

**DEPARTMENT OF DEFENSE****Department of the Air Force**

[Docket ID: USAF–2009–0019]

**32 CFR Part 806b****Privacy Act; Implementation****AGENCY:** Department of the Air Force, DoD.**ACTION:** Final rule with request for comments.

**SUMMARY:** The Department of the Air Force is updating the Department of the Air Force Privacy Act Program Rules, 32 CFR part 806b, by adding the (k)(5) exemption to accurately describe the basis for exempting the records. The Privacy Act system of records notice, F036 AETC X, entitled “College Scholarship Program”, was published on July 7, 2008 (73 FR 38411). The same notice was amended on August 22, 2008 (73 FR 49659) requesting a System ID change.

**DATES:** The rule will be effective on December 28, 2009 unless comments are received that would result in a contrary determination. Comments will be accepted on or before December 28, 2009.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ben Swilley at (703) 696–6648.

**SUPPLEMENTARY INFORMATION:****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 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 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”**

It has been determined that Privacy Act rules for the Department of Defense do 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 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 806b**

Privacy.

■ Accordingly, 32 CFR part 806b is amended as follows:

**PART 806b—PRIVACY ACT PROGRAM**

■ 1. The authority citation for 32 CFR part 806b continues to read as follows:

**Authority:** Public Law 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Paragraph (e) of Appendix D to 32 CFR part 806b is amended by adding paragraph (24) to read as follows:

**Appendix D to Part 806b—General and Specific Exemptions**

\* \* \* \* \*

(24) System identifier and name: F036 AETC X, College Scholarship Program.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability \* \* \* the identity of a confidential source. Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

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

(iii) *Reasons:* (A) From subsection (c)(3) and (d) and when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential sources to be revealed. Disclosure of the source’s identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department’s future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

\* \* \* \* \*

Dated: October 7, 2009.

**Patricia L. Toppings,***OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E9–26036 Filed 10–28–09; 8:45 am]

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**DEPARTMENT OF DEFENSE****Department of the Air Force**

[Docket ID: USAF–2009–0011]

**32 CFR Part 806b****Privacy Act; Implementation****AGENCY:** Department of the Air Force, DoD.

**ACTION:** Final rule with request for comments.

**SUMMARY:** The Department of Air Force is updating the Department of Air Force Privacy Act Program Rules, 32 CFR part 806b, by adding the (k)(2) exemption to accurately describe the basis for exempting the records. The Privacy Act system of records notice, F033 USSC A, entitled "Information Technology and Control Records", has already been published on March 3, 2008 (73 FR 11400).

**DATES:** The rule will be effective on December 28, 2009 unless comments are received that would result in a contrary determination. Comments will be accepted on or before December 28, 2009.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth Brodie at (703) 696-7557.

**SUPPLEMENTARY INFORMATION:**

**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 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 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".

It has been determined that Privacy Act rules for the Department of Defense do 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 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 806b**

Privacy.

■ Accordingly, 32 CFR part 806b is amended as follows:

**PART 806b—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. Paragraph (e) of Appendix D to 32 CFR part 806b is amended by adding paragraph (23) to read as follows:

**Appendix D to Part 806b—General and Specific Exemptions**

\* \* \* \* \*

(23) System identifier and name F033 USSC A, Information Technology and Control Records.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes,

other than material within the scope of subsection 5 U.S.C. 552a(j)(2), 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, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. **Note:** When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) 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 existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and

to protect privacy and physical safety of witnesses and informants.

\* \* \* \* \*

Dated: October 7, 2009.

**Patricia L. Toppings,**

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

[FR Doc. E9-26031 Filed 10-28-09; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-8093]

#### Suspension of Community Eligibility for Failure To Enforce

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** FEMA is suspending one community because of its failure to enforce its floodplain management regulations under the National Flood Insurance Program (NFIP). If documentation is received from the community before the effective suspension date, indicating it has brought its floodplain management program into compliance with the NFIP requirements, FEMA will withdraw the suspension by publication in the **Federal Register** on a subsequent date.

**DATES: Effective Dates:** The effective date of the community's scheduled suspension is the date listed in the fourth column of the following table.

**FOR FURTHER INFORMATION CONTACT:** David Stearrett, Mitigation Directorate, 1800 South Bell Street, Arlington, VA 20598-3072, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance that is generally not otherwise available. In return, communities agree to adopt and implement local floodplain management regulations that contribute to protecting lives and reducing the risk of property damage from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate

public body adopts adequate floodplain management measures with effective administration and enforcement processes.

The community listed in this notice no longer complies with the NFIP requirements set forth at 44 CFR part 59 *et seq.* Under 44 CFR 59.24(c), a community will be suspended from the NFIP for failing to adequately enforce its floodplain management regulations. Accordingly, FEMA is suspending the Village of Chauncey, Athens County, Ohio, ("the Village") on the effective date in the fourth column of the table. As of that date, the purchase of new flood insurance policies or the renewal of existing flood insurance policies under the NFIP will no longer be available.

FEMA will not suspend the Village, however, if the community submits the documentation required under 44 CFR 59.24(c) to show that it has corrected the deficiencies and remedied the violations identified in the Show Cause letter to the maximum extent possible. This documentation must be received by FEMA before the actual suspension date. If the Village successfully demonstrates its compliance with NFIP regulations, FEMA will continue its eligibility for the sale of NFIP insurance. FEMA will then publish in the **Federal Register** a notice withdrawing the suspension of the community. In the interim, if you wish to determine whether FEMA has suspended the Village on the suspension date, please contact the FEMA Region V office at (312) 408-5207. Additional information may also be found at <http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/suspension.shtm>.

FEMA identified the special flood hazard areas (SFHAs) in this community by publishing a Flood Insurance Rate Map. The effective date of this map is indicated in the last column of the table. By law, no Federally regulated entity may provide financial assistance for acquisition or construction purposes for property located in a SFHA unless the community in which the property is located is participating in the NFIP (42 U.S.C. 4106). The prohibition against certain types of Federal disaster assistance also becomes effective for the Village of Chauncey, Ohio, on the date shown in the fourth column.

The Administrator finds that notice and public comment procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because the community listed in this final rule has been adequately notified. The community

received a Probationary Letter on February 14, 2008, and was put on Probation June 14, 2008; and a 30-day show cause letter was sent July 29, 2009. FEMA addressed these notifications to the Mayor of the Village Council indicating that we will suspend the Village unless the Village takes the required corrective actions and remedial measures before the effective suspension date. Because we have made these notifications, this final rule may take effect within less than 30 days.

**National Environmental Policy Act.** This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Regulatory Flexibility Act (5 U.S.C. 601-612) requires that special consideration be given to the effects of proposed regulations on small entities. This rule does not require a Notice of Proposed Rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act.

**Regulatory Classification.** This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 13132, Federalism.** This rule involves no policies that have federalism implications under Executive Order 13132.

**Executive Order 12988, Civil Justice Reform.** This rule meets the applicable standards of Executive Order 12988.

**Paperwork Reduction Act.** This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR Part 64 is amended as follows:

#### PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### § 64.6 [Amended]

■ The tables published under the authority of § 64.6 are amended as follows: