

of Information Act rules and § 4.31 of the Department's Privacy Act rules.

(e) *Right of appeal.* (1) A requester may appeal to the DAS when information requested under this section is not completely declassified and released after expiration of the applicable time limits. Within thirty working days (i.e., excluding Saturdays, Sundays, and legal public holidays) of receipt of a written appeal:

(i) The DAS shall determine whether continued classification of the requested information is required in whole or in part;

(ii) If information is declassified, determine whether it is releasable under the Freedom of Information Act; and

(iii) Notify the requester of his or her determination, making available any information determined to be releasable. If continued classification is required under the provisions of the Department of Commerce National Security Manual, the DAS shall notify the requester of his or her determination, including the reasons for denial based on applicable provisions of E.O. 12958, and of the right of final appeal to the Interagency Security Classification Appeals Panel.

(2) During the declassification review of information under appeal the DAS may overrule previous determinations in whole or in part if continued protection in the interest of national security is no longer required. If the DAS determines that the information no longer requires classification, it shall be declassified and, unless it is otherwise exempt from disclosure under the Freedom of Information Act, released to the requester. The DAS shall advise the original reviewing component of his or her decision.

#### § 4a.8 Access to classified information by individuals outside the Government.

(a) *Industrial, Educational, and Commercial Entities.* Certain bidders, contractors, grantees, educational, scientific, or industrial organizations may receive classified information under the procedures prescribed by the National Industrial Security Program Operating Manual.

(b) *Access by historical researchers and former Presidential appointees.* An individual engaged in historical research projects or who has previously occupied a policy-making position to which he or she was appointed by the President may be authorized access to classified information for a limited period, provided that the head of the component with jurisdiction over the information:

(1) Determines in writing that:

(i) Access is consistent with national security;

(ii) The individual has a compelling need for access; and

(iii) The Department's best interest is served by providing access;

(2) Obtains in writing from the individual:

(i) Consent to a review by the Department of any resultant notes and manuscripts for the purpose of determining that no classified information is contained in them; and

(ii) Agreement to safeguard classified information in accordance with applicable requirements; and

(iii) A detailed description of the individual's research;

(3) Ensures that custody of classified information is maintained at a Department facility;

(4) Limits access granted to former Presidential appointees to items that the individual originated, reviewed, signed, or received while serving as a Presidential appointee; and

(5) Receives from the DAS:

(i) A determination that the individual is trustworthy; and

(ii) Approval to grant access to the individual.

(c) An individual seeking access should describe the information with sufficient specificity to locate and compile it with a reasonable amount of effort. If the access requested by a historical researcher or former Presidential appointee requires services for which fees are chargeable, the responsible component shall notify the individual in advance.

(d) This section applies only to classified information originated by the Department, or to information in the sole custody of the Department. Otherwise, the individual shall be referred to the classifying agency.

#### PART 4b—[REMOVED]

3. Remove Part 4b.

Dated: December 6, 2001.

**Robert F. Kugelman,**

*Director, Office of Executive Budgeting and Assistance Management.*

[FR Doc. 01-31131 Filed 12-19-01; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Department of the Army

#### 32 CFR Part 619

#### Program for Qualifying DOD Freight Motor Carriers, Exempt Surface Freight Forwarders, Shippers Agents, and Freight Brokers

**AGENCY:** Headquarters Military Traffic Management Command (MTMC), DoD.

**ACTION:** Final rule.

**SUMMARY:** This action removes 32 CFR Part 619 published in the **Federal Register** Aug 20, 1993 (58 FR 44405, amended at 61 FR 49060, Sept. 18, 1996). The rule is being removed to allow for publication in MTMC rules publication. This rule is now obsolete and no longer applies to or governs the qualifications of carriers to do business with MTMC or with the Department of Defense.

**DATES:** Effective December 20, 2001.

**ADDRESSES:** Headquarters Military Traffic Management Command, ATTN: MTOP-MRM (Mr. Rick Wirtz, TMS) 200 Stovall Street, Alexandria, VA 22332.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Wirtz, (703) 428-2382

**SUPPLEMENTARY INFORMATION:** The Commander, MTMC, is the proponent of this rule and, acting with the advice of his acquisition, operations and legal staffs, had concluded that it is obsolete. Due to changes in the laws governing interstate commerce, including a transition of much of our procurement from nonFAR to FAR contract procedures, there is no longer any necessity for this rule. Under FAR contracting the contracting Officer has the responsibility for making determinations as to whether a carrier bidder is a responsible bidder who is qualified to do business with the DoD under the contract in issue.

This rule has been replaced with a simpler program, which meets the requirements of the current Interstate Commerce Act and the requirements of our current transportation needs. The current procedures for carriers to follow in order to qualify for doing business with MTMC are published on the MTMC Home Page. The carrier industry has been properly notified of this change and is currently following the new procedures to the satisfaction of all parties. The new program for qualifying carriers is not a "Rule", as that term is used in rulemaking proceedings under the Administrative Procedures Act and thus does not require publication in the Code of Federal Regulations or in the **Federal Register**. We understand that the volume of the CFR that contains 49 CFR Part 619 is due to be reprinted soon. Therefore, it would be helpful in avoiding confusion with the public if 32 CFR Part 619 is removed.

#### List of Subjects in 32 CFR Part 619

Program for Qualifying DOD Freight Motor Carriers, Exempt Surface Freight Forwarders, Shippers Agents, and Freight Brokers.

**PART 619—[REMOVED]**

Accordingly, for reasons stated in the preamble, under the authority: 49 U.S.C. 5101–5127, 31132, 31136, and 31142, 32 CFR Part 619, *Program for Qualifying DOD Freight Motor Carriers, Exempt Surface Freight Forwarders, Shippers Agents, and Freight Brokers*, is removed in its entirety.

**Ms. Luz D. Ortiz,**

*Army Federal Register Liaison Officer.*

[FR Doc. 01–31357 Filed 12–19–01; 8:45 am]

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**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION****36 CFR Part 1202**

RIN 3095–AA99

**Privacy Act; Implementation**

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Final rule.

**SUMMARY:** NARA is rewriting our Privacy Act regulations to update the procedures for making a Privacy Act request, and to reflect the President's memorandum of June 1, 1998, Plain Language in Government Writing. This rule will affect individuals and entities seeking access or disclosure of information contained in NARA Privacy Act systems of records and subject individuals covered by a NARA Privacy Act system.

**EFFECTIVE DATE:** January 22, 2002.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard at telephone number 301–713–7360, ext. 226, or fax number 301–713–7270.

**SUPPLEMENTARY INFORMATION:**

NARA published a notice of proposed rulemaking in the June 5, 2001 **Federal Register** (66 FR 30134) for a 60-day comment period. No comments were received. However, we have determined that one of the Privacy Act systems cited in §§ 1202.92 and 1202.94, General Law Files, should not be exempt under 5 U.S.C. 552a(k)(2) and (k)(5) of the Privacy Act. We have therefore removed references to this system of records. In addition, minor editorial corrections to legal citations have been made.

This final rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small

entities because it only affects individuals and entities seeking access or disclosure of information contained in NARA Privacy Act systems of records. This rule does not have any federalism implications. This rule is not a major rule.

**List of Subjects in 36 CFR Part 1202**

Privacy.

For the reason set forth in the preamble, part 1202 of title 36, Code of Federal Regulations, is revised to read as follows:

**PART 1202—REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974****Subpart A—General Information About the Privacy Act**

Sec.

- 1202.1 What does this part cover?
- 1202.2 What this part does not cover.
- 1202.4 Definitions.
- 1202.6 Whom should I contact for Privacy Act matters at NARA?
- 1202.8 How does NARA handle records that are in Government-wide Privacy Act systems?
- 1202.10 Does NARA handle access to and disclosure of records of defunct agencies in the custody of NARA?

**Subpart B—Collecting Information**

- 1202.18 How does NARA collect information about individuals?
- 1202.20 What advisory information does NARA provide before collecting information from me?
- 1202.22 Will NARA need my Social Security Number?
- 1202.24 Will NARA ever request information about me from someone else?
- 1202.26 Who will make sure that my record is accurate?
- 1202.28 What rules do NARA employees follow in managing personal information?
- 1202.30 How does NARA safeguard its systems of records?

**Subpart C—Individual Access to Records**

- 1202.40 How can I gain access to NARA records about myself?
- 1202.42 How are requests for access to medical records handled?
- 1202.44 How long will it take for NARA to process my request?
- 1202.46 In what ways will NARA provide access?
- 1202.48 Will I have to pay for copies of records?
- 1202.50 Does NARA require prepayment of fees?
- 1202.52 How do I pay?
- 1202.54 On what grounds can NARA deny my Privacy Act request?
- 1202.56 How do I appeal a denial of my Privacy Act request?
- 1202.58 How are appeals processed?

**Subpart D—Disclosure of Records**

- 1202.60 When does NARA disclose a record in a Privacy Act system of records?
- 1202.62 What are the procedures for disclosure of records to a third party?
- 1202.64 How do I appeal a denial of disclosure?
- 1202.66 How does NARA keep account of disclosures?

**Subpart E—Request to Amend Records**

- 1202.70 Whom should I contact at NARA to amend records about myself?
- 1202.72 How does NARA handle requests to amend records?
- 1202.74 How will I know if NARA approved my amendment request?
- 1202.76 Can NARA deny my request for amendment?
- 1202.78 How do I accept an alternative amendment?
- 1202.80 How do I appeal the denial of a request to amend a record?
- 1202.82 How do I file a Statement of Disagreement?
- 1202.84 Can I seek judicial review?

**Subpart F—Exemptions**

- 1202.90 What NARA systems of records are exempt from release under the National Security Exemption of the Privacy Act?
- 1202.92 What NARA systems of records are exempt from release under the Law Enforcement Exemption of the Privacy Act?
- 1202.94 What NARA systems of records are exempt from release under the Investigatory Information Material Exemption of the Privacy Act?

**Authority:** 5 U.S.C. 552a; 44 U.S.C. 2104(a).

**Subpart A—General Information About the Privacy Act****§ 1202.1 What does this part cover?**

(a) This part covers requests under the Privacy Act (5 U.S.C. 552a) for NARA operational records and records of defunct agencies stored in NARA record centers.

(b) This part explains how NARA collects, uses and maintains records about you that are filed by your name or other personal identifiers and which are contained in a “system of records” as defined by 5 U.S.C. 552a(a)(5).

(c) This part describes the procedures to gain access to and contest the contents of your records, and the conditions under which NARA discloses such records to others.

**§ 1202.2 What this part does not cover.**

This part does not cover:

(a) Records that have been transferred into the National Archives of the United States for permanent preservation. Archival records that are contained in systems of records that become part of the National Archives of the United States are exempt from most provisions of the Privacy Act (see 5 U.S.C.