

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 31, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 10

[Docket No. OST-96-1437; Notice 96-19]

RIN 2105-AC57

Privacy Act; Maintenance of and Access to Records Pertaining to Individuals; Amendment

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: DOT proposes to amend its regulations in implementing the Privacy Act, 5 U.S.C. 552a. This revision updates organizational changes since the last revision and streamlines the regulations in order to make the regulations more useful. Public comment is invited.

DATES: Comments are due August 12, 1996.

ADDRESSES: Comments should be addressed to Documentary Services Division, Attention: Docket Section, Room PL401, Docket No. OST-96-1437, Department of Transportation, C-55, Washington, DC 20590. Any person wishing acknowledgment that his/her comments have been received should include a self-addressed stamped postcard. Comments received will be available for public inspection and copying in the Documentary Services Division, Room PL401, Department of Transportation Building, 400 Seventh Street, SW, Washington, DC, from 10 AM to 5 PM ET Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dorothy A. Chambers, Office of the General Counsel, C-12, Department of Transportation, Washington, DC 20590, telephone (202) 366-4542, FAX (202) 366-7152.

SUPPLEMENTARY INFORMATION: The President instituted a Regulatory Review initiative, for the reinvention of regulations by eliminating duplicate, redundant or unnecessary language and revising regulations to meet the need of users. In response to this initiative, we have reviewed part 10 and are proposing to revise this section to

update and streamline information on maintenance and access to records pertaining to individuals. The main revision is to remove from the Code of Federal Regulations Appendices B through J to this part and remove references to the appendices throughout the part. These appendices contain information that is available through the Notice of Records Systems published by the Federal Register, National Archives and Records Administration, which describes the systems of records maintained by all Federal agencies, including the Department and its components. Therefore, it is unnecessary to repeat this information in the regulations. Several other housekeeping corrections have also been made.

Analysis of regulatory impacts.

This amendment is not a "significant regulatory action" within the meaning of Executive Order 12866. It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this proposal will not have a significant economic impact on a substantial number of small entities.

This proposal does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the proposal does not contain any collection of information requirements, requiring review under the Paperwork Reduction Act of 1980.

List of Subjects in 49 CFR Part 10

Privacy.

In accordance with the above, DOT proposes to amend 49 CFR part 10 as follows:

PART 10—[AMENDED]

1. The authority citation would continue to be as follows:

Authority: 5 U.S.C. 552a; 49 U.S.C. 322.

§ 10.1 [Amended]

2. In § 10.1, paragraphs (b), (c), and (d) would be removed and the paragraph designation (a) would be removed.

3. In § 10.5, within the definition of *Department*, paragraph (f) would be revised, and a new paragraph (i) would be added to read as follows

§ 10.5 Definitions.

Unless the context requires otherwise, the following definitions apply in this part:

* * * * *

Department * * *

* * * * *

(f) Federal Transit Administration.

* * * * *

(i) Bureau of Transportation Statistics.

* * * * *

4. In § 10.31, paragraph (a) would be revised to read as follows:

§ 10.31 Requests for records.

(a) Ordinarily, each person desiring to determine whether a record pertaining to him/her is contained in a system of records covered by this part or desiring access to a record covered by this part, or to obtain a copy of such a record, shall make a request in writing addressed to the system manager. The "Notice of Records Systems" published by the Office of the Federal Register, National Archives and Records Administration, describes the systems of records maintained by all Federal agencies, including the Department and its components. In exceptional cases oral requests are accepted. See § 10.13(b) regarding inquiries concerning Privacy Act matters or requests for assistance.

* * * * *

5. In § 10.35, paragraph (a)(12) would be added to read as follows:

§ 10.35 Conditions of disclosure.

(a) No record that is contained within a system of records of the Department is disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

* * * * *

(12) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

* * * * *

6. In § 10.37, the last sentence would be revised to read as follows:

§ 10.37 Identification of individual making request.

* * * In such cases, these additional requirements are listed in the public notice for the system.

7. Section 10.39 would be revised to read as follows:

§ 10.39 Location of records.

Each record made available under this subpart is available for inspection and copying during regular working hours at the place where it is located, or, upon reasonable notice, at the document inspection facilities of the Office of the Secretary or each administration. Original records may be copied but may not be released from custody. Upon payment of the appropriate fee, copies are mailed to the requester.

8. Section 10.41 would be revised to read as follows:

§ 110.41 Requests for correction of records.

Any person who desires to have a record pertaining to that person corrected shall submit a written request

detailing the correction and the reasons the record should be so corrected. Requests for correction of records shall be submitted to the System Manager.

9. In § 10.51, paragraphs (c) and (h) would be revised to read as follows:

§ 10.51 General.

* * * * *

(c) Each application for review must be made in writing and must include all information and arguments relied upon by the person making the request, and be submitted within 30 days of the date of the initial denial; exceptions to this time period are permitted for good reason.

* * * * *

(h) Any final decision by an Administrator or his/her delegate not to

grant access to or amend a record under this part, is subject to concurrence by the General Counsel or his or her delegate.

Appendix A [Redesignated as Appendix]

10. Appendix A would be redesignated as "Appendix".

Appendices B-J [Removed]

11. Appendices B through J would be removed.

Issued in Washington, DC, on May 31, 1996.

Federico Peña,

Secretary of Transportation.

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