

proposes to approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, USEPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The USEPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting recordkeeping requirements, Volatile organic compounds.

Dated: December 15, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

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CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1602

Privacy Act of 1974; Implementation

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Proposed rule.

SUMMARY: The Chemical Safety and Hazard Investigation Board proposes to adopt regulations for handling requests made under the Privacy Act. The Privacy Act requires Federal agencies to create regulations establishing procedures for its implementation. These regulations will ensure the proper handling and preservation of agency records subject to the Privacy Act.

DATES: Submit comments on or before January 26, 2001.

ADDRESSES: Address all comments concerning this proposed rule to Christopher Kirkpatrick, Chemical Safety and Hazard Investigation Board,

2175 K Street, NW., Suite 400, Washington, DC 20037-1809.

FOR FURTHER INFORMATION CONTACT: Christopher Kirkpatrick, 202-261-7619.

SUPPLEMENTARY INFORMATION: These proposed regulations implement the Privacy Act of 1974, 5 U.S.C. 552a. The Board proposes the following set of regulations to discharge its responsibilities under the Privacy Act. The Privacy Act establishes: basic procedures for individuals' access to all records in systems of records maintained by the Chemical Safety and Hazard Investigation Board ("CSB" or "Board") that are retrieved by an individual's name or personal identifier. These proposed rules describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the CSB. The Board invites comments from interested groups and members of the public on these proposed regulations.

Regulatory Flexibility Act

The Board, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this proposed regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, the Board did not deem any action necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, 109 Stat. 48.

List of Subjects in 40 CFR Part 1602

Administrative practice and procedure, Privacy.

For the reasons set forth in the preamble, the Chemical Safety and Hazard Investigation Board proposes to add a new 40 CFR Part 1602 to read as follows:

PART 1602—PROTECTION OF PRIVACY AND ACCESS TO INDIVIDUAL RECORDS UNDER THE PRIVACY ACT OF 1974

Sec.

1602.1 General provisions.

1602.2 Requests for access to records.

1602.3 Responsibility for responding to requests for access to records.

1602.4 Responses to requests for access to records.

1602.5 Appeals from denials of requests for access to records.

1602.6 Requests for amendment or correction of records.

1602.7 Requests for accountings of record disclosures.

1602.8 Preservation of records.

1602.9 Fees.

1602.10 Notice of court-ordered and emergency disclosures.

Authority: 5 U.S.C. 552a, 553; 42 U.S.C. 7412 *et seq.*

§ 1602.1 General provisions.

(a) *Purpose and scope.* This part contains the rules that the Chemical Safety and Hazard Investigation Board ("CSB" or "Board") follows under the Privacy Act of 1974, 5 U.S.C. 552a. These rules should be read together with the Privacy Act, which provides additional information about records maintained on individuals. The rules in this part apply to all records in systems of records maintained by the CSB that are retrieved by an individual's name or personal identifier. They describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the CSB. In addition, the CSB processes all Privacy Act requests for access to records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, following the rules contained in part 1601 of this chapter, which gives requests the benefit of both statutes.

(b) *Definitions.* As used in this part:

Requester means an individual who makes a request for access, a request for amendment or correction, or a request for an accounting under the Privacy Act.

Request for access to a record means a request made as described in subsection (d)(1) of the Privacy Act, 5 U.S.C. 552a.

Request for amendment or correction of a record means a request made as described in subsection (d)(2) of the Privacy Act, 5 U.S.C. 552a.

Request for an accounting means a request made as described in subsection (c)(3) of the Privacy Act, 5 U.S.C. 552a.

§ 1602.2 Requests for access to records.

(a) *How made and addressed.* You may make a request for access to a CSB record about yourself by appearing in person or by writing to the CSB. Your request should be sent or delivered to the CSB's General Counsel, at 2175 K Street, NW, 4th Floor, Washington, DC 20037. For the quickest possible handling, you should mark both your request letter and the envelope "Privacy Act Request."

(b) *Description of records sought.* You must describe the records that you want in enough detail to enable CSB personnel to locate the system of records containing them with a reasonable amount of effort. Whenever possible, your request should describe the records sought, the time periods in which you believe they were compiled, and the name or identifying number of each system of records in which you believe they are kept. The CSB publishes notices in the **Federal Register** that describe its systems of records. A description of the CSB's systems of records also may be found as part of the "Privacy Act Compilation" published by the National Archives and Records Administration's Office of the **Federal Register**. This compilation is available in most large reference and university libraries. This compilation also can be accessed electronically at the Government Printing Office's World Wide Web site (which can be found at http://www.access.gpo.gov/su_docs).

(c) *Agreement to pay fees.* If you make a Privacy Act request for access to records, it shall be considered an agreement by you to pay all applicable fees charged under § 1602.9 up to \$25.00. The CSB ordinarily will confirm this agreement in an acknowledgment letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

(d) *Verification of identity.* When you make a request for access to records about yourself, you must verify your identity. You must state your full name, current address, and date and place of birth. 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. In order to help the identification and location of requested records, you may also, at your option, include your social security number.

(e) *Verification of guardianship.* When making a request as the parent or guardian of a minor or as the guardian of someone determined by a court to be incompetent, for access to records about that individual, you must establish:

(1) The identity of the individual who is the subject of the record, by stating the name, current address, date and place of birth, and, at your option, the social security number of the individual;

(2) Your own identity, as required in paragraph (d) of this section;

(3) That you are the parent or guardian of that individual, which you may prove by providing a copy of the individual's birth certificate showing

your parentage or by providing a court order establishing your guardianship; and

(4) That you are acting on behalf of that individual in making the request.

§ 1602.3 Responsibility for responding to requests for access to records.

(a) *In general.* In determining which records are responsive to a request, the CSB ordinarily will include only those records in its possession as of the date the CSB begins its search for them. If any other date is used, the CSB will inform the requester of that date.

(b) *Authority to grant or deny requests.* The CSB's General Counsel, or his/her designee, is authorized to grant or deny any request for access to a record of the CSB.

(c) *Consultations and referrals.* When the CSB receives a request for access to a record in its possession, it will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from access under the Privacy Act. If the CSB determines that it is best able to process the record in response to the request, then it will do so. If the CSB determines that it is not best able to process the record, then it will either:

(1) Respond to the request regarding that record, after consulting with the agency best able to determine whether the record is exempt from access and with any other agency that has a substantial interest in it; or

(2) Refer the responsibility for responding to the request regarding that record to another agency that originated the record (but only if that agency is subject to the Privacy Act). Ordinarily, the agency that originated a record will be presumed to be best able to determine whether it is exempt from access.

(d) *Notice of referral.* Whenever the CSB refers all or any part of the responsibility for responding to your request to another agency, it ordinarily will notify you of the referral and inform you of the name of each agency to which the request has been referred and of the part of the request that has been referred.

(e) *Timing of responses to consultations and referrals.* All consultations and referrals shall be handled according to the date the Privacy Act access request was initially received by the CSB, not any later date.

§ 1602.4 Responses to requests for access to records.

(a) *Acknowledgments of requests.* On receipt of your request, the CSB ordinarily will send an acknowledgment letter, which shall confirm your

agreement to pay fees under § 1602.2(c) and may provide an assigned request number for further reference.

(b) *Grants of requests for access.* Once the CSB makes a determination to grant your request for access in whole or in part, it will notify you in writing. The CSB will inform you in the notice of any fee charged under § 1602.9 and will disclose records to you promptly on payment of any applicable fee. If your request is made in person, the CSB may disclose records to you directly, in a manner not unreasonably disruptive of its operations, on payment of any applicable fee and with a written record made of the grant of the request. If you are accompanied by another person when you make a request in person, you shall be required to authorize in writing any discussion of the records in the presence of the other person.

(c) *Adverse determinations of requests for access.* If the CSB makes an adverse determination denying your request for access in any respect, it will notify you of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the Privacy Act; a determination on any disputed fee matter; and a denial of a request for expedited treatment. The notification letter shall be signed by the General Counsel, or his/her designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any Privacy Act exemption(s) applied by the CSB in denying the request; and

(3) A statement that the denial may be appealed under § 1602.5(a) and a description of the requirements of § 1602.5(a).

§ 1602.5 Appeals from denials of requests for access to records.

(a) *Appeals.* If you are dissatisfied with the CSB's response to your request for access to records, you may appeal an adverse determination denying your request in any respect to the Privacy Act Appeals Officer of the CSB, 2175 K Street, NW., Suite 400, Washington, DC 20037. You must make your appeal in writing, and it must be received within 60 days of the date of the letter denying your request. Your appeal letter may include as much or as little related information as you wish, as long as it clearly identifies the determination (including the assigned request number,

if any) that you are appealing. For the quickest possible handling, you should mark both your appeal letter and the envelope "Privacy Act Appeal."

(b) *Responses to appeals.* The decision on your appeal will be made in writing. A decision affirming an adverse determination in whole or in part will include a brief statement of the reason(s) for the affirmation, including any Privacy Act exemption applied, and will inform you of the Privacy Act provisions for court review of the decision. If the adverse determination is reversed or modified on appeal in whole or in part, you will be notified in a written decision and your request will be reprocessed in accordance with that appeal decision.

(c) *When appeal is required.* If you wish to seek review by a court of any adverse determination or denial of a request, you must first appeal it under this section.

§ 1602.6 Requests for amendment or correction of records.

(a) *How made and addressed.* You may make a request for amendment or correction of a CSB record about yourself by following the procedures in § 1602.2. Your request should identify each particular record in question, state the amendment or correction that you want, and state why you believe that the record is not accurate, relevant, timely, or complete. You may submit any documentation that you think would be helpful.

(b) *CSB responses.* Within ten working days of receiving your request for amendment or correction of records, the CSB will send you a written acknowledgment of its receipt of your request, and it will promptly notify you whether your request is granted or denied. If the CSB grants your request in whole or in part, it will describe the amendment or correction made and advise you of your right to obtain a copy of the corrected or amended record. If the CSB denies your request in whole or in part, it will send you a letter stating:

(1) The reason(s) for the denial; and
(2) The procedure for appeal of the denial under paragraph (c) of this section, including the name and business address of the official who will act on your appeal.

(c) *Appeals.* You may appeal a denial of a request for amendment or correction in the same manner as a denial of a request for access to records (see § 1602.5), and the same procedures will be followed. If your appeal is denied, you will be advised of your right to file a Statement of Disagreement as described in paragraph (d) of this section and of your right under the

Privacy Act for court review of the decision.

(d) *Statements of Disagreement.* If your appeal under this section is denied in whole or in part, you have the right to file a Statement of Disagreement that states your reason(s) for disagreeing with the CSB's denial of your request for amendment or correction. Statements of Disagreement must be concise, must clearly identify each part of any record that is disputed, and should be no longer than one typed page for each fact disputed. Your Statement of Disagreement must be sent to the CSB, which will place it in the system of records in which the disputed record is maintained and will mark the disputed record to indicate that a Statement of Disagreement has been filed and where in the system of records it may be found.

(e) *Notification of amendment/correction or disagreement.* Within 30 working days of the amendment or correction of a record, the CSB shall notify all persons, organizations, or agencies to which it previously disclosed the record, if an accounting of that disclosure was made, that the record has been amended or corrected. If an individual has filed a Statement of Disagreement, the CSB will attach a copy of it to the disputed record whenever the record is disclosed and may also attach a concise statement of its reason(s) for denying the request to amend or correct the record.

§ 1602.7 Requests for an accounting of record disclosures.

(a) *How made and addressed.* Except where accountings of disclosures are not required to be kept (as stated in paragraph (b) of this section), you may make a request for an accounting of any disclosure that has been made by the CSB to another person, organization, or agency of any record about you. This accounting contains the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made. Your request for an accounting should identify each particular record in question and should be made by writing to the CSB, following the procedures in § 1602.2.

(b) *Where accountings are not required.* The CSB is not required to provide accountings to you where they relate to disclosures for which accountings are not required to be kept—in other words, disclosures that are made to employees within the agency and disclosures that are made under the FOIA.

(c) *Appeals.* You may appeal a denial of a request for an accounting to the CSB

Appeals Officer in the same manner as a denial of a request for access to records (see § 1602.5) and the same procedures will be followed.

§ 1602.8 Preservation of records.

The CSB will preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the Privacy Act.

§ 1602.9 Fees.

The CSB will charge fees for duplication of records under the Privacy Act in the same way in which it charges duplication fees under the FOIA (see part 1601, subpart D of this chapter). No search or review fee will be charged for any record.

§ 1602.10 Notice of court-ordered and emergency disclosures.

(a) *Court-ordered disclosures.* When a record pertaining to an individual is required to be disclosed by a court order, the CSB will make reasonable efforts to provide notice of this to the individual. Notice will be given within a reasonable time after the CSB's receipt of the order—except that in a case in which the order is not a matter of public record, the notice will be given only after the order becomes public. This notice will be mailed to the individual's last known address and will contain a copy of the order and a description of the information disclosed.

(b) *Emergency disclosures.* Upon disclosing a record pertaining to an individual made under compelling circumstances affecting health or safety, the CSB will notify that individual of the disclosure. This notice will be mailed to the individual's last known address and will state the nature of the information disclosed; the person, organization, or agency to which it was disclosed; the date of disclosure; and the compelling circumstances justifying the disclosure.

Dated: December 19, 2000.

Christopher W. Warner,
General Counsel.

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