

subject to review under section 3507(d) of the Paperwork Reduction Act of 1995.²¹

20. As stated above, the Commission approved, in Order No. 693, Reliability Standard TOP-001-1 that is the subject of the current rulemaking. This Final Rule approves the interpretation of the previously approved Reliability Standard, which was developed by NERC as the ERO. The interpretation, as clarified, relates to an existing Reliability Standard, and the Commission does not expect it to affect entities' current reporting burden.²² Accordingly, we will submit this Final Rule to OMB for informational purposes only.

21. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, e-mail: DataClearance@ferc.gov, Phone: (202) 502-8663, fax: (202) 273-0873].

V. Environmental Analysis

22. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.²³ The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.²⁴ The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

VI. Regulatory Flexibility Act

23. The Regulatory Flexibility Act of 1980 (RFA)²⁵ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a final rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's

(SBA) Office of Size Standards develops the numerical definition of a small business.²⁶ The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.²⁷ The RFA is not implicated by this Final Rule because the interpretations discussed herein will not have a significant economic impact on a substantial number of small entities.

24. The Commission approved Reliability Standard TOP-001-1 in 2007 in Order No. 693. The Final Rule in the immediate docket addresses an interpretation of Requirement R8 of previously-approved TOP-001-1. The interpretation clarifies current compliance obligations of balancing authorities and transmission operators and therefore, does not create an additional regulatory impact on small entities.

VII. Document Availability

25. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

26. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

27. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or e-mail at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

VIII. Effective Date and Congressional Notification

28. These regulations are effective November 21, 2011. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 40

Electric power, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Kimberly D. Bose,
Secretary.

[FR Doc. 2011-24088 Filed 9-19-11; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2011-OS-0004]

32 CFR Part 311

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: The Office of the Secretary of Defense is exempting those records contained in DMDC 14 DoD, entitled "Defense Clearance and Investigations Index (DCII)", pertaining to investigatory material compiled for law enforcement purposes to enable OSD components to conduct certain investigations and relay law enforcement information without compromise of the information, protect investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence. The exemption will allow DoD to provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence. Further,

²¹ 44 U.S.C. 3507(d).

²² See Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1901-1907.

²³ *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

²⁴ 18 CFR 380.4(a)(2)(ii).

²⁵ 5 U.S.C. 601-612.

²⁶ 13 CFR 121.101.

²⁷ 13 CFR 121.201, Section 22, Utilities, & n.1.

requiring OSD to grant access to records and agency rules for access and amendment of records would unfairly impede the investigation of allegations of unlawful activities. To require OSD to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

This direct final rule makes nonsubstantive changes to the Office of the Secretary Privacy Program rules. These changes will allow the Department to add an exemption rule to the Office of the Secretary of Defense Privacy Program rules that will exempt applicable Department records and/or material from certain portions of the Privacy Act. This change will allow the Department to move part of the Department's personnel security program records from the Defense Security Service Privacy Program to the Office of the Secretary of Defense Privacy Program. This will improve the efficiency and effectiveness of DoD's program by preserving the exempt status of the applicable records and/or material when the purposes underlying the exemption(s) are valid and necessary.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

DATES: The rule will be effective on November 29, 2011 unless comments are received that would result in a contrary determination. Comments will be accepted on or before November 21, 2011.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any

personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard at (703) 588-6830.

SUPPLEMENTARY INFORMATION: This direct final rule is consistent with the rule currently published at 32 CFR part 321.13(h) and another rule is being published to remove and reserve 321.13(h).

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory 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 these Executive orders.

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

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.

Public Law 95-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no additional information collection requirements on the public under the Paperwork Reduction Act of 1995.

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

It has been determined that this 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 rule does 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 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

PART 311—OFFICE OF THE SECRETARY OF DEFENSE AND JOINT STAFF PRIVACY PROGRAM

- 1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1986 (5 U.S.C. 522a).

- 2. Section 311.8 is amended by adding paragraph (c)(20) to read as follows:

§ 311.8 Procedures for exemptions.

* * * * *

(c) * * *

(20) System identifier and name: DMDC 14 DoD, Defense Clearance and Investigations Index.

(i) *Exemptions:* 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. Any portion of this system that falls under 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 it will enable OSD components to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(B) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(C) From subsections (d) and (f) because requiring OSD to grant access to records and agency rules for access and amendment of records would unfairly impede the investigation of allegations of unlawful activities. To require OSD to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

Dated: August 24, 2011.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.

[FR Doc. 2011-23758 Filed 9-19-11; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-0857]

RIN 1625-AA11

Regulated Navigation Area; Saugus River, Lynn, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area (RNA) on the navigable waters of the Saugus River in Lynn, Massachusetts. This temporary rule allows the Coast Guard to suspend all vessel traffic within the regulated area to allow for stabilization operations that could pose a safety hazard to vessels operating in the area. This temporary rule is necessary to enhance vessel safety, marine environmental protection, and provide for the safety of life on the navigable waters during the removal of a damaged section of the Energy Systems Pipeline Bridge at Mile 2.3 of the Saugus River.

DATES: This rule is effective in the CFR on September 20, 2011 until 5 p.m. on November 9, 2011. This rule is effective with actual notice for purposes of enforcement from 8 a.m. on September 12, 2011 until 5 p.m. on November 9, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0857 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0857 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Mr. Mark Cutter, U.S. Coast Guard Sector Boston Waterways Management Division, Coast Guard;

telephone 617-223-4000, e-mail Mark.E.Cutter@uscg.mil, or Lieutenant Junior Grade Isaac Slavitt, Coast Guard First District Waterways Management Branch, telephone 617-223-8385, e-mail Isaac.M.Slavitt@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedures Act (APA), 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are

"impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule; notice and comment is impracticable because immediate action is necessary to ensure the safety of the public in the vicinity of construction operations being conducted in the Saugus River.

Serious damage to this pipeline bridge was caused during Tropical Storm Irene, which passed through Boston on 28 August, 2011. Currently, the pipeline is leaning over precariously and is in danger of collapsing. Two phases of work are needed for this pipeline: stabilization (which may include removal of the damaged segment), and then full removal at a later date. This rule addresses only emergency stabilization efforts. A separate rule will be promulgated with normal notice and comment periods for the longer term full repair project.

On September 1, 2011, General Electric, the pipeline operators, advised that the Energy Systems Pipeline bridge demolition project would require periodic closures of the Saugus River at mile 2.3 to remove the damaged piping support structure. The hazard that the damaged portion of the Energy Systems Pipeline bridge poses to the navigational channel necessitates that all mariners comply with this RNA. Immediate action is needed to control vessels operating in the restricted waterway in order to facilitate repairs and to protect the maritime public from the hazards associated with the stabilization of this damaged structure. Publishing a NPRM and waiting 30 days for comment would be contrary to the public interest since immediate action is needed to restrict