

Dated: April 3, 1997.

Jean A. Webb,

Secretary of the Commission, Commodity Futures Trading Commission.

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12-35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its Privacy Act regulation to add an exemption to the system of records identified as F111 AF JA B, Courts-Martial and Article 15 Records.

EFFECTIVE DATE: March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Rollins at (703) 697-8674 or DSN 227-8674.

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.

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, and 44 U.S.C. Chapter 35.

The Department of the Air Force is amending its Privacy Act regulation to add an exemption to a system of records identified as F111 AF JA B, Courts-Martial and Article 15 Records. The proposed rule was published on January 28, 1997 at 62 FR 4025. No comments were received, therefore, the rule is being adopted as final.

List of subjects in 32 CFR Part 806b

Privacy.

Accordingly, 32 CFR part 806b is amended as follows:

Part 806b – Air Force Privacy Act Program

1. The authority citation for 32 CFR Part 806b continues to read as follows:

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

2. Appendix C to Part 806b is amended by adding paragraph (b)(20) as follows:

Appendix C to Part 806b-General and Specific Exemptions

* * * * *

(b) Specific exemptions.***

(20) *System identifier and name:* F111 AF JA B, Courts-Martial and Article 15 Records.

(i) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

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

(iv) *Reason:* (1) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(4) From subsection (e)(1) because in the course of criminal investigations

information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(5) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) 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.

(9) 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.

(10) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this

could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(11) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(12) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(13) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force'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: April 3, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-97-009]

RIN 2115-AE47

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulation for the operation of the Seabrook Highway

bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.6 in New Orleans, Orleans Parish, Louisiana, to authorize it to remain closed to navigation between the hours of 7 a.m. and noon and between the hours of 1 p.m. and 6:30 p.m., Monday through Friday, from April 14, 1997 until August 15, 1997. At all other times the bridge will open on signal. This action is necessary for the fender system to be replaced.

DATES: This temporary final rule is effective beginning at 7 a.m. on April 14, 1997 and ending at 6:30 p.m. on August 15, 1997.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396 between 7 a.m. and 4 p.m., Monday through Friday. The telephone number is (504) 589-2965. The Eighth Coast Guard District, Bridge Administration Branch, maintains the public docket for this temporary final rule.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, at the address and telephone number given above.

SUPPLEMENTARY INFORMATION:

Discussion of Rule

The Coast Guard was not notified of the dates of the repair work in time to issue a notice of proposed rulemaking. The unsafe condition of the bridge fender system warrants the closures so that remedial work can be accomplished. For the same reason, good cause exists to make this temporary rule effective in less than 30 days after publication.

Vertical clearance of the Seabrook highway bridge across the Inner Harbor Navigation Canal in the closed to navigation position is 46 feet above mean high water. Navigation on the waterway consists of tugs with tows, commercial fishing vessels, crane barges, jack-up boats, oil industry crew vessels, sailing vessels and other recreational craft. A crane barge will be required to occupy the majority of the navigation channel in order to reconstruct the fender system. The barge and related equipment will be removed from the channel from noon until 1 p.m. daily at which time the bridge may be opened to pass marine traffic. The west fender system of the bridge has sustained considerable damage from vessel strikes, compromising its ability to protect the bridge. Replacement of the

fender system is necessary for the safety of vehicular and pedestrian traffic crossing the bridge.

The Coast Guard is temporarily changing the regulation for the operation of the Seabrook Highway bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.6 in New Orleans, Orleans Parish, Louisiana, to authorize it to remain closed to navigation between the hours of 7 a.m. and noon and between the hours of 1 p.m. and 6:30 p.m., Monday through Friday from April 14, 1997 through August 15, 1997. At all other times the bridge will open on signal.

The Board of Commissioners of the Orleans Levy Board has requested this temporary final rule so that the west fender system can be replaced. The short term inconvenience, attributable to a delay of vessel traffic for a maximum of five and one-half hours, is outweighed by the long term safety benefits to be gained in replacing the bridge fender system.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this temporary final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule contains no collection-of-information requirements