■ 4. Amend § 121.3 by revising paragraph (b) to read as follows:

§ 121.3 VS select agents and toxins.

* * * * *

(b) VS select agents and toxins are:

(1) African swine fever virus;
(2) Avian influenza virus;
(3) Classical swine fever virus;
(4) * Foot-and-mouth disease virus;
(5) Goat pox virus;
(6) Lumpy skin disease virus;
(7) *Mycoplasma capricolum;*
(8) *Mycoplasma mycoides;*
(9) Newcastle disease virus; [1]
(10) Peste des petits ruminants virus;
(11) * Rinderpest virus;
(12) Sheep pox virus; and
(13) Swine vesicular disease virus.

* * * * *

[1] A virulent Newcastle disease virus (avian paramyxovirus type 1) has an intracerebral pathogenicity index in day-old chicks (Gallus gallus) of 0.7 or greater, or has an amino acid sequence at the fusion (F) protein cleavage that is consistent with virulent strains of Newcastle disease virus and phenylalanine at residue 117 of the F1 protein N-terminus, except for genotype VI viruses from columbid birds.

■ 5. Amend § 121.4 by revising paragraph (b) to read as follows:

§ 121.4 Overlap select agents and toxins.

* * * * *

(b) Overlap select agents and toxins are:

(1) * *Bacillus anthracis;*
(2) *Bacillus anthracis* (Pasteur strain);
(3) * *Burkholderia mallei;*
(4) * *Burkholderia pseudomallei;*
(5) Hendra virus;
(6) * Nipah virus;
(7) Rift Valley fever virus; and
(8) Venezuelan equine encephalitis virus.

* * * * *

Done in Washington, DC.

Jennifer Moffitt,

Undersecretary, Marketing and Regulatory Programs, USDA.

[FR Doc. 2024–29567 Filed 12–16–24; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Part 1008

[DOE–HQ–2024–0085]

RIN 1903–AA18

Privacy Act of 1974: Implementation of Exemptions

AGENCY: U.S. Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE or Department) is revising its regulations to exempt certain records maintained under a newly established system of records—DOE–85, Research, Technology, and Economic Security Due Diligence Review Records—from the notification and access provisions of the Privacy Act of 1974. The Department is exempting portions of this system of records from these subsections of the Privacy Act because of requirements related to classified information.

DATES: This final rule is effective on January 16, 2025.

FOR FURTHER INFORMATION CONTACT: Kyle David, U.S. Department of Energy, 1000 Independence Avenue SW, Office 8H–085, Washington, DC, 20585; facsimile: (202) 586–8151; email: *kyle.david@hq.doe.gov,* telephone: (240) 686–9485.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Authority and Background

A. Authority

DOE has broad authority to manage the agency's collection, use, processing, maintenance, storage, and disclosure of Personally Identifiable Information (PII) pursuant to the following authorities: 42 United States Code (U.S.C.) 7101 *et seq.,* 50 U.S.C. 2401 *et seq.,* 5 U.S.C. 1104, 5 U.S.C. 552, 5 U.S.C. 552a, 42 U.S.C. 7254, 5 U.S.C. 301, and 42 U.S.C. 405 note.

B. Background

The Privacy Act of 1974 (the Act) (5 U.S.C. 552a) embodies fair information practice principles in a statutory framework governing the means by which the U.S. Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents.

The Privacy Act includes two sets of provisions that allow agencies to claim exemptions from certain requirements in the statute. These provisions allow agencies in certain circumstances to promulgate rules to exempt a system of records from certain provisions of the Privacy Act. For this system of records, pursuant to 5 U.S.C. 552a(k)(1), the Department exempts this system of records from subsections (c)(3); (d); (e)(1), (e)(4)(G), (4)(H), and (4)(I); and (f) of the Privacy Act. This exemption is needed to protect information relating to DOE activities from disclosure to subjects or others related to these activities. Specifically, the exemption is required to safeguard classified information. Pursuant to the Privacy Act and Office of Management and Budget (OMB) Circular A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,* DOE is issuing this Rule to make clear to the public the reasons why this particular exemption is being applied.

II. Discussion

The Department is exempting portions of a newly established system of records—DOE–85, Research, Technology, and Economic Security Due Diligence Review Records—from subsections (c)(3); (d); (e)(1), (e)(4)(G), (4)(H), and (4)(I); and (f) of the Privacy Act of 1974. To claim this exemption, DOE is amending 10 CFR 1008.12 by adding a new paragraph, (b)(1)(ii)(N). The Department exempts portions of this system of records from these subsections of the Privacy Act because of requirements related to classified information.

The purpose of this system is to enhance DOE's capabilities to aggregate, link, analyze, and maintain information used by the Department to assess research, technology, and economic security (RTES) risk. RTES risks may include risk of foreign government interference and exploitation, intellectual property (IP) loss, national

security risk, conflicts of interest, and conflicts of commitment, and other parameters defined in DOE/National Nuclear Security Administration (NNSA) policy. The RTES analysis builds on pre-existing information provided by individuals and organizations that interact with DOE/NNSA, paired with public records, and in some cases, classified information. Consistent with National Security Presidential Memorandum–33 [1] (NSPM–33), applicable law, and existing DOE/NNSA policies, the system records may be shared as appropriate with other Federal funding agencies and internally within DOE/NNSA to help ensure a coordinated and consistent approach to risk assessment.

For this system of records, the system is exempted from subsections (c)(3); (d); (e)(1), (e)(4)(G), (4)(H), and (4)(I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1). This exemption is needed to protect information relating to DOE activities from disclosure to subjects or others related to these activities. Specifically, the exemption is required to safeguard classified information.

This exemption is a standard national security exemption exercised by many Federal intelligence agencies. Although the RTES Office is not an intelligence agency, the system of records utilized by the RTES Office may include classified information obtained from Federal intelligence sources.

Exemptions for DOE–85 Research, Technology, and Economic Security Due Diligence Review Records from this particular subsection of the Privacy Act are justified on a case-by-case basis to be determined at the time a request is made for the following reasons:

From 5 U.S.C. 552a subsection (k)(1) because providing individuals access to classified information could cause serious damage to the national defense or foreign policy.

On September 10, 2024, DOE published a notice of proposed rulemaking (NOPR) (89 FR 73312). This NOPR claimed the 5 U.S.C. 552a(k)(1) exemption listed in the preceding paragraph. As a result of this NOPR, DOE received one comment, discussed in section III of this document.

III. Summary of Public Comments

As mentioned in previously, DOE received one comment in response to the NOPR (DOE–HQ–2023–0058–0005). The commenter requested a clearer explanation of how conflicts of interest and commitment necessitate exemptions from the Privacy Act and for DOE to consider narrowing the scope of Privacy Act exemptions, particularly the exemption from 5 U.S.C. 552a(e)(1). The commenter points out that the exemption from 5 U.S.C. 522a(e)(1) is too broad and could result in the accumulation of unnecessary information, creating unintended consequences such as the misuse of personal information. Finally, the commenter also stated that Freedom of Information Act (FOIA) liability may also be triggered from people trying to get information they believe is held under exemption.

As to the issue regarding conflicts of interest and commitment, DOE would like to clarify that the justification for exempting the system is based on the extent to which the system contains classified information. This is consistent with 10 CFR 1008.12(b)(1), where 5 U.S.C. 552a(k)(1) applies to the system only ''to the extent [that the system] contain[s] classified information, in order to prevent serious damage to the national defense or foreign policy that could arise from providing individuals access to classified information.'' Determining if something is exempt will be done on a case-by-case basis, and if there is no classified information or national security information, then included information under 5 U.S.C. 552a(k)(1) would not be exempt.

As to the commenters concerns that the exemption from 5 U.S.C. 522a(e)(1) is too broad and could result in collection of irrelevant information, risking misuse of personal information, as well as concerns that the regulation could lead to legal challenges to withholding such information under FOIA, DOE respectfully disagrees. DOE makes clear in the NOPR and restates here, information within the system that meets the criteria of 5 U.S.C. 552a(k)(1) is exempted from disclosure from 5 U.S.C. 552a(e)(1) and the other identified provisions. Information that fails to meet such criteria is not exempted from the provision. Therefore, the exemption from 5 U.S.C. 552a(e)(1) is sufficiently tailored for consistency with 10 CFR 1008.12(b)(1), and determinations will be made on a case-by-case basis.

IV. Section 1008.12 Analysis

This final rule amends 10 CFR 1008.12(b)(1)(ii), by adding paragraph (b)(1)(ii)(N), referencing line item ''(N) Research, Technology, and Economic Security Due Diligence Review Records (DOE–85)'' to paragraph (b)(1)(ii). This addition will demonstrate that SORN DOE–85 is included among the other SORNs taking a 5 U.S.C. 552a (k)(1) exemption under the Privacy Act of 1974. This exemption allows DOE to ''prevent serious damage to the national defense or foreign policy that could arise from providing individuals access to classified information.''

V. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866, 13563, and 14094

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011) and amended by E.O. 14094, ''Modernizing Regulatory Review,'' 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (OIRA) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in this preamble, this final rule is consistent with these principles.

Section 6(a) of E.O. 12866 requires agencies to submit ''significant regulatory actions'' to OIRA for review.

[1] National Security Presidential Memorandum on United States Government-Supported Research and Development National Security Policy 33, issued January 14, 2021.

OIRA has determined that this final rule is not a ''significant regulatory action'' within the scope of E.O. 12866. Accordingly, this action is not subject to review under E.O. 12866 by OIRA of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires that an agency prepare an initial regulatory flexibility analysis for any regulation for which a final rule is required, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). As required by Executive Order 13272, *Proper Consideration of Small Entities in Agency Rulemaking,* 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the final rule will not have significant economic impact on a substantial number of small entities. The factual basis for this certification is set forth below.

This final rule will update DOE's policies and procedures concerning the disclosure of records held within a system of records pursuant to the Privacy Act of 1974. This final rule will apply only to activities conducted by DOE's Federal employees and contractors, who would be responsible for implementing the rule requirements. DOE does not expect there to be any potential economic impact of this final rule on small businesses. Small businesses, therefore, should not be adversely impacted by the requirements in this final rule. For these reasons, DOE certifies that this final rule will not have a significant economic impact on a substantial number of small entities, and therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act of 1995

This final rule does not impose a collection of information requirement subject to review and approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (NEPA), DOE has analyzed this action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion (CX) for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. 10 CFR part 1021, subpart D, appendix A, paragraph A5. DOE has determined that this final rule is covered under the CX found in DOE's NEPA regulations at paragraph A5 of appendix A to subpart D, 10 CFR part 1021, because it is an amendment to an existing regulation that does not change the environmental effect of the amended regulation and, therefore, meets the requirements for the application of this CX. *See* 10 CFR 1021.410. Therefore, DOE has determined that this final rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and does not require an Environmental Assessment or an Environmental Impact Statement.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for the affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; (6) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of the standards. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this final rule and has tentatively determined that it would not preempt State law and would not have a substantial direct effect 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. No further action is required by Executive Order 13132.

G. Review Under Executive Order 13175

Under Executive Order 13175 (65 FR 67249, November 6, 2000) on ''Consultation and Coordination with Indian Tribal Governments,'' DOE may not issue a discretionary rule that has ''Tribal'' implications and imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that this final rule will not have such effects and concluded that Executive Order 13175 does not apply to this final rule.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and Tribal governments, and the private sector.

(Pub. L. 104–4, sec. 201 *et seq.* (codified at 2 U.S.C. 1531 *et seq.*)). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant Federal intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. (62 FR 12820) (This policy is also available at: *www.energy.gov/gc/guidance-opinions* under ''Guidance & Opinions'' (Rulemaking).) DOE examined this final rule according to UMRA and its statement of policy and has determined that this final rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OIRA, which is part of OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1)(i) is a significant regulatory action under Executive Order 12866, or any successor order; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any final rule that may affect family well-being. This final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

L. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). Pursuant to OMB Memorandum M–19–15, *Improving Implementation of the Information Quality Act* (April 24, 2019), DOE published updated guidelines which are available at: *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.*

DOE has reviewed this final rule and will ensure that information produced under this regulation remains consistent with the applicable OMB and DOE guidelines.

M. Congressional Review

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that the rule does not, meet the criteria set forth in 5 U.S.C. 804(2).

VI. Approval by the Office of the Secretary of Energy

The Secretary of Energy has approved publication of this Final rule.

List of Subjects in 10 CFR Part 1008

Administration practice and procedure, Freedom of information, Privacy, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on December 11, 2024, by Ann Dunkin, Senior Agency Official for Privacy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 12, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, the Department of Energy amends part 1008 of chapter X of title 10 of the Code of Federal Regulations as set forth below:

PART 1008—RECORDS MAINTAINED ON INDIVIDUALS (PRIVACY ACT)

■ 1. The authority citation for part 1008 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* 5 U.S.C. 552; 5 U.S.C. 552a; 42 U.S.C. 7254; and 5 U.S.C. 301. Section 1008.22(c) also issued under 42 U.S.C. 405 note.

■ 2. Amend § 1008.12 by adding paragraph (b)(1)(ii)(N) to read as follows:

§ 1008.12 Exemptions.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(N) Research, Technology, and Economic Security Due Diligence Review Records (DOE–85).

* * * * *

[FR Doc. 2024–29666 Filed 12–16–24; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 1008

[DOE–HQ–2024–0084]

RIN 1903–AA16

Privacy Act of 1974: Implementation of Exemptions

AGENCY: U.S. Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE or Department) is revising its regulations to exempt certain records maintained under a newly established system of records—DOE–42 Nondiscrimination in Federally Assisted Programs Files—from the notification and access provisions of the Privacy Act of 1974. The Department is exempting portions of this system of records from these subsections of the Privacy Act because of requirements related to investigatory material compiled for law enforcement purposes.

DATES: This final rule is effective on January 16, 2025.

FOR FURTHER INFORMATION CONTACT: Kyle David, U.S. Department of Energy, 1000 Independence Avenue SW, Office 8H–085, Washington, DC, 20585; facsimile: (202) 586–8151; email: *kyle.david@hq.doe.gov;* telephone: (240) 686–9485.

SUPPLEMENTARY INFORMATION:

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I. Authority and Background

A. Authority

DOE has broad authority to manage the agency's collection, use, processing, maintenance, storage, and disclosure of Personally Identifiable Information (PII) pursuant to the following authorities: 42 United States Code (U.S.C.) 7101 *et seq.,* 50 U.S.C. 2401 *et seq.,* 5 U.S.C. 1104, 5 U.S.C. 552, 5 U.S.C. 552a, 42 U.S.C. 7254, 5 U.S.C. 301, and 42 U.S.C. 405 note.

B. Background

The Privacy Act of 1974 (the Act) (5 U.S.C. 552a) embodies fair information practice principles in a statutory framework governing the means by which the U.S. Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents.

The Privacy Act includes two sets of provisions that allow agencies to claim exemptions from certain requirements in the statute. These provisions allow agencies in certain circumstances to promulgate rules to exempt a system of records from certain provisions of the Privacy Act. For this system of records, pursuant to 5 U.S.C. 552a(k)(2), the Department exempts this system of records from subsections (c)(3); (d); and (e)(1) of the Privacy Act. This exemption is needed to protect from disclosure investigatory material compiled for law enforcement purposes. Pursuant to the Privacy Act and Office of Management and Budget (OMB) Circular A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,* DOE is issuing this final rule to make clear to the public the reasons why this particular exemption is being applied.

II. Discussion

DOE is claiming an exemption from certain requirements of the Privacy Act for a new system of records: DOE–42 Nondiscrimination in Federally Assisted Programs Files.

The Department is exempting portions of a newly established system of records—DOE–42 Nondiscrimination in Federally Assisted Programs Files—from subsections (c)(3); (d); and (e)(1) of the Privacy Act of 1974. To claim this exemption, DOE is amending 10 CFR 1008.12 by adding a new paragraph, (b)(2)(ii)(R). The Department exempts portions of this system of records from these subsections of the Privacy Act because of requirements related to the compilation of investigatory material for law enforcement purposes.

DOE–42 Nondiscrimination in Federally Assisted Programs Files will provide a central electronic repository to: (i) maintain all records used by OCR–EEO personnel in making Federal civil rights compliance determinations with accuracy, relevance, timeliness, and completeness to assure fairness to the individual(s) in the determination; (ii) create appropriate administrative, technical, and physical safeguards that ensure the security and confidentiality of records and protect against any anticipated threats to their security or integrity and; (iii) create rules of conduct for authorized OCR–EEO personnel involved in the operation, maintenance, and routine uses for this system records.

For this system of records, DOE is claiming the Privacy exemption from requirements in subsections (c)(3); (d); and (e)(1) of the Privacy Act. In addition, the system has been exempted from the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). These exemptions are needed to protect information relating to DOE activities from disclosure to subjects or others related to these activities. Specifically, these exemptions from the Privacy Act are necessary in order to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DOE's ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

Exemption from these Privacy Act requirements is standard for law enforcement and national security matters and are often exercised by many Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and overall law enforcement process, the applicable exemption of these requirements may be waived on a case-by-case basis.