or (3) through (11).

## **§1705.10 Fees.**

A fee will not be charged for search or review of requested records, or for correction of records. When a request is made for copies of records, a copying fee will be charged at the same rate established for FOIA requests. *See* 10 CFR 1703.107. However, the first 100 pages of copying

## **§1705.11 Exemptions.**

Pursuant to 5 U.S.C. 552a(k), the Board has determined that system of records DNFSB-3, "Drug Testing Program Records," is partially exempt from 5 U.S.C. 552(a)(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). The exemption pertains to portions of these records which would identify persons supplying information on drug abuse by Board employees or contractors.