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## OFFICE OF SPECIAL COUNSEL

### 5 CFR Part 1830

#### Privacy Act of 1974; Implementation

**AGENCY:** Office of Special Counsel.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Special Counsel (OSC) is publishing notice of the final rule revising its regulations dealing with the agency's implementation of the Privacy Act, at 5 U.S.C. 552a. The regulation, as revised, provides additional information about access to OSC records under the Privacy Act.

**DATES:** This rule is effective on October 4, 2007.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Stackhouse, General Law Counsel, in writing at: U.S. Office of Special Counsel, Legal Counsel and Policy Division, 1730 M Street, N.W., Suite 218, Washington, DC 20036-4505; by telephone at (202) 254-3690; or by facsimile at (202) 653-5151.

**SUPPLEMENTARY INFORMATION:** OSC published notice of proposed revisions to its regulations at 5 C.F.R. Part 1830, dealing with the agency's implementation of the Privacy Act, at 5 U.S.C. 552a, with a request for comments and a description of the proposed revisions, in the Federal Register on August 14, 2007 (72 FR 45388). The regulation, as revised: (1) modifies and updates contact information for requests and appeals to OSC, adding fax delivery as a means by which they may be sent, and specifies the OSC point of receipt for such matters; (2) modifies the description of information needed for effective processing of requests and appeals; (3) revises the description of proof of identity information needed by OSC (including by deletion of the requirement that all requests must include a date and place of birth and a

Social Security number, while retaining the option for OSC to request some or all of that data if needed to confirm a requester's identity); (4) clarifies that Privacy Act requests for records may also be processed under the Freedom of Information Act; (5) extends the appeal period for requests and revises the description of the response time for appeals; (6) clarifies that exempt material in OSC case files includes all matters within OSC's jurisdiction (including alleged violations of the Uniformed Services Employment and Reemployment Rights Act) and information included in background investigations conducted for OSC employees and others; (7) adds two new sections (on general provisions and other rights and services), moves updated information about fees to a new section, and revises section headings throughout the regulation. OSC is submitting a report on this final rule to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

Procedural determinations were published in the notice of proposed rulemaking for the Congressional Review Act, Regulatory Flexibility Act, Unfunded Mandates Reform Act, Paperwork Reduction Act, Executive Order 12866 (Regulatory Planning and Review), Executive Order 13132 (Federalism), and Executive Order 12988 (Civil Justice Reform). There have been no changes in these procedural determinations.

#### List of Subjects in 5 CFR Part 1830

Administrative practice and procedure, Government employees, Privacy.

■ For the reasons stated in the preamble, OSC is revising 5 CFR Part 1830 to read as follows:

#### PART 1830--PRIVACY

Sec.

1830.1 General provisions.

1830.2 Requirements for making Privacy Act requests.

1830.3 Medical records.

1830.4 Requirements for requesting amendment of records.

1830.5 Appeals.

1830.6 Exemptions.

1830.7 Fees.

1830.8 Other rights and services.

**Authority:** 5 U.S.C. 552a(f), 1212(e).

#### § 1830.1 General provisions.

This part contains rules and procedures followed by the Office of Special Counsel (OSC) in processing requests for records under the Privacy Act (PA), at 5 U.S.C. 552a. Further information about access to OSC records generally is available on the agency's web site (<http://www.osc.gov/foia.htm>).

#### § 1830.2 Requirements for making Privacy Act requests.

(a) *How made and addressed.* A request for OSC records under the Privacy Act should be made by writing to the agency. The request should be sent by regular mail addressed to: Privacy Act Officer, U.S. Office of Special Counsel, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505. Such requests may also be faxed to the Privacy Act Officer at the number provided on the FOIA/PA page of OSC's web site (see 1830.1). For the quickest handling, both the request letter and envelope or any fax cover sheet should be clearly marked "Privacy Act Request." A Privacy Act request may also be delivered in person at OSC's headquarters office in Washington, DC. Whether sent by mail or by fax, or delivered in person, a Privacy Act request will not be considered to have been received by OSC until it reaches the Privacy Act Officer.

(b) *Description of records sought.* Requesters must describe the records sought in enough detail for them to be located with a reasonable amount of effort. Whenever possible, requests should describe any particular record sought, such as the date, title or name, author, recipient, and subject matter.

(c) *Proof of identity.* Requests received by mail, fax, or personal delivery should contain sufficient information to enable OSC to determine that the requester and the subject of the record are one and the same. To assist in this process, an individual should submit his or her name and home address, business title and address, and any other known identifying information such as an agency file number or identification number, a description of the circumstances under which the records were compiled, and any other information deemed necessary by OSC to properly process the request. An individual delivering a request in person may be required to present proof of identity, preferably a government-

issued document bearing the individual's photograph.

(d) *Freedom of Information Act processing.* OSC also processes all Privacy Act requests for access to records under the Freedom of Information Act, 5 U.S.C. 552, following the rules contained in part 1820 of this chapter, which gives requesters the benefit of both statutes.

#### **§ 1830.3 Medical records.**

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary by OSC, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

#### **§ 1830.4 Requirements for requesting amendment of records.**

(a) *How made and addressed.* Individuals may request amendment of records pertaining to them that are subject to amendment under the Privacy Act and this part. The request should be sent by regular mail addressed to: Privacy Act Officer, U.S. Office of Special Counsel, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505. Such requests may also be faxed to the Privacy Act Officer at the number provided on the FOIA/PA page of OSC's web site (see 1830.1). For the quickest handling, both the request letter and envelope or any fax cover sheet should be clearly marked "Privacy Act Amendment Request." Whether sent by mail or by fax, a Privacy Act amendment request will not be considered to have been received by OSC until it reaches the Privacy Act Officer. A Privacy Act amendment request may also be delivered by person at OSC's headquarters office in Washington, DC.

(b) *Description of amendment sought.* Requests for amendment should include identification of records together with a statement of the basis for the requested amendment and all available supporting documents and materials. Requesters must describe the amendment sought in enough detail for the request to be evaluated.

(c) *Proof of identity.* Rules and procedures set forth in 1830.2(c) apply to requests made under this section.

(d) *Acknowledgement and response.* Requests for amendment shall be acknowledged by OSC not later than 10 days (excluding Saturdays, Sundays, and legal holidays) after receipt by the

Privacy Act Officer and a determination on the request shall be made promptly.

#### **§ 1830.5 Appeals.**

(a) *Appeals of adverse determinations.* A requester may appeal a denial of a Privacy Act request for access to or amendment of records to the Legal Counsel and Policy Division, U.S. Office of Special Counsel, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505. The appeal must be in writing, and sent by regular mail or by fax. The appeal must be received by the Legal Counsel and Policy Division within 45 days of the date of the letter denying the request. For the quickest possible handling, the appeal letter and envelope or any fax cover sheet should be clearly marked "Privacy Act Appeal." An appeal will not be considered to have been received by OSC until it reaches the Legal Counsel and Policy Division. The appeal letter may include as much or as little related information as the requester wishes, as long as it clearly identifies the OSC determination (including the assigned request number, if known) being appealed. An appeal ordinarily will not be acted on if the request becomes a matter of litigation.

(b) *Responses to appeals.* The agency decision on an appeal will be made in writing. A final determination will be issued within 30 days (excluding Saturdays, Sundays, and legal holidays), unless, for good cause shown, OSC extends the 30-day period.

#### **§ 1830.6 Exemptions.**

OSC will claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations in prohibited personnel practice, unlawful political activity, whistleblower disclosure, Uniformed Services Employment and Reemployment Rights Act, and other matters under OSC's jurisdiction, and to protect identities of confidential sources of information, including in background investigations of OSC employees, contractors, and other individuals conducted by or for OSC. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination

procedures. OSC also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request. OSC may also refuse access to any information compiled in reasonable anticipation of a civil action or proceeding.

#### **§ 1830.7 Fees.**

Requests for copies of records shall be subject to duplication fees set forth in part 1820 of this chapter.

#### **§ 1830.8 Other rights and services.**

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Dated: September 28, 2007

James Byrne,

Deputy Special Counsel.

[FR Doc. E7-19571 Filed 10-3-07; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA-2007-27955; Directorate Identifier 2007-NE-15-AD; Amendment 39-15201; AD 2007-19-10]

RIN 2120-AA64

#### **Airworthiness Directives; Rolls-Royce plc RB211 Trent 500 Series Turbofan Engines; Correction**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule; correction.

**SUMMARY:** The FAA is correcting airworthiness directive (AD) 2007-19-10. That AD applies to Rolls-Royce plc RB211 Trent 500 series turbofan engines. We published that AD in the **Federal Register** on September 18, 2007 (72 FR 53108). The compliance limit of 2,190 cycles-since-new is incorrect in two places. This document corrects that compliance limit to 2,910 cycles-since-new. In all other respects, the original document remains the same.

**DATES:** *Effective Date:* Effective October 4, 2007.

#### **FOR FURTHER INFORMATION CONTACT:**

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