

who may add comments and then send it to the Manager, Brussels ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels ACO.

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029; or may examine these documents at the FAA, Central Regional, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 12, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

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## DEPARTMENT OF COMMERCE

### Office of the Secretary

#### 15 CFR Parts 4, 4a, and 4b

[Docket No. 950929241-5241-01]

RIN 0605-XX02

### Public Information, Freedom of Information and Privacy

AGENCY: Department of Commerce.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Department of Commerce proposes to amend its Freedom of Information Act and Privacy Act regulations to update and clarify them, and to make certain technical changes. The intent is to make them more helpful to the public.

**DATES:** Written comments must be received on or before March 22, 1996.

**ADDRESSES:** Address written comments to Andrew W. McCready, Attorney-Advisor, Office of the Assistant General Counsel for Administration, Rm. H5876, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Andrew W. McCready, Telephone: 202-482-8044.

**SUPPLEMENTARY INFORMATION:** On March 4, 1995, as part of the President's Regulatory Reform Initiative, the President directed agencies to conduct a page-by-page review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform. After conducting a review of the Department's Public Information, Freedom of Information and Privacy Act

regulations, it was determined that the following amendments were necessary.

The proposed amendment to 15 CFR part 4 changes the duplication fee for processing Freedom of Information Act (FOIA) requests to reflect increased costs to the Department, makes technical corrections, makes clear that records responsive to FOIA requests include electronic records, updates telephone numbers and addresses, replaces a list of officials authorized to make initial denials of FOIA requests with a statement that heads of offices are authorized to grant or deny initial FOIA requests, and makes clarifying changes.

The proposed amendment to 15 CFR part 4a eliminates the requirement that the Department's Office of Security coordinate with the Office of the Assistant General Counsel for Administration with respect to declassification and FOIA matters, and changes the official responsible for adjudicating administrative appeals of denials of requests for classified information.

The proposed amendment to 15 CFR part 4b expands the list of Privacy Act Officers, and changes the official responsible for adjudicating Privacy Act appeals of requests for access, correction, and amendment.

It has been determined that this rule is not a significant rule under Executive Order 12866.

This rule does not contain a "collection of information" as defined by the Paperwork Reduction Act.

The Assistant General Counsel for Legislation and Regulation certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the regulations are being updated and clarified, and certain technical changes are being made. The duplication fee is being changed to reflect increased costs to the Department. The overall intent is to make the regulations more helpful to the public.

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

#### List of Subjects

##### 15 CFR Part 4

Freedom of Information, Public information, Privacy.

##### 15 CFR Part 4a

Classified information, Freedom of information, Privacy.

##### 15 CFR Part 4b

##### Privacy.

For the reasons set forth in the preamble, it is proposed that 15 CFR parts 4, 4a, and 4b be amended as follows:

### PART 4—PUBLIC INFORMATION

1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 553, Reorganization Plan No. 5 of 1950; 31 U.S.C. 3717.

#### § 4.4 [Amended]

2. In the first sentence of § 4.4(c), remove "H6628" and add, in its place, "H6020"; and in the last sentence of § 4.4(c), remove "(202) 377-3271" and add, in its place, "(202) 482-4115".

3. In the last line of § 4.4(e), remove the word "the" and add, in its place, the word "this".

#### § 4.6 [Amended]

4. In the third sentence of § 4.6(a)(4), remove the word "originating", and add, in its place, the word "originating".

5. In the second sentence of § 4.6(b)(3), remove the word "dilligence" and add, in its place, the word "diligence".

6. Section 4.6 is further amended by revising paragraphs (a)(3), (a)(6), (b)(5), introductory text, and (b)(5)(iv) and removing (b)(6) to read as follows:

#### § 4.6 Initial determinations of availability of records.

(a) \* \* \*

(3) Whether the records no longer exist, or are not in the unit's possession. The unit should, if it knows which unit of the Department may have the records, forward the request to it.

\* \* \* \* \*

(6) In determining records responsive to a request, a unit ordinarily shall include only those records, including electronic records, within a unit's possession and control as of the date of its receipt of the request.

\* \* \* \* \*

(b) \* \* \*

(5) The head of any bureau, office, or division, or his or her superiors, are authorized to grant or deny any request for a record of that bureau, office, or division.

\* \* \* \* \*

(iv) A brief statement of the right of the requester to appeal the determination to the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the determination, and the address to which the appeal should

be sent, in accordance with § 4.8 (a) and (b).

7. Section 4.7(d)(1) is removed and paragraphs (d) (2) and (3) are redesignated as (d) (1) and (2) respectively, and the introductory text of newly redesignated (d)(1) is revised to read as follows:

**§ 4.7 Predisclosure notification procedures for confidential commercial information.**

\* \* \* \* \*

(d) \* \* \*

(1) The unit shall provide a submitter with notice of a request whenever:

\* \* \* \* \*

8. In § 4.8, in paragraph (a) add a sentence after the first sentence, and in paragraph (b) remove "5882" and add in its place, "H5876", to read as follows:

**§ 4.8 Appeals from initial determinations or untimely delays.**

(a) \* \* \* For purposes of this section, an appeal will be considered submitted as of the date of the postmark or proof of receipt by a private carrier or, if not mailed or entrusted to a private carrier, the date of actual receipt by the Office of General Counsel. \* \* \*

**§ 4.9 [Amended]**

9. In § 4.9(b)(2)(iii)(A) remove "\$.07" and add, in its place, "\$.15".

10. Section 4.9 is further amended by removing the introductory paragraph of (d)(2), redesignating (d)(2)(i), (d)(2)(ii), and (d)(3) through (d)(7) as (d)(2) through (d)(8) respectively, and revising the newly designated (d)(2) and (d)(4), to read as follows:

**§ 4.9 Fees.**

\* \* \* \* \*

(d) \* \* \*

(2) When the estimated charges for processing a request under this part exceed \$250, the Department may require the requester to make an advance payment of an amount up to the entire estimated charges before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester with a history of timely payment of FOIA fees (i.e., payment within 30 days of the date of the billing).

\* \* \* \* \*

(4) Whenever the Department acts pursuant to paragraphs (d)(2) or (d)(3) of this section, the administrative time limits prescribed in 5 U.S.C. 552(a)(6) will begin only after the agency has received payment of the required fee.

**Appendix A of Part 4—[Amended]**

11. Appendix A of Part 4 is amended by removing the final sentence of Sec.

5.04b of DAO 205-12, ("In addition, the Director of the Office of Public Affairs or his or her designee shall be informed before any decision on an appeal from an initial denial is issued.")

12. Appendix B of part 4 is revised to read:

**Appendix B—Freedom of Information; Public Facilities and Addresses for Requests for Records**

The public reference facilities listed below have been established within the Department of Commerce for (a) Public inspection and copying of materials from various units within the Department under 5 U.S.C. 552(a)(2), or determined to be available for response to requests made under 5 U.S.C. 552(a)(3); (b) furnishing information and otherwise assisting the public concerning Department operations under the Freedom of Information Act; and (c) receipt and processing of requests for records under 5 U.S.C. 552(a)(3).

Unless otherwise noted, each address listed below is the respective unit's public inspection facility and mailing address for receipt and processing of requests for records under 5 U.S.C. 552(a)(3), as described in the preceding paragraph. Requests should be addressed to the unit which the requester knows or has reason to believe has possession, control, or primary concern with the records sought. Otherwise, requests should be addressed to the Central Reference and Records Inspection Facility.

(1) Department of Commerce Freedom of Information Central Reference and Records Inspection Facility, U.S. Department of Commerce, room H6020, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482-4115. This facility serves the Office of the Secretary, all other units of the Department not identified below, and those units identified below which do not have separate public inspection facilities, in accordance with 15 CFR 4.4(c).

(2) Bureau of the Census, Program and Policy Development Office, U.S. Department of Commerce, room 2430, Federal Building 3, Washington, DC 20233. Phone (301) 457-2520. This agency maintains a separate public inspection facility in room 2455, Federal Building 3, Suitland, Maryland.

(3) Bureau of Economic Analysis/Economics and Statistics Administration, Public Reference Facility, U.S. Department of Commerce, room H4836, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482-3308. This unit does not maintain a separate public inspection facility.

(4) Economic Development Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H7001, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482-3687. Mailing addresses of Regional EDA offices:

(i) Philadelphia Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Curtis Center, Suite 140 South, Independence Square West, Philadelphia, Pennsylvania 19106.

(ii) Atlanta Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 401 West Peachtree Street, NW, Suite 1820, Atlanta, GA 30308.

(iii) Denver Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, room 670, 1244 Speer Boulevard, Denver, Colorado 80204.

(iv) Chicago Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 111 North Canal Street, Suite 855, Chicago, IL 60606.

(v) Seattle Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Jackson Federal Building, room 1856, 915 Second Avenue, Seattle WA 98174.

(vi) Austin Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Grant Building, Suite 201, 611 East 6th Street, Austin, Texas 78701.

(5) Bureau of Export Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H4525, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482-5653.

(6) International Trade Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H4001, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Phone (202) 482-3756.

(7) Minority Business Development Agency, Freedom of Information Office, U.S. Department of Commerce, room H5706, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482-2025. This unit does not maintain a separate public inspection facility.

(8) National Institute of Standards and Technology, Freedom of Information Request Control Desk, Administration Building, room A-1105, Gaithersburg, Maryland 20899. Phone (301) 975-2389. This agency maintains a separate public inspection facility in room E-106, Administration Building, Gaithersburg, Maryland.

(9) National Oceanic and Atmospheric Administration, Public Reference Facility, room 714 WSC-5, 6010 Executive Boulevard, Rockville, Maryland 20852. Phone (301) 413-0610.

(10) National Technical Information Service, Freedom of Information room 203, Forbes Building, 5285 Port Royal Road, Springfield, Virginia 22161. Phone (703) 487-4736. This unit does not maintain a separate public inspection facility.

(11) National Telecommunications and Information Administration, Freedom of Information Request Control Desk, U.S. Department of Commerce, room H4713, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482-1816. This unit maintains a separate public inspection facility in room H1609.

(12) Patent and Trademark Office, Freedom of Information Request Control Desk, Box 8, Washington, DC 20231. Phone (703) 305-9035. This agency maintains a separate public inspection facility in the Public Search Room, room 1A01, Crystal Plaza 3,

2021 Jefferson Davis Highway, Arlington, Virginia.

(13) United States Travel and Tourism Administration, Freedom of Information Request Control Desk, U.S. Department of Commerce, room H1520, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482-3811."

Appendix C to Part 4—[Removed]

13. Appendix C is removed.

#### **PART 4a—CLASSIFICATION, DECLASSIFICATION, AND PUBLIC AVAILABILITY OF NATIONAL SECURITY INFORMATION**

14. The authority citation for part 4a continues to read as follows:

Authority: Sec. 5.3(b), E.O. 12356; 47 FR 14874, April 6, 1982; 47 FR 15557, April 12, 1982.

#### **§ 4a.8 [Amended]**

15. In § 4a.8(b)(4), remove the words, "All denials of information under the Freedom of Information Act must be approved by the Office of the Assistant General Counsel for Administration."

16. In § 4a.9 remove paragraphs (e)(2) and (e)(3), redesignate paragraph (e)(4) as (e)(2), and revise paragraph (f) to read as follows:

#### **§ 4a.9 Request under the Privacy Act and the Freedom of Information Act involving classified records.**

\* \* \* \* \*

(f) Receipt of an appeal for reconsideration of denial of a classified record under PA/FOIA: Appeals under this section shall be addressed to the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial. The Assistant General Counsel for Administration or the General Counsel shall refer the record(s) to the Director, Office of Security, for a declassification review. The Director may overrule previous determinations in whole or in part when, in his or her judgment, continued protection in the interest of national security is no longer required. If the information under review no longer requires classification, it shall be declassified. The Director shall inform the official by whom the referral was made of his or her decision.

#### **PART 4b—PRIVACY ACT**

17. The authority citation for part 4b continues to read as follows:

Authority: 5 U.S.C. 552a; 5 U.S.C. 553; 5 U.S.C. 552; 5 U.S.C. 301; 44 U.S.C. 3101; Reorganization Plan No. 5 of 1950.

18. Section 4b.1 is amended by revising paragraphs (d)(1) and (e) to read as follows:

#### **§ 4b.1 Purpose and scope.**

\* \* \* \* \*

(d) \* \* \*

(1) Requests for records which do not pertain to the individual making the request, or the individual about whom the request is made if the requester is the parent or guardian of the individual;

\* \* \* \* \*

(e) Any request for records which pertains to the individual making the request, or to the individual about whom the request is made if the requester is the parent or guardian of the individual, shall be processed under the Act and this part and under the Freedom of Information Act and the Department's implementing regulations (part 4 of this chapter), regardless of whether the Act or the Freedom of Information Act are mentioned in the request.

19. Section 4b.2(b)(6) is revised to read as follows:

#### **§ 4b.2 Definitions.**

\* \* \* \* \*

(b) \* \* \*

(6) The term *Privacy Officer* means the head of any bureau, office, or division, or his or her superiors. Each Privacy Officer is authorized to receive and act upon any inquiry, request for access, or request for correction or amendment pertaining to a record of his or her bureau, office, or division.

\* \* \* \* \*

#### **§ 4b.3 [Amended]**

20. In § 4b.3(f)(2), remove the words, "General Counsel," and add, in their place, "Assistant General Counsel for Administration".

#### **§ 4b.5 [Amended]**

21. In § 4b.5(a)(2), remove the words, "responsible General Counsel," and add, in their place, "Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for sending an acknowledgment".

22. In § 4b.5(g)(3)(ii), remove the words, "General Counsel" and add, in their place, "Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial".

23. In § 4b.9, paragraph (b) is revised, in paragraphs (c), (e), (h), and (i) remove the words "General Counsel" and add, in their place, "Assistant General Counsel for Administration or the General Counsel" and paragraph (g)(1) is amended by revising the third, fourth and fifth sentences to read as follows:

#### **§ 4b.9 Appeal of initial adverse agency determination on correction or amendment.**

\* \* \* \* \*

(b) An appeal shall be addressed to the Assistant General Counsel for Administration (or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial), Department of Commerce, Room 5876, Washington, DC 20230. The processing of appeals will be facilitated if the words "PRIVACY APPEAL" appear in capital letters on both the envelope and the top of the appeal papers. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified, and will be forwarded immediately to the Assistant General Counsel for Administration or General Counsel, as appropriate. An appeal which is not properly addressed by the individual will not be deemed to have been "received" for purposes of measuring the time periods in this section until actual receipt by the Assistant General Counsel for Administration or the General Counsel. In each instance when an appeal so forwarded is received, the Assistant General Counsel for Administration or the General Counsel, as appropriate, shall notify the individual that his or her appeal was improperly addressed and the date when the appeal was received at the proper address.

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \* Such a statement shall be filed with the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the final determination. It should provide the Department control number assigned to the request, indicate the date of the final determination and be signed by the individual. The Assistant General Counsel for Administration or the General Counsel shall acknowledge receipt of such statement and inform the individual of the date on which it was received;

\* \* \* \* \*

#### **§ 4b.11 [Amended]**

24. In § 4b.11(c), remove the words, "U.S. Department of Commerce" and add, in their place "Treasury of the United States".

Sonya Stewart,

*Director for Executive Budgeting and Assistance Management.*

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