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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:** Proposed rule.

**SUMMARY:** The Department of the Navy is proposing to add 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.

**DATES:** Comments must be received on or before July 17, 2000 to be considered by this agency.

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

#### SUPPLEMENTARY INFORMATION:

##### 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.

(u) *System identifier and name:* (1) 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 subsections (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: March 29, 2000.  
**L.M. Bynum,**  
*Alternate OSD Federal Register Liaison Officer, Department of Defense.*  
[FR Doc. 00-10053 Filed 5-17-00; 8:45 am]

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POSTAL SERVICE

39 CFR Part 111

Line-of-Travel Sequencing for Basic Carrier Route Periodicals

ACTION: Proposed rule.

SUMMARY: The Postal Service is soliciting comments on a proposed change to the Domestic Mail Manual that would require mailers to prepare basic rate carrier route Periodicals mail in line-of-travel sequence.

DATES: Comments must be received on or before June 19, 2000.

ADDRESSES: Comments must be sent to the Manager, Mail Preparation and Standards, 475 L'Enfant Plaza SW, Room 6800, Washington, DC 20260-2405. Fax: 202-268-4336. Comments will be available for public viewing from 9 a.m. to 4 p.m. in the Postal Service Library, 475 L'Enfant Plaza, 11th Floor, Washington, DC. Copies of comments also may be requested via fax or email.

FOR FURTHER INFORMATION CONTACT: Anne Emmerth, 202-268-2363, aemmerth@email.usps.gov.

SUPPLEMENTARY INFORMATION: In 1996, the Postal Service began requiring line-of-travel sequencing for all basic Enhanced Carrier Route Standard Mail (A). LOT sequencing generally approximates carriers' actual sequence of delivery. A cost study shows that this preparation has resulted in significant savings due to a reduction in time spent by carriers casing mail. Analysis indicates that implementing a line-of-travel requirement for packages of basic rate carrier route Periodicals could produce significant savings.

The Postal Service and representatives from the Periodicals industry are concerned about recent upward trends in mail processing costs for Periodicals and have been studying ways to lower costs. Out of these discussions came several ideas for further examination. One of these ideas is to require Periodicals mail qualifying for basic carrier route rates to be prepared in line-of-travel (LOT) sequence. A Postal Service cost study indicates that requiring LOT sequencing for basic rate carrier route Periodicals will result in reduced costs.

Accordingly, the Postal Service is proposing to require that Periodicals mailers prepare basic rate carrier route mail in line-of-travel sequence. Mailers would be required to sort their mail using the current USPS line-of-travel product within 90 days before the date of mailing. As an alternative, mailers may opt to prepare mail in actual walk sequence to qualify for basic carrier route rates.

The line-of-travel product contains a list of each ZIP+4 code that a route serves. The ZIP+4 codes are numbered in sequence according to their first occurrence on the route as served by the carrier. Each ZIP+4 is appended with either an "A" (for ascending) or a "D" (for descending) to specify the order in which the addresses in that ZIP+4 must be arranged. For Periodicals, all basic rate carrier route pieces would be sequenced in ascending ZIP+4 code line-of-travel order. As an alternative, mailers could prepare basic rate carrier route mail in actual walk sequence.

The proposed effective date of this change is September 9, 2000.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) as set forth below:

E Eligibility

\* \* \* \*

E200 Periodicals

\* \* \* \*

E230 Nonautomation Rates

\* \* \* \*

2.0 CARRIER ROUTE RATES

\* \* \* \*

[Amend 2.2 by revising the heading and item a, renumbering item b as item c, and adding new item b to read as follows:]