

techniques to discourage copying of the FBI APW Seal, except that such techniques need not be used if no other content or advertising programmed into the same work on the same media utilizes such copyright anti-circumvention or copy protection techniques.

(f) Prohibitions regarding use of the APW Seal.

(1) The APW Seal may not be used in a manner indicating FBI approval, authorization, or endorsement of any communication other than the authorized warning language. No other text or image that appears on the same screen, page, package, etc., as the APW Seal or authorized warning language shall reference, contradict, or be displayed in a manner that appears to be associated with, the APW Seal or authorized warning language, except as authorized in writing by the Director of the FBI or his or her designee and posted on the FBI's official public Internet Web site (<http://www.fbi.gov>).

(2) The APW Seal may not be used on any work whose production, sale, distribution by United States mail or in interstate commerce, or public presentation would violate the laws of the United States including, but not limited to, those protecting intellectual property and those prohibiting child pornography and obscenity.

(3) The APW Seal may not be forwarded or copied except as necessary to display it on an eligible work.

(4) The APW Seal shall not be used in any manner:

(A) Indicating that the FBI has approved, authorized, or endorsed any work, product, production, or private entity, including the work on which it appears;

(B) Indicating that the FBI has determined that a particular work or portion thereof is entitled to protection of the law; or,

(C) Indicating that any item or communication, except as provided herein, originated from, on behalf of, or in coordination with the FBI, whether for enforcement purposes, education, or otherwise.

Dated: August 29, 2011.

Lee J. Lofthus,

Assistant Attorney General for Administration.

[FR Doc. 2011-22877 Filed 9-6-11; 8:45 am]

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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 suspicious activity reporting 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 October 7, 2011. If no comments are received by the due date, the proposal will take effect as proposed and comments addressed accordingly. If comments are received by the due date, the proposal will still take effect as proposed and the comments addressed accordingly.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number [OST-1996-1437] by any of the following methods:

Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

ADDRESSES: You may submit comments and reply comments using any one of the following methods:

Initial comments will be made available promptly electronically, online on <http://www.regulations.gov>, or for public inspection in room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. In order to allow sufficient opportunity for interested parties to prepare and submit any reply comments, late-filed initial comments will not be considered. Reply comments must address only matters raised in initial comments and must not be used to present new arguments, contentions, or factual material that is not responsive to the initial comments.

ADDRESSES: You may submit comments and reply comments identified by docket number OST-1996-1437 using any one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- *Fax:* 202-493-2251.
- *Mail:* Docket Management Facility (M-30), U.S. Department of

Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

• *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., ET Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Claire Barrett, Departmental Chief Privacy Officer, Office of the Chief Information Officer, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590 at (202) 366-1835.

SUPPLEMENTAL 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—the Suspicious Activity Reporting (SAR) database—to be used to track observed behavior reasonably indicative of pre-operational planning related to terrorism or other criminal activity. To aid in the law enforcement aspects of SAR, 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 SAR contains investigatory material compiled for law enforcement purposes, in accordance with 5 U.S.C. 552a(k)(2).¹

¹ (c)(3)—An agency making disclosures of information that is covered by the Privacy Act must keep an accounting of those disclosures and, under (c)(3), make that accounting available to the subject upon the subject's request. The exemption from (c)(3) means that, although we still have to maintain the accounting, we do not have to provide it to the subject.

(d)—One of the essential elements of the Privacy Act is the subject's right of access to information in any file covered by the Privacy Act that is retrieved by the subject's name or other personal identifier, such as social security number. In this way, the subject can test the validity of the information. The exemption from (d) means that we do not have to grant the subject access to the information.

(e)(1)—Another essential element of the Privacy Act is to limit the collection and maintenance of

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

information subject to the Act to information that is relevant and necessary to carry out a lawful activity of the agency that collects or maintains the information. The exemption from (e)(1) means that we are not limited to information that is relevant and necessary. In practical terms, the subject may contest the relevancy and necessity of any information in the file; however, given the exemption from (d), above, the subject has no way to verify what is in the file, so is unable to contest its relevancy or necessity. Hence, a formal exemption from (e)(1) is not needed.

(e)(4)(G), (H), and (I)—To equip a subject to verify information in a file, we are required by the Privacy Act to publish in the public notice of the existence of the information procedures informing subjects how to learn from us whether we have records on them, procedures on how subjects can gain access to their files, and procedures to identify for subjects the categories of record sources in the file. The exemption from (e)(4)(G), (H), and (I) means that we need not publish these procedures for this file. Again, if we do not have to grant access, these provisions have no meaning.

(f)—We are also required to publish regulations governing how subjects can learn if they are included in any of our Privacy Act files, how they must prove their identities before we can grant them access, and governing access to their files, their rights to have information in the files amended and their rights to appeal our refusal to grant access and make amendments. Since there is no right to access, these derivative rights, as with the others, are moot.

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); Penalties; Privacy; 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: Pub. L. 93–579; 49 U.S.C. 322.

2. The Appendix would be amended by inserting in of Part II.A. a new paragraph 8, immediately following paragraph 7, to read as follows:

Appendix A—Exemptions.

Part II. Specific exemptions. A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a, to the extent that they contain investigatory material compiled for law enforcement purposes, in accordance 5 U.S.C. 552a(k)(2):

* * * * *

8. Suspicious Activity Reporting (SAR) database, maintained by the Office of Intelligence, Security, and Emergency Response, Office of the Secretary.

Issued in Washington, DC, on: August 31, 2011.

Claire W. Barrett,

Departmental Chief Privacy Officer.

[FR Doc. 2011–22729 Filed 9–6–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 269

[Docket No. FRA–2009–0108; Notice No. 1]

RIN 2130–AC19

Alternate Passenger Rail Service Pilot Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM is in response to a statutory mandate that FRA complete a rulemaking proceeding to develop a pilot program that permits a rail carrier or rail carriers that own infrastructure over which Amtrak operates certain passenger rail service routes to petition FRA to be considered as a passenger rail service provider over such a route in lieu of Amtrak for a period not to exceed five years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008. The proposed rule would develop this pilot program in conformance with the statutory directive.

DATES: Written Comments: Written comments on the proposed rule must be received by November 7, 2011. Comments received after that date will be considered to the extent possible without incurring additional expense or delay. FRA anticipates being able to determine these matters without a public hearing. However, if prior to October 7, 2011, FRA receives a specific request for a public hearing accompanied by a showing that the party is unable to adequately present his or her position by written statement, a hearing will be scheduled and FRA will publish a supplemental notice in the **Federal Register** to inform interested parties of the date, time, and location of any such hearing.

ADDRESSES: Comments: Comments related to Docket Number FRA–2009–0108, may be submitted by any of the following methods:

- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* Room W12–140 on the Ground level of the West Building, 1200 New Jersey Ave., SE., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal Holidays.