ACTION: Final rule.

SUMMARY: In accordance with Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, this final rule adjusts for inflation the civil money penalty for violation of notice posting requirements.

EFFECTIVE DATE: This rule is effective on June 16, 1997.

FOR FURTHER INFORMATION CONTACT: Willie King, Director, Financial Management Division (202) 663–4224.

SUPPLEMENTARY INFORMATION:

I. The Debt Collection Improvement Act of 1996

In an effort to maintain the remedial impact of civil money penalties (CMPs) and promote compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (Pub. L. 101–410) was amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) to require Federal agencies to regularly adjust certain CMPs for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all applicable CMPs, and to make further adjustments at least once every four years thereafter for these penalty amounts.

The Debt Collection Improvement Act of 1996 further stipulates that any resulting increases in a CMP due to the calculated inflation adjustments (i) Should apply only to the violations that occur after October 23, 1996 (the Act's effective date) and (ii) should not exceed 10 percent of the penalty indicated.

Method of Calculation

Under the Act, the inflation adjustment is determined by increasing the maximum CMP amount per violation by the cost-of-living adjustment. The ''cost-of-living'' adjustment is defined as the percentage for each CMP by which the Consumer Price Index (CPI) for June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of such CMP was last set or adjusted pursuant to the law. Any calculated increase under this adjustment is subject to a specific rounding formula set forth in the Act and a ten percent limitation.

II. EEOC Civil Money Penalties Effected by This Adjustment

Under 42 U.S.C. § 2000e–10(a) and 29 CFR § 1601.30(a), every employer, employment agency, labor organization, and joint labor-management committee controlling an apprenticeship or other training program that has an obligation under Title VII or the ADA must post notices describing the applicable provisions of Title VII and the ADA. Such notices must be posted in prominent and accessible places where notices to employees, applicants and members are customarily maintained.

Currently, 42 U.S.C. 2000e–10(b) and 29 CFR 1601.30(b) make failure to comply with the notice posting requirements punishable by a fine of not more than $100 for each separate offense. Based on the inflation calculation described in Section I of this notice, we are adjusting the maximum penalty per violation to $110.

III. Waiver of Proposed Rulemaking

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment procedures set forth in the Administrative Procedure Act (APA) (5 U.S.C. 553). The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking is required by the Debt Collection Improvement Act of 1996, and the Commission has no discretion in determining the amount of the published adjustment. Accordingly, we are issuing these revised regulations as a final rule.

IV. Regulatory Impact Statement

Executive Order 12866

This final rule is exempt from Office of Management and Budget (OMB) review under Executive Order 12866 because it is limited to the adoption of statutory language, without interpretation. As indicated above, the provisions contained in this final rulemaking set forth an inflation adjustment required by the Debt Collection Improvement Act of 1996. Moreover, it has been determined that this final rule is not significant. The great majority of employers and entities covered by these regulations comply with the posting requirement, and a result, we believe that any aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who fail to post required notices in violation of the regulation and statute.

Regulatory Flexibility Act

A regulatory flexibility analysis is only required by the Regulatory Flexibility Act (5 U.S.C. 601–612), when notice and comment is required by the Administrative Procedure Act or some other statute. As stated above, notice and comment is not required for this rule. For that reason, the requirements of the Regulatory Flexibility Act do not apply.

Paperwork Reduction Act

This final rule imposes no new reporting or recordkeeping requirements necessitating clearance by OMB.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure.

For the Commission.

Gilbert F. Casellas,

Chairman.

For the reasons set forth in the preamble, 29 CFR part 1601 is revised as follows:

PART 1601—PROCEDURAL REGULATIONS

1. The authority citation for part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e–17; 42 U.S.C. 1111 to 12117.

2. Section 1601.30 is amended by revising paragraph (b) to read as follows:

§ 1601.30 Notices to be posted.

* * * * *

(b) Section 711(b) of Title VII makes failure to comply with this section punishable by a fine of not more than $110 for each separate offense.

[FR Doc. 97–12769 Filed 5–15–97; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF THE TREASURY

Departmental Offices

31 CFR Part 1

Privacy Act of 1974; Implementation

AGENCY: Departmental Offices, Treasury.

ACTION: Final Rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury issues a final rule to add the exemption claimed for the Pacific Basin Reporting Network—Treasury/Customs .171.

EFFECTIVE DATE: May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Dale Underwood, Disclosure Services, Department of the Treasury, Washington, DC 20220. (202) 622–0930.

SUPPLEMENTARY INFORMATION: The Privacy Act system of records notice establishing the Pacific Basin Reporting Network—Treasury/Customs .171, was published at 57 FR 54633 on November 19, 1992. A determination setting out the findings by the Commissioner of the U.S. Customs was published as a proposed rule on November 19, 1992, at 57 FR 54539. The proposed rule requested comments be submitted by December 21, 1992; however none were received. Accordingly, a final determination was published in the **Federal Register** by the Department on behalf of the Customs Service on November 29, 1996, at 61 FR 60559.

This final rule is to conform the Department's regulations found at 31 CFR 1.36 with the proposed and final determination published by the Department on behalf of the Customs Service. The rule amends 31 CFR 1.36 to add the exemptions claimed for the Pacific Basin Reporting Network—Treasury/Customs .171 to the Department's regulations.

In accordance with 5 U.S.C. 552a (j) and (k) and § 1.23(c), the Department of the Treasury exempts the Pacific Basin Reporting Network system of records from certain provisions of the Privacy Act for the reasons indicated:

a. *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to the provisions of 5 U.S.C. 552a(j)(2), the Department of the Treasury (Department), hereby exempts the Basin Reporting Network system of records, maintained by the United States Customs Service, from the provisions of 5 U.S.C. 552a(c)(3) and (4), (d)(1)(2)(3) and (4), (e)(1), (2), (3), (4)(G), (H) and (I), (5) and (8), (f) and (g).

1. *Exempt system.* The Pacific Basin Reporting Network—Treasury/Customs .171(PBRN), contains information of the type described in 5 U.S.C. 552a(j)(2), and shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph a. above except as otherwise indicated below.

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Department believes that application of these provisions to the PBRN system of records would give individuals an opportunity to learn whether they are of record either as suspects or as subjects of a criminal investigation. This would compromise the ability of the Department to complete investigations and to detect and apprehend violators of customs and related laws in that individuals would thus be able to:

(1) Take steps to avoid detection;

(2) Inform co-conspirators of the fact that an investigation is being conducted;

(3) Learn the nature of the investigation to which they are being subjected;

(4) Learn the type of surveillance being utilized;

(5) Learn whether they are only suspects or identified law violators;

(6) Continue or resume their illegal conduct without fear of detection upon learning that they are not in a particular system of records; and

(7) Destroy evidence needed to prove the violation.

(b) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The Department believes that application of these provisions to the PBRN system of records would compromise its ability to complete or continue criminal investigations and to detect and apprehend violators of customs and related criminal laws. Permitting access to records contained in the PBRN system of records would provide individuals with significant information concerning the nature of the investigation, and this could enable them to avoid detection or apprehension in the following ways:

(1) By discovering the collection of facts which would form the basis for their arrest;

(2) By enabling them to destroy contraband or other evidence of criminal conduct which would form the basis for their arrest; and

(3) By learning that the criminal investigators had reason to believe that a crime was about to be committed, they could delay the commission of the crime or change the scene of the crime to a location which might not be under surveillance. Granting access to on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning criminal activity to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing law enforcement investigative tools and procedures. Further, granting access to investigative files and records could disclose the identity of confidential sources and other informers and the nature of the information which they supplied, thereby endangering the life or physical safety of those sources of information by exposing them to possible reprisals for having provided information relating to the criminal activities of those individuals who are the subject of the investigative files and other records. Confidential sources and other informers might refuse to provide criminal investigators with valuable information if they could not be secure in their knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied, and this would seriously impair the ability of the Customs Service to carry out its mandate to enforce the Customs criminal and related laws. Additionally, providing access to records contained in the PBRN system of records could reveal the identities of undercover law enforcement officers who compiled information regarding an individual's criminal activities, thereby endangering the life or physical safety of those undercover officers or their families by exposing them to possible reprisals.

(c) 5 U.S.C. 552a(d)(2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The Department believes that the reasons set forth in paragraph (b) above are equally applicable to this subparagraph and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The Department believes that application of this provision to the PBRN system of records would impair the ability of other law enforcement agencies to make effective use of information provided by the Customs Service in connection with the investigation, detection and apprehension of violators of the criminal laws enforced by those other law enforcement agencies. Making accountings of disclosure available to violators would alert those individuals to the fact that another agency is conducting an investigation into their criminal activity, and this could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was

active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas or by destroying or concealing evidence which would form the basis for their arrest. In addition, providing violators with accountings of disclosure would alert those individuals to the fact that the Department has information regarding their criminal activities and could inform those individuals of the general nature of that information; this, in turn, would afford those individuals a better opportunity to take appropriate steps to avoid detection or apprehension for violations of customs and related criminal laws.

(e) 5 U.S.C. 552a(c)(4) requires that an agency inform any person or other agency about any correction or notation of dispute made by the agency in accordance with 5 U.S.C. 552a(d) of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. Since this provision is dependent on an individual's having been provided an opportunity to contest (seek amendment to) records pertaining to him, and since the PBRN system of records is proposed to be exempted from those provisions of 5 U.S.C. 552a relating to amendments of records as indicated in paragraph (c) above, the Department believes that this provision should not be applicable to the PBRN system of records.

(f) 5 U.S.C. 552a(e)(4)(I) requires that an agency publish a public notice listing the categories of sources for information contained in a system of records. The Department believes that application of this provision to the PBRN system of records could compromise its ability to conduct investigations and to identify, detect and apprehend violators of customs and related criminal laws because revealing sources for information could:

(1) Disclose investigative techniques and procedures;

(2) Result in threatened or actual reprisal directed to informers by the subject under investigation; and

(3) Result in the refusal of informers to give information or to be candid with criminal investigators because of the knowledge that their identities as sources might be disclosed.

(g) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term ''maintain'' as defined in 5 U.S.C. 552a(a)(3) includes ''collect'' and ''disseminate.'' At the time that information is collected by the Department, there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the Department; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation. In many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation, prove to have particular relevance to an enforcement program of the Department. Further, not all violations of law discovered during a Customs Service criminal investigation fall within the investigative jurisdiction of the Department; in order to promote effective law enforcement, it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The Department should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the Department through the conduct of a lawful Customs Service investigation. The Department therefore believes that it is appropriate to exempt the PBRN system of records from the provisions of 5 U.S.C. 552a(e)(1).

(h) 5 U.S.C. 552a(e)(2) requires that an agency collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The Department believes that application of this provision to the PBRN system of records would impair the ability of the Customs Service to conduct investigations and to identify, detect and apprehend violations of customs and related criminal laws for the following reasons:

(1) Most information collected about an individual under criminal investigation is obtained from third parties such as witnesses and informers, and it is usually not feasible to rely upon the subject of the investigation as a source for information regarding his or her criminal activities;

(2) An attempt to obtain information from the subject of a criminal investigation will often alert that individual to the existence of an investigation, thereby affording the individual an opportunity to attempt to conceal his or her criminal activities so as to avoid apprehension;

(3) In certain instances the subject of a criminal investigation is not required to supply information to criminal investigators as a matter of legal duty; and

(4) During criminal investigations it is often a matter of sound investigative procedure to obtain information from a variety of sources in order to verify information already obtained.

(i) 5 U.S.C. 552a(e)(3) requires that an agency inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual: the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effects on the individual of not providing all or part of the requested information. The Department believes that the PBRN system of records should be exempted from this provision in order to avoid adverse effects on its ability to identify, detect and apprehend violators of customs and related criminal laws. In many cases information is obtained by confidential sources or other informers or by undercover law enforcement officers under circumstances where it is necessary that the true purpose of their actions be kept secret so as to not let it be known by the subject of the investigation or his associates that a criminal investigation is in progress. Further, if it became known that the undercover officer was assisting in a criminal investigation, that officer's life or physical safety could be endangered through reprisal, and, further, under such circumstances it may not be possible to continue to utilize that officer in the investigation. In many cases individuals for personal reasons would feel inhibited in talking to a person representing a criminal law enforcement agency but would be willing to talk to a confidential source or undercover officer who they believed was not involved in law enforcement activities. In addition, providing a source of information with written evidence that he was a source, as required by this provision, could increase the likelihood that the source of information would be the subject of retaliatory action by the subject of the investigation. Further application of this provision could result in an unwarranted invasion of the personal privacy of the subject of the criminal

investigation, particularly where further investigation would result in a finding that the subject was not involved in any criminal activity.

(j) 5 U.S.C. 552a(e)(5) requires that an agency maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since 5 U.S.C. 552a(a)(3) defines ''maintain'' to include ''collect'' and ''disseminate,'' application of this provision to the PBRN system of records would hinder the initial collection of any information which could not, at the moment of collection, be determined to be accurate, relevant, timely and complete. Similarly, application of this provision would seriously restrict the necessary flow of information from the Department to other law enforcement agencies where a Customs Service investigation revealed information pertaining to a violation of law which was under the investigative jurisdiction of another agency. In collecting information during the course of a criminal investigation, it is not possible or feasible to determine accuracy, relevance, timeliness or completeness prior to collection of the information; in disseminating information to other law enforcement agencies it is often not possible to determine accuracy, relevance, timeliness or completeness prior to dissemination because the disseminating agency may not have the expertise with which to make such determinations. Further, information which may initially appear to be inaccurate, irrelevant, untimely or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. In addition, application of this provision could seriously impede criminal investigators and intelligence analysts in the exercise of their judgment in reporting on results obtained during criminal investigations. The Department therefore believes that it is appropriate to exempt the PBRN system of records from the provisions of 5 U.S.C. 552a(e)(5).

(k) 5 U.S.C. 552a(e)(8) requires that an agency make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The Department believes that the PBRN system of records should be exempt from this provision in order to avoid revealing investigative techniques and procedures outlined in those records and in order to prevent revelation of the existence of an on-going investigation where there is a need to keep the existence of the investigation secret.

(l) 5 U.S.C. 552a(g) provides civil remedies to an individual for an agency refusal to amend a record or to make a review of a request for amendment, for an agency refusal to grant access to a record, for an agency failure to maintain accurate, relevant, timely and complete records which are used to make a determination which is adverse to the individual, and for an agency failure to comply with any other provision of 5 U.S.C. 552a in such a way as to have an adverse effect on an individual. The Department believes that the PBRN system of records should be exempted from this provision to the extent that the civil remedies provided therein may relate to provisions of 5 U.S.C. 552a from which the PBRN system of records is proposed to be exempt. Since the provisions of 5 U.S.C. 552a enumerated in paragraphs (a) through (k) above are proposed to be inapplicable to the PBRN system of records for the reasons stated therein, there should be no corresponding civil remedies for failure to comply with the requirements of those provisions to which the exemption is proposed to apply. Further, the Department believes that application of this provision to the PBRN system of records would adversely affect its ability to conduct criminal investigations by exposing to civil court action every stage of the criminal investigative process in which information is compiled or used in order to identify, detect, apprehend and otherwise investigate persons suspected or known to be engaged in criminal conduct in violation of customs and related laws.

b. *Specific exemptions under 5 U.S.C. 552a(k)(2).* Pursuant to the provisions of 5 U.S.C. 552a(k)(2), the Department of the Treasury hereby exempts the Pacific Basin Reporting Network—Treasury/Customs .171, maintained by the United States Customs Service, from the provisions of 5 U.S.C. 552a(c)(3), (d)(1), (2), (3) and (4), (e)(1) and (4)(G), (H) and (I) and (f).

1. *Exempt system.* The Pacific Basin Reporting Network—Treasury/Customs .171 (PBRN), contains information of the type described in 5 U.S.C. 552a(k)(2), and shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph b. above except as otherwise indicated below.

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a(e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Department believes that application of these provisions to the PBRN system of records would impair the ability of the Department to successfully complete investigations and inquiries of suspected violators of civil and criminal laws and regulations under its jurisdiction. In many cases investigations and inquiries into violations of civil and criminal laws and regulations involve complex and continuing patterns of behavior. Individuals, if informed that they have been identified as suspected violators of civil or criminal laws and regulations, would have an opportunity to take measures to prevent detection of illegal action so as to avoid prosecution or the imposition of civil sanctions. They would also be able to learn the nature and location of the investigation or inquiry and the type of surveillance being utilized, and they would be able to transmit this knowledge to co-conspirators. Finally, violators might be given the opportunity to destroy evidence needed to prove the violation under investigation or inquiry.

(b) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The Department believes that application of these provisions to the PBRN system of records would impair its ability to complete or continue civil or criminal investigations and inquiries and to detect and apprehend violators of customs and related laws. Permitting access to records contained in the PBRN system of records would provide violators with significant information concerning the nature of the civil or criminal investigation or inquiry. Knowledge of the facts developed during an investigation or inquiry would enable violators of criminal and civil laws and regulations to learn the extent to which the investigation or inquiry has progressed, and this could provide them with an opportunity to destroy evidence that would form the basis for prosecution or the imposition of civil sanctions. In addition, knowledge gained through access to investigatory material could alert a violator to the need to temporarily postpone commission of the violation or to change the intended point where the violation is to be committed so as to avoid detection or apprehension. Further, access to investigatory material would disclose investigative techniques and procedures which, if known, could enable violators to structure their future operations in such a way as to avoid detection or apprehension, thereby

neutralizing investigators' established and effective investigative tools and procedures. In addition, investigatory material may contain the identity of a confidential source of information or other informer who would not want his identity to be disclosed for reasons of personal privacy or for fear of reprisal at the hands of the individual about whom he supplied information. In some cases mere disclosure of the information provided by an informer would reveal the identity of the informer either through the process of elimination or by virtue of the nature of the information supplied. If informers cannot be assured that their identities (as sources for information) will remain confidential, they would be very reluctant in the future to provide information pertaining to violations of criminal and civil laws and regulations, and this would seriously compromise the ability of the Department to carry out its mission. Further, application of 5 U.S.C. 552a(d)(1),

(e)(4)(H) and (f)(2), (3) and (5) to the PBRN system of records would make available attorney work products and other documents which contain evaluations, recommendations, and discussions of ongoing civil and criminal legal proceedings; the availability of such documents could have a chilling effect on the free flow of information and ideas within the Department which is vital to the agency's predecisional deliberative process, could seriously prejudice the agency's or the Government's position in a civil or criminal litigation, and could result in the disclosure of investigatory material which should not be disclosed for the reasons stated above. It is the belief of the Department that, in both civil actions and criminal prosecutions, due process will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records and related materials which are to be used in legal proceedings.

(c) 5 U.S.C. 552a(d)(2)(3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in subparagraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The Department believes that the reasons set forth in subparagraph (b) above are equally applicable to this subparagraph, and, accordingly, those reasons are incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The Department believes that application of this provision to the PBRN system of records would impair the ability of the Customs Service and other law enforcement agencies to conduct investigations and inquiries into civil and criminal violations under their respective jurisdictions. Making accountings available to violators would alert those individuals to the fact that the Department or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and the dates on which that investigation or inquiry was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(e) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term ''maintain'' as defined in 5 U.S.C. 552a(a)(3) includes ''collect'' and ''disseminate.'' At the time that information is collected by the Department there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the Department; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the Department. Further, not all violations of law uncovered during a Customs Service investigation or inquiry fall within the civil or criminal jurisdiction of the Customs Service; in order to promote effective law enforcement it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The Department should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the Department through the conduct of a lawful Customs Service civil or criminal investigation or inquiry. The Department therefore believes that it is appropriate to exempt the PBRN system of records from the provisions of 5 U.S.C. 552a(e)(1).

This is being published as a final rule because the amendment to 31 CFR 1.36 has been published by the Department as a proposed and final determination, as noted above, and no comments were received. In addition it does not impose any new requirements on any member of the public. The amendment in question is the most efficient means for the Treasury Department to implement its internal requirements for complying with the Privacy Act. For the above reasons, the Department of the Treasury finds that the expenditure of additional time and money on nonsubstantial administrative changes to these regulations would be unproductive.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, the Department of the Treasury finds good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary and finds good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

It has been determined that this rule does not constitute a ''significant regulatory action'' Departmental experience indicates that the rule 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 rights and obligations of recipients thereof; and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the regulatory principles set forth in Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not have significant economic impact on a substantial number of small entities because it

concerns the implementation and administration of the Privacy Act within the Department of the Treasury.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has determined that this final rule will not impose new recordkeeping, application, reporting or other types of information collection requirements.

Lists of Subjects in 31 CFR Part 1

Privacy.

Part 1 of title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

§ 1.36—[Amended]

2. Section 1.36 of subpart C is amended by adding the following text to the listing in paragraph a. 1. and b. 1. under the heading THE UNITED STATES CUSTOMS SERVICE:

* * * * *

a. * * *

1. * * *

00.171—Pacific Basin Reporting Network

* * * * *

b. * * *

1. * * *

00.171—Pacific Basin Reporting Network

* * * * *

Dated: May 5, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 97–12611 Filed 5–15–97; 8:45am]

BILLING CODE: 4810–25–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

RIN 0720–AA40

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Selected Reserve Dental Program

AGENCY: Office of the Secretary, DoD.

ACTION: Interim final rule.

SUMMARY: This interim final rule establishes the TRICARE Selected Reserve Dental Program (TSRDP) to provide dental care to members of the Selected Reserves of the Ready Reserve. The rule details operation of the program and seeks comments on our plan to implement the TRSDP.

DATES: This rule is effective August 1, 1997. Public comments must be received by July 15, 1997.

ADDRESSES: TRICARE Support Office (TSO)/Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch; Aurora, Colorado 80045–6900.

FOR FURTHER INFORMATION CONTACT: Mr. Gunther J. Zimmerman, Office of the Assistant Secretary of Defense (Health Affairs), (703) 695–3331.

SUPPLEMENTARY INFORMATION:

I. Overview of the Proposed Rule

Implementation of the TRICARE Selected Reserve Dental Program (TSRDP) was directed by Congress in section 705 of the National Defense Authorization Act for Fiscal Year 1996, Public Law 104–106, which amended title 10, United States Code, by adding section 1076b. This law directed the implementation of a dental program for members of the Selected Reserve of the Ready Reserve, providing for voluntary enrollment and premium sharing between DoD and the enrollee.

Section 702 of the 1997 National Defense Authorization Act amended Title 10, U.S.C., by revising the program's start date, requiring the program to start during fiscal year 1997 and also to conform to several operational requirements. The costs of the program will be shared between the enrollee and the government. The statute directs that a members enrolling in the program shall pay a share of the premium charged for the insurance coverage.

Dental coverage under the TSRDP will provide basic dental care, to include diagnostic services, preventive services, basic restorative services, and emergency oral examinations.

Under this approach, where possible, reservists may make use of participating dental providers in their areas and benefit from the reduced copayments and provider submission of claims and acceptance of contractor allowances and arrangements. TSRDP eligible beneficiaries will obtain information concerning the program and the application process from the contractor.

This interim final rule adopts the statutory preemption authority of 10 U.S.C., section 1103. This statute broadly authorizes preemption of state laws in connection with DoD contracts for medical and dental care. We have made the judgment that preemption is necessary and appropriate to assure the operation of a consistent, effective, and efficient federal program. In addition, the enacting legislation for the TRICARE Selected Reserve Dental Program directs the Department of Defense to utilize full and open competition in selecting a contractor and to implement this program during fiscal year 1997. Absent preemption of certain state and local laws on insurance regulation and other matters, competition would be severely limited and the process substantially delayed.

II. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any ''significant regulatory action,'' defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

The interim final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

The Department is publishing this rule as an interim final rule in order to implement the program in a timely manner. Regulations involving military affairs are exempt from the notice and comment rulemaking procedures of the Administrative Procedures Act. Because this rule deals exclusively with a program for the military reserves, there is a heightened impact on the conduct of affairs peculiar to military functions of the government, and a significant reduced impact on the public. Based on this, it is appropriate, as an exemption to our normal practice of providing an opportunity for prior public comment on all CHAMPUS regulations, to issue this rule as an interim final rule, with a subsequent opportunity for public comment. Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the permanent final rule, anticipated approximately 90 days after the end of the comment period.