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filed has not been received from any other source.

[37 FR 4258, Mar. 1, 1972, as amended at 37 FR 23909, Nov. 10, 1972; 47 FR 12803, Mar. 25, 1982]

### § 1005.5 Disposition of claims.

Each carrier subject to the Interstate Commerce Act which receives a written or electronically transmitted claim for loss or damage to baggage or for loss, damage, injury, or delay to property transported shall pay, decline, or make a firm compromise settlement offer in writing or electronically to the claimant within 120 days after receipt of the claim by the carrier; *provided, however*, that, if the claim cannot be processed and disposed of within 120 days after the receipt thereof, the carrier shall at that time and at the expiration of each succeeding 60-day period while the claim remains pending, advise the claimant in writing or electronically of the status of the claim and the reason for the delay in making the final disposition thereof, and it shall retain a copy of such advice to the claimant in its claim file thereon.

[81 FR 8850, Feb. 23, 2016]

### § 1005.6 Processing of salvage.

(a) Whenever baggage or material, goods, or other property transported by a carrier subject to the provisions herein contained is damaged or alleged to be damaged and is, as a consequence thereof, not delivered or is rejected or refused upon tender thereof to the owner, consignee, or person entitled to receive such property, the carrier, after giving due notice, whenever practicable to do so, to the owner and other parties that may have an interest therein, and unless advised to the contrary after giving such notice, shall undertake to sell or dispose of such property directly or by the employment of a competent salvage agent. The carrier shall only dispose of the property in a manner that will fairly and equally protect the best interests of all persons having an interest therein. The carrier shall make an itemized record sufficient to identify the property involved so as to be able to correlate it to the shipment or transportation involved, and claim, if any, filed thereon. The carrier also shall assign to each lot of

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such property a successive lot number and note that lot number on its record of shipment and claim, if any claim is filed thereon.

(b) Whenever disposition of salvage material or goods shall be made directly to an agent or employee of a carrier or through a salvage agent or company in which the carrier or one or more of its directors, officers, or managers has any interest, financial or otherwise, that carrier's salvage records shall fully reflect the particulars of each such transaction or relationship, or both, as the case may be.

(c) Upon receipt of a claim on a shipment on which salvage has been processed in the manner hereinbefore prescribed, the carrier shall record in its claim file thereon the lot number assigned, the amount of money recovered, if any, from the disposition of such property, and the date of transmittal of such money to the person or persons lawfully entitled to receive the same.

[37 FR 4258, Mar. 1, 1972]

### § 1005.7 Weight as a measure of loss.

Where weight is used as a measure of loss in rail transit of scrap iron and steel and actual tare and gross weights are determined at origin and destination, the settlement of claims shall be based upon a comparison of net weights at origin and destination.

[41 FR 25908, June 23, 1976]

## PART 1007—RECORDS CONTAINING INFORMATION ABOUT INDIVIDUALS

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AUTHORITY: 5 U.S.C. 552, 49 U.S.C. 1321.

SOURCE: 41 FR 3087, Jan. 21, 1976, unless otherwise noted.

### § 1007.1 Purpose and scope.

(a) This part contains the rules of the Surface Transportation Board implementing the Privacy Act of 1974 (5 U.S.C. 552a). These rules apply to all records maintained by this Board which are not excepted or exempted as provided for in §1007.12, insofar as they contain personal information concerning an individual, identify that individual by name or other symbol and are contained in a system of records from which information is retrieved by the individual's name or identifying symbol. Among the primary purposes of these rules are to permit individuals to determine whether information about them is contained in Board files and, if so, to obtain access to that information; to establish procedures whereby individuals may have inaccurate and incomplete information corrected; and, to restrict access by unauthorized persons to that information.

(b) In this part the Board is also exempting certain Board systems of records from some of the provisions of the Privacy Act of 1974 that would otherwise be applicable to those systems.

### § 1007.2 Definitions.

As used in this part:

*Board* means the Surface Transportation Board.

*Chairman* means the Presidentially appointed Board Member who is the administrative head of the Surface Transportation Board.

*Privacy Officer* refers to the individual designated to process requests and handle various other matters relating to the Board's implementation of the Privacy Act of 1974.

*Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

*Maintain* means the maintenance, collection, use, or dissemination (of records).

*Record* means any item, collection or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employ-

ment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

*Statistical Record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13 of the United States Code.

*System of records* means a group of any records under the control of the Board retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

*Routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose of which the record was compiled.

*Agency* means any executive department, military department, Government corporation, Government-controlled corporation or other establishment in the Executive Branch of the Government or any independent regulatory agency.

### § 1007.3 Requests by an individual for information or access.

(a) Any individual may request information on whether a system of records maintained by the Board contains any information pertaining to him or her, or may request access to his or her record or to any information pertaining to him or her which is contained in a system of records. All requests shall be directed to the Privacy Officer, Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

(b) A request for information or for access to records under this part may be made by mail or in person. The request shall:

(1) Be in writing and signed by the individual making the request; and,

(2) Include the full name of the individual seeking the information or record, along with his or her home and business addresses and telephone numbers.

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(c) For each system of records from which information is sought, the request shall:

(1) Specify the title and identifying number as it appears in the system notice published by the Board;

(2) Provide such additional identifying information, if any, as may be required by the system notice;

(3) Describe the specific information or kind of information sought within that system of records; and,

(4) Set forth any unusual arrangements sought concerning the time, place, or form of access.

(d) The Board will respond in writing to a request made under this section within ten days (excluding Saturdays, Sundays and legal public holidays) after receipt of the request. If a definitive reply cannot be given within ten days, the request will be acknowledged and an explanation will be given of the status of the request.

(e) The individual either will be notified in writing of where and when he or she may obtain access to the records requested or will be given the name, address and telephone number of the member of the Board staff with whom he or she should communicate to make further arrangements for access.

[41 FR 3087, Jan. 21, 1976, as amended at 64 FR 53266, Oct. 1, 1999; 74 FR 52903, Oct. 15, 2009]

#### § 1007.4 Procedures for identifying the individual making the request.

When a request for information or for access to records has been made pursuant to §1007.3, before information is given or access is granted pursuant to §1007.5 of these rules, the Board shall require reasonable identification of the person making the request to insure that information is given and records are disclosed only to the proper person.

(a) An individual may establish his identity by:

(1) Submitting with his written request for information or for access to photocopy, two pieces of identification bearing his or her name and signature, one of which shall bear his or her current home or business address; or

(2) Appearing at any office of the Board during the regular working hours for that office and presenting either:

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(i) One piece of identification containing a photograph and signature, such as a driver's license or passport, or, in the case of a Board employee, his or her STB identification card; or

(ii) Two pieces of identification bearing the individual's name and signature, one of which shows the individual's current home or business address; and

(3) Providing such other proof of identity as the Board deems satisfactory in the circumstances of a particular request.

(b) Nothing in this section shall preclude the Board from requiring additional identification before granting access to the records if there is reason to believe that the person making the request may not be the individual to whom the record pertains, or where the sensitivity of the data may warrant.

(c) The requirements of this subsection shall not apply if the records involved would be available to any person under the Freedom of Information Act.

#### § 1007.5 Disclosure of requested information to individuals; fees for copies of records.

(a) Any individual who has requested access to his or her record or to any information pertaining to that individual in the manner prescribed in §1007.3 and has identified himself or herself as prescribed in §1007.4 shall be permitted to review the record and have a copy made of all or any portion thereof in a form comprehensible to the individual, subject to fees for copying services set forth in paragraph (f) of this section. Upon request, persons of the individual's own choosing may accompany the individual, provided that the individual has furnished a written statement authorizing discussion of his or her record in the accompanying person's presence.

(b) Access will generally be granted in the office of the Board where the records are maintained during normal business hours, but for good cause shown the Board may grant access at another office of the Board or at different times for the convenience of the individual making the request. When a request for access is from a Board employee, this request may be granted by

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forwarding the information desired through registered mail, return receipt requested.

(c) Where a document containing information about an individual also contains information not pertaining to him or her, the portion not pertaining to the individual shall not be disclosed except to the extent the information is available to any person under the Freedom of Information Act. If the records sought cannot be provided for review and copying in a meaningful form, the Board shall provide to the individual a summary of the information concerning the individual contained in the record or records which shall be complete and accurate in all material aspects.

(d) Where the disclosure involves medical records, the Privacy Officer may determine that such information will be provided only to a physician designated by the individual.

(e) Requests for copies of documents may be directed to the Privacy Officer or to the member of the Board's staff through whom arrangements for access were made.

(f) Fees for copies of records shall be charged at the rate set forth in 49 CFR 1002.1(d). Fees for requests requiring the use of a computer shall be charged at the actual cost for machine time. Payment should be made by check or money order payable to the Treasury of the United States. When it is determined to be in the best interest of the public, the Privacy Officer may waive the fee provision.

(g) Nothing in this subsection or in §1007.3 shall:

(1) Require the disclosure of records exempted under §1007.12 of these rules, including the exemption relating to investigative records;

(2) Allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding or a criminal proceeding; or,

(3) Require the furnishing of information or records which in the regular course of business cannot be retrieved by the name or other identifier of the individual making the request.

[41 FR 3087, Jan. 21, 1976, as amended at 53 FR 46483, Dec. 8, 1987]

### § 1007.6 Disclosure to third parties.

(a) The Board shall not disclose to any agency or to any person by any means of communication a record pertaining to an individual which is contained in a system of records, except under the following circumstances:

(1) The individual to whom the record pertains has given his written consent to the disclosure;

(2) The disclosure is to officers and employees of the Board who need it in the performance of their duties;

(3) Disclosure is required under the Freedom of Information Act (5 U.S.C. 552).

(4) Disclosure is for a routine use as defined in §1007.2 of these rules and described in the system notice for that system of records;

(5) The disclosure is made to the Bureau of the Census for the purposes of planning or carrying out a census or survey or related activity;

(6) The disclosure is made to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(7) The disclosure is made to another agency or to an instrumentality of any Governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to the Board specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) The disclosure is made to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or his designee to determine whether the record has such value.

(9) The disclosure is made to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to

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the last known address of such individual;

(10) The disclosure is made to either House of Congress, or, to the extent of matter(s) within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(11) The disclosure is made to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the Government Accountability Office; or,

(12) Pursuant to the order of a court of competent jurisdiction.

(b) The Board, with respect to each system of records under its control, shall keep for at least five years an accurate accounting of certain disclosures:

(1) A record shall be kept of all disclosures made under paragraph (a) of this section, except disclosures made with the consent of the individual to whom the record pertains (paragraph (a)(1) of this section), disclosures to authorized employees (paragraph (a)(2) of this section), and disclosures required under the Freedom of Information Act (paragraph (a)(3) of this section).

(2) The record shall include:

(i) The date, nature, and purpose of each disclosure of a record made to any person or to another agency;

(ii) The name and address of the person or agency to whom the disclosure was made.

(c) The accounting described in paragraph (b) of this section will be made available to the individual named in the record upon his written request, directed to the Privacy Officer, Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001, except that the accounting will not be revealed with respect to disclosures made under paragraph (a)(7) of this section 1107.6 pertaining to law enforcement activity, and will not be maintained as to disclosures involving systems of records exempted under section 1007.12.

(d) Whenever an amendment or correction of a record or a notation of dispute concerning the accuracy of records is made by the Board in accordance with §§ 1007.8 and 1007.9, the Board will inform any person or other agency to whom the record was previously dis-

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closed, if an accounting of the disclosure was made pursuant to the requirements of paragraph (b) of this section.

[41 FR 3087, Jan. 21, 1976, as amended at 64 FR 53266, Oct. 1, 1999; 74 FR 52903, Oct. 15, 2009; 81 FR 8850, Feb. 23, 2016]

### § 1007.7 Content of systems of records.

(a) The Board will maintain in its records only such information about an individual as is relevant and necessary to accomplish the purposes of the Interstate Commerce Act and other purposes required to be accomplished by statute or by Executive Order of the President.

(b) The Board will maintain no record describing how any individual exercises rights guaranteed by the First Amendment of the United States Constitution unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(c) The Board will collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs.

(d) The Board will maintain all records which are used by the Board in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination.

### § 1007.8 Amendment of a record.

(a) Any individual may request amendment of information pertaining to him which is contained in a system of records maintained by the Board and which is filed under his name or other individual identifier if he believes the information is not accurate, relevant, timely or complete. A request for amendment shall be directed to the Privacy Officer.

(b) A request for amendment may be made by mail or in person and shall: (1) Be in writing and signed by the person making the request; (2) describe the particular record to be amended with sufficient specificity to permit the

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record to be located among those maintained by the Board; and (3) specify the nature of the amendment sought and the justification for the requested change. The person making the request may be required to provide the information specified in §§1007.3 and 1007.4 in order to simplify identification of the record and permit verification of the identity of the person making the request for amendment.

(c) Receipt of a request for amendment will be acknowledged in writing within ten days (excluding Saturdays, Sundays and legal public holidays); except that if the individual is given notice within the ten-day period that his or her request will or will not be complied with, no acknowledgment is required.

(d) Assistance in preparing a request to amend a record may be obtained from the Privacy Officer, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423.

(e) Upon receipt of a request for amendment the Privacy Officer or a person designated by him shall promptly determine whether the record is materially inaccurate, incomplete, misleading, or is irrelevant or not timely, as claimed by the individual, and, if so, shall cause the record to be amended in accordance with the individual's request.

(f) If the Privacy Officer or designee grants the request to amend the record, the individual shall promptly be advised of the decision and of the action taken, and notice shall be given of the correction and its substance to each person or agency to whom the record had previously been disclosed, as shown on the record of disclosures maintained in accordance with §1007.6(b).

(g) If the Privacy Officer or designee disagrees in whole or in part with a request for amendment of a record, the individual shall promptly be notified of the complete or partial denial of his request and the reasons for the refusal. The individual shall also be notified of the procedures for administrative review by the Chairman of any complete or partial denial of a request for amendment, which are set forth in §1007.9.

(h) If a request is received for amendment of a record prepared by another agency which is in the possession or control of the Board, the request for amendment will be forwarded to that agency. If that agency determines that the correction should be made, the Board will amend its records accordingly and notify the individual making the request for amendment of the change. If the other agency declines to make the amendment, the Privacy Officer or designee will independently determine whether the amendment will be made to the record in the Board's possession or control, considering any explanation given by the other agency for its decision.

[41 FR 3087, Jan. 21, 1976, as amended at 64 FR 53266, Oct. 1, 1999]

### § 1007.9 Appeals to the Chairman.

(a) Any individual may petition the Chairman:

(1) To review a refusal to comply with an individual request for access to records pursuant to the Privacy Act (5 U.S.C. 552a(d)(1)), and §§1007.3 and 1007.5 in this part;

(2) To review denial of a request for amendment made pursuant to §1007.8;

(3) To correct any determination that may have been made adverse to the individual based in whole or in part upon inaccurate, irrelevant, untimely or incomplete information; and,

(4) To correct a failure to comply with any other provision of the Privacy Act and the rules of this part 1007, which has had an adverse effect on the individual.

(b) The petition to the Chairman shall be in writing and shall: (1) State in what manner it is claimed the Board or any Board employee has failed or refused to comply with provisions of the Privacy Act or of the rules contained in this part 1007, and (2) set forth the corrective action the petitioner wishes the Board to take. The petitioner may, if he or she wishes, state such facts and cite such legal or other authorities as are considered appropriate.

(c) The Chairman will make a determination of any petition filed pursuant to this subsection within thirty days (excluding Saturdays, Sundays and legal public holidays) after receipt of the petition, unless for good cause

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shown, the Chairman extends the 30-day period. If a petition is denied, the petitioner will be notified in writing of the reasons for such denial, and the provisions for judicial review of that determination which are set forth in section 552a(g) (1)(A) and (2)(A), of Title 5 of the United States Code and the provisions for disputed records set forth in paragraph (d) of this section.

(d) If, after review, the Chairman declines to amend the records as the individual has requested, the individual may file with the Privacy Officer a concise statement setting forth why he or she disagrees with the Chairman's denial of the request. Any subsequent disclosure containing information about which a statement of disagreement has been filed shall clearly note the portion which is disputed and include a copy of a concise statement explaining its reasons for not making the amendments requested. Prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained.

### **§ 1007.10 Information supplied by the Board when collecting information from an individual.**

The Board will inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual, of:

(a) The authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(b) The principal purpose or purposes for which the information is intended to be used;

(c) The routine uses which may be made of the information, as published in the FEDERAL REGISTER; and,

(d) The effects on the individual of not providing all or any part of the requested information.

### **§ 1007.11 Public notice of records systems.**

(a) The Board will publish in the FEDERAL REGISTER, at least annually, a notice of the existence and character of each of its system of records, which notice shall include:

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(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the categories of users and purpose of such use;

(5) The policies and practices of the Board regarding storage, retrieval, access controls, retention, and disposal of the records;

(6) The title and business address of the Board official who is responsible for the system of records;

(7) The procedures whereby an individual can be notified at his or her request if the system of records contains a record pertaining to that individual;

(8) The procedures whereby an individual can be notified at his or her request how he or she can gain access to any record pertaining to that individual contained in the system of records, and how the content of the record can be contested; and,

(9) The categories of sources of records in the system.

(b) Copies of the notices as printed in the FEDERAL REGISTER will be available in each office of the Board. Mail requests should be directed to the Privacy Officer, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423. The first copy will be provided free of charge; additional copies are subject to charge provided for in paragraph (e) of this § 1007.5.

[41 FR 3087, Jan. 21, 1976, as amended at 64 FR 53266, Oct. 1, 1999]

### **§ 1007.12 Exemptions.**

(a) Investigatory materials compiled for law enforcement purposes are exempt from portions of the Privacy Act of 1974 and of these rules on the basis and to the extent that individual access to these files could impair the effectiveness and orderly conduct of the Board's enforcement program. *Provided, however,* That if any individual is denied any right, privilege, or benefit to which he or she would otherwise be entitled by Federal law, or for which he or she would otherwise be eligible, as a

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result of the maintenance of such material, such materials shall be provided to the individual; except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for employment with or contracts with the Board are exempt from portions of the Privacy Act of 1974 and of these rules to the extent that it identifies a confidential source. This is done in order to encourage persons from whom information is sought to provide information to the Board which, absent assurances of confidentiality, they might otherwise be unwilling to give. However, if practicable, material identifying a confidential source shall be extracted or summarized in a manner which protects the source, and the summary or extract shall be provided to the requesting individual.

(c) Complaints and investigatory materials compiled by the Board's Office of Inspector General are exempt from the provisions of 5 U.S.C. 552a and the regulations in this part, pursuant to 5 U.S.C. 552a(j)(2), except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11) and (i) to the extent that the system of records pertains to the enforcement of criminal laws. Complaint and investigatory materials compiled by the Board's Office of Inspector General for law enforcement purposes also are exempt from the provisions of 5 U.S.C. 552a and the regulations of this part, pursuant to 5 U.S.C. 552a(k)(2).

[41 FR 3087, Jan. 21, 1976, as amended at 58 FR 15291, Mar. 22, 1993; 58 FR 28520, May 14, 1993]

## PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

Sec.

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1011.3 The Chairman, Vice Chairman, and Board Members.

1011.4 Delegations to individual Board Members.

1011.5 Employee boards.

1011.6 Delegations of authority by the Chairman.

1011.7 Delegations of authority by the Board to specific offices of the Board.

AUTHORITY: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 1301, 1321, 11123, 11124, 11144, 14122, and 15722.

SOURCE: 67 FR 60167, Sept. 25, 2002, unless otherwise noted.

### § 1011.1 General.

(a) This part describes the organization of the Board, and the assignment of jurisdiction and the responsibilities to the Board, individual Board Members or employees, and employee boards.

(b) As used in this part, *matter* includes any case, proceeding, question, or other matter within the Board's jurisdiction; and *decision* includes any decision, ruling, order, or requirement of the Board, an individual Board Member or employee, or an employee board.

### § 1011.2 The Board.

(a) The Board reserves to itself for consideration and disposition:

(1) All rulemaking and similar proceedings involving the promulgation of rules or the issuance of statements of general policy.

(2) All investigations and other proceedings instituted by the Board, except as may be ordered in individual situations.

(3) All administrative appeals in a matter previously considered by the Board.

(4) All other matters submitted for decision except those assigned to an individual Board Member or employee or an employee board.

(5) Except for matters assigned to the Chairman of the Board under § 1011.4(a)(6):

(i) The determination of whether to reconsider a decision being challenged in court;

(ii) The disposition of matters that have been the subject of an adverse decision by a court; and