

records from certain provisions of the Privacy Act. The system of records is identified as S100.10 GC, entitled Whistleblower Complaint and Investigation Files.

The exemption is intended to increase the value of the system 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 system of records.

EFFECTIVE DATE: December 15, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Christensen, 703-617-7583.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Director, Administration and Management, Office of the Secretary of Defense has 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 entitlement, grants, user fees, or loan programs or the right 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 (1993).

Regulatory Flexibility Act of 1980

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

The Director, Administration and Management, Office of the Secretary of Defense, certifies 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 of 1974.

This rule adds an exempt Privacy Act system of records to the DLA inventory of systems of records. DLA performs as one of its principal functions investigations into whistleblower

complaints arising from DLA employees and the employees of DLA contractors. The exempt system reflects recognition that certain records in the system may be deemed to require protection from disclosure in order to protect confidential sources mentioned in the files and avoid compromising, impeding, or interfering with investigative and enforcement proceedings. The authority for the exemption may be found in 5 U.S.C. 552a(k)(2). The system would thus be exempt from sections 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f). The Director adopts these exemptions. The proposed rule was published on October 13, 1994, at 59 FR 51911. No comments were received, therefore, the DLA is adopting the exemption rule.

List of Subjects in 32 CFR Part 323

Privacy.

Accordingly, the Defense Logistics Agency amends 32 CFR part 323 as follows:

1. The authority citation for 32 CFR part 323 continues to read as follows:

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

2. 32 CFR part 323, Appendix H is amended by adding paragraph d.

Appendix H to Part 323—DLA Exemption Rules

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d. ID: S100.10 GC (Specific exemption).

1. *System name:* Whistleblower Complaint and Investigation Files.

2. *Exemption:* Portions of this system of records may be exempt under the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f).

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

4. *Reasons:* From subsection (c)(3) because granting 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 or prosecutive interest by DLA 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.

From subsections (d)(1) through (d)(4), and (f) because providing access to records of a civil 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; 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.

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.

From subsections (e)(4)(G) and (e)(4)(H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system. However, DLA will continue to publish such a notice in broad generic terms as is its current practice.

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. DLA will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

Dated: January 6, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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