

Copies of such transcript, electronic recording or set of minutes, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(iii) The Finance Board shall maintain a complete copy of the transcript, verbatim electronic recording or complete set of minutes of each meeting, or portion thereof closed to the public, for at least two years after such meeting, or until one year after the conclusion of any proceeding of the Board of Directors with respect to which the meeting or portion thereof was held, whichever occurs later.

(d) *Legal certification for closing meeting.* (1) For every meeting, or portion thereof, of the Board of Directors closed pursuant to paragraphs (a) or (b) of this section, the General Counsel (or in the General Counsel's absence or incapacity the senior legal officer available) shall publicly certify that the meeting or portion thereof may be closed to the public pursuant to the Sunshine Act and this part, and specifically state the relevant exemption in support thereof.

(2) A copy of the certification, together with a statement from the Chairperson when appropriate, the Acting Chairperson or designee, setting forth the time and place of the meeting and the persons present, shall be retained in the permanent files of the Finance Board.

§ 906.6 Notice of meetings.

(a) *Scope of notice.* (1) Except as provided in paragraph (a) of § 906.4 that such information is determined to be exempt from disclosure, each open meeting of the Board of Directors, or each meeting closed under the regular procedures in paragraph (a) of § 906.5, will be preceded by public notice as described in this section.

(2) The notices for meetings of the Board of Directors closed under the expedited procedures pursuant to paragraph (b) of § 906.5 will be made in accordance with paragraph (b)(4) thereof.

(b) *Content of notice.* A notice of an open meeting or a meeting closed under the regular procedures in paragraph (a) of § 906.5 will state the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the Executive Secretary for information about the meeting. Each such notice shall be posted in the lobby of the Finance Board offices, and may be made available in addition by other means or at other locations as deemed desirable. Immediately following the posting of

each such notice, the Finance Board will publish the notice in the Federal Register.

(c) *Time—(1) Seven days notice.* Except as provided in paragraph (c)(2) of this section, a public notice of open meetings or meetings closed under paragraph (a) of § 906.5 will be made at least seven days in advance of each meeting.

(2) *Less than seven days notice.* When a majority of the Board of Directors determine by recorded vote that Finance Board business requires a meeting to be called at any earlier date, the seven-day prior notice rule shall be suspended and notice shall be made at the earliest practicable time.

(d) *Amendment of notice—(1) Time and place.* A change in the time or place of a meeting following public notice may be made only if announced at the earliest practicable time.

(2) *Subject matter.* A change in the subject matter of a meeting or a re-determination to open or close a meeting, or portions thereof, may be made after public notice only if:

(i) At least three Board Directors determine by recorded vote of the entire Board of Directors that Finance Board business so requires and that no earlier notice of the change was possible; and

(ii) The Finance Board publicly announces the change and the vote of each Board Director by posting a notice thereof in the lobby of the Finance Board offices at the earliest practicable time.

(3) *Timing of amendment.* A public announcement of a change in either the time, place or subject matter of a meeting may be made after the commencement of the meeting affected.

(4) *Publication of amendment.* Each change to a notice of a meeting will be published in the Federal Register, following the Finance Board's public announcement of the change.

By the Federal Housing Finance Board.
Dated: December 28, 1991.

Daniel F. Evans, Jr.,
Chairman.

[FR Doc. 91-31007 Filed 12-27-91; 8:45 am]
BILLING CODE 6725-01

12 CFR Part 909

[91-640]

Privacy Act Procedures

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board ("Finance Board") proposed to

adopt regulations implementing the Privacy Act (5 U.S.C. 552a).

DATES: Comments must be submitted by January 29, 1992.

ADDRESSES: Comments may be mailed to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Charles Szlenker, Attorney, Office of General Counsel, (202) 408-2554, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. General

The Privacy Act applies to records kept by a federal agency on an individual person. It protects individuals from an agency's disclosure of information in such records without the written permission of the individual in question. The Privacy Act requires each agency to maintain regulations implementing the provisions of the Act. 5 U.S.C. 552a(f)(1) & (2) (1988).

The Finance Board is subject to the Privacy Act. The definition of an "agency" in the Act incorporates the definition used in the Administrative Procedure Act. 5 U.S.C. 552a(a)(1) *incorp. by ref. Id.* at 552(e). Since that definition of "agency" includes an independent regulatory agency, and since the Finance Board was created by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 as an independent executive agency (12 U.S.C. 1422a(a)(2) (Supp. I 1989)), the Finance Board is subject to the Privacy Act.

The Financial Institutions Reform, Recovery and Enforcement Act of 1989 stated that all former Federal Home Loan Bank Board (FHLBB) regulations continue in place until superseded. 103 Stat. 183, 357 (1989). These regulations will replace the former FHLBB Privacy Act regulations.

B. Regulatory Flexibility Act

Pursuant to section 605(b) of title 5, United States Code, the Board of Directors of the Finance Board hereby certifies that this rule will not have a significant impact on a substantial number of small entities. The regulation implements the Privacy Act, which is concerned with records of an agency containing information on individual persons only. The Privacy Act does not address business or corporate entities. Accordingly, a regulatory impact analysis of this regulation is not necessary or required.

of subjects in 12 CFR Part 900

vacy.

Accordingly, the Finance Board hereby amends its general regulations, at chapter IX, title 12, Code of Federal Regulations by adding a new part 909 to read as follows:

PART 909—PRIVACY ACT PROCEDURES

Sec.

909.1 General.

909.2 Definitions.

909.3 Procedures for requesting individual records in a system of records; appeal of denials.

909.4 Time, place and identification requirements for requests.

909.5 Disclosure of requested records.

909.6 Procedures for requesting amendment to a record in a system of records; appeal of denials.

909.7 Fees.

909.8 Penalties.

909.9 Exemptions.

Authority: 5 U.S.C. 552a.

§ 909.1 General.

(a) *Purpose.* This part implements the provisions of the Privacy Act, 5 U.S.C. 552a, which require each executive agency to promulgate regulations for the protection of the privacy of individual persons on whom the agency maintains information in a record.

(b) *Scope.* These regulations establish procedures for:

- (1) Disclosing Federal Housing Finance Board information on an individual contained in its records, and
- (2) Notifying an individual, on whom information in its records is kept, that a request for such information has been made.

§ 909.2 Definitions.

As used in this part:

(a) *Amendment* means any correction, addition or deletion of information contained in a record, as defined in paragraph (g) of this section.

(b) *Board of Directors* means the five member governing Board of Directors of the Federal Housing Finance Board.

(c) *Business days* means all days except Saturdays, Sundays or Federal Government holidays.

(d) *Finance Board* means the Federal Housing Finance Board.

(e) *Individual* means a natural person who is either a citizen of the United States of America or an alien lawfully admitted to the United States for permanent residence. The term includes parent(s) having custody of any minor or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction.

(f) *Maintain* means to keep or hold and preserve in an existing state, and includes the terms "collect," "use," "disseminate" and "control."

(g) *Record* means any item, collection, or grouping of information about an individual that is maintained by the Finance Board within a system of records, and that contains such individual's name, or identifying number, symbol, or other identifying particular assigned to the individual, including a fingerprint, voice print or photograph.

(h) *Records systems manager* means the employee responsible for maintaining a designated system of records at the Finance Board, as such official or employee may be identified through public notice in the Federal Register from time to time by the Finance Board entitled: "Notice of Systems of Records on Individual Persons Maintained at the Federal Housing Finance Board."

(i) *Routine use* means the use of a record for a purpose compatible with the purpose for which it was originally created.

(j) *System of records* means a group of records maintained or controlled by the Finance Board from which information is or may be retrieved by the name of an individual or some identifying number, symbol or other identifying particular assigned to the individual.

(k) *Designated system of records* means a system of records, as defined in paragraph (j) of this section, that has been listed in the Federal Register as required by 5 U.S.C. 552a(e).

§ 909.3 Procedures for requesting individual records in a system of records; appeal of denials.

(a) *Current or former employees.* Any current or former Finance Board employee seeking access to such employee's official personnel record maintained by the Finance Board shall submit a request to the Finance Board in the manner prescribed by regulations of the Office of Personnel Management, at title 5, Code of Federal Regulations.

(b) *Other individuals.* (1) Individuals other than current or former Finance Board employees may submit requests for access to a record that contains information on the requesting individual and is maintained in a Finance Board designated system of records.

(2) Each such request shall be in writing, shall contain a reasonable, succinct description of the record sought, and shall identify the particular designated system of records in which the record may be maintained, as identified in the "Notice of Systems of Records on Individual Persons

Maintained at the Federal Housing Finance Board" published by the Finance Board from time to time in the Federal Register.

(c) *Accounting for previous disclosures.* An individual may use the procedures of this section to request an accounting from the Finance Board of previous disclosures of records pertaining to such individual in a designated system of records, pursuant to the Privacy Act, 5 U.S.C. 552a(c).

(d) Medical records procedures.

Information on an individual contained in medical records will be disclosed to a requesting individual in accordance with the procedures in paragraph (b) of this section and the requirements of this part, except, if in the judgment of the Finance Board the disclosure of such information could have an adverse effect on the individual, the Finance Board may withhold such information from the individual and transmit it to a licensed medical physician named by the requesting individual.

(e) *Response policy.* The Finance Board will acknowledge, or substantially respond to if practicable, a request made under this section within ten (10) business days of its receipt.

(f) *Initial review.* (1) The Executive Secretary will make the initial determination whether to grant or deny a request for records under this part, after consultation with the systems manager of the appropriate designated system of records.

(2) The Executive Secretary will notify the requesting individual whether the Finance Board:

(i) Has the requested record in a Finance Board designated system of records; and

(ii) Will release the requested record or not.

(3) If the request is denied, the Executive Secretary will inform the requesting individual of the reasons for nondisclosure, and describe the individual's right to appeal the determination.

(g) *Appeal process.* (1) An individual who has been denied a request made pursuant to paragraph (b) of this section, may appeal to the Board of Directors, or designee, within 30 business days of being notified of the denial pursuant to paragraph (f) of this section.

(2) The appeal shall be in writing, shall be mailed or delivered to the Executive Secretary, and shall give the reasons why the initial determination should be overturned.

(3) The Board of Directors, or such official designated by the Board of Directors, shall decide on the appeal within 30 business days following

receipt of the appeal by the Executive Secretary. The Board of Directors or designated official may extend the time period for good cause, after giving notice, and reason therefor, to the individual making the appeal.

(4) If a decision is made to affirm the initial denial of a request for a record by an individual, the Board of Directors or designated official shall notify the individual making the appeal of the decision and the reason therefor, and shall inform the individual of the right of judicial review of the appeal.

§ 909.4 Time, place and identification requirements for requests.

(a) *Time.* An individual may hand deliver a written request for access to or amendment of records, made under § 909.3(b) or § 909.6 of this part, to the Finance Board on any business day, between the hours of 8:30 a.m. and 5:30 p.m.

(b) *Place.* All written requests for access to or amendment of records shall be mailed or hand delivered to the Executive Secretary, at the Executive Secretariat, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

(c) *Identification.*—(1) *Mailed requests.* All requests for access to or amendment of records that are mailed to the Finance Board shall be signed by the individual who is the subject of the requested record and who is making the request. The validity of each such signature shall be attested to by a notary public.

(2) *Hand delivered requests.* All requests for access to or amendment of records that are hand delivered to the Finance Board by the requesting individual shall be authenticated as to the identity of the requesting individual by two forms of identification with photographs, or by one such form of identification and a birth certificate.

§ 909.5 Disclosure of requested record.

(a) *Requesting individual.* Upon a request made pursuant to § 909.3(b) of this part, the Finance Board will disclose a record to the requesting individual, except when the record has been compiled in reasonable anticipation of a civil action or proceedings, in either of the following methods at the option of the requesting individual:

(1) By mailing a copy of the record to the address of the requesting individual; or

(2) By making the record available for inspection and copying by the requesting individual, as soon as practicable, at the offices of the Executive Secretary on regular business days, from 9:30 a.m. until 4:30 p.m. The

requesting individual may choose to be accompanied by another person during the inspection and copying by submitting a signed statement authorizing the presence of such person.

(b) *Other individuals.* (1) The Finance Board will disclose a record to a person or entity other than the requesting individual, in the manner provided by paragraph (a) of this section, only when the Finance Board:

(i) Receives a copy of a written authorization for disclosure to such person or entity signed by the requesting individual and attested to by a notary public; and

(ii) Receives adequate identification from such person or entity.

(2) The restrictions contained in paragraph (b)(1) of this section on disclosure of a record shall not apply to:

(i) A disclosure to Finance Board officers or employees who have a need for the record in the performance of their duties;

(ii) A disclosure otherwise required by the Freedom of Information Act (5 U.S.C. 552);

(iii) A routine use listed with respect to a designated system of records;

(iv) A disclosure to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the United States Code;

(v) A disclosure to a recipient who has provided the Finance Board with advance written assurance that the record will be used solely as a statistical research or reporting record, and that the record is to be transferred in a form that is not individually identifiable;

(vi) A disclosure to the National Archives and Records Administration as a record with sufficient historical or other value to warrant its continued preservation by the Federal Government or for evaluation by the Archivist of the United States to determine whether it has such value.

(vii) A disclosure to another agency or to an instrumentality of any government jurisdiction within or under the control of the United States for civil or criminal law enforcement activity authorized by law if the head of such agency or instrumentality has made a written request to the Finance Board specifying the particular record requested and the law enforcement activity for which it is sought;

(viii) A disclosure to any person pursuant to a showing of compelling circumstances affecting the health and safety of an individual if notification of the disclosure is transmitted to the last known address of the individual who is the subject of the disclosed record;

(ix) A disclosure to a joint committee of Congress, or any subcommittee thereof, or to either House of Congress, or to any committee or joint committee, or subcommittee thereof, but only to the extent of matter within such joint committee's, committee's or subcommittee's jurisdiction; or

(x) A disclosure to the Comptroller General, or authorized representative, made in the course of performing the duties of the General Accounting Office.

(c) *Notification.* (1) The notification procedures described in this paragraph apply to disclosures of records made pursuant to paragraphs (b)(2) (i) through (vi) and (b)(2) (viii), (ix) and (x) of this section. They do not apply in the case of a disclosure made under paragraph (b)(2)(vii) of this section.

(i) The Finance Board will record the date, nature and purpose of each such disclosure, as well as the identity and address of the person or entity receiving the disclosed record;

(ii) The Finance Board will retain the information described in paragraph (c)(1) of this section for the life of the disclosed record, or for at least five years after such disclosure, and will make such information available to the individual named in the record upon request by such individual pursuant to § 909.3(c).

§ 909.6 Procedures for requesting amendment to a record in a system of records; appeal of denials.

(a) *Scope.* This section applies only to amendment of records on an individual maintained in a Finance Board system of records used in making a determination about such individual.

(b) *Individual request.* (1) Any individual may request the Finance Board to amend any portion of a record in a designated system of records pertaining to that individual, where such portion of the record is not accurate, relevant, timely or complete.

(2) A request to amend a record pursuant to this section shall be in writing, shall identify the particular designated system of records containing the record which the individual requests to amend and the portion of that record to be amended, and shall describe the reasons for the requested amendment.

(c) *Prior proceeding.* Nothing in this section shall permit a collateral attack upon any matter decided in a prior judicial, quasi-judicial or other proceeding.

(d) *Response policy.* The Finance Board shall acknowledge, or substantially reply to, if practicable, a request for amendment of records under this section.

(j) **Initial review.** (1) The Executive Secretary shall acknowledge all requests by individuals for amendment of records. The Executive Secretary shall refer all requests to the appropriate systems manager of the designated system of records containing the record to be reviewed, for disposition of the request within 10 business days of the referral. The systems manager shall promptly review the request and review the record for accuracy, relevance, timeliness, completeness or necessity.

(2) The systems manager will promptly notify the Executive Secretary of a decision whether to amend the record and shall state any reasons for denying the request in any part.

(3) The Executive Secretary will promptly notify the requesting individual of the decision and reasons for any denial, and describe the individual's rights to appeal any denial.

(f) **Appeal process.** (1) An individual who has been denied a request made pursuant to paragraph (b) of this section may appeal to the Board of Directors, or an official designated by the Board of Directors, within 30 business days of being notified of the denial pursuant to paragraph (e)(3) of this section.

(2) The appeal shall be in writing, will be mailed to the Executive Secretary, and shall give the reasons why the initial determination should be overturned.

(3) The Board of Directors, or designated official, shall decide the appeal within 30 business days of its receipt by the Executive Secretary. The Board of Directors or designated official may extend the 30 days limit for good cause, after giving notice, and the reasons therefor, to the individual making the appeal.

(4) If a decision is made to affirm the initial denial of a request for a record by an individual, the Board of Directors or designated official shall notify the individual making the appeal of the decision and the reason therefor, and shall inform the individual of the right of judicial review of the appeal.

(g) **Statement.** (1) Within 30 business days after being denied an appeal pursuant to paragraph (f) of this section, an individual may submit a concise written statement setting forth the individual's reasons for disagreeing with the Finance Board's refusal to amend the record.

(2) Such statement shall be provided to persons or other agencies or entities to whom the record is disclosed.

§ 909.7 Fees.

The Finance Board, upon a request for records disclosable pursuant to these

regulations, shall charge a fee of \$0.10 per page for duplicating, unless:

(a) The Finance Board determines that it shall grant access to the record only by making a copy thereof;

(b) The total fee will not exceed \$2.00; or

(c) The Finance Board determines, in its sole discretion, that a reduction or waiver of the fees is warranted for good cause.

§ 909.8 Penalties.

Subsection (i)(3) of the Privacy Act of 1974 (5 U.S.C. 552a(i)(3)) imposes criminal penalties for obtaining Finance Board records on individuals under false pretenses. It provides as follows:

Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretense shall be guilty of a misdemeanor and fined not more than \$5,000.00.

§ 909.9 Exemptions.

The following system of records are exempt from § 909.3, 909.5 and 909.6 of this part:

(a) Investigatory material compiled and maintained in a Finance Board system of records solely for law enforcement purposes. *Provided*, That the Finance Board shall disclose such material to an individual if nondisclosure results in denying to such individual any right, privilege or benefit to which such individual would otherwise be eligible, unless the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality.

(b) Investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Finance Board employment to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Finance Board under an express promise that the identity of the source would be held in confidence.

(c) Testing or examination material used solely to determine or assess individual qualifications for appointment to employment at the Finance Board, or promotion therein—the disclosure of which would compromise the objectivity or fairness of the testing, evaluation or examining process.

Dated: December 18, 1991.

By the Federal Housing Finance Board.
Daniel F. Evans, Jr.,
Chairman.

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BILLING CODE 6725-01

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 18, and 122

RIN 1515-AB12

Proposed Customs Regulations Amendments Concerning Use of an Air Waybill As An In-Bond Document

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by adding specific mention of the availability of using an air waybill as in-bond document. Customs has concluded a successful test program allowing air carriers to forward in-bond shipments using an air waybill as the sole in-bond document. The use of the air waybill for this purpose has facilitated the movement of cargo and the delivery of in-bond freight. Accordingly, it is proposed to make the procedure available on a permanent basis and the regulations would be amended to reflect this.

DATE: Comments must be received on or before February 28, 1992.

ADDRESS: Comments (preferably in triplicate) should be addressed to and may be inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., room 2119, Washington, DC, 20220.

FOR FURTHER INFORMATION CONTACT: Ernie Cunningham, Office of Inspection and Control, 202-566-8151.

SUPPLEMENTARY INFORMATION:

Background

In November 1988, Customs commenced a test program allowing air carriers to use the air waybill (AWB) as the sole in-bond document in place of Customs Forms 7512 or 7512-C, or Transit Air Cargo Manifest (TACM) documents. Some documentation is necessary in order for Customs to retain control over unentered merchandise in transit from one port to another. The test was designed to take advantage of the unique AWB number and the detailed information available on an AWB. A number of air carriers have been participating in the test. The use of the AWB has facilitated the movement of cargo and the delivery of in-bond freight.

The AWB test was originally described in Temporary Directive 3240-01, August 31, 1988. That directive expired on September 29, 1989. As a