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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 96

[Docket ID: DOD-2019-OS-0055]

RIN 0790-AK27

Acquisition and Use of Criminal History Record Information by the Military Services

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulation addressing the acquisition and use of criminal history record information on potential applicants and recruits for the United States Armed Forces. That regulation articulated the Department's statutory authority to collect criminal background information from other government agencies including state and local governments, and it set forth internal standards for the use and protection of that information. Because that authority and those standards are set forth in current statute and internal policies, this part is not needed. Further, DoD utilizes a standardized form to request this criminal information, and any burden on the public attributable to the information collection is accounted for through the Paperwork Reduction Act process. Therefore, the regulation is unnecessary and can be removed from the CFR.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: It has been determined that publication of this CFR part removal for public comment is unnecessary since it is based on removing information that paraphrases existing law and DoD internal procedures. Title 5 U.S.C. 9101 authorizes the Department to collect and properly use criminal history record information on potential recruits. Internal policies can be found in DoD Instruction 1304.02, "Accession Processing Data Collection Forms," dated September 9, 2011, which can be located at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/130402p.pdf>.

Further, DD Form 369, "Police Records Check," is used to request local criminal history information and has been cleared under OMB Control Number 0704-0007. It can be found at the following web address:

<https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0369.pdf>.

This rule is not significant under Executive Order (EO) 12866, "Regulatory Planning and Review." Therefore, the requirements of EO 13771, "Reducing Regulation and Controlling Regulatory Costs," do not apply.

List of Subjects in 32 CFR Part 96

Investigations, Privacy.

PART 96 – [REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 96 is removed.

Dated: August 1, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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