the LH and RH lower rear attachments are detected, and no corrosion and no missing rivet stems of the lower fuselage truss pipes are detected, before further flight, install part number (P/N) 5034–011 plugs on both the RH and LH rear attachments, in accordance with step 16 of Part A, in Part 2, Work Procedure, of Vulcanair SB VA–22. After installation of the plugs, no further action is required by this AD.

(2) If, during the inspections required by the introductory text of paragraph (g) of this AD, corrosion, missing sealant, or missing rivet stems are detected, before further flight, do the following as applicable:

(i) If corrosion or missing sealant is detected during the detailed visual inspection or tactile inspection of the RH and LH lower rear attachments, remove any sealant, and do a detailed visual inspection for corrosion in accordance with step 26 of Part B, in Part 2, Work Procedure, of Vulcanair SB VA–22.

(ii) If corrosion or missing rivet stems are detected during the general visual inspection of the lower fuselage truss pipes, do a detailed visual inspection and tap test for corrosion in accordance with steps 27 and 28 of Part B, in Part 2, Work Procedure, of Vulcanair SB VA–22.

(3) If, during any inspection required by paragraph (g)(2) of this AD, any corrosion is detected on the lower fuselage truss, before further flight, contact the Manager, International Validation Branch, FAA; or European Union Aviation Safety Agency (EASA); or Vulcanair's EASA Design Organization Approval (DOA) for corrective action instructions and do the corrective actions. If approved by the DOA, the approval must include the DOA-authorized signature.

(4) If, during the inspections required by paragraph (g)(2) of this AD, no corrosion is detected, before further flight, apply sealant on rivets with absent stems, restore as necessary the sealant inside the RH and LH lower rear attachments, and install plugs P/N 5034–011 on both the RH and LH rear attachments, in accordance with the instructions in steps 31 and 32 of Part B, in Part 2, Work Procedure, of Vulcanair SB VA–22.

(h) Special Flight Permits

Special flight permits are prohibited.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j)(2) of this AD or email to: *9-AVS-AIR-730-AMOC@faa.gov*. If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Additional Information

(1) Refer to EASA AD 2022–0155, dated August 1, 2022, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–1218.

(2) For more information about this AD, contact John DeLuca, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7369; email: *john.p.deluca@faa.gov*.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Vulcanair S.p.A. Service Bulletin No. VA–22, Revision 0, dated June 15, 2022.

(ii) [Reserved]

(3) For service information identified in this AD, contact Vulcanair S.p.A., via G. Pascoli, 7, 80026 Casoria (NA), Italy; phone: +39 081 5918111; email: *info@vulcanair.com*; website: *support.vulcanair.com*.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued on September 18, 2023.

Victor Wicklund,

Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–20481 Filed 9–20–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[SATS No. KY–262–FOR; Docket No. OSM–2019–0014; S1D1S SS08011000 SX064A000 201S180110; S2D2S SS08011000 SX064A000 20XS501520]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; partial approval of the amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving, in part, amendments to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). With this amendment, Kentucky will revise its administrative regulations and make non-substantive changes such as paragraph renumbering.

DATES: This rule is effective October 23, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Castle, Field Office Director, Lexington Field Office, Telephone: (859) 260–3900. Email: *mcastle@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its approved State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). Based on these criteria, the Secretary of the Interior conditionally approved the Kentucky program effective May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982 **Federal Register** (47 FR 21434). You can also find later actions concerning the Kentucky program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17. The regulatory authority in Kentucky is the Kentucky Energy and Environment Cabinet (herein referred to as the Cabinet).

II. Submission of the Amendment

By letter dated November 25, 2019 (Administrative Record Number KY–2004), the Cabinet submitted an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*), docketed as KY–262–FOR. The amendment seeks to revise chapter 10:001 of title 405 of the Kentucky Administrative Regulations (KAR), *Bond and Insurance Requirements, Definitions for 405 KAR Chapter 10.* The Cabinet seeks to revise Section 1, *Definitions,* subsection (4), definition of ''*Adjacent area,*'' by adding ''surface

water'' to the list of resources on land located outside the affected area or permit area that could be adversely impacted by surface coal mining and reclamation operations. The Cabinet also seeks to add new subsection 26, defining ''*Long term treatment*'' to mean:

> the use of any active or passive water treatment necessary to meet water quality effluent standards at the time a permit or any affected permit increment attains phase one (1) bond release standards as determined by the cabinet pursuant to 405 KAR 10:040.

In addition, the Cabinet has proposed certain non-substantive revisions at 405 KAR 10:001. These revisions include paragraph renumbering but do not change the administrative regulations substantively. Because these changes are non-substantive, we make no findings on them.

Additional Background Information

On November 25, 2019, in addition to submitting proposed amendment KY–262, the Cabinet also submitted a related amendment, KY–261, requiring calculation of an additional bond when a need for long term treatment is identified by the Cabinet. Both submissions, KY–261 and KY–262, were made in response to an amendment OSMRE required at section 30 CFR 917.16(p). We required the amendment after our review of Kentucky's proposed bonding provisions under Program Amendment No. KY–256, as published in the January 29, 2018 **Federal Register** (83 FR 3948), which we found to be inadequate.

The Cabinet mentions in its submission for KY–262 that it believes the amendment submitted as KY–261 is sufficient to satisfy the requirements of SMCRA when viewed in conjunction with the definition of ''Long term treatment'' proposed in KY–262. Importantly, on May 10, 2022, we approved KY–261 with a slight modification not relevant here. *See* 87 FR 27938. In approving KY–261, we did not find it necessary to approve KY–262 in conjunction. Now, for reasons explained below, we are approving, in part, the changes proposed in KY–262. We are not approving the definition of ''Long term treatment'' in subsection 26.

We announced receipt of the proposed amendment in the February 25, 2020 **Federal Register** (85 FR 10633). In the same notice, we opened a public comment period and provided an opportunity for a public hearing on these provisions (Administrative Record Number KY–2004–3). The public comment period closed on March 25, 2020. We received a response from one Federal agency and one public comment, which we addressed in the Public Comments section of part IV, Summary and Disposition of Comments, below.

III. OSMRE's Finding

The following are the findings we made concerning the proposed Kentucky amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, which govern OSMRE approval of state programs and program amendments. We are approving the amendment in part, as described below. The full text of the approved amendment is available online at *www.regulation.gov.*

Any revisions that we do not specifically discuss below concerning non-substantive wording or editorial changes may be found in the full text of the program amendment available at *www.regulations.gov.*

The Cabinet proposed to revise KAR Chapter 10:001, Bond and Insurance Requirements, Definitions for 405 KAR Chapter 10, as follows.

1. Definition of ''*Adjacent area*''*:* The Cabinet seeks to revise Section 1, *Definitions,* subsection (4), by adding ''surface water'' to the list of resources that could be impacted by surface coal mining operations.

OSMRE Finding: The term ''Adjacent area'' arises in various places in 405 KAR Chapter 10. We are approving the revised definition because it is as stringent as the prior regulation, which is already part of Kentucky's approved program, and it is as effective as the OSMRE regulation at 30 CFR 701.5, which defines ''Adjacent area.'' Previously, Kentucky's definition of ''Adjacent area'' in subsection (4) encompassed land outside the affected area or permit area where ''air, surface, or groundwater, fish, wildlife, vegetation, or other [protected] resources'' could be adversely impacted by surface coal mining and reclamation operations. Under this rule, the definition is modified to include land where ''air, surface, surface water, groundwater, fish, wildlife, vegetation, or other [protected] resources'' could be adversely impacted by surface coal mining and reclamation operations. As revised, the definition specifies that surface water is also a protected resource and it makes clear, where before it was ambiguous, that the regulatory authority, when applying regulations in Chapter 10 that refer to adjacent areas, must take into account whether surface waters, in addition to the other listed resources, may be adversely impacted.

2. Definition of ''*Long term treatment*''*:* The Cabinet seeks to add a new subsection 26, defining ''*Long term treatment*'' to mean:

> the use of any active or passive water treatment necessary to meet water quality effluent standards at the time a permit or any affected permit increment attains phase one (1) bond release standards as determined by the cabinet pursuant to 405 KAR 10:040.

OSMRE Finding: We are not approving this subsection of the amendment as we find it is less stringent than section 509(a) of SMCRA, 30 U.S.C. 1259(a) (Performance Bonds), which directs that the regulatory authority ''assure,'' upon discovery of a pollutional discharge, that bonds are adequate to cover the cost of reclamation. We reach this conclusion because the definition could be read to delay the time when the regulatory authority may declare a need for long-term treatment to the point where a permitted site ''attains phase one (1) bond release standards.'' The problem with this temporal limitation is that the need for long-term treatment could become apparent long before phase one bond release. We believe this falls short of the statutory requirement in section 509(a). We similarly conclude the definition is less effective than the Federal regulation at 30 CFR 800.14, which echoes section 509(a) in requiring that the bond amount ''be sufficient to assure the completion of the reclamation plan if the work has to be performed by the regulatory authority in the event of forfeiture.'' Further, EPA has commented that the approval of this definition seems to conflate two separate areas under the Clean Water Act (CWA), those being the water quality standards and the water quality based effluent limitation under National Pollutant Discharge Elimination System (NPDES) permits. For these reasons, we are not approving the definition.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the KY–262 amendment in the proposed rule notice published in the **Federal Register** on February 25, 2020 (85 FR 10633), OSMRE received one comment. This comment is summarized and addressed below.

The Kentucky Coal Association (KCA) submitted comments in support of KY–262, stating that the revisions to the definitions of ''Adjacent area'' and ''Long term treatment'' satisfy the criteria of 30 CFR 732.15 and are in accordance with SMCRA. KCA also stated that the views of all stakeholders had been considered. KCA further stated that both definitions improve clarity

and provide certainty for both permittees and the community as a whole. KCA added that approval of the revision should resolve the ongoing ''733'' process between Kentucky and OSMRE and pending litigation among the Cabinet, KCA, and OSMRE concerning Kentucky's bonding program.

OSMRE Response: We are approving the definition of ''Adjacent area'' and the non-substantive changes and disapproving the definition of ''Long-term treatment'' for the reasons stated above. While we agree with KCA that the definition of ''Long-term treatment'' may help to add clarity and certainty for the public, it does so in a manner that is less stringent that section 509(a) of SMCRA and less effective than the Federal regulation at 30 CFR 800.14.

Federal Agency Comments

On December 16, 2019, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Kentucky (KY–262) program (Administrative Record No. KY–2004–1). We received comments from Environmental Protection Agency.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain written concurrence from EPA for those provisions of the program amendments that relate to air or water quality standards issued under the authority of the CWA (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). Because the program amendment does not relate to air or water quality standards we sought comment, not concurrence, from EPA. EPA commented that the term ''water quality effluent standards'' seems to conflate two separate areas under the CWA, those being water quality standards and water quality-based effluent limitations under NPDES permits. The EPA recommends that the definition be revised to include reference to both Kentucky's water quality standards and NPDES permit effluent limits. EPA believes that this is consistent with OSMRE's implementing regulations that acknowledge the relationship between the CWA and SMCRA. Because we are not approving the definition of ''Long-term treatment,'' the revisions to that definition recommended by EPA are unnecessary.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On December 16, 2019, we requested comments on Kentucky (KY–262) amendment (Administrative Record Number KY–2004–1). We did not receive comments from SHPO or ACHP.

V. OSMRE's Decision

Based on the above findings, we are approving the revised definition of ''Adjacent area'' in subsection 4 as well as non-substantive changes, and we are not approving the new definition for ''Long-term treatment'' in subsection 26, based on the fact that the proposed amendment is less stringent than section 509(a) of SMCRA and less effective than the corresponding Federal regulation at 30 CFR 800.14, which requires that bonding be adequate to ensure that the costs of treatment are covered. Kentucky's definition of ''Long-term treatment'' ties the decision requiring additional bond (when a long-term pollutional discharge is discovered) to phase 1 bond release. However, once a water violation is discovered and reclamation needs have changed (*i.e.,* water treatment is now required), the operator has an obligation to treat and bond immediately. Approving this definition would potentially postpone acquisition of an additional bond to a point in time long after the discovery of a need for long-term water treatment. Therefore, we are not approving this portion of the amendment.

To implement this decision, we are amending the Federal regulations, at 30 CFR part 948, that codify decisions concerning the Kentucky program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review, 13563—Improving Regulation and Regulatory Review, and 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program and/or plan amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, does not supplant this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the Cabinet proposed.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects 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.'' Instead, this rule approves an amendment to the Kentucky program submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in sections 2 and 3 of the Executive Order and with the principles of cooperative federalism set forth in SMCRA. *See, e.g.,* 30 U.S.C. 1201(f). As such, pursuant to section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that there are no federally recognized tribes are present in Kentucky, and the Kentucky program is not approved to regulate activities on Indian lands as defined by SMCRA. Indian lands under SMCRA are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d)) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Director of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared, and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,

Regional Director, North Atlantic—Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 917 is amended as follows:

PART 917—KENTUCKY

■ 1. The authority citation for part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. In § 917.15 amend the table in paragraph (a) by adding a second entry for ''November 25, 2019'' at the end of the table to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

(a) * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
November 25, 2019	September 21, 2023	KAR Chapter 10:001 Section 1, *Definitions,* subsection (4)—*Adjacent area.*

* * * * *

■ 3. Amend § 917.17 by adding paragraph (e) to read as follows:

§ 917.17 State regulatory program amendments not approved.

* * * * *

(e) We are not approving the following provision of the proposed Kentucky program amendments dated November 25, 2019: KAR Chapter 10:001 Section 1, Subsection 26—Definition of ''Long term treatment''.

[FR Doc. 2023–20013 Filed 9–20–23; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[Docket ID: DoD–2022–OS–0142]

RIN 0790–AL62

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary of Defense (OSD), Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Department of Defense (Department or DoD) is issuing a final rule to amend its regulations to exempt portions of the system of records titled CIG–16, ''Inspector General Administrative Investigation Records,'' (IGAIR) from certain provisions of the Privacy Act of 1974.

DATES: This rule will be effective on October 23, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa Keleta, Privacy and Civil Liberties Division, Directorate for Privacy, Civil Liberties and Freedom of Information, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700; *OSD.DPCLTD@mail.mil;* (703) 571–0070.

SUPPLEMENTARY INFORMATION:

Discussion of Comments and Changes

The proposed rule published in the **Federal Register** (88 FR 7375–7378) on February 3, 2023. Comments were accepted for 60 days until April 4, 2023. One comment was received which stated support for the exemption rule.

I. Background

In finalizing this rule, OSD is exempting portions of this system of records titled, CIG–16, ''Inspector General Administrative Investigation Records,'' from certain provisions of the Privacy Act of 1974. This system contains records of DoD Office of Inspector General mission activities such as: the identification, referral, and investigation of DoD Hotline complaints; administrative investigations of both military and civilian senior officials accused of misconduct; oversight and investigation of whistleblower reprisal cases against Service members, DoD contractor employees, and DoD civilian employees (appropriated and non-appropriated fund); and improper command referrals of Service member mental health evaluations.

II. Privacy Act Exemption

The Privacy Act allows Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including those that provide individuals with a right to request access to and amendment of their own records. If an agency intends to exempt a particular system of records, it must first go through the rulemaking process pursuant to 5 U.S.C. 553(b)(1)–(3), (c), and (e).

OSD is amending 32 CFR 310.28(c)(4) to change the system name and to exempt portions of this system of records from certain provisions of the Privacy Act because information in this system of records may also fall within the scope of the following Privacy Act exemptions: 5 U.S.C. 552a(j)(2) and (k)(1).

Regulatory Analysis

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not a significant regulatory action under these Executive orders.

Congressional Review Act (5 U.S.C. 804(2))

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. DoD will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule may take effect no earlier than 60 calendar days after Congress receives the rule report or the rule is published in the **Federal Register**, whichever is later. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532(a)) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates may result in the expenditure by State, local and Tribal Governments in the aggregate, or by the private sector, in any one year of $100 million in 1995 dollars, updated annually for inflation. This rule will not mandate any requirements for State, local, or Tribal Governments, nor will it affect private sector costs.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601 et seq.)

The Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency has certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a significant economic impact on