

Assistant Chief Counsel (Corporate), (202) 622-7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6011(e) of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register on Thursday, October 10, 1996 (61 FR 53161), announced that the public hearing on proposed regulations under section 6011 of the Internal Revenue Code would be held on Wednesday, February 5, 1997, beginning at 10:00 a.m., in the Commissioner's Conference Room, Room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, D.C.

The public hearing scheduled for Wednesday, February 5, 1997, is cancelled. Cynthia E. Grigsby, Chief, Regulations Unit Assistant Chief Counsel (Corporate).

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2704

Implementation of Equal Access to Justice Act in Commission Proceedings

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Federal Mine Safety and Health Review Commission previously published, on December 19, 1996 (61 FR 66961), proposed revisions to its rules providing for the award of attorneys' fees and other expenses under the Equal Access to Justice Act, 5 U.S.C. 504. The period for comments to the proposed rules was set to end on January 21, 1997. A request was made that the comment period be extended and the Commission has agreed to do so.

DATES: Comments should be received by February 3, 1997.

ADDRESSES: Comments should be sent to Richard L. Baker, Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street, NW, 6th Floor, Washington, DC 20006. For the convenience of persons who will be reviewing the comments, it is requested that commenters provide an original and three copies of their comments.

FOR FURTHER INFORMATION CONTACT: Norman M. Gleichman, General Counsel, Office of the General Counsel, 1730 K Street, NW, 6th Floor,

Washington, DC 20006, telephone: 202-653-5610 (202-566-2673 for TDD Relay). These are not toll-free numbers.

Issued this 22nd day of January, 1997 at Washington, D.C.

Mary Lu Jordan,

Chairman, Federal Mine Safety and Health Review Commission.

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12-35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to amend its Privacy Act regulations to add an exemption for a system of records identified as F111 AF JA B, Courts-Martial and Article 15 Records.

DATES: Comments must be received on or before March 31, 1997, to be considered by this agency.

ADDRESSES: Send comments to the Air Force Access Programs Manager, HQ USAF/SCMI, 1250 Air Force Pentagon, Washington, DC 20330-1250.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Rollins at (703) 697-8674 or DSN 227-8674.

SUPPLEMENTARY INFORMATION: Executive Order 12866. It has been determined that this Privacy Act proposed 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 entitlements, grants, user fees, or loan programs or the rights 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.

Regulatory Flexibility Act. It has been determined that this Privacy Act proposed 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. It has been determined 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, and 44 U.S.C. Chapter 35.

List of subjects in 32 CFR part 806b Privacy.

Accordingly, 32 CFR part 806b is proposed to be amended as follows:

PART 806b - AIR FORCE PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR Part 806b continues to read as follows:
Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

2. Appendix C to Part 806b is proposed to be amended by adding paragraph (b)(20) as follows:

Appendix C to Part 806b-General and specific exemptions.

* * * * *

b. *Specific exemptions.* * * *

(20) *System identifier and name:* F111 AF JA B, Courts-Martial and Article 15 Records.

(i) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iv) *Reason:* (1) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(4) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(5) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) From subsection (e)(4)(I) because the identity of specific sources must be

withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(10) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(11) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(12) From subsection (g) because this system of records is compiled for law enforcement purposes and has been

exempted from the access provisions of subsections (d) and (f).

(13) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

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Dated: January 21, 1997.

L.M. Bynum,

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

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