

DEPARTMENT OF DEFENSE**Department of the Air Force****32 CFR Part 806b****[Air Force Instruction 37-132]****Privacy Act; Implementation**

AGENCY: Department of the Air Force, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is proposing to add an exemption rule for the system of records F051 AF JA I, Commander Directed Inquiries. The (k)(2) exemption will increase the value of the system of records for law enforcement purposes.

DATES: Comments must be received on or before August 5, 2002, to be considered by this agency.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, AF-CIO/P, 1155 Air Force Pentagon, Washington, DC 20330-1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601-4043 or DSN 329-4043.

SUPPLEMENTARY INFORMATION:**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 determined 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 determined 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 determined 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 determined 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 806b

Privacy.

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).

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

2. Appendix C to part 806b is amended by adding paragraph (b)(22) to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM**Appendix C to Part 806b—General and Specific Exemptions**

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(b) Specific exemptions. * * *

(2) *System identifier and name:* F051 AF JA I, Commander Directed Inquiries.

(i) *Exemption:* (1) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), 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 the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a

confidential source. *Note:* When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(2) Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3). (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

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

(iii) *Reasons:* (A) 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 existence of the investigation. 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.

(B) From subsections (d) and (f) because providing access to investigative records 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.

(C) 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.

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

(E) 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.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by 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 or civil

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: May 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Juan-02-038]

RIN 2115-AA97

Safety Zones; Ponce Bay, Tallaboa Bay, and Guayanilla Bay, Puerto Rico and Limetree Bay, St. Croix, U.S.V.I.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create moving safety zones around all Liquefied Hazardous Gas (LHG) vessels with product aboard in the waters of the Caribbean Sea and the Bays of Ponce, Tallaboa, Guayanilla, Puerto Rico and Limetree Bay, U.S. Virgin Islands. This action is necessary due to the highly volatile nature of this cargo. This proposed rule would enhance public and maritime safety by requiring vessel traffic to maintain a safe distance from these LHG vessels while they are underway.

DATES: Comments and related material must reach the Coast Guard on or before August 5, 2002.

ADDRESSES: You may mail comments and related material to Commanding Officer, Marine Safety Office San Juan, P.O. Box 71526, San Juan, Puerto Rico 00936. You may also deliver them in person to Commanding Officer, Marine Safety Office San Juan, Rodriguez and Del Valle Building, 4th Floor, Calle San Martin, Road #2, Guaynabo, Puerto Rico, 00968. The U.S. Coast Guard Marine Safety Office maintains the public docket for this rulemaking. Comments and materials received from

the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the USCG Marine Safety Office between the hours of 7 a.m. and 3:30 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Lieutenant Chip Lopez at Coast Guard Marine Safety Office San Juan, Puerto Rico, at (787) 706-2444.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP San Juan-02-038], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one by writing to the Commanding Officer, U.S. Coast Guard Marine Safety Office at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

These regulations are needed to provide for the safety of life on navigable waters from the hazards associated with LHG carriers. The safety zones are needed because of the significant risks Liquefied Hazardous Gas (LHG) ships present to public safety due to their size, draft, and volatile cargoes. We anticipate periodic arrivals of vessels carrying LHG in Ponce,

Tallaboa and Guayanilla Bays, Puerto Rico and Limetree Bay, St. Croix, U.S.V.I. This proposed rule would keep vessel traffic at least 100 yards away from LHG vessels thereby decreasing the risk of a collision, allision, or grounding.

Discussion of Proposed Rule

This proposed rule would create a 100-yard safety zone in the waters of the Caribbean Sea surrounding all LHG vessels with product aboard while transiting on approach to or departing from the following Ports, north of the latitudes indicated. Port of Ponce, Puerto Rico north of Latitude 17° 56.00' N. Ports of Tallaboa and Guayanilla, Puerto Rico north of Latitude 17° 57.00' N. Port of Limetree Bay, St. Croix, U.S. Virgin Islands north of 17° 39.00' N. (NAD 83) These safety zones would remain in effect until the LHG vessel is safely moored. The Marine Safety Office San Juan would notify the maritime community of periods during which these safety zones would be in effect by providing advance notice of scheduled arrivals and departures on LHG carriers via a broadcast notice to mariners on VHF Marine Band Radio, Channel 16 (156.8 MHz).

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary due to the relative infrequent arrivals of LHG carriers, the limited size of the safety zone, and the relatively sparse nature of other commercial traffic in Ponce, Tallaboa, Guayanilla, and Limetree Bays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not