

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****49 CFR Part 10**

[Docket No. OST-1996-1437]

RIN 2105-AD11

Maintenance of and Access to Records Pertaining to Individuals; Proposed Exemption**AGENCY:** Department of Transportation (DOT), Office of the Secretary.**ACTION:** Notice of proposed rulemaking.**SUMMARY:** DOT proposes to add a system of records relating to aviation consumer protection 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 April 29, 2005.**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number OST-1996-1437 by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the name of the DOT agency that has issued the rule to which the comment pertains and the docket number for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except

Federal Holidays. You can access the docket for this notice by inserting the five-digit docket number into the DMS "quick search" function.

FOR FURTHER INFORMATION CONTACT:

Yvonne Coates, Office of the Chief Information Officer, Department of Transportation, Washington, DC (202) 366-6964.

SUPPLEMENTARY INFORMATION: 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(j) or (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 A). This amendment proposes exemption from certain portions of the Privacy Act of a proposed record system—Aviation Consumer Complaint Application Online System (CCA)—to be used to track consumer complaints about scheduled airline service and air travel companies; included among these complaints are such matters as discrimination on the basis of physical handicap and race, religion, etc., which are violations of Federal law.

To aid in the law enforcement aspects of CCA, DOT proposes to treat it 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)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) to the extent that CCA 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 that is maintained by the Federal Government.

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 no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)**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 (adjusted for inflation) 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**

Authority delegations (government agencies), Organization and functions (government agencies), Transportation Department.

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: Public Law 93-579; 49 U.S.C. 322.

2. The Appendix would be amended in Part II.A. by adding a paragraph (19) immediately following paragraph (18) to read as follows:

Appendix to Part 10—Exemptions

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Part II. Specific exemptions. A.

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19. Aviation Consumer Complaint Application Online System (CCA).

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Issued in Washington, DC, on February 16, 2005.

Eugene K. Taylor,*Deputy Chief Information Officer.*

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