

List of Subjects in 32 CFR Part 310

Privacy.

1. The authority citation for 32 CFR part 310 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. § 310.72, paragraph (a)(2) is revised to read as follows:

§ 310.72 DoD training programs.

(a) * * *

(2) *Specialized training.* Training that provides information as to the application of specific provisions of this part to specialized areas of job performance. Personnel of particular concern include, but are not limited to personnel specialists, finance officers, DoD personnel who may be expected to deal with the news media or the public, special investigators, paperwork managers, and other specialists (reports, forms, records, and related functions), computer systems development personnel, computer systems operations personnel, statisticians dealing with personal data and program evaluations, and anyone responsible for implementing or carrying out functions under this part. Specialized training should be provided on a periodic basis.

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Dated: July 31, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

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DEPARTMENT OF DEFENSE**Department of the Navy****32 CFR Part 701**

[Secretary of the Navy Instruction 5211.5]

Privacy Act; Implementation

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is adding an exemption rule for a Privacy Act system of records. The exemption is intended to increase the value of the system of records for law enforcement purposes, to comply with prohibitions against the disclosure of certain kinds of information, and to protect the privacy of individuals identified in the system of records.

EFFECTIVE DATE: July 18, 2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685-6545 or DSN 325-6545.

SUPPLEMENTARY INFORMATION: The proposed rule was published on May 18, 2000, at 65 FR 31505. No comments were received, therefore, the Department of the Navy is adopting this rule as final.

Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

List of Subjects in 32 CFR Part 701

Privacy.

1. The authority citation for 32 CFR part 701, subpart G continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 701.118, is amended by adding paragraph (u) as follows:

§ 701.118 Exemptions for specific Navy record systems.

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(u) *System identifier and name:* N05813-4, Trial/Government Counsel Files.

(i) *Exemption.* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Portions of this system of records that may be exempt pursuant to subsection 5 U.S.C.

552a(j)(2) are (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(5), (e)(4)(G), (H), and (I), (e)(8), (f), and (g).

(ii) *Exemption.* Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1-R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(iii) *Exemption.* Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source. Portions of this system of records that may be exempt pursuant to subsections 5 U.S.C. 552a(k)(1) and (k)(2) are (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(iv) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2).

(v) *Reason:* (1) From subsection (c)(3) because release of accounting of disclosure could place the subject of an investigation on notice that he/she is under investigation and provide him/her with significant information concerning the nature of the investigation, resulting in a serious impediment to law enforcement investigations.

(2) From subsections (c)(4), (d), (e)(4)(G), and (e)(4)(H) because granting individuals access to information collected and maintained for purposes relating to the enforcement of laws could interfere with proper investigations and orderly administration of justice. Granting individuals access to information relating to the preparation and conduct of criminal prosecution would impair the development and implementation of legal strategy. Amendment is inappropriate because the trial/government counsel files contain official records including transcripts, court orders, and investigatory materials such as exhibits, decisional memorandum and other case-related papers. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffective investigation techniques, sources, and methods used by law enforcement personnel, and

could result in the invasion of privacy of individuals only incidentally related to an investigation.

(3) From subsection (e)(1) because it is not always possible in all instances to determine relevancy or necessity of specific information in the early stages of case development. Information collected during criminal investigations and prosecutions and not used during the subject case is often retained to provide leads in other cases.

(4) From subsection (e)(2) because in criminal or other law enforcement investigations, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of an investigation, presenting a serious impediment to law enforcement investigations.

(5) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(6) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(7) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(8) From subsection (e)(8) because compliance would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures, or evidence.

(9) From subsection (f) and (g) because this record system is exempt from the individual access provisions of subsection (d).

(10) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Navy will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Navy's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

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Dated: July 31, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

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POSTAL SERVICE

39 CFR Part 20

Express Mail International Service

AGENCY: Postal Service.

ACTION: Interim rule.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service will offer a 5 percent discount off of regular postage for all Express Mail International Service (EMS) shipments paid for by an Express Mail Corporate Account (EMCA) or made by federal agencies using the federal financial system. The discount would apply only to the basic postage portion of EMS published rates. It would not apply to pick-up service charges, additional merchandise insurance coverage fees, or shipments made under an International Customized Mail agreement.

DATES: Effective: August 12, 2000. Comments on the interim rule must be received on or before September 6, 2000.

ADDRESSES: Written comments should be sent to the Manager, International Products, International Business, U.S.

Postal Service, 475 L'Enfant Plaza SW, Room 370-IBU, Washington DC 20260-6500. Copies of all written comments will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday, in International Business, 10th Floor, 901 D Street SW, Washington DC 20260-6500.

FOR FURTHER INFORMATION CONTACT:

Angus MacInnes, (202) 268-2268.

SUPPLEMENTARY INFORMATION: The Postal Service is changing conditions for certain mailing categories to automatically reduce every payment transaction by 5 percent for all EMS purchased at basic published prices and paid through an EMCA.

An EMCA is an advance deposit account developed for Express Mail, which enables customers to deposit funds with the Postal Service for payment of anticipated future Express Mail mailings. Express Mail Corporate Accounts can be used for domestic and international Express Mail. The discount will be available only for Express Mail sent internationally. Federal agencies will also be eligible for the discount. The discount will be deducted from the total postage amount on the mailer's monthly account rather than from each piece.

The 5 percent discount will be offered on postage only; it does not apply to pickup fees, any special fees, nor postage for shipments being made under an International Customized Mail agreement.

As required under the Postal Reorganization Act, these changes will result in conditions of mailing that do not apportion the costs of the service, so the overall value of the service to users is fair and reasonable, and not unduly or unreasonably discriminatory or preferential.

List of Subjects in 39 CFR Part 20

Foreign relations, international postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Amend the International Mail Manual by revising section 2 to read as follows:

2 CONDITIONS FOR MAILING

210 Express Mail International Service

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