

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 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID 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 preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary "Environmental Analysis Check List" supporting this preliminary determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 110

Anchorage Grounds.

Words of Issuance and Proposed Regulatory Text

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 110.60, by revising paragraph (aa) to read as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(aa) *Perth Amboy, NJ.* All waters bound by the following points: 40°30'19.0" N, 074°15'46.0" W; thence to 40°30'17.0" N, 074°15'39.0" W; thence to 40°30'02.8" N, 074°15'45.0" W; thence to 40°29'36.0" N, 074°16'09.2" W; thence to 40°29'30.8" N, 074°16'22.0" W; thence to 40°29'47.2" N, 074°16'52.0" W; thence to 40°30'02.0" N, 074°16'43.0" W, thence along the shoreline to the point of origin.

Note: This area is limited to vessels no greater than 20 meters in length and is primarily for use by recreational craft on a seasonal or transient basis. These regulations do not prohibit the placement of moorings within the anchorage area, but requests for the placement of moorings should be directed to the local government to ensure compliance with local and state laws. All moorings shall be so placed that no vessel, when anchored, will at any time extend beyond the limits of the area.

Fixed mooring piles or stakes are prohibited. Mariners are encouraged to contact the local harbormaster for any additional ordinances and to ensure compliance with additional applicable state and local laws.

Dated: April 23, 2008.

Timothy V. Skuby,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. E8–10259 Filed 5–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF EDUCATION

34 CFR Part 5b

[Docket ID ED–2008–OM–0004]

RIN 1880–AA85

Privacy Act Regulations

AGENCY: Office of Management, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Education (Department) proposes to amend its regulations implementing the Privacy Act of 1974, as amended (Privacy Act). These proposed regulations would amend the Department's current Privacy Act regulations to exempt from certain Privacy Act requirements investigative material in a new system of records to be maintained by the Department that will be known as the Office of Inspector General Data Analytics System (ODAS) (18–10–02). Specifically, the exemption would apply to materials compiled by the Department's Office of Inspector General (OIG) for law enforcement purposes to identify internal control weaknesses and system issues and to improve methods of data modeling and

annual audit planning in order to detect and investigate fraud, waste, and mismanagement in Department programs and operations.

DATES: We must receive your comments on or before June 9, 2008.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How To Use This Site."

• *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed regulations, address them to Regulatory Information Management Services, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 8166, Washington, DC 20202-5920. Attention: NOPR Comments.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: Shelley Shepherd, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., room 8166, Washington, DC 20202-5920. Telephone: (202) 245-7077.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed regulations.

We also invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations by accessing Regulations.gov. You may also inspect the comments, in person, at the National Library of Education, 400 Maryland Avenue, SW., Washington, DC 20202, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays. For more information on inspecting public comments call (202) 205-4410.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

Under the Inspector General Act of 1978, as amended (5 U.S.C. Appendix) Inspectors General, including the Department's Inspector General (OIG), are responsible for conducting, supervising, and coordinating audits and investigations relating to programs and operations of the Federal agency for which their office is established. The Department intends to establish a new system of records entitled the "Office of Inspector General Data Analytics System" (ODAS) (18-10-02) in order to facilitate the OIG's performance of this statutory duty.

The new system of records will be managed by the OIG's Information Technology Audits and Computer Crimes Investigations (ITACCI) division, which is responsible for providing computer programming, data acquisition and analysis and statistical modeling in support of OIG operations. ITACCI will use this new system of records to gather data from Department systems and analyze them using data modeling techniques to detect waste, fraud, abuse, and internal control weaknesses and to identify potential

violations of laws, rules and regulations. These data will include information related to transactions between the Department and individuals and entities that have applied for and/or received grants, contracts, loans, or payments from the Department. ITACCI will conduct data modeling on these data, using statistical and mathematical techniques, in order to predict anomalies indicating fraudulent activity and to predict which transactions have a high probability of fraudulent activity.

ITACCI will review this information to determine whether further action is warranted. If so, ITACCI will refer potential violations of law, rules, or regulations that it identifies to other divisions of OIG for investigation, audit, or inspection, as appropriate. Thus, the ODAS will contain data related to transactions with the Department, as well as information related to ITACCI's review and investigation of that data for law enforcement purposes.

Pursuant to section (k)(2) of the Privacy Act (5 U.S.C. 552a), the Secretary, through rulemaking, may exempt from a limited number of Privacy Act requirements a system of records that contains investigatory materials compiled for law enforcement purposes. The investigatory materials in the ODAS will fall within the scope of section (k)(2) of the Privacy Act because the system will consist of investigatory materials compiled for purposes of enforcing Federal legal requirements applicable to individuals and entities receiving Department funds.

Significant Proposed Regulations

Exempt Systems (§ 5b.11(c))

Statute: Section (k)(2) of the Privacy Act provides that the head of any agency may promulgate rules to exempt any system of records from the requirements in sections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act if the system of records contains investigatory material compiled for law enforcement purposes other than material related to criminal subjects and investigations that is within the scope of section (j)(2) of the Privacy Act. Section (k)(2) provides, however, that, in the event that any individual is denied any right, privilege, or benefit that the individual would otherwise be entitled to by Federal law, or for which the individual would otherwise be eligible, as a result of the maintenance of the material, the material must be provided to the individual, unless the disclosure of such material would reveal the identity of a source who furnished the information to the Department under an express

promise, or, prior to September 27, 1975, an implied promise that the identity of the source would be held in confidence.

Current Regulations: The Department does not currently claim any exemption under section (k)(2) of the Privacy Act for the investigatory materials that will be maintained in the ODAS. However, the Department claims exemptions under this section for two other OIG systems of records—the Investigative Files of the Inspector General (18–10–01) and the Hotline Complaint Files of the Inspector General (18–10–04).

Proposed Regulations: The Department proposes to claim an exemption under section (k)(2) of the Privacy Act for investigatory materials that will be maintained in the ODAS.

Reasons: As authorized by section (k)(2) of the Privacy Act and for the reasons specified in this section, the Secretary of Education proposes to exempt investigatory material compiled for law enforcement purposes in the ODAS from the following provisions of the Privacy Act and corresponding Departmental regulations:

1. Section (c)(3) of the Privacy Act (5 U.S.C. 552a(c)(3)) and 34 CFR 5b.9(c)(3) require the Department to make an accounting of disclosures from a system of records available to the individual named in the record at the individual's request. The Secretary proposes to exempt the investigatory material compiled for law enforcement purposes in the ODAS because if OIG made this accounting available to a target individual, it could impede or compromise the OIG's investigation efforts by prematurely revealing its existence and nature. In addition, if OIG were to make this accounting available to a target individual, the target could compromise, interfere with, or make witnesses reluctant to cooperate with the OIG investigation, and this could lead to the suppression, alteration, or destruction of evidence.

2. Sections (d)(1) through (4) and (f) of the Privacy Act (5 U.S.C. 552a(d)(1) through (4) and (f)) and 34 CFR 5b.5(a)(1) and (c), 5b.7, and 5b.8 require the Department to provide access to records pertaining to an individual requestor, to follow specific procedures relating to requests for correction or amendment of records, and to notify an individual of the existence of records pertaining to him or her upon request. The Secretary proposes to exempt the investigatory material compiled for law enforcement purposes in the ODAS from these requirements because providing an individual with access to investigatory materials and permitting the individual to contest the records'

contents and to try to force changes to the information contained therein could interfere with and compromise the ability of OIG to conduct an orderly and unbiased investigation of potential violations of laws, rules, and regulations.

3. Section (e)(1) of the Privacy Act (5 U.S.C. 552a(e)(1)) and 34 CFR 5b.4(a)(1) require the Department to maintain in its records only "relevant and necessary" information about an individual. This provision is inappropriate for OIG's investigatory duties because it is not always possible to detect the relevance or necessity of each piece of information reported to the OIG or collected in the preliminary phase of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity are clear. In other cases, what may appear to be a relevant and necessary piece of information may become irrelevant in light of further inquiry or investigation. In order not to impede the OIG's investigation of potential violations of laws, rules, and regulations, the Secretary believes it is appropriate to exempt the investigatory materials in the ODAS from this requirement.

4. Section (e)(4)(G) and (H) of the Privacy Act (5 U.S.C. 552a(e)(4)(G) and (H)) require the Department to publish notice of procedures for notification, access, and correction of records in the system. If the Department exempts the investigatory materials in the ODAS from the underlying Privacy Act requirements, notification of these requirements would be illogical. For this reason, the Department proposes to exempt the ODAS investigatory materials from this requirement as well.

Executive Order 12866

1. Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action. The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined to be necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that the benefits would justify the costs.

Summary of Potential Costs and Benefits

We do not view this proposed regulatory action as imposing any new costs as the Department is proposing

only to exempt itself from having to meet limited Privacy Act requirements. We view the potential benefits as decreasing the risk that individual(s) whose actions are being investigated could interfere with or compromise the ability of the OIG to conduct an orderly and unbiased investigation of potential violations of laws, rules, and regulations.

2. Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 5b.11 Exempt systems.)
- Could the description of the proposed regulations in the "Significant Proposed Regulations" section be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities.

These regulations involve procedural rights of individuals under the Privacy Act. Individuals are not considered to be "entities" under the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995

These proposed regulations do not contain any information collection requirements.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number does not apply.)

List of Subjects in 34 CFR Part 5b

Privacy.

Dated: May 2, 2008.

Michell Clark,

Assistant Secretary for Management.

For the reasons discussed herein, the Department of Education proposes to amend part 5b of title 34 of the Code of Federal Regulations as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. The authority citation for part 5b continues to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 552a.

2. Section 5b.11 is amended by revising paragraph (c)(1) introductory text to read as follows:

§ 5b.11 Exempt systems.

* * * * *

(c) *Specific systems of records exempted under (k)(2).* (1) The Department exempts the Investigative Files of the Inspector General ED/OIG (18-10-01), the Hotline Complaint Files of the Inspector General ED/OIG (18-10-04), and the Office of Inspector General Data Analytics System (ODAS)

(18-10-02) from the following provisions of 5 U.S.C. 552a and this part to the extent that these systems of records consist of investigatory material and complaints that may be included in investigatory material compiled for law enforcement purposes:

* * * * *

[FR Doc. E8-10110 Filed 5-7-08; 8:45 am]

BILLING CODE 4000-01-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R08-OAR-2007-0648; FRL-8563-5]

Approval and Promulgation of State Implementation Plans; States of South Dakota and Wyoming; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plans (SIPs) submitted by the States of South Dakota and Wyoming that address interstate transport with respect to the 1997 8-hour ozone and fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards. EPA has determined that the Interstate Transport declarations submitted by South Dakota on May 15, 2007, and by Wyoming on May 3, 2007, satisfy the requirements of the Clean Air Act section 110(a)(2)(D)(i) provisions, also known as the “good neighbor” provisions, that a state SIP contain adequate provisions prohibiting air pollutant emissions from sources or activities in the state from adversely affecting another state. This action is being taken under section 110 of the Clean Air Act.

In the “Rules and Regulations” section of this **Federal Register**, EPA is approving the States’ SIP revisions as a direct final rule without prior proposal because the Agency views these as non-controversial SIP revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA

receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before June 9, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2007-0648, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail:* videtich.callie@epa.gov and mastrangelo.domenico@epa.gov.
- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129.

- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instruction on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Domenico Mastrangelo, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-6436, mastrangelo.domenico@epa.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 23, 2008.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. E8-10100 Filed 5-7-08; 8:45 am]

BILLING CODE 6560-50-P