

(d) *Preparation of Certification.* The following rules apply for the completion of the certification set forth in paragraph (c) of this section:

(1) Block 1 must state the legal name and address (including country) of the producer of the wine.

(2) Block 2 must include a complete description of the wine, including its brand name, year of production, class or type, and country of origin.

(3) The importer must check the applicable box in block 3:

(i) The importer must check box 3a and ensure that blocks 4 and 5 are completed if no alternative certification applies to the wine under paragraph (b)(2)(i) of this section.

(ii) If paragraph (b)(2)(i)(B) applies to the wine, the importer must check box 3b and complete the certification in block 4.

(4) If the certification is submitted subsequent to approval of a label, the importer must complete block 6 by including the TTB identification number from the certificate of label approval, TTB Form 5100.31.

Signed: August 4, 2005.

**John J. Manfreda,**  
Administrator.

Approved: August 4, 2005.

**Timothy E. Skud,**  
Deputy Assistant Secretary (Tax, Trade, and  
Tariff Policy).

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## DEPARTMENT OF DEFENSE

### Department of the Army

#### 32 CFR Part 505

[Army Regulation 340-21]

#### Privacy Act; Implementation

**AGENCY:** Department of the Army, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Army is exempting those records contained in A0195-2c USACIDC DoD, entitled "DoD Criminal Investigation Task Force (CITF) Files" when the records are compiled in furtherance of activities pertaining to the enforcement of criminal laws.

**DATES:** Effective August 24, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janice Thornton at (703) 428-6503.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published on February 25, 2005, at 70 FR 9261-9262. One public comment was received which has prompted a change in the

final rule. The rule, as changed, is being adopted as final.

The commenter expressed two principal concerns. First, the commenter observes that the Department is attempting to establish a new exemption, a prerogative that only Congress possesses. We disagree. As provided by law, the Department may promulgate a rule exempting a system of records from provisions of the Act if the system of records is maintained by a Component of the Agency that performs as its principal function the enforcement of criminal laws. Because the principal function of the DoD Criminal Investigation Task Force is law enforcement (*i.e.*, criminal investigations into acts of terrorism and war crimes), the Department is authorized to adopt an exemption rule that will serve to preserve the integrity of the investigative process. And second, the commenter observes that adoption of the exemption will enable the Department to shield documents that heretofore were available to the public, thereby potentially resulting in the denial of access to individuals who, for example, are innocent members of the Armed Forces or individuals who have witnessed an act of terrorism or war crime. We disagree that the rule will deny access to all documents. As provided by law, the rule provides a basis for the Department to exempt certain records from the access provisions of the Act. It does not act to suspend any rights the individual otherwise may be entitled to under the law. Moreover, to the extent the documents may be disclosed without prejudicing the investigative process, the rule does not bar release. To eliminate any potential ambiguity that may exist regarding release of nonexempt documents from the system of records, the rule has been revised to make clear that only those records, the disclosure of which would have a deleterious impact on the investigative process, are shielded by the rule.

#### **Executive Order 12866, "Regulatory Planning and Review"**

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the

budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

#### **Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)**

It has been certified that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

#### **Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been certified that Privacy Act rules for the Department of Defense impose 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.

#### **Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

It has been certified that the Privacy Act rulemaking for the Department of Defense does not involve a Federal 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 and that such rulemaking will not significantly or uniquely affect small governments.

#### **Executive Order 13132, "Federalism"**

It has been certified that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects 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.

Dated: August 18, 2005.

**Jeannette Owings-Ballard,**  
OSD Federal Register Liaison Officer,  
Department of Defense.

#### **List of Subjects in 32 CFR Part 505**

Privacy.

n Accordingly, 32 CFR part 505 is to be amended to read as follows:

#### **PART 505—ARMY PRIVACY ACT PROGRAM**

n 1. The authority citation for 32 CFR part 505 continues to read as follows:

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

n 2. In § 505.5, paragraph (e)(20) is added to read as follows:

**§ 505.5 Exemptions.**

\* \* \* \* \*

(e) Exempt Army records. \* \* \*

\* \* \* \* \*

(20) *System identifier and name:* A0195-2c USACIDC DoD, DoD Criminal Investigation Task Force (CITF) 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. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections 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) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the on-going investigation, reveal investigative techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity that may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(F) From subsections (e)(4)(G), (H), and (I) because this system of records is exempt from the access provisions of subsection (d).

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

(I) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on-going investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

(J) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(K) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army'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 necessary for effective law enforcement.

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD05-05-101]

RIN 1625-AA00

**Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Port of Baltimore, Maryland during the movement of the historic Sloop-of-War U.S.S. CONSTELLATION. This action is necessary to provide for the safety of life on navigable waters during the dead ship tow of the vessel from its berth, to the Fort McHenry Angle on the Patapsco River, and return. This action will restrict vessel traffic in portions of Baltimore's Inner Harbor, the Northwest Harbor, and the Patapsco River.

**DATES:** This rule is effective from 2 p.m. to 7 p.m. local time on September 9, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-05-101 and are available for inspection or copying at Commander, U.S. Coast Guard Sector, Waterways Management Division, 2401 Hawkins Point Road, Baltimore, Maryland 21226, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Houck, at Coast Guard Sector