

(vii) Determination of canister duration using a minimum of four (4) water temperatures, including 40, 50, 70, and 90 degrees F (4.4, 10.0, 21.1, and 32.2 degrees C, respectively);

(viii) Monitoring of the breathing-gas temperature at the rebreather mouthpiece (at the "chrome T" connector), and ensuring that this temperature conforms to the temperature of a diver's exhaled breath at the water temperature and ventilation rate used during the testing trial;<sup>1</sup>

(ix) Implementation of at least eight (8) testing trials for each combination of temperature and ventilation-CO<sub>2</sub>-injection rates (for example, eight testing trials at 40 degrees F using a ventilation rate of 22.5 Lpm at a CO<sub>2</sub>-injection rate of 0.90 Lpm);

(x) Allowing the water temperature to vary no more than  $\pm 2.0$  degrees F ( $\pm 1.0$  degree C) *between* each of the eight testing trials, and no more than  $\pm 1.0$  degree F ( $\pm 0.5$  degree C) *within* each testing trial;

(xi) Use of the average temperature for each set of eight testing trials in the statistical analysis of the testing-trial results, with the testing-trial results being the time taken for the inhaled breathing gas to reach 0.005 ATA of CO<sub>2</sub> (*i.e.*, the canister-duration results);

(xii) Analysis of the canister-duration results using the repeated-measures statistics described in NEDU Report 2-99;

(xiii) Specification of the replacement schedule for the CO<sub>2</sub>-sorbent materials in terms of the lower prediction line (or limit) of the 95% confidence interval; and

(xiv) Derivation of replacement schedules only by interpolating among, but not by extrapolating beyond, the depth, water temperatures, and exercise levels used during canister testing.

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BILLING CODE 4510-26-P

## DEPARTMENT OF DEFENSE

### 32 CFR Part 312

#### Office of the Inspector General: Privacy Act; Implementation

**AGENCY:** Office of the Inspector General, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Inspector General, DoD (OIG, DoD) is exempting the system of records CIG-21, entitled "Congressional Correspondence Tracking System" from 5 U.S.C. 552a(j)(2), (k)(1) through (k)(7). The exemption is needed because during the course of a Congressional inquiry, exempt materials from other systems of records may in turn become part of the case records in the system. To the extent

that copies of exempt records from those "other" systems of records are entered into the Privacy Act case records, the Inspector General, DoD, hereby claims the same exemptions for the records from those "other" systems that are entered into this system, as claimed for the original primary systems of records of which they are a part. In addition, two administrative changes are also being made.

The proposed rule was published on December 9, 2003, at 68 FR 68577. No comments were received; therefore, the rule is being adopted as published.

**EFFECTIVE DATE:** February 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Darryl R. Aaron at (703) 604-9785.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published on December 9, 2003, at 68 FR 68577. No comments were received; therefore, the rule is being adopted as published.

#### 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 a 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 Office of the Inspector General and that the information collected within the Office of the Inspector General 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 does 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 312

Privacy.

■ For reasons stated in the Preamble, 32 CFR part 312 is amended as follows:

#### PART 312—OFFICE OF THE INSPECTOR GENERAL (OIG) PRIVACY PROGRAM

■ 1. The authority citation for 32 CFR part 312 continues to read as follows:

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

■ 2. Section 312.8, paragraph (a) is revised to read as follows:

#### § 312.8 OIG review of request for amendment.

(a) A written acknowledgement of the receipt of a request for amendment of a record will be provided to the requester within 20 working days, unless final action regarding approval or denial will constitute acknowledgement.

\* \* \* \* \*

■ 3. Section 312.12, paragraph (b) is revised and paragraph (i) is added to read as follows:

#### § 312.12 Exemptions.

\* \* \* \* \*

(b) The Inspector General of the Department of Defense claims an exemption for the following record systems under the provisions of 5 U.S.C. 552a(j) and (k)(1)-(k)(7) from certain indicated subsections of the Privacy Act of 1974. The exemptions may be invoked and exercised on a case-by-case basis by the Deputy Inspector General for Investigations or the Director,

<sup>1</sup> NEDU can provide the manufacturer with information on the temperature of a diver's exhaled breath at various water temperatures and ventilation rates, as well as techniques and procedures used to maintain these temperatures during the testing trials.

Communications and Congressional Liaison Office, and the Chief, Freedom of Information/Privacy Act Office, which serve as the Systems Program Managers. Exemptions will be exercised only when necessary for a specific, significant and legitimate reason connected with the purpose of the records system.

\* \* \* \* \*

(i) System Identifier: CIG-21

(1) System name: Congressional Correspondence Tracking System.

(2) Exemption: During the processing of a Congressional inquiry, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those "other" systems of records are entered into this system, the Inspector General, DoD, claims the same exemptions for the records from those "other" systems that are entered into this system, as claimed for the original primary system of which they are a part.

(3) Authority: 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7)

(4) Reasons: Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: February 11, 2004.

**L.M. Bynum,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP New Orleans-03-029]

RIN 1625-AA00

#### **Safety Zone; Lower Mississippi River, Mile Marker 88.1 to 90.4 Above Head of Passes, New Orleans, LA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Lower Mississippi River (LMR), beginning at mile marker 88.1 and ending at mile marker 90.4 Above Head of Passes, extending the entire width of the river. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the weekly upbound and downbound transit of the Cruise Ship (C/S) CONQUEST beneath the Entergy Corporation power cables located at mile marker 89.2. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans or a designated representative.

**DATES:** This rule is effective from February 16, 2004, to February 16, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP New Orleans 03-024] and are available for inspection or copying at Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA, 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (LT) Richard Paciorka, Marine Safety Office New Orleans, at (504) 589-4222.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect vessels and mariners from the hazards associated with the weekly upbound and downbound transit of the Cruise

Ship (C/S) CONQUEST under the Entergy Corporation power cable, Lower Mississippi River (LMR), mile marker 89.2, Above Head of Passes, New Orleans, Louisiana.

#### **Background and Purpose**

On August 18, 2003, the Coast Guard published a temporary final rule entitled "Safety Zone; Lower Mississippi River, Above Head of Passes, Mile Marker 88.1 to 90.4, New Orleans, LA" in the **Federal Register** (68 FR 49356). The temporary final was established to protect persons, mariners and vessels from the potential safety hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST as it proceeds beneath the Entergy Corporation power cables located at mile marker 89.2. This temporary final rule expired at 8 p.m. C.s.t. on January 11, 2004. The Captain of the Port New Orleans has determined the safety hazards associated with the C/S CONQUEST's inbound and outbound transit underneath the power cables continue to exist.

The C/S CONQUEST has an air draft of 210 feet and is home ported at the Julia Street Wharf located at mile marker 95.3. The Entergy Corporation power cables are at a height of 229.9 feet North American Vertical Datum (NAVD) at the center of the LMR. The power cables increase in height to a maximum of 366.4 feet NAVD on the East bank of the LMR and a maximum of 361.1 feet NAVD on the West bank of the LMR. The C/S CONQUEST requires a minimum air gap of 10 feet between itself and the Entergy Corporation power cables to prevent electrical arcing. When the river stage at the Carrollton gauge reads 10 feet or higher, the vessel must maneuver within 400 to 600 feet of the East bank or within 400 to 700 feet of the West bank to maintain the minimum air gap necessary to safely transit under the Entergy Corporation power cables. Other vessels transiting between mile marker 88.1 and 90.4 may restrict the maneuverability of the C/S CONQUEST through the safe passage lanes and possibly result in harm to life or damage to the cruise ship, the power cable, or nearby vessels.

This safety zone is needed to protect persons, mariners and vessels from the potential safety hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST as it proceeds beneath the Entergy Corporation power cables located at mile marker 89.2. This rule would only be enforced when the Carrollton gauge reads 10 feet or higher.

It is anticipated that the Entergy Corporation will complete the burial of