

DEPARTMENT OF DEFENSE**Department of the Navy****32 CFR Part 701**

[Secretary of the Navy Instruction 5211.5]

Privacy Act; Implementation**AGENCY:** Department of the Navy, DoD.**ACTION:** Final rule.

SUMMARY: The Department of the Navy is exempting the records contained in the Privacy Act system of records notice N12410-2, entitled—NCIS Training Academy Records. The exemption is intended to preserve the objectivity and/or fairness of the Naval Criminal Investigative Service (NCIS) test or examination process.

EFFECTIVE DATE: April 27, 2005.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685-6545 or DSN 325-6545.

SUPPLEMENTARY INFORMATION: The proposed rule was published on February 25, 2005, at 70 FR 9262. No comments were received; therefore, the Department of the Navy is adopting the rule as published below. 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 701

Privacy.

PART 701—[AMENDED]

■ 1. The authority citation for 32 CFR part 701, Subpart G continues to read as follows:

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

■ 2. Section 701.118, is amended by adding paragraph (h) to read as follows:

§ 701.118 Exemptions for specific Navy record systems.

* * * * *

(h) *System identifier and name:* N12410-2, NCIS Training Academy Records.

(1) *Exemption:* (i) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process may be exempt pursuant to 5

U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process. Therefore, information within this system of records may be exempt pursuant to 5 U.S.C. 552a, subsection (d).

(ii) *Portions of this system of records are exempt from the following subsection of the Privacy Act:* (d).

(2) *Authority:* 5 U.S.C. 552a(k)(6).

(3) *Reason:* From subsection (d)

because this system relates to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the NCIS test and evaluation system.

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Dated: May 5, 2005.

Jeannette Owings-Ballard,

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

[FR Doc. 05-9418 Filed 5-12-05; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 229**

[Docket No. 030221039-5125-21; I.D. 050605A]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the ALWTRP's implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,235 nm² (4,236 km²), southeast of Chatham, MA for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours May 15, 2005, through 2400 hours May 29, 2005.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments