

## Office of the Secretary of Transportation

## § 10.5

10.85 Wrongfully obtaining records.

APPENDIX TO PART 10—EXEMPTIONS

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

SOURCE: 45 FR 8993, Feb. 11, 1980, unless otherwise noted.

### Subpart A—Applicability and Policy

#### § 10.1 Applicability.

This part implements section 552a of title 5, United States Code, as well as other provisions of the Privacy Act of 1974, and prescribes rules governing the availability of those records of the Department of Transportation which relate to citizens of the United States and aliens lawfully admitted for permanent residence.

[45 FR 8993, Feb. 11, 1980, as amended at 62 FR 23666, May 1, 1997]

#### § 10.3 Policy.

It is the policy of the Department of Transportation to comply with the letter and the spirit of the Privacy Act (the Act). Therefore, personal data contained in each system of records is afforded adequate protection against unauthorized access, is as accurate as is feasible, and is limited to that necessary to accomplish the stated use or uses of the system. Further, no system of records is exempted from the requirements of the Act unless it is determined that to do so is in the best interest of the government with due concern for individual rights.

#### § 10.5 Definitions.

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

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

*Department* means the Department of Transportation, including the Office of the Secretary, the Office of Inspector General, and the following operating administrations: This definition specifically excludes the Surface Transportation Board, which has its own Privacy Act regulations (49 CFR Part 1007), except to the extent that any system of records notice provides otherwise.

- (1) Federal Aviation Administration.
- (2) Federal Highway Administration.
- (3) Federal Motor Carrier Safety Administration.
- (4) Federal Railroad Administration.
- (5) Federal Transit Administration.
- (6) National Highway Traffic Safety Administration.
- (7) St. Lawrence Seaway Development Corporation.
- (8) Pipeline and Hazardous Materials Safety Administration.
- (9) Research and Innovative Technology Administration.
- (10) Maritime Administration.

*General Counsel* means the General Counsel of the Department.

*Includes* means “includes but is not limited to;”

*Individual* means a citizen of the United States or an alien lawfully admitted;

*Maintain* includes maintain, collect, use, or disseminate;

*May* is used in a permissive sense to state authority or permission to do the act prescribed;

*Record* means any item, collection, or grouping of information about an individual that is maintained by the Department including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the name of, or an identifying number, symbol, or other identifying particular assigned to, the individual, such as a finger or voice print or a photograph;

*Secretary* means the Secretary of Transportation or any person to whom has been delegated authority in the matter concerned;

*System of records* means a group of any records under the control of the Department from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

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

*Routine use* means, with respect to the disclosure of a record, the use of

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such record for a purpose which is compatible with the purpose for which it was collected.

[45 FR 8993, Feb. 11, 1980, as amended at 62 FR 23667, May 1, 1997; 65 FR 48184, Aug. 7, 2000; 67 FR 54746, Aug. 26, 2002; 73 FR 33329, June 12, 2008]

### Subpart B—General

#### § 10.11 Administration of part.

Authority to administer this part in connection with the records of the Office of the Secretary is delegated to the Chief Information Officer. Authority to administer this part in connection with records in each operating administration is delegated to the Administrator concerned. An Administrator may redelegate to officers of that administration the authority to administer this part in connection with defined systems of records. An Administrator, however, may redelegate his or her duties under subparts F and G of this part only to his or her deputy and to not more than one other officer who reports directly to the Administrator and who is located at the headquarters of that administration or at the same location as the majority of that administration's systems of records.

[45 FR 8993, Feb. 11, 1980, as amended at 62 FR 23667, May 1, 1997; 73 FR 33329, June 12, 2008]

#### § 10.13 Privacy Officer.

(a) To assist with implementation, evaluation, and administration issues, the Chief Information Officer appoints a principal coordinating official with the title Privacy Officer, and one Privacy Act Coordinator from his/her staff.

(b) Inquiries concerning Privacy Act matters, or requests for assistance, may be addressed to the Privacy Act Officer (S-80), Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(c) Administrators may designate Privacy Officers or Coordinators to act as central coordinators within their administrations to assist them in administering the Act.

[73 FR 33329, June 12, 2008]

## 49 CFR Subtitle A (10-1-11 Edition)

### § 10.15 Protection of records.

(a) No person may, without permission, remove any record made available for inspection or copying under this part from the place where it is made available. In addition, no person may steal, alter, mutilate, obliterate, or destroy, in whole or in part, such a record.

(b) Section 641 of title 18 of the United States Code provides, in pertinent part, as follows:

Whoever \* \* \* steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record \* \* \* or thing of value of the United States or of any department or agency thereof \* \* \* shall be fined not more than \$10,000 or imprisoned not more than 10 years or both; but if the value of such property does not exceed the sum of \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year or both \* \* \*.

(c) Section 2071 of title 18 of the United States Code provides, in pertinent part, as follows:

Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited \* \* \* in any public office, or with any \* \* \* public officer of the United States, shall be fined not more than \$2,000 or imprisoned not more than 3 years, or both.

### Subpart C—Maintenance of Records

#### § 10.21 General.

Except to the extent that a system of records is exempt in accordance with subpart G of this part, the Department, with respect to each system of records:

(a) Maintains in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the Department required to be accomplished by statute or by executive order of the President;

(b) Collects 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, or privileges under Federal programs;