

why a delay of 60 days in establishing the system of records would not be in the public interest. The transmittal must include:

\* \* \* \* \*

Dated: August 1, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 01-19818 Filed 8-8-01; 8:45 am]

**BILLING CODE 5001-08-M**

## DEPARTMENT OF DEFENSE

### 32 CFR Part 326

#### NRO Privacy Act Program

**AGENCY:** National Reconnaissance Office, DOD.

**ACTION:** Final Rule.

**SUMMARY:** The National Reconnaissance Office (NRO) is adding a new responsibility for NRO employees under the NRO Privacy Act Program. NRO employees are now required to participate in specialized Privacy Act training should their duties require dealing with special investigators, the news media, or the public.

In addition, NRO is exempting a Privacy Act system of records. The system of records is QNRO-23, Counterintelligence Issue Files. The exemptions are intended to increase the value of the systems 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 systems of records.

**EFFECTIVE DATE:** March 9, 2001.

**ADDRESSES:** National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151-1715.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara Freimann at (703) 808-5029.

**SUPPLEMENTARY INFORMATION:** The proposed rules were published on September 6, 2000, at 65 FR 53962, and on January 8, 2001, at 66 FR 1280, respectively. No comments were received for either proposed rule.

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

The Director of Administration and Management, Office of the Secretary of Defense, hereby determines 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 or 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" (5 U.S.C. Chapter 6)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies 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)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies 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"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies 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 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"

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies 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.

#### List of Subjects in 32 CFR Part 326

Privacy.

1. The authority citation for 32 CFR part 326 continues to read as follows:

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

2. Section 326.5 is amended by adding paragraph (j)(11) to read as follows:

#### § 326.5 Responsibilities.

\* \* \* \* \*

(j) Employees, NRO:

\* \* \* \* \*

(11) Will participate in specialized Privacy Act training should their duties require dealing with special investigators, the news media, or the public.

\* \* \* \* \*

3. Section 326.17 is amended by adding paragraph (e) to read as follows:

#### § 326.17 Exemptions.

\* \* \* \* \*

(e) QNRO-23

(1) *System name:* Counterintelligence Issue Files.

(2) *Exemptions:* (i) 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.

(ii) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(iii) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

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

(4) *Reasons:* (i) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the

identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by NRO or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(ii) From subsections (d)(1) through (d)(4), and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(iii) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(iv) From subsections (e)(4)(G) and (H) because this system of records is compiled for law enforcement purposes and is exempt from the access provisions of subsections (d) and (f).

(v) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NRO will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(vi) Consistent with the legislative purpose of the Privacy Act of 1974, the NRO will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NRO'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.

Dated: August 1, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 01-19816 Filed 8-8-01; 8:45 am]

**BILLING CODE 5001-08-M**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-01-104]

RIN 2115-AA97

#### Safety Zone; Lake Erie, Cleveland Harbor, Cleveland, OH

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a Safety Zone encompassing the navigable waters adjacent to the Cleveland Port Authority, on Cleveland Harbor, Lake Erie. The Safety Zone is necessary to ensure the safety of spectator vessels during a fireworks display launched from a barge moored to the Cleveland Port Authority property on August 18, 2001. This regulation is intended to restrict vessel traffic from a portion of Lake Erie and Cleveland Harbor. Entry into, transit through or anchoring within this Safety Zone is prohibited unless authorized by the Coast Guard Patrol Commander, which may be contacted on VHF/FM Channel 16.

**DATES:** This temporary final rule is effective 9 p.m. until 10:15 p.m. (e.s.t.), August 18, 2001.

**ADDRESSES:** Comments and material that may be received from the public will be made part of docket CGD09-01-104,

and will be available for inspection and copying at Coast Guard Marine Safety Office Cleveland, Ohio, 1055 East Ninth Street, Cleveland, Ohio, 44114, between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant John Natale, U.S. Coast Guard Marine Safety Office Cleveland, 1055 East Ninth Street, Cleveland, Ohio 44114. The telephone number is (216) 937-0111.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard had insufficient advance notice to publish an NPRM followed by a temporary final rule. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property. The Coast Guard has not received any complaints or negative comments with regard to this event.

**Background and Purpose**

On August 18, 2001, at approximately 9:30 p.m. a fireworks and pyrotechnic display will be launched from a barge moored to the end of dock 26 at the Cleveland Port Authority. Spectators are expected to view the display from the adjacent Cleveland Browns football stadium, and private and commercial spectator vessels are expected in Cleveland Harbor. A safety zone will be in effect on August 18, 2001, from 9 p.m. until 10:15 p.m. The safety zone will include the navigable waters of Cleveland Harbor: East Basin, Eastern Section bounded by a line beginning at coordinates 41°30'29"N, 081°42'08"W; continuing north to coordinates 41°30'44"N, 081°42'19"W; then southwest along the breakwall to 41°30'34"N, 081°42'41"W then proceeding southeast to 41°30'19"N, 081°42'26"W, and then along the shoreline back to the beginning. These coordinates are based upon North American Datum 1983 (NAD 83).

**Regulatory Evaluation**

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under