

Issued on: July 6, 2002.

Norman Y. Mineta,

Secretary of Transportation.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 7

[Docket No OST-96-1430; Amdt. 2]

RIN 2105-AD15

Public Availability of Information

49 CFR Part 10

[Docket No OST-96-1437; Amdt. 2]

RIN 2105-AC57

Maintenance of and Access to Records Pertaining to Individuals

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

ACTION: Final rule.

SUMMARY: This amendment includes the Transportation Security Administration as an agency subject to DOT's regulations implementing the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

DATES: This rule is effective August 26, 2002.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C-10, Department of Transportation, Washington, DC 20590, telephone (202) 366-9156, FAX (202) 366-9170; e-mail bob.ross@ost.dot.gov.

SUPPLEMENTARY INFORMATION: In response to the attacks on the United States on 9.11, the Congress established a new agency within DOT, the Transportation Security Administration (TSA), headed by the Under Secretary of Transportation for Security. The statute that did this—The Aviation and Transportation Security Act, Public Law 107-71—took effect November 19, 2001, and TSA has been part of DOT, and subject to DOT's regulations implementing the Freedom of Information and Privacy Acts since then. This amendment makes the needed technical changes to those regulations.

Notice and a prior opportunity for comment are not necessary for this rule, since it is a rule of agency organization, procedure, or practice. There is good cause to make the rule effective immediately, as it will update the Department's FOIA and Privacy Act regulations so that they clearly reflect

the addition of the TSA to the Department and will not affect the substantive rights of any outside party.

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 amendment will not have a significant economic impact on a substantial number of small entities.

This amendment 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 amendment does not contain any collection of information requirements, requiring review under the Paperwork Reduction Act, as amended.

List of Subjects

49 CFR Part 7

Freedom of information.

49 CFR Part 10

Privacy.

In accordance with the above, DOT amends 49 CFR Parts 7 and 10 as follows:

PART 7—[AMENDED]

1. The authority citation for 49 CFR part 7 continues to read as follows:

Authority: 5 U.S.C. 552; 31 U.S.C. 9701; 49 U.S.C. 322; EO 12,600, 3 CFR, 1987 Comp., p. 3.

2. In § 7.2, the introductory text is revised, the definition of "Administrator" is revised, the introductory text of the definition of "Department" is revised, and a paragraph (11) is added at the end of the definition of "Department" to read as follows:

§ 7.2 Definitions.

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

* * * * *

Administrator means the head of each component of DOT and includes the

Under Secretary for Security, the Commandant of the Coast Guard, the Inspector General, and the Director of the Bureau of Transportation Statistics.

* * * * *

Department means the Department of Transportation, including the Office of the Secretary, the Office of Inspector General, and the following DOT components, all of which may be referred to as DOT components. Means of contacting each of these DOT components appear in § 7.15. This definition specifically excludes the Surface Transportation Board, which has its own FOIA regulations (49 CFR Part 1001):

* * * * *

(11) Transportation Security Administration.

* * * * *

3. In § 7.15, existing paragraphs (f), (g), and (h) are redesignated (g), (h), and (i), respectively, and a new paragraph (f) is inserted after existing paragraph (e), to read as follows:

§ 7.15 Contacts for records requested under the FOIA.

* * * * *

(f) Transportation Security Administration, 301 Seventh Street, SW. (General Services Administration Regional Office Building), Room 3624, Washington, DC (Mailing address: 400 Seventh Street, SW, Washington, DC 20590).

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PART 10—[AMENDED]

4. The authority citation for 49 CFR part 10 continues to read as follows:

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

5. In § 10.5, the definition of "Administrator" is revised and a new paragraph (k) is added at the end of the definition of "Department" to read as follows:

§ 10.5 Definitions.

* * * * *

Administrator means the head of an operating administration and includes the Under Secretary for Security and the Commandant of the Coast Guard.

Department * * *

(k) Transportation Security Administration.

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Kirk K. Van Tine, General Counsel.

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