

In addition, this amendment includes specific language for providing periodic Privacy Act training for DoD personnel who may be expected to deal with the new media or the public.

**EFFECTIVE DATE:** February 5, 2001.

**ADDRESSES:** OSD Privacy Act Officer, Washington Headquarter Services, Correspondence and Directives Division, Records Management Division, 1155 Defense Pentagon, Washington, DC 20301-1155.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Bosworth at (703) 695-1155.

**SUPPLEMENTARY INFORMATION:**

The proposed rule was published on December 5, 2000, at 65 FR 75897. No comments were received. 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 of entitlements, grants, or 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)**

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 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"**

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 311**

Privacy.

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

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

2. In § 311.5, paragraph (a)(7)(ii) is revised as follows:

**§ 311.5 Responsibilities.**

(a) \* \* \*

(7) \* \* \*

(ii) Provide guidance and training to organizational entities as required by 5 U.S.C. 552a and OMB Circular A-130. Periodic training will be provided to public affairs officers and others who may be expected to deal with the news media or the public.

\* \* \* \* \*

3. Section 311.8 is amended by adding paragraph (c)(7) to read as follows:

**§ 311.8 Procedures for exemptions.**

\* \* \* \* \*

(c) \* \* \*

(7) System identifier and name: DGC 20, DoD Presidential Appointee Vetting File.

(i) Exemption: 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. Portions of this system of records that may be exempt pursuant to 5 U.S.C. 552a(k)(5) are subsections (d)(1) through (d)(5).

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

(iii) Reason: From (d)(1) through (d)(5) because 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.

\* \* \* \* \*

Dated: August 1, 2001.

**L.M. Bynum,**

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

[FR Doc. 01-19817 Filed 8-8-01; 8:45 am]

**BILLING CODE 5001-08-M**

**DEPARTMENT OF DEFENSE**

**Defense Logistics Agency**

**32 CFR Part 323**

**[Defense Logistics Agency Regulation 5400.21]**

**Defense Logistics Agency Privacy Program**

**AGENCY:** Defense Logistics Agency, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Defense Logistics Agency (DLA) is amending its Privacy Act regulations. These changes consist of DLA office code changes and DLA publication name changes. DLA is also adding language to clarify the training requirements for its employees and military members who work with the news media or the public.

**EFFECTIVE DATE:** December 12, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Salus at (703) 767-6183.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published on October 13, 2000, at 65 FR 60900. No comments were received during the sixty-day public comment period. Therefore, DLA is adopting the amendments.

**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 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)**

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 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"**

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 323**

Privacy.

Accordingly, 32 CFR part 323 is amended as follows:

**PART 323—DEFENSE LOGISTICS AGENCY PRIVACY PROGRAM**

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 is amended by revising footnotes 1 through 8 to read as follows:

Copies may be obtained from the Defense Logistics Agency, ATTN: DSS-CV, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

3. Section 323.2, paragraph (e), is revised to read as follows:

**§ 323.2 Policy.**

\* \* \* \* \*

(e) Make reasonable efforts to ensure that records containing personal information are accurate, relevant, timely, and complete for the purposes for which they are being maintained before making them available to any recipients outside DoD, other than a Federal agency, unless the disclosure is made under DLAR 5400.14, DLA Freedom of Information Act Program (32 CFR part 1285).

\* \* \* \* \*

4. Section 323.4 is amended as follows:

a. By revising paragraph (a)(1) introductory text.

b. Adding paragraph (a)(1)(v), and

c. Revising paragraph (a)(2) introductory text, paragraphs (a)(3) and (b)(4). The revisions and addition read as follows:

**§ 323.4 Responsibilities.**

(a) \* \* \*

(1) The Staff Director, Corporate Communications, DLA Support Services (DSS-C) will:

\* \* \* \* \*

(v) Establish training programs for all individuals with public affairs duties, and all other personnel whose duties require access to or contact with systems of records affected by the Privacy Act. Initial training will be given to new employees and military members upon assignment. Refresher

training will be provided annually or more frequently if conditions warrant.

(2) The General Counsel, DLA (DLA-GC) will:

\* \* \* \* \*

(3) The DLA Chief Information Office (J-6) will formulate and implement protective standards for personal information maintained in automated data processing systems and facilities.

(b) \* \* \*

(4) Establish training programs for all individuals with public affairs duties, and all other personnel whose duties require access to or contact with systems of records affected by the Privacy Act. Initial training will be given to new employees and military members upon assignment. Refresher training will be provided annually or more frequently if conditions warrant.

5. Section 323.5 is amended by revising paragraphs (b)(3)(iv), (b)(4), (b)(5), (c)(5)(ii), (c)(6) introductory text, (c)(6)(i), (f)(3), (h)(6), (i)(5)(ii), (j)(5), (k), (l)(1), (l)(2), and (l)(3), and by removing paragraph (b)(3)(v) to read as follows:

**§ 323.5 Procedures.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iv) Notice to the individual of his or her right to appeal the denial within 60 calendar days of the date of the denial letter and to file any such appeal with the HQ DLA Privacy Act Officer, Defense Logistics Agency (DSS-CA), 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

(4) DLA will process all appeals within 30 days of receipt unless a fair and equitable review cannot be made within that period. The written appeal notification granting or denying access is the final DLA action on access.

(5) The records in all systems of records maintained in accordance with the Office of Personnel Management (OPM) Government-wide system notices are technically only in the temporary custody of DLA. All requests for access to these records must be processed in accordance with the Federal Personnel Manual (5 CFR parts 293, 294, 297 and 735) as well as this part. DLA-GC is responsible for the appellate review of denial of access to such records.

(c) \* \* \*

(5) \* \* \*

(ii) Notification that he or she may seek further independent review of the decision by filing an appeal with the HQ DLA Privacy Act Officer, Defense Logistics Agency (DSS-CA), 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221, and including all supporting materials.

(6) DLA will process all appeals within 30 days unless a fair review cannot be made within this time limit.

(i) If the appeal is granted, DLA will promptly notify the requester and system manager of the decision. The system manager will amend the record(s) as directed and ensure that all prior known recipients of the records who are known to be retaining the record are notified of the decision and the specific nature of the amendment and that the requester is notified as to which DoD Components and Federal agencies have been told of the amendment.

\* \* \* \* \*

(f) \* \* \*

(3) All records must be disclosed if their release is required by the Freedom of Information Act. DLAR 5400.14, (32 CFR part 1285) requires that records be made available to the public unless exempted from disclosure by one of the nine exemptions found in the Freedom of Information Act. The standard for exempting most personal records, such as personnel records, medical records, and similar records, is found in DLAR 5400.14 (32 CFR part 1285). Under the exemption, release of personal information can only be denied when its release would be a 'clearly unwarranted invasion of personal privacy.'

\* \* \* \* \*

(h) \* \* \*

(6) DLAI 5530.1, Publications, Forms, Printing, Duplicating, Micropublishing, Office Copying, and Automated Information Management Programs,<sup>2</sup> provides guidance on administrative requirements for Privacy Act Statements used with DLA forms. Forms subject to the Privacy Act issued by other Federal agencies have a Privacy Act Statement attached or included. Always ensure that the statement prepared by the originating agency is adequate for the purpose for which the form will be used by the DoD activity. If the Privacy Act Statement provided is inadequate, the activity concerned will prepare a new statement of a supplement to the existing statement before using the form. Forms issued by agencies not subject to the Privacy Act (state, municipal, and other local agencies) do not contain Privacy Act Statements. Before using a form prepared by such agencies to collect personal data subject to this part, an appropriate Privacy Act Statement must be added.

(i) \* \* \*

(5) \* \* \*

(ii) Special administrative, physical, and technical procedures are required to protect data that are stored or being processed temporarily in an automated

data processing (ADP) system or in a word processing activity to protect it against threats unique to those environments (see DLAR 5200.17, Security Requirements for Automated Information and Telecommunications Systems,<sup>3</sup> and appendix D to this part).

\* \* \* \* \*

(j) \* \* \*

(5) Systems notices and reports of new and altered systems will be submitted to DLA Support Services (DSS-CA) as required.

\* \* \* \* \*

(k) Exemptions. The Director, DLA will designate the DLA records which are to be exempted from certain provisions of the Privacy Act. DLA Support Services (DSS-CA) will publish in the **Federal Register** information specifying the name of each designated system, the specific provisions of the Privacy Act from which each system is to be exempted, the reasons for each exemption, and the reason for each exemption of the record system.

(l) \* \* \*

(1) Forward all requests for matching programs to include necessary routine use amendments and analysis and proposed matching program reports to DLA Support Services. Changes to existing matching programs shall be processed in the same manner as a new matching program report.

(2) No time limits are set by the OMB guidelines. However, in order to establish a new routine use for a matching program, the amended system notice must have been published in the **Federal Register** at least 30 days before implementation. Submit the documentation required above to DLA Support Services (DSS-CA) at least 60 days before the proposed initiation date of the matching program. Waivers to the 60 days' deadline may be granted for good cause shown. Requests for waivers will be in writing a fully justified.

(3) For the purpose of the OMB guidelines, DoD and all DoD Components are considered a single agency. Before initiating a matching program using only the records of two or more DoD activities, notify DLA Support Services (DSS-CA) that the match is to occur. Further information may be requested from the activity proposing the match.

\* \* \* \* \*

6. Section 323.6 is revised to read as follows:

#### **§ 323.6 Forms and reports.**

DLA activities may be required to provide data under reporting requirements established by the Defense Privacy Office and DLA Support

Services (DSS-CA). Any report established shall be assigned Report Control Symbol DD-DA&M(A)1379.

#### **Appendix A to Part 323 [Amended]**

6a. Appendix A to part 323 is amended by redesignating footnotes 5 through 8 as footnotes 1 through 4 respectfully.

7. Appendix A to part 323 is amended by revising paragraphs C.2., F.2., I.4 to read as follows:

#### **Appendix A to Part 323—Instructions for Preparations of System Notices**

C. \* \* \*

2. When multiple locations are identified by type of organization, the system location may indicate that official mailing addresses are contained in an address directory published as an appendix to DLAH 5400.1.

\* \* \* \* \*

F. \* \* \*

2. For administrative housekeeping records, cite the directive establishing DLA as well as the Secretary of Defense authority to issue the directive. For example, 'Pursuant to the authority contained in the National Security Act of 1947, as amended (10 U.S.C. 133d), the Secretary of Defense has issued DoD Directive 5105.22 (32 CFR part 398), Defense Logistics Agency (DLA), the charter of the Defense Logistics Agency (DLA) as a separate agency of the Department of Defense under this control. Therein, the Director, DLA, is charged with the responsibility of maintaining all necessary and appropriate records.'

I. \* \* \*

4. Retention and disposal. Indicate how long the record is retained. When appropriate, state the length of time the records are maintained by the activity, when they are transferred to a Federal Records Center, length of retention at the Records Center and when they are transferred to the National Archives or are destroyed. A reference to DLAI 5015.1,<sup>4</sup> DLA Records Management Procedures and Records Schedules, or other issuances without further detailed information is insufficient.

#### **Appendix B to Part 323 [Amended]**

8. Appendix B is amended by revising paragraphs C. and F.1. introductory text to read as follows:

#### **Appendix B to Part 323—Criteria for New and Altered Record Systems**

\* \* \* \* \*

C. Reports of new and altered systems. Submit a report of a new or altered system to DLA Support Services (DSS-CA) before collecting information and for using a new system or altering an existing system.

\* \* \* \* \*

F. \* \* \*

1. The OMB may authorize a Federal agency to begin operation of a system of records before the expiration of time limits described above. When seeking such a waiver, include in the letter of transmittal to DLA Support Services (CA) an explanation

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)

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#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

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

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#### 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