§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(44) On February 29, 2000, the Governor of Utah submitted revisions to Section XI of the SIP that incorporate a new transportation control measure for Utah County into the SIP and State regulation.

(i) Incorporation by reference.

(A) UACR R307–110–19, Section XI, Other Control Measures for Mobile Sources, as adopted on February 9, 2000, effective February 10, 2000.

(B) Revisions to Section XI of the Utah SIP, Other Control Measures for Mobile Sources, adopted February 9, 2000, effective February 10, 2000.

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BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5b

RIN 0925–AA23

Privacy Act of 1974; Proposed Implementation

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is exempting a new system of records, 09–25–0213, ''Administration: Investigative Records, HHS/NIH/OM/OA/OMA,'' from certain requirements of the Privacy Act to protect records compiled in the course of an inquiry and/or investigation and to protect the identity of confidential sources who furnish information to the Government under an express promise that the identity of such source would be held in confidence.

DATES: This final rule is effective on July 14, 2000.

FOR FURTHER INFORMATION CONTACT: NIH Privacy Act Officer, 6011 Executive Boulevard, Room 601, Rockville, MD 20852, 301–496–2832 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Office of Management Assessment (OMA) assumes the lead responsibility on cases received through the DHHS Office of Inspector General (OIG) hotline that are referred to NIH for action. OMA serves as NIH's central liaison on matters involving the Office of Audit Services, OIG; General Accounting Office; Federal Bureau of Investigation; congressional staff members; etc., related to management controls and audits. OMA also has overall responsibility for all matters related to management controls to prevent fraud, waste, abuse, and conflict of interest or the appearance of these, including the development and implementation of policy and the Annual Management Control Plan and the development of management oversight activity that focuses on early identification and prevention of such occurrences.

To perform these responsibilities, OMA compiles and maintains administrative and investigative records related to alleged or suspected violations of statutes, regulations, and policies governing the conduct of Federal employees, recipients of Federal funding, and others who transact, or seek to transact business with the NIH.

These records contain information related to complaints of incidents, inquiries and investigative findings, administrative and other matters involving complainants, suspects and witnesses, and court dispositions.

The administrative and investigation records are located in the OMA and constitute a ''system of records'' as defined by the Privacy Act.

Under the Privacy Act, individuals have a right of access to information pertaining to them which is contained in a system of records. At the same time, the Act permits certain types of systems to be exempt from some of the Privacy Act requirements. Subsection (k)(2) allows agency heads to exempt a system of records containing investigatory material compiled for enforcement purposes. This exemption is qualified in that if the material results in denial of any right, privilege, or benefit to an individual to which that individual would be entitled by Federal law, the individual must be granted access to the material, unless the access would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality. In addition, paragraph (k)(5) permits an agency to exempt material from the individual access, notification, and correction and amendment provisions of the Act where investigatory material is compiled for the purpose of determining suitability, eligibility, or qualification for federal employment or federal contracts if release of the material would cause the identity of a confidential source to be revealed.

Because the administrative and investigative records are compiled by a distinct component of the agency whose principal function is investigations which compile material for law enforcement purposes, the specific exemption (k)(2) requirements are met and the exemption is justified. Investigatory materials are compiled for the purpose of determining suitability, eligibility, or qualification for federal employment or federal contracts in the course of investigations that result from a direct allegation or from suspected violations of statutes, regulations and policies uncovered during an administrative management control review or audit. Investigatory material compiled for the purpose of determining whether applicants are suitable, eligible or qualified justifies the need to invoke the paragraph (k)(5) exemption.

The system contains sensitive investigative records. The release of these records to the subject of the investigation could have a chilling effect on the willingness of informants to provide information freely, not only because of fear of retribution, but because they might hesitate to provide any information other than that of which they are entirely certain. Disclosure could impede ongoing investigations and violate the privacy rights of individuals other than the subject of the investigation, thereby diminishing the ability of OMA to conduct a thorough and accurate investigation. Disclosure of information from these records might also reveal to the subjects of the investigation that their actions are being scrutinized, allowing them the opportunity to prevent detection of illegal activities. Finally, disclosure of information from the records might reveal investigative techniques and thereby jeopardize the integrity of the investigation.

Sources may be reluctant to provide sensitive information unless they can be assured that their identities will not be revealed. These exemptions ensure that: (1) Efforts to obtain accurate and objective information will not be hindered; (2) investigative records will not be disclosed inappropriately; and (3) identities of confidential sources and OMA investigators will be protected. Accordingly, NIH in collaboration with the Department is exempting this system under paragraphs (k)(2) and (k)(5) of the Privacy Act from the notification, access, correction, and amendment provisions of the Privacy Act [paragraphs (c)(3), (d)(1)–(4), (e)(4)(G) and (H) and (f)].

The Department of Health and Human Services announced its intentions to exempt this system in a notice of proposed rulemaking (NPRM) published in the **Federal Register** on July 9, 1999 (64 FR 37081). No comments were received. Consequently the amendment is the same as that proposed in the NPRM.

Regulatory Impact Statement

Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, requires the Department to prepare an analysis for any rule that meets one of the E.O. 12866 criteria for a significant regulatory action; that is, that may—

Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

In addition, the Department prepares a regulatory flexibility analysis, in accordance with the Regulatory Flexibility Act (5 U.S.C. chapter 6), if the rule is expected to have a significant impact on a substantial number of small entities.

Because the amendment affects only NIH OMA investigatory records, a small subset of Agency records, we do not believe this rule is economically significant nor do we believe that it will have a significant impact on a substantial number of small entities. The rule is not expected to have any significant impact on OMA operations and does not impose any new information collection requirements under the Paperwork Reduction Act. In addition, this rule is not inconsistent with the actions of any other agency.

For these same reasons, the Secretary certifies this rule will not have a significant economic impact on a substantial number of small entities, and that a Regulatory Flexibility Analysis, as defined under the Regulatory Flexibility Act, is not required.

List of Subjects in 45 CFR Part 5b

Privacy.

Dated: December 27, 1999.

Harold Varmus,

Director, National Institutes of Health.

Approved: March 30, 2000.

Donna E. Shalala,

Secretary.

For the reasons set out in the preamble, 45 CFR Part 5b is proposed to be amended as set forth below:

PART 5b—PRIVACY ACT REGULATIONS

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

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

2. Section 5b.11 is amended in paragraph (b)(2)(vii) by designating the undesignated paragraph after the colon as paragraph (b)(2)(vii)(A) and republishing it and by adding paragraph (b)(2)(vii)(B) to read as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(vii) Pursuant to subsections (k)(2) and (k)(5) of the Act:

(A) Public Health Service Records Related to Investigations of Scientific Misconduct, HHS/OASH/ORI.

(B) Administration: Investigative Records, HHS/NIH/OM/OA/OMA.

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[FR Doc. 00–14800 Filed 6–13–00; 8:45 am]

BILLING CODE 4140–01–M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1501, 1509, 1532 and 1552

[FRL–6712–2]

Acquisition Regulation

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing this rule to amend Agency administrative procedures related to the: processing of individual FAR deviations, redelegation of Agency contract ratification authority, debarment, suspension and ineligibility of contractors, and reduction or suspension of contract payments upon finding of fraud.

DATES: This rule is effective on September 12, 2000 without further notice, unless EPA receives adverse comments by July 14, 2000. If we receive adverse comments, we will, before the rule's effective date, publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Adverse comments may be submitted to Larry Wyborski, US Environmental Protection Agency, Office of Acquisition Management (3802R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 or electronically at: wyborski.larry@epamail.epa.gov

FOR FURTHER INFORMATION CONTACT: Larry Wyborski, U.S. Environmental Protection Agency, Office of Acquisition Management (3802R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–4369, wyborski.larry@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

A. *Background Information*

This rule revises Subpart 1501.4 to delete a requirement that the Head of the Contracting Activity (HCA) furnish copies of individual Federal Acquisition Regulation (FAR) deviations to the FAR Secretariat, consistent with a prior change to the FAR.

Subpart 1501.6 is revised to clarify how contract ratification authority is authorized in the absence of the duly authorized ratifying official.

Subpart 1509.4 is updated for consistency with: (1) The Federal Acquisition Regulation and (2) an Agency Memorandum of Understanding on the respective roles of the EPA offices involved in processing actions for debarment or suspension of contractors.

In addition, Federal Acquisition Regulation 32.006 references Agency procedures for reducing or suspending contractor payments based on a finding of fraud and EPAAR 1532.006 is being added to set forth Agency procedures for reducing or suspending contractor payments based on a finding of fraud.

B. Executive Order 12866

This is not a significant regulatory action for purposes of Executive Order 12866; therefore, no review is required at the Office of Information and Regulatory Affairs, within the Office of Management and Budget (OMB).

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not contain information collection requirements for the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*)

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant impact on a substantial