proposed amendment at its own initiative with the intention of allowing companies in the coal industry, if they so desired, to provide a certain amount of their liability insurance through self-insurance. The provision of the Utah Coal Mining Rules that Utah proposed to revise was Utah Administrative Rule (Utah Admin. R.) 645–301–890.400, Terms and Conditions for Liability Insurance.

OSM announced receipt of the proposed amendment in the October 21, 1994, **Federal Register** (59 FR 53123), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–982). Because no one requested a public hearing or meeting, none was held. The public comment period ended on November 21, 1994.

During its review of the amendment, OSM identified concerns relating to Utah's proposed rule and notified Utah of the concerns by letter dated November 30, 1994 (administrative record No. UT–992).

In response to OSM's concerns, Utah by letter dated December 16, 1994, submitted copies of the Utah Interlocal Cooperation Act and Utah Governmental Immunity Act that were intended to clarify Utah's proposed rule revisions (administrative record No. UT–999).

OSM announced receipt of the additional explanatory information in the January 10, 1995, **Federal Register** (60 FR 2520), and reopened and extended the comment period (administrative record No. UT–1005). The public comment period ended on January 25, 1995.

During its review of the amendment, OSM identified concerns relating to the additional explanatory information as it applied to Utah's proposed rule and notified Utah of the concerns by letter dated February 14, 1995 (administrative record No. UT–1020).

By letter dated February 24, 1995, Utah requested that the proposed amendment be withdrawn (administrative record No. UT–1026). Utah indicated that it intends to conduct additional research on the issues before resubmitting the amendment at a later date for approval as part of the Utah program.

Therefore, the proposed amendment announced in the October 21, 1994, and January 10, 1995, publications of the **Federal Register** is withdrawn.

**List of Subjects in 30 CFR Part 944**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 10, 1995.

**Charles E. Sandberg,**

*Acting Assistant Director, Western Support Center.*

[FR Doc. 95–7438 Filed 3–24–95; 8:45 am]

**BILLING CODE 4310–05–M**

## DEPARTMENT OF THE TREASURY

## Office of Thrift Supervision

## 31 CFR Part 1

**[No. 94–260]**

## Privacy Act of 1974; Implementation

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Thrift Supervision (OTS) is proposing to exempt a system of records from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act), to the extent the system contains investigatory material pertaining to the enforcement of laws or compiled for law enforcement purposes. The OTS is also proposing to add a Privacy Act exemption to an existing exempt system.

**DATES:** Comments must be received no later than April 26, 1995.

**ADDRESSES:** Send comments to: Director, Information Services Division, Public Affairs, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 94–260. These submissions may be hand delivered to 1700 G Street, NW., from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX number (202) 906–7753 or (202) 906–7755. Submissions must be received by 5 p.m. on the day that they are due in order to be considered by the OTS. Comments will be available for inspection at 1700 G Street, NW., from 1 p.m. until 4 p.m. on business days. Visitors will be escorted to and from the Public Reading Room at established intervals.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Reinhart, Chief, Disclosure Branch, (202) 906–5896, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** The OTS is proposing to exempt the Criminal Referral Database system of records from specified provisions of the Privacy Act and to add an exemption to the Confidential Individual Information System. Subsection (j)(2) of the Privacy Act provides that an agency may promulgate rules to exempt any system of records within the agency from any section of part 552a except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i), provided that the system of records is maintained by ''the agency or component thereof which performs as its principal function any activity pertaining to enforcement of criminal laws'' and includes: ''(A) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.'' Section 552a(k) of the Privacy Act provides that an agency may promulgate rules to exempt any system of records within the agency from sections 552a (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f) of the Act, pursuant to 5 U.S.C. 552a(k)(2), if the system of records is ''investigatory material compiled for the law enforcement purposes, other than material within the scope of subsection (j)(2) * * *.''

If a system of records is not exempted from these sections, the Privacy Act generally requires the agency to: Make an accounting of disclosures to the individual named in the record of their request; permit individuals access to their records; permit individuals to request amendment to their records; maintain only relevant or necessary information in its system of records; publish certain information in the **Federal Register**; and promulgate rules that establish procedures for notice and disclosure of records. The exemptions that may be asserted with respect to investigatory systems of record permit an agency to protect information when disclosure would interfere with the conduct of the agency's investigations.

Exemptions under subsections 552a(j)(2) and (k)(2) are necessary to maintain the integrity and confidentiality of these investigative files. These systems contain information on possible criminal investigations and may indicate current administrative investigations by OTS. The disclosure of this information would significantly impair the enforcement activities and coordinated proceedings of OTS, other financial institution regulatory agencies, and the Justice Department. Disclosure form these systems would give

individuals an opportunity to learn whether they have been identified as either suspects or subjects of criminal referrals. This knowledge would undermine the agency's mission of enforcing federal law, since individuals could take steps to avoid detection; inform associates that a referral had been made; begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records; or destroy evidence needed to prove the violation. Individuals could alter future wrongful acts to avoid detection by discovering the collection of facts that would form the basis for a criminal referral, by enabling them to destroy or alter evidence of unlawful conduct, and by learning that investigators had reason to believe that there was a violation of laws or regulations. Disclosure could, moreover, disclose the identity of confidential sources and the nature of the information supplied and thereby endanger the physical safety of sources of information by exposing them to reprisals for having provided the information. Confidential sources might refuse to provide valuable referrals if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied. Loss of access to such sources would seriously impair the OTS's and the Justice Department's ability to carry out their mandates. Additionally, disclosure would reveal investigative techniques and procedures, the knowledge of which could enable individuals planning to engage in misconduct or crimes to structure their operations in such a way as to avoid detection or apprehension and thereby neutralize established investigative tools and procedures of both OTS and the Justice Department. The imposition of certain restrictions on the manner in which information is collected, verified or retained could significantly impede the effectiveness of investigation and could preclude the apprehension and successful prosecution of persons engaged in fraud or other unlawful activity.

The OTS investigative files will contain information of the type described in the (j)(2) and (k)(2) exemptions of the Privacy Act. Authority for these systems are provided by 5 U.S.C. 301; 12 U.S.C. 1464, 1818. OTS will maintain information in these systems of records, pursuant to its law enforcement and investigative functions, in order to carry out these functions and its mission.

This rule is not a ''significant regulatory action'' under Executive Order 12866 and will not require the approval of the Office of Management and Budget; therefore, does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that this rule will not have significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980, the Department of the Treasury has determined that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

**List of Subjects in 31 CFR Part 1**

Privacy.

Part 1 of title 31 of the Code of Federal Regulations is amended as follows:

## PART 1—[AMENDED]

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

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

### § 1.36 [Amended]

2. Section 1.36 of subpart C is amended by adding the following text at the end of the section as follows:

OFFICE OF THRIFT SUPERVISION

NOTICE OF EXEMPT SYSTEMS

In accordance with 5 U.S.C. 552a (j) and (k), general notice is hereby given of rulemaking pursuant to the Privacy Act of 1974 by the Acting Director, Office of Thrift Supervision, under authority delegated to him by the Secretary of the Treasury. The Acting Director, Office of Thrift Supervision, exempts the systems of records identified in the paragraphs below from certain provisions of the Privacy Act of 1974 as set forth in such paragraphs.

a. *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to the provisions of 5 U.S.C. 552a(j)(2), the Acting Director, Office of Thrift Supervision, hereby exempts certain systems of records, maintained by the Office of Thrift Supervision, from the provisions of 5 U.S.C. 552a (c) (3) and (4)(D) (1), (2), (3) and (4), (e) (1), (2), (3), (4) (G), (H) and (I), (5) and (8), (f) and (g).

1. *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(j)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph a. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the **Federal Register**

.001—Confidential Individual Information System

.004—Criminal Referral Database

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Office of Thrift Supervision (OTS) believes that application of these provisions to the above-listed systems of records would give individuals an opportunity to learn whether they are on record either as suspects or as suspects of an administrative investigation; this would compromise the ability of the OTS to complete investigations and to detect and apprehend violators of applicable laws in that individuals would thus be able (1) to take steps to avoid detection, (2) to inform co-conspirators of the fact that an investigation is being conducted, (3) to learn the nature of the investigation to which they are being subjected, (4) to learn the type of surveillance being utilized, (5) to learn whether they are suspects or identified law violators, (6) to continue or resume their illegal conduct without fear of detection upon learning that they are not in a particular system of records, and (7) to destroy evidence needed to prove a violation.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) enable individuals to gain access to records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would compromise its ability to complete or continue administrative investigations and to detect and apprehend violators of applicable laws. Permitting access to records contained in the above-listed systems of records would provide individuals with significant information concerning the nature of the investigation, and this could enable them to avoid detection or apprehension in the following ways: (1) By discovering the collection of facts which would form the basis of an enforcement action, and (2) by enabling them to destroy evidence of wrongful conduct which would form the basis of an enforcement action. Granting access to on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning illegal activity to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing established investigative techniques and procedures. Further, granting access to investigative files and records could disclose the identities of confidential sources and other informers and the nature of the information which they supplied, thereby exposing them to possible reprisals for having provided information related to the activities of those individuals who are subjects of the investigative files and records; confidential sources and other informers might refuse to provide investigators with valuable information if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied, and this would seriously impair the ability of the OTS to

carry out its mandate to enforce the applicable laws. Additionally, providing access to records contained in the above-listed systems of records could reveal the identities of individuals who compiled information regarding illegal activities, thereby exposing them to possible reprisals.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The OTS believes that the reasons set forth in paragraph (b) above are equally applicable to this subparagraph and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of other law enforcement agencies to make effective use of information provided by the OTS in connection with the investigation, detection and apprehension of violators of the laws enforced by those other law enforcement agencies. Making accountings of disclosure available to violators would alert those individuals to the fact that another agency is conducting an investigation into their activities, and this could reveal the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or other apprehension by altering their operations, or by destroying or concealing evidence which would form the basis of an enforcement action. In addition, providing violators with accountings of disclosure would inform those individuals of general information, and alert them that the OTS has information regarding their activities; this, in turn, would afford those individuals a better opportunity to take appropriate steps to avoid detection or apprehension.

(e) 5 U.S.C. 552a(c)(4) requires that an agency inform any person or other agency about any correction or notation of dispute made by the agency in accordance with 5 U.S.C. 552(d) of any record that has been disclosed to the person or agency if an accounting of the record was made. Since this provision is dependent on an individual's having been provided an opportunity to contest (seek amendment to) records pertaining to him, and since the above-listed systems of records are proposed to be exempted from those provisions of 5 U.S.C. 552a relating to amendments of records as indicated in paragraph (c) above, the OTS believes that this provision should not be applicable to the above-listed systems of records.

(f) 5 U.S.C. 552a(e)(4)(I) requires that an agency publish a public notice listing the categories of sources for information contained in a system of records. The OTS believes that application of this provision to the above-listed systems of records could compromise its ability to conduct investigations and to identify, detect and apprehend violators of the applicable laws for the reasons that revealing sources for information could (1) disclose investigative techniques and procedures, (2) result in possible reprisal directed to informers by the subject under investigation, and (3) result in the refusal of informers to give information or to be candid with investigators because of the knowledge that their identities as sources might be disclosed.

(g) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term ''maintain'' as defined in 5 U.S.C. 552a(a)(3) includes ''collect'' and ''disseminate.'' At the time that information is collected by the OTS, there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collected may not be immediately susceptible to a determination whether the information is relevant and necessary, particularly in the early stages of an investigation, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation, prove to have particular relevance to an enforcement program of OTS. Further, not all violations of law discovered during an OTS administrative investigation fall within the investigative jurisdiction of OTS; in order to promote effective law enforcement, OTS is often required to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the OTS through the conduct of a lawful OTS investigation. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

(h) 5 U.S.C. 552a(e)(2) requires that an agency collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of OTS to conduct investigations and to identify, detect and apprehend violators of applicable laws for the following reasons: (1) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers, and it is usually not feasible to rely upon the target of the investigation as a source for information regarding his activities, (2) an attempt to obtain information from an individual regarding an investigation will often alert the individual to the existence of such an investigation, thereby affording him an opportunity to conceal his activities so as to avoid apprehension, (3) in certain instances individuals are not required to supply information to investigators as a matter of legal duty, and (4) during investigations it is often a matter of sound investigative procedures to obtain information from a variety of sources in order to verify information already obtained.

(i) 5 U.S.C. 552a(e)(3) requires that an agency inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual, of the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effects on the individual of not providing all or part of the requested information. The OTS believes that the above-listed systems of records should be exempted from this provision in order to avoid adverse effects on its ability to identify, detect and apprehend violators of applicable laws. In many cases, information is obtained from confidential sources and other individuals under circumstances where it is necessary that the true purpose of their actions be kept secret so as to not let it be known by the target of the investigation or his associates that an investigation is in progress. In many cases, individuals for personal reasons would feel inhibited in talking to a person representing a law enforcement agency but would be willing to talk to a confidential source or to an individual whom them believed was not involved in enforcement activity. In addition, providing information from this system, including written evidence of the identity of the source, as required by this provision, could increase the likelihood that the source of information would be the subject of retaliatory action by the target of the investigation. Further, application of this provision could result in an unwarranted invasion of the personal privacy of the target of the investigation, particularly where further investigation would result in a finding that he was not involved in unlawful activity.

(j) 5 U.S.C. 552a(e)(5) requires that an agency maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since 5 U.S.C. 552a(a)(3) defines ''maintain'' to include ''collect'' and ''disseminate,'' application of this provision to the above-listed systems of records would hinder the initial collection of any information which could not, at the moment of collection, be determined to be accurate, relevant, timely and complete. Similarly, application of this provision would seriously restrict the

necessary flow of information from the OTS to other law enforcement agencies where an OTS investigation revealed information pertaining to a violation of law which was under the investigative jurisdiction of another agency. In collecting information during the course of an administrative investigation, it is not possible or feasible to determine accuracy, relevance, timeliness or completeness prior to collection of the information; in disseminating information to other law enforcement agencies it is often not possible to determine accuracy, relevance, timeliness or completeness prior to dissemination because the disseminating agency may not have the expertise with which to make such determinations. Further, information which may initially appear inaccurate, irrelevant, untimely or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(5).

(k) 5 U.S.C. 552a(e)(8) requires that an agency make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The OTS believes that the above-listed systems of records should be exempt from this provision in order to avoid revealing investigative techniques and procedures outlined in those records and in order to prevent revelation of the existence of an on-going investigation where there is a need to keep the existence of the investigation secret.

(1) 5 U.S.C. 552a(g) provides civil remedies to an individual for an agency refusal to amend a record or to make a review of a request for amendment, for an agency refusal to grant access to a record, for an agency failure to maintain accurate, relevant, timely and complete records which are used to make a determination which is adverse to the individual, and for an agency failure to comply with any other provision of 5 U.S.C. 552a in such a way as to have an adverse effect on an individual. The OTS believes that the above-listed systems of records should be exempted from this provision to the extent that the civil remedies provided therein may be related to provisions of 5 U.S.C. 552a from which the above-listed systems of records are proposed to be exempt. Since the provisions of 5 U.S.C. 552a enumerated in paragraph (a) through (k) above proposed to be inapplicable to the above-listed systems of records for the reasons stated therein, there should be no corresponding civil remedies for failure to comply with the requirements of those provisions to which the exemption is proposed to apply. Further, the OTS believes that the application of this provision to the above-listed systems of records would adversely affect its ability to conduct investigations by exposing to civil court actions every stage of the investigative process in which information is compiled or used in order to identify, detect, apprehend and otherwise investigate persons suspected or known to be engaged in conduct in violation of applicable laws.

b. *Specific exemptions under 5 U.S.C. 552a(k)(2).* Pursuant to the provisions of 5 U.S.C. 552a(k)(2), the Office of Thrift Supervision, hereby exempts certain systems of records, maintained by the Office of Thrift Supervision, from the provisions of 5 U.S.C. 552a (c)(3), (d)(1), (2), (3) and (4), (e)(1) and (4)(G), (H), and (I) and (f).

1. *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph b. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the **Federal Register**:

.001—Confidential Individual Information System

.004—Criminal Referral Database

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The OTS believes that application of these provisions (to those of the above-listed systems of records for which no notification procedures have been provided in the general notice of the existence and character of systems of records which appears elsewhere in the **Federal Register**) would impair the ability of the OTS to successfully complete investigations and inquiries of suspected violators of laws and regulations under its jurisdiction. In many cases investigations and inquiries into violations of laws and regulations involve complex and continuing patterns of behavior. Individuals, if informed that they have been identified as suspected violators of laws and regulations, would have an opportunity to take measures to prevent detection of illegal action so as to avoid prosecution or the imposition of civil sanctions. They would also be able to learn the nature and location of the investigation and the type of inquiry being made, and they would be able to transmit this knowledge to co-conspirators. Finally, violators might be given the opportunity to destroy evidence needed to prove the violation under investigation or inquiry.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would impair its ability to complete or continue investigations and inquiries and to detect and apprehend violators of the applicable laws. Permitting access to records contained in the above-listed systems of records would provide violators with significant information concerning the nature of the investigation or inquiry. Knowledge of the facts developed during an investigation or inquiry would enable violators of laws and regulations to learn the extent to which the investigation or inquiry has progressed, and this could provide them with an opportunity to destroy evidence that would form the basis for the imposition of civil sanctions. In addition, knowledge gained through access to investigatory material could alert a violator to the need to temporarily postpone commission of the violation or to change the intended point where the violation is to be committed so as to avoid detection or apprehension. Further, access to investigatory material would disclose investigative techniques and procedures which, if known, could enable violators to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing investigators' established and effective investigative tools and procedures. In addition, investigatory material may contain the identity of confidential sources who would not want their identities to be disclosed for reasons of personal privacy or for fear of reprisal at the hands of the individual about whom they supplied information. In some cases mere disclosure of the information provided by a source would reveal the identity of the source either through the process of elimination or by virtue of the nature of the information supplied. If sources could not be assured that their identities (as sources for information) would remain confidential, they would be very reluctant in the future to provide information pertaining to violations of laws and regulations, and this would seriously compromise the ability of the OTS to carry out its mission. Further, application of 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) to the above-listed systems of records would make available attorney's work product and other documents which contain evaluations, recommendations, and discussions of ongoing legal proceedings; the availability of such documents could have a chilling effect on the free flow of information and ideas within the OTS which is vital to the agency's predecisional deliberative process, could seriously prejudice the agency's or the Government's position in litigation, and could result in the disclosure of investigatory material which should not be disclosed for the reasons stated above. It is the belief of the OTS that due process will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records and related materials which are to be used in legal proceedings.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in subparagraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The OTS believes that the reasons set forth in subparagraph (b) above are equally applicable to this subparagraph, and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The OTS believes that application of this provision to the

above-listed systems of records would impair the ability of the OTS and other law enforcement agencies to conduct investigations and inquiries into violations under their respective jurisdictions. Making accountings available to violators would alert those individuals to the fact that the OTS or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and dates on which that investigation or inquiry was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(e) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term ''maintain'' as defined in 5 U.S.C. 552a(a)(3) includes ''collect'' and ''disseminate.'' At the time that information is collected by the OTS there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collection may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry; and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the OTS. Further, not all violations of law uncovered during an OTS investigation or inquiry fall within the jurisdiction of the OTS; in order to promote effective law enforcement it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the OTS through the conduct of a lawful OTS investigation or inquiry. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from provisions of 5 U.S.C. 552a(e)(1).

Dated: December 15, 1994.

**Jonathan L. Fiechter,**

*Acting Director.*

Dated: March 6, 1995.

**Alex Rodriguez,**

*Deputy Assistant Secretary (Administration).*

[FR Doc. 95–7342 Filed 3–24–95; 8:45 am]

BILLING CODE 6720–01–M

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 162

**[CGD09–95–002]**

**RIN 2115–AF04**

## Amendment to Inland Waterways Navigation Regulations Establishing Speed Limits on Connecting Waters From Lake Huron to Lake Erie

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the speed limits for vessels, less than 100 gross tons, operating in the nondisplacement mode on connecting waters from Lake Huron to Lake Erie. The normal speed limits in this area are determined in large part by concerns about wake damage. However, lesser wakes are created by nondisplacement vessels and it appears that the normal speed limits unnecessarily impede their passage. The Coast Guard allowed nondisplacement vessels to operate at higher speeds under similar conditions during two temporary test periods from April 1, 1993 to November 30, 1994, with satisfactory results. The Coast Guard invites public comment on this proposed regulation.

**DATES:** Comments must be received on or before May 26, 1995.

**ADDRESSES:** Comments and supporting materials should be mailed or delivered to Lieutenant Katherine E. Weathers, Assistant Chief, Port and Environmental Safety Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth street, Cleveland, Ohio, 44199–2060. Please reference the name of the proposal and the docket number in the heading above. If you wish receipt of your mailed comment to be acknowledged, please include a stamped self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9:00 a.m. to 3:00 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Katherine E. Weathers, Assistant Chief, Port and Environmental Safety Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3994.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting comments which may consist of data, views, arguments, or proposals for amendments to the proposed regulations. The Coast Guard does not currently plan to have a public hearing. however, consideration will be given to holding a public hearing if it is requested. Such a request should indicate how a public hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would contribute to this rulemaking, the Coast Guard will announce such a hearing by a later notice in the **Federal Register**. The Coast Guard will consider all comments received before the closing date indicated above, and may amend or revoke this proposal in response to such comments.

### Background and Purpose

Current regulations in 33 CFR 162.138 which apply to connecting waters from Lake Huron to Lake Erie set the maximum speed for vessels 20 meters or more in length at limits ranging from 4 to 12 statute miles per hour in various areas. One of the primary purposes of these speed regulations is to limit wake damage, but they were not written to account for the substantially lesser wake-generating characteristics of nondisplacement vessels. In fact, certain vessels designed for nondisplacement operation which have conducted test operations in the waterway would generate larger wakes at the lower speed now required because they would be forced to operate in a displacement mode. Also, the vessels which have conducted test operations in the waterway operate in a nondisplacement mode by means of a planing action on a catamaran hull, thus obtaining a hydrodynamic lift without use of projecting foils, and have demonstrated their suitability for safe operation in confined and relatively shallow areas. During the 1993 and 1994 navigation season, the Commander of the Ninth Coast Guard District temporarily amended 33 CFR 162.138 in order to allow trial runs of these nondisplacement vessels (33 CFR 162.T139, 58 FR 17526, April 5, 1993 and 59 FR 16563 April 7, 1994). A corresponding exemption was granted by the Central Region of the Canadian Coast Guard, which has authority over the Canadian waters in the same area. The two year trial period has proven successful and the Coast Guard has therefore determined that there should now be a permanent amendment to the regulations in order to prevent an unnecessary restriction on the operation of such vessels. The trial period allowed