Paperwork Reduction Act

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act proposed 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.

The Department of the Army system of records notice A0381-45cDAMI was deleted October 4, 1995. Therefore, the exemption rule is being deleted with this action.

In addition, the Army is amending three existing exemption rules. The amendments to the existing rules change the system identifiers and provide the provisions of 5 U.S.C. 552a from which the system of records may be exempt, and the reasons therefore. The system identifiers are A0381-20bDAMI, entitled Counterintelligence Operations Files; A0614–115DAMI, entitled Department of the Army Operational Support Activities; and A0318-100aDAMI, entitled Intelligence Collection Files.

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly, 32 CFR part 505 is amended as follows:

- 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).
- 2. Section 505.5, is amended by revising the text of paragraphs (e)ac, (e)ad, and (e)af, and removing and reserving paragraph (e)ae as follows:

§ 505.5 Exemptions.

(e) Exempt Army records. * * *

- ac. System identifier: A0381-20bDAMI.
- (1) System name: Counterintelligence/ Security Files.
- (2) Exemption: All portions of this system of records may be exempt from the provisions of subsections (c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f) of 5 U.S.C.
- (3) Authority: 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).
- (4) Reasons: (a) From subsection (c)(3) because disclosing the agencies to which information from this system has been released could inform the subject of an investigation of an actual or potential criminal violation, or intelligence operation or investigation; or the existence of that investigation or

operation; of the nature and scope of the information and evidence obtained as to his/her activities or of the identify of confidential sources, witnesses, and intelligence personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel, and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified and sensitive sources, information, and operational methods and could constitute an unwarranted invasion of the personal privacy of others.

(b) From subsection (d)(1) through (d)(5) because granting access to records in this system of records could inform the subject of a counterintelligence operation or investigation of an actual or potential criminal violation or the existence of that operation or investigation; of the nature and scope of the information and evidence obtained as to his/her activities; or of the identity of confidential sources, witnesses and intelligence personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an operation or investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it.

(c) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation or operation. Relevance and necessity are often questions of judgement and timing, an it is only after the information is evaluated that the relevance and necessity of such

information can be established. In addition, during the course of the investigation or operation, the investigator may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violations of laws other than those which are within the scope of his/ her jurisdiction. In the interest of effective intelligence operations and law enforcement, military intelligence agents should retain information, since it an aid in establishing patterns of criminal or intelligence activity and provide valuable leads for other law enforcement or intelligence agencies.

- (d) From subsection (e)(4)(G), (e)(4)(H), and (f) because this system or records is being exempt from subsections (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence has published information concerning its notification, access, and contest procedures because under certain circumstances, the Deputy Chief of Staff for Intelligence could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.
- (e) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses and to avoid the disclosure of investigative techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence has published such a notice in broad, generic terms.
- ad. System identifier: A0614-115DAMI.
- (1) System name: Department of the Army Operational Support Activities.
- (2) Exemption: All portions of this system of records that fall within the provisions of 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) may be exempt from subsections 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f).
- (3) Authority: 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).
- (4) Reasons: (a) From subsection (c)(3)because disclosing the agencies to which information from this system has