

out a criminal investigation or prosecution.

(4) The FAA may disclose information provided under this part to comply with 49 U.S.C. 44905, regarding information about threats to civil aviation.

(b) *Additional disclosures.* For each program, the FAA may find that there are additional circumstances under which withholding information provided under this part would not be consistent with the FAA's safety and security responsibilities. Those circumstances are described in the designation for that program.

§ 193.11 What is the notice procedure?

This section states the notice procedure for the FAA to designate information as protected under this part. This procedure is used when there is not an immediate safety or security need for the information. This procedure generally is used to specify a type of information that you and others like you will provide on an on-going basis.

(a) *Application.* You may apply to have information designated as protected under this part by submitting an application addressed to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590 for paper submissions, and the Federal Docket Management System (FDMS) Web page at <http://www.regulations.gov> for electronic submissions. Your application must include the designation described in paragraph (c) of this section that you want the FAA to issue. You should not include in your application any information that you do not want available to the public. The FAA may issue a proposed designation based on the application or may deny your application.

(b) *Proposed designation.* Before issuing a designation under this section, based either on your application or the FAA's own initiative, the FAA publishes a proposed designation in the FEDERAL REGISTER and requests comment.

(c) *Designation.* The FAA designates information as protected under this part if, after review of the comments, the FAA makes the findings in § 193.7. The FAA publishes in the FEDERAL

REGISTER an order designating the information provided under the program as protected under this part. The designation includes the following:

(1) A summary of why the FAA finds that you and others, if applicable, will provide the information voluntarily.

(2) A description of the type of information that you and others, if applicable, may voluntarily provide under the program and a summary of why the FAA finds that the information is safety or security related.

(3) A summary of why the FAA finds that the disclosure of the information would inhibit you and others, if applicable, from voluntarily providing of that type of information.

(4) A summary of why the receipt of that type of information aids in fulfilling the FAA's safety and security responsibilities.

(5) A summary of why withholding such information from disclosure would be consistent with the FAA's safety and security responsibilities, including a statement as to the circumstances under which, and a summary of why, withholding such information from disclosure would not be consistent with the FAA's safety and security responsibilities, as described in § 193.9.

(6) A summary of how the FAA will distinguish information protected under this part from information the FAA receives from other sources.

(7) A summary of the significant comments received and the FAA's responses.

(d) *Amendment of designation.* The FAA may amend a designation using the procedures in paragraphs (a), (b), and (c) of this section.

(e) *Withdrawal of designation.* The FAA may withdraw a designation under this section at any time the FAA finds that continuation of the designation does not meet the elements of § 193.7, or if the requirements of the designation are not met. The FAA withdraws the designation by publishing a notice in the FEDERAL REGISTER. The withdrawal is effective on the date of publication or such later date as the notice may state. Information provided during the time the program was designated remains protected

under this part and the program. Information provided after the withdrawal of the designation is effective is not protected under this part or the program.

[66 FR 33805, June 25, 2001, as amended at 72 FR 68475, Dec. 5, 2007]

§ 193.13 What is the no-notice procedure?

This section states the no-notice procedure for the FAA to designate information as protected under this part. This procedure is used when there is an immediate safety or security need for the information. This procedure generally is used for specific information that you will provide on a short-term basis.

(a) *Application.* You may request that the FAA designate information you are offering as protected under this part. You must state your name, at least the general nature of information, and whether you will provide the information without the protection of this part. Your request may be verbal or writing.

(b) *Designation.* The FAA issues a written order designating information provided under this section as protected under this part. The FAA designates the information as protected under this part if the FAA—

- (1) Makes the findings as § 193.7; and
- (2) Finds that there is an immediate safety or security need to obtain the information without carrying out the procedures in § 193.11 of this part.

(c) *Time limit.* Except as provided in paragraphs (c)(1) and (c)(2) of this section, no designation under this section continues in effect for more than 60 days after the date of designation. Information provided during the time the designation was in effect remains protected under this part. Information provided that the designation ceases to be in effect is not protected under this part. The designation remains in effect for more than 60 days if—

- (1) The procedures to designate such information under § 193.11(a) have been initiated, or
- (2) There is an ongoing enforcement or criminal investigation, in which case the designation may continue until the investigation is completed.

(d) *Amendment of designation.* The FAA may amend a designation under this section using the procedures in paragraphs (a) and (b) of this section.

(e) *Withdrawal of designation.* The FAA may withdraw a designation under this section at any time the FAA finds that continuation does not meet the elements of § 193.7, or if the requirements of the designation are not met. The FAA withdraws the designation by notifying the person in writing that the designation is withdrawn. The withdrawal is effective on the date of receipt of the notice or such later date as the notice may state. Information provided during the time the designation was in effect remains protected under this part. Information provided after the withdrawal is effective is not protected under this part.

§ 193.15 What FAA officials exercise the authority of the Administrator under this part?

(a) The authority to issue proposed and final designations, to issue proposed and final amendments of designations, and to withdraw designations under this part, and to disclose information that has been designated as protected under this part, is delegated by the Administrator to Associate Administrators and Assistant Administrators and to the Chief Counsel, their Deputies, and any individual formally designated as Acting Associate or Assistant Administrator, Acting Chief Counsel, or Acting Deputy of such offices.

(b) The officials identified in paragraph (a) of this section may further delegate the authority to issue proposed designations and proposed amendments to designations.

§ 193.17 How must design and production approval holders handle information they receive from the FAA under this part?

(a) If the FAA discloses information under § 193.9(a)(2) to the holders of design approvals of production approvals issued by the FAA, the approval holder must disclose that information only to persons who need to know the information to address the safety or security condition.

(b) Unless an emergency exists, before disclosing information to approval