

about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under

figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 117.293 to read as follows:

§ 117.293 Indian Creek.

The draw of the 63rd Street Bridge, Indian Creek mile 4.0, at Miami Beach, shall open on signal except as follows:

(a) From 7 a.m. to 7 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half-hour.

(b) From 7:10 a.m. to 9:55 a.m. and 4:05 p.m. to 6:59 p.m., Monday through Friday except Federal holidays, the draw need not open for the passage of vessels.

(c) In February of each year during the period seven days prior to the City of Miami Beach Yacht and Brokerage Show and the four days following the show, from 10 a.m. to 4 p.m., the bridge need not open except for 10 minutes at the top of the hour. At all other times the bridge shall operate on its normal schedule.

Dated: June 2, 2016.

S.A. Buschman,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 2016–13458 Filed 6–7–16; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0145]

Safety Zone; Cincinnati Reds Season Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Cincinnati Reds Season Fireworks on the Ohio River, from mile marker 470.1 and ending at 470.4, extending 500 feet from the State of Ohio shoreline. This rule is effective during specific home games during the Major League Baseball season. Should the Cincinnati Reds make the playoffs and have additional home games; the Coast Guard will provide notification of enforcement periods via Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate. This action is needed to protect vessels transiting the area and event spectators from the hazards associated with the Cincinnati Reds Barge-based fireworks. During the enforcement period, entry into or transiting in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels.

DATES: The regulations in 33 CFR 165.801, Table No. 1, Line no. 2 will be enforced from 9:00 p.m. through 11:30 p.m. on April 6, April 8, April 22, May 6, May 20, June 3, June 10, June 24, July 15, July 22, July 31, August 19, September 2, September 16, and September 30, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Caloeb Gandy, Sector Ohio Valley, U.S. Coast Guard at telephone 502–779–5334, email caloeb.l.gandy@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the Cincinnati Reds Season Fireworks listed in 33 CFR 165.801, Table no. 1, Line no. 2. These regulations can be found in the Code of Federal Regulations, under 33 CFR 165.801 or in the **Federal Register** (77 FR 12460). As specified in § 165.801, during the enforcement period no vessel may transit this safety zone without approval from the Captain of the Port Ohio Valley (COTP). If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR part 165 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advanced notification of this enforcement period via Local Notice to Mariners (LNM) and Broadcast Notice to Mariners (BNM). If the COTP Ohio Valley determines that the regulated area need not be enforced for the full duration, a BNM to grant general permission to enter the safety zone may be used.

Dated: March 24, 2016.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1202

[FDMS No. NARA-16-0005; NARA-2016-021]

RIN 3095-AB91

Privacy Act of 1974; Exemptions

AGENCY: National Archives and Records Administration (NARA).

ACTION: Direct final rule.

SUMMARY: The National Archives and Records Administration (NARA) is revising its Privacy Act regulations to add a new insider threat system of records to the records exempt from release under the law enforcement exemption of the Privacy Act. This action is necessary to protect investigatory information from release that could compromise or damage the investigation, result in evidence tampering or destruction, undue influence of witnesses, danger to individuals, and similar harmful effects.

DATES: This rule is effective July 18, 2016, without further action, unless NARA receives adverse comments warranting action by July 8, 2016. If NARA receives an adverse comment warranting further action, it will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by RIN 3095-AB91, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Email:** Regulation_comments@nara.gov. Include RIN 3095-AB91 in the subject line of the message.

- **Fax:** 301-837-0319. Include RIN 3095-AB91 in the subject line of the fax cover sheet.

- **Mail (for paper, disk, or CD-ROM submissions. Include RIN 3095-AB91 on the submission):** Regulations Comment Desk (External Policy Program, Strategy & Performance Division (SP)); Suite 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740-6001.

- **Hand delivery or courier:** Deliver comments to front desk at the address above.

Instructions: All submissions must include NARA's name and the regulatory information number for this rulemaking (RIN 3095-AB91). We may publish any comments we receive without changes, including any personal information you include.

FOR FURTHER INFORMATION CONTACT:

Kimberly Keravuori, by email at regulation_comments@nara.gov, or by telephone at 301-837-3151.

SUPPLEMENTARY INFORMATION: The National Archives and Records Administration (NARA) is adding a system of records to its existing inventory of systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552(a)) ("Privacy Act"). The new system is NARA 45, Insider Threat Program records (we are publishing the NARA 45 SORN concurrently with this regulation), and it comprises records gathered for purposes of investigating threats to NARA facilities, personnel, or systems, or national security. The system contains investigatory material of actual, potential, or alleged criminal, civil, or administrative violations and law enforcement actions.

The Privacy Act generally grants individuals the right to access agency records maintained about themselves, and the right to request that the agency amend those records if they are not accurate, relevant, timely, or complete. However, the Privacy Act also exempts, by means of ten specific exemptions, an agency from granting a person access to information about themselves that the agency compiles for certain types of law enforcement or investigatory actions. Specifically for the purposes of this rulemaking, the Privacy Act exempts an agency from granting access to "investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be

provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section [September 27, 1975], under an implied promise that the identity of the source would be held in confidence." 5 U.S.C. 552a(k)(2).

NARA currently exempts Office of Inspector General investigative files under the (k)(2) exemption. See 36 CFR 1202.92. For similar reasons, we are now adding the insider threat program files to the same regulation section because the Insider Threat Program Records system of records contains investigatory material of actual, potential, or alleged violations, compiled for law enforcement purposes. Under Office of Management and Budget (OMB) Guidelines on the Privacy Act, to qualify for this exemption the agency must compile the material for some investigative "law enforcement" purpose, such as a civil or criminal investigation. Multiple court decisions have upheld the exemption for investigatory records covering a range of purposes from discrimination complaints (see, e.g., *Menchu v. HHS*, 965 F. Supp. 2d 1238, 1248 (D. Or. 2013)), fraud, waste, and abuse complaints (see, e.g., *Gowan v. Air Force*, 148 F.3d 1182, 1188-89 (10th Cir. 1998)), and taxpayer audits (see, e.g., *Welsh v. IRS*, No. 85-1024, slip op. at 2-3 (D.N.M. Oct. 21, 1986)), to civil trust fund recovery penalty investigations (see, e.g., *Berger v. IRS*, 487 F. Supp. 2d 482, 497-98 (D.N.J. 2007), aff'd 288 F. App'x 829 (3d Cir. 2008), cert. denied, 129 S. Ct. 2789 (2009)) and deportation investigations (see, e.g., *Shewchun v. INS*, No. 95-1920, slip op. at 3, 8-9 (D.D.C. Dec. 10, 1996), summary affirmance granted, No. 97-5044 (D.C. Cir. June 5, 1997)). In addition, courts have also determined that this exemption covers investigations into potential threats to national security (see, e.g., *Strang v. U.S. Arms Control & Disarmament Agency*, 864 F.2d 859, 862-63 n.2 (D.C. Cir. 1989) ("this case involves not a job applicant undergoing a routine check of his background and his ability to perform the job, but an existing agency employee investigated for violating national security regulations."))

Routine background investigation files are generally not exempt under the (k)(2) exemption of the Privacy Act, but in some limited cases portions of them may be exempt under (k)(2) because they also include information that would be the subject of a law