

2. Paragraphs (n) and (o) are added to § 16.97 to read as follows:

§ 16.97 Exemption of Federal Bureau of Prisons Systems—limited access.

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(n) The following system of records is exempted pursuant to 5 U.S.C. 552a(j) from subsections (e)(1) and (e)(5):

Bureau of Prisons Inmate Physical and Mental Health Records System, (Justice/BOP-007).

(o) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, *e.g.* public source materials, or those supplied by third parties, the applicable exemption may be waived, either partially or totally, by the Bureau. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (e)(1) to the extent that the Bureau may collect information that may be relevant to the law enforcement operations of other agencies. In the interests of overall, effective law enforcement, such information should be retained and made available to those agencies with relevant responsibilities.

(2) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Data which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance during the course of an investigation or with the passage of time, and could be relevant to future law enforcement decisions. In addition, because many of these records come from sources outside the Bureau of Prisons, it is administratively impossible for them and the Bureau to ensure compliance with this provision. The restrictions of subsection (e)(5) would restrict and delay trained correctional managers from timely exercising their judgment in managing the inmate population and providing for the health care of the inmates and the safety and security of the prisons and the public.

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Dated: July 31, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

[FR Doc. 02-20209 Filed 8-8-02; 8:45 am]

BILLING CODE 4410-05-P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 278-2002]

Privacy Act of 1974; Implementation

AGENCY: Foreign Terrorist Tracking Task Force (FTTTF), Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is exempting a Privacy Act system of records from subsections (c)(3), (d)(1), (2), (3) and (4), and (e)(1) and (4)(I) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(1). The system of records to be exempted is the "Flight Training Candidates File System, JUSTICE/FTTTF-001."

The Flight Training Candidates File System is a system of records established pursuant to section 113 of the Aviation and Transportation Security Act (ATSA), Public Law 107-71, 49 U.S.C. 44939 to support the administration of the required risk assessment of candidates for flight instruction who are aliens or persons designated by the Under Secretary of Transportation for Security, U.S. Department of Transportation. Subsequent to the terrorist hijacking and crashing of aircraft on September 11, 2001, Congress determined that aliens seeking training in the operation of aircraft with a takeoff weight of 12,500 pounds or more should be subject to closer scrutiny. Pursuant to Section 113 of ATSA, persons who wish to provide such training to aliens or others designated by the Under Secretary of Transportation for Security must first notify the Attorney General, and provide identifying information with regard to the prospective trainee, so that the Attorney General may determine whether the prospective trainee poses a risk to aviation or national security.

The exemption is necessary as explained in the accompanying final rule.

DATES: This final rule is effective August 9, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Cahill, (202) 307-1823.

SUPPLEMENTARY INFORMATION: On June 10, 2002 (67 FR 39838), a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

This order relates to individuals as well as small business entities. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601-602, the Attorney General, by approving this regulation, certifies that this rule will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative practices and procedures, Courts, Freedom of Information, Sunshine Act, Privacy.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, 28 CFR part 16 is amended as follows:

PART 16—[AMENDED]

1. The authority citation for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 524; 31 U.S.C. 3717, 9701.

2. Section 16.105 is added to subpart E to read as follows:

Subpart E—Exemption of Records Systems Under the Privacy Act

§ 16.105 Exemption of Foreign Terrorist Tracking Task Force System.

(a) The following system of records is exempt from 5 U.S.C. 552a, subsections (c)(3), (d)(1), (2), (3) and (4), and (e)(1) and (4)(I): Flight Training Candidates File System (JUSTICE/FTTTF-001). This exemption applies only to the extent that information is subject to exemption pursuant to 5 U.S.C. 552a(k)(1).

(b) Exemption from the particular subsections is justified for the following reasons:

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures could reveal information that is classified in the interest of national security.

(2) From subsection (d)(1), (2), (3) and (4) because access to and amendment of certain portions of records within the system would tend to reveal or compromise information classified in the interest of national security.

(3) From subsection (e)(1) because it is often impossible to determine in advance if information obtained will be relevant for the purposes of conducting the risk analysis for flight training candidates.

(4) From subsection (e)(4)(I) to the extent that this subsection is interpreted to require more detail regarding the record sources in this system than have been published in the **Federal Register**.

Should the subsection be so interpreted, exemption from this provision is necessary because greater specificity concerning the sources of these records could compromise national security.

Dated: July 31, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

[FR Doc. 02-20206 Filed 8-8-02; 8:45 am]

BILLING CODE 4410-FB-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AC93

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Document Incorporated by Reference—API RP 14C

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is updating one document incorporated by reference in regulations governing oil, gas, and sulphur operations in the Outer Continental Shelf (OCS). This final rule revises the American Petroleum Institute (API) Recommended Practice (RP) 14C (API RP 14C), Sixth Edition, March 1998, currently incorporated by reference into our regulations. We are updating the API RP 14C document to the Seventh Edition, March 2001. The new edition will allow lessees to use updated industry standard technologies while operating in the OCS.

EFFECTIVE DATE: This rule is effective September 9, 2002. The incorporation by reference of publications listed in the regulations is approved by the Director of the Federal Register as of September 9, 2002.

FOR FURTHER INFORMATION CONTACT: Wilbon A. Rhome at (703) 787-1587.

SUPPLEMENTARY INFORMATION: We use standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry as a means of establishing requirements for activities on the OCS. This practice, known as incorporation by reference, allows us to incorporate the provisions of technical standards into the regulations. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register**. This material, like any other properly issued regulation, then has the force and effect of law. We hold operators/lessees

accountable for complying with the documents incorporated by reference in our regulations. We currently incorporate by reference 85 private sector consensus standards into the offshore operating regulations.

The regulations at 1 CFR part 51 govern how we and other Federal agencies incorporate various documents by reference. Agencies may only incorporate by reference through publication in the **Federal Register**. Agencies must also gain approval from the Director of the Federal Register for each publication incorporated by reference. Incorporation by reference of a document or publication is limited to the specific edition, supplement, or addendum cited in the regulations.

The regulations at 30 CFR 250.198(a)(2) allow MMS to update documents without opportunity to comment when we determine that the revisions to a document result in safety improvements or represent new industry standard technology and do not impose undue costs on the affected parties. MMS has made that determination in this instance. Consequently, under 5 U.S.C 553(b)(B), MMS finds that notice and comment procedures are unnecessary. Accordingly, this final rule revises the currently incorporated by reference API document RP 14C, for Analysis, Design, Installation and Testing of Basic Surface Safety Systems for Offshore Production Platforms, to incorporate the Seventh Edition, dated March 2001. The following is a summary of the background for this decision.

Background

Current MMS testing requirements specify that the above-mentioned safety devices be tested "at least once each calendar month, but at no time shall more than 6 weeks elapse between tests." In mid-1997, a number of lessees operating on the OCS requested a departure from MMS safety system testing requirements as outlined in 30 CFR 250.804 (formerly 250.124(a)(3)(i)) for producing operations. See former 30 CFR 250.3 (1997). (Current provisions for alternative procedures and departures are found at 30 CFR 250.141 and 250.142 (2001).) Specifically, companies requested approval to test electronic pressure transmitters and level sensors (e.g., Pressure Safety High (PSH), Pressure Safety Low (PSL), Level Safety High (LSH), and Level Safety Low (LSL)) at a frequency less than required in the regulations.

This raised two concerns for MMS with regard to its regulatory program. First, we did not have guidelines in place to support our decisionmaking

process for approving or denying alternative compliance requests, waivers, or departures related to the testing of electronic safety systems. Second, MMS could not be sure that testing at a lesser frequency would not compromise the safety of OCS workers. MMS believes that the burden of proof lies with industry to demonstrate that the requested testing frequency for these devices affords a degree of protection, safety, or performance equal to or better than what can be achieved by following the current regulatory requirements.

Consequently, in May 1999, MMS contacted API to discuss our concerns with the testing and maintenance of electronic pressure transmitters and level sensors. We requested API not wait until the next regularly scheduled revision of API RP 14C, Sixth Edition, to review and update the document. Specifically, MMS asked API to define what guidelines industry should follow to request approval of a departure from the electronic pressure transmitter and level sensor testing requirements in 30 CFR 250.804(a)(3)(i)(ii).

In June 1999, a workgroup comprised of representatives from the oil and gas industry, API, and MMS was assembled to develop guidelines to address concerns with the testing and maintenance of electronic pressure transmitters and level sensors. The workgroup reviewed 20 years of past maintenance and testing data, but because of technological improvements, only focused on the latest 5 to 10 years of data. These data supported industry's assumption that testing at a lesser frequency would not compromise the safety of OCS workers and would still afford a degree of protection at least equal to what could be achieved by following current MMS requirements. Thus, the workgroup recommended revisions to API RP 14C, Sixth Edition, specifically, Appendix C—Support Systems, and Appendix D—Reporting Procedures. API incorporated the revisions and issued the Seventh Edition of API RP 14C in March 2001. API made no changes to RP 14C other than the reduced testing frequency for electronic pressure transmitters and level sensors.

Conclusions

MMS reviewed the new Seventh Edition of API RP 14C and determined that:

- Incorporating into regulations the Seventh Edition that specifies a reduced testing frequency will not jeopardize the use of the best and safest technologies.
- The changes between the old and new editions represent new industry standard technology and will not