

Counsel for Advocacy of the U.S. Small Business Administration.

#### List of Subjects in 47 CFR Parts 2 and 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 10

[Docket No. OST-1996-1437]

RIN 2105-AD23

#### Privacy Act of 1974; Proposed Implementation

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** DOT proposes to add a system of records to the list of DOT Privacy Act Systems of Records that are exempt from one or more provisions of the Privacy Act. Public comment is invited.

**DATES:** Comments are due March 17, 2003.

**ADDRESSES:** Comments should be addressed to Documentary Services Division, Attention: Docket Section, Room PL401, Docket No. OST-1996-1437, Department of Transportation, SVC-124, 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 9 a.m. to 5 p.m. ET Monday through Friday except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Coates, Office of the Chief Information Officer, Department of Transportation, Washington, DC (202) 366-6964.

**SUPPLEMENTARY INFORMATION:** *Additional exempt system.* It is DOT practice to identify a Privacy Act system of records that is exempt from one or more provisions of the Privacy Act (pursuant to 5 U.S.C. 552a(k)) both in the system

notice published in the **Federal Register** for public comment and in an Appendix to DOT's regulations implementing the Privacy Act (49 CFR Part 10, Appendix). This amendment proposes exemption from portions of the Privacy Act of a proposed Transportation Security Administration (TSA) system, whose establishment is currently the subject of public comment:

Aviation Security-Screening Records (ASSR) (DOT/TSA 010) would enable the TSA to maintain a security-screening system for air transportation. This system contains information regarding TSA's conduct of risk assessments required by 49 U.S.C. 114 and 44903. The system may be used, generally, to review, analyze, and assess threats to transportation security and respond accordingly.

Due to the national security and law enforcement aspects of the proposed system, DOT proposes to treat this system as it treats other law enforcement systems, by exempting it from the following provisions of the Privacy Act: (c)(3) (Accounting of Certain Disclosures); (d) (Access to Records); (e)(1) (Relevancy and Necessity of Information); (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules), (1) to the extent that ASSR contains information properly classified in the interest of national security, in accordance with 5 U.S.C. 552a(k) (1) and (2) to the extent that ASSR contains investigatory material compiled for law enforcement purposes, in accordance with 5 U.S.C. 552a(k)(2).

#### Analysis of Regulatory Impacts

This proposal is not a "significant regulatory action" within the meaning of Executive Order 12886. 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 would not have a significant economic impact on a substantial number of small entities, because the reporting requirements, themselves, are not changed and because it applies only to information on individuals.

This proposal would 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.

#### Collection of Information

This proposal contains a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Application for collection authority is pending.

#### Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104-4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A "Federal mandate" is a new or additional enforceable duty, imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in aggregated, \$100 million or more in any one year the UMRA analysis is required. This proposal would not impose Federal mandates on any State, local, or tribal governments or the private sector.

#### List of Subjects in 49 CFR Part 10

Privacy.

In consideration of the foregoing, DOT proposes to amend part 10 of Title 49, Code of Federal Regulations, as follows:

1. The authority citation for part 10 would continue to read as follows:

**Authority:** Pub.L. 93-579; 49 U.S.C. 322.

2. Part II. A of the Appendix would be amended by adding new paragraph 21.

3. Part II. G of the Appendix would be amended by adding new paragraph 3.

The additions would read as follows:

*Part II. Specific exemptions.*

A. \* \* \*

21. Aviation Security-Screening Records (ASSR), DOT/TSA 010.

\* \* \* \* \*

G. \* \* \*

3. Aviation Security-Screening Records (ASSR), DOT/TSA 010, maintained by the Transportation Security Administration.

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Issued in Washington, DC, on January 9, 2003.

Eugene K. Taylor, Jr.,

Acting Chief Information Officer.

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