



## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No. DOT-OST-2022-0117]

### Privacy Act of 1974; System of Records

**AGENCY:** Office of the Departmental Chief Information Officer, Office of the Secretary of Transportation, DOT.

**ACTION:** Notice of a new system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Department of Transportation (DOT), Federal Aviation Administration (FAA), proposes to establish a new system of records titled, “DOT/FAA 856 Airmen Medical Records.” 14 Code of Federal Regulations (CFR) 61.23 Medical Certificates: Requirement and Duration specify operations requiring medical certificates. Collectively, for the purposes of this system of records notice, individuals required to obtain medical certificates are referred to as applicants. This Notice covers records maintained for the required airmen medical certification process which is initiated by the airman medical certificate application. In addition to the initial medical records obtained at time of certification, FAA also maintains information on post-certification medical changes including failed drug and substance abuse testing results that could disqualify certificated airmen. Finally, this system of records supports regulatory enforcement activities and other legal actions, such as denial of medical certifications, so records including, but not limited to, pre-decisional notes in airmen medical files, are exempted from certain access and disclosure requirements of the Privacy Act of 1974.

**DATES:** Submit comments on or before [INSERT DATE 30 DAYS FROM THE PUBLICATION DATE IN THE FEDERAL REGISTER]. The Department may publish an amended systems of records notice considering any comments received. This new system will be

effective immediately upon publication. The routine uses will be effective [INSERT DATE 30 DAYS FROM THE PUBLICATION DATE IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by docket number 2022-0117 by any of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE. West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493-2251.

*Instructions:* You must include the agency name and docket number DOT-OST-2022-0117. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** For questions, please contact: Karyn Gorman, Departmental Chief Privacy Officer, Privacy Office, Department of Transportation, Washington, DC 20590; [privacy@dot.gov](mailto:privacy@dot.gov); or 202-366-3140.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DOT/FAA proposes to issue a new system of records notice titled, DOT/FAA 856 “Airmen Medical Records” (hereafter referred to as “Notice”).

#### *Airmen Medical Certification Process*

Records maintained in this system of records were previously covered under DOT/FAA 847, Aviation Records on Individuals (75 FR 68849 – November 9, 2010). To provide the public with greater transparency and accountability to its business processes and data collection, FAA created this new Notice to more precisely consolidate records with similar purpose, authorities, categories of individuals, sources of information, and retention timeframes. This system of records covers all facets of the medical clearance process for airmen and non-FAA Air Traffic Control Specialists (ATCSs) with privileges under specific certifications. This Notice solely covers airmen and non-FAA ATCSs as FAA ATCSs’ medical clearances are covered under the Office of Personnel Management (OPM)/Government (GOVT)-10 Employee Medical File System Records SORN (80 FR 74815 - November 30, 2015).

The airmen medical certification process includes applicants for medical certificates, FAA Office of Aerospace Medicine (AAM) employees and contractors, and Aviation Medical Examiners (AMEs). Applicants consist of airmen and ATCSs who electronically submit the airman medical certificate application to apply for FAA medical certification. Applicants then select AMEs who are private physicians designated by FAA to conduct medical examinations. These AMEs review applicants’ medical history and complete the requisite physical examinations. The examination results are integrated into the airman medical certificate application. Any issues or concerns regarding the medical examinations are directed by AMEs to FAA AAM employees to resolve. The employees also perform duties such as processing completed medical applications and issuing medical certificates. When requested by applicants

or FAA AAM, external medical consultants, clinics and hospitals conduct certain testing, such as psychological or cardiac evaluations, and submit their medical findings to FAA AAM for inclusion in the airmen files.

This system of records covers airmen medical records associated with the required medical certification process and includes airman medical history, physical examinations, various specialized medical exams, such as psychiatric and/or psychological testing, vision and hearing exams, cardiology reports, and diagnostic laboratory testing and imaging studies. Other records in the airmen medical file include items such as substance abuse violations committed by certificated airmen. These types of records are obtained through DOT employer requirements and through the National Drivers' Registry and are used to help determine whether or not the airman is eligible to hold an airman medical certificate. Additional medical records are provided by external physicians, hospitals and other clinicians, if there are changes to the airman's medical history, for review in case this negatively impacts the medical certificate holder. Pathological and toxicological records resulting from aviation mishaps involving medical certificate holders are also incorporated into the airman's file. Records that support FAA legal actions (i.e., revocation of medical certifications), such as pre-decisional notes in airmen medical files that are incorporated into investigatory files, are exempted from certain access and disclosure requirements of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2).

DOT has included both system specific and departmental general routine uses, as they align with the purpose of this system of records to support decision-making and regulatory enforcement activities related to medical certification of airmen. As recognized by the Office of Management and Budget (OMB) in its Privacy Act Implementation Guidance and Responsibilities (65 FR 19746 (July 9, 1975)), the routine uses include proper and necessary uses of information in the system, even if such uses occur infrequently. The system specific routine uses include the following:

1. Sharing of information with the National Transportation Safety Board (NTSB) for purposes of investigating accidents and incidents involving certificated airmen;
2. Sharing with the general public information relating to an individual's eligibility for medical certification, requests for exemptions from medical requirements, and requests for review of certificate denials;
3. Sharing personal information of airmen with other federal agencies for the purpose of verifying the accuracy and completeness of medical information provided to FAA;
4. Sharing past medical certification history with AMEs, so they may render the best medical certification decision regarding airmen;
5. Providing information about airmen to Federal, State, local and Tribal law enforcement agencies when engaged in an official investigation in which an airman is involved;
6. Sharing records of an individual's positive drug test result, alcohol test result of 0.04 or greater breath alcohol concentration, or refusal to submit to testing required under a DOT-required testing program, available to third parties, including employers and prospective employers of such individuals. Such records will also contain the names and titles of individuals who, in their commercial capacity, administer the drug and alcohol testing programs of aviation entities; and
7. Providing information about airmen to Federal, State, local, and Tribal law enforcement, national security or homeland security agencies whenever such agencies are engaged in the performance of threat assessments affecting the safety of transportation or national security.

### **Privacy Act**

The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A "System of Records" is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the Federal Register a System of Records Notice (SORN) identifying and describing each System of Records the agency maintains, including the

purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (*e.g.*, to determine if the system contains information about them and to contest inaccurate information). In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

**SYSTEM NAME AND NUMBER:**

DOT/FAA 856 Airmen Medical Records

**SECURITY CLASSIFICATION:**

Sensitive, unclassified

**SYSTEM LOCATION:**

Federal Aviation Administration, Office of Information Technology, Enterprise Data Center (AIT-EDC), Mike Monroney Aeronautical Center, 6500 S. MacArthur Blvd, Oklahoma City, OK 73169. Federal Aviation Administration, Office of Information Technology, Enterprise Data Center (AIT-EDC), William J. Hughes Technical Center, Atlantic City, NJ 08405.

**SYSTEM MANAGER(S):**

Manager, Aerospace Medical Certification Division, AAM-300, Federal Aviation Administration, Civil Aerospace Medical Institute, 6500 S. MacArthur Blvd, Oklahoma City, OK 73169; (405) 954-4821.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

49 U.S.C. 40101, 40113, 44701 and 44703.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of the system is to facilitate the medical fitness decision-making process for medical certifications and to support regulatory enforcement activities as it relates to medical certification.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and previous applicants for medical certificates.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Categories of records maintained in this system consist of applicant personal records which include the following: names; social security number (full or pseudo-SSN); address; phone number; email address; date of birth; citizenship; physical characteristics (eye color, hair color, height and weight); gender; employer; arrests, convictions and/or administrative history (with explanations), and authorization to National Driver Register (NDR) to provide FAA with driving record results. Applicant medical history and examination records consist of names of prescriptions, near vision contacts (Y/N), medical history (check boxes for applicable conditions), healthcare professionals visited (name, address, type of professional, reason), medical examination findings and notes, hearing, vision, blood pressure, pulse, urine test results, electrocardiogram, other tests given, comments on medical history and findings, and statement of demonstrated ability (SODA) serial number. Health professional records consist of name and contact information (address and phone number), and AME serial number in the case of AMEs. Other medical records may include substance abuse test results or refusals to submit to testing, pathological and toxicological records (if applicable), unique identifiers/reference numbers, such as pathology index (PI), certificate number, applicant identification number (ID), medical identification number (MID), and federal tracking number (FTN). Finally, FAA employee information consists of name and examiner designation number.

**RECORD SOURCE CATEGORIES:**

Information is collected directly from the applicants and AMEs, FAA employees, and when authorized by the applicants, from external sources, such as the NDR, hospitals and physicians/clinicians.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to other disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside of DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

**System Specific Routine Use:**

1. To the National Transportation Safety Board (NTSB) , entire records related to the medical suitability of specific airmen for purposes of aircraft investigation responsibilities and regulatory enforcement activities as it relates to medical certification.
2. To the general public, upon request, records such as information relating to an individual's physical status or condition used to determine statistically the validity of FAA medical standards; and information relating to an individual's eligibility for medical certification, requests for exemptions from medical requirements, and requests for review of certificate denials.
3. To other federal agencies, personally identifiable information about airmen for the purpose of verifying the accuracy and completeness of medical information provided to FAA in connection with applications for airmen medical certification.
4. To Aviation Medical Examiners (AMEs), past airmen medical certification history data on a routine basis so that AMEs may render the best medical certification decision.
5. To Federal, State, local and Tribal law enforcement agencies, information about airmen when engaged in an official investigation in which an airman is involved;

6. To third parties, including employers and prospective employers of such individuals, records of an individual's positive drug test result, alcohol test result of 0.04 or greater breath alcohol concentration, or refusal to submit to testing required under a DOT-required testing program. Such records will also contain the names and titles of individuals who, in their commercial capacity, administer the drug and alcohol testing programs of aviation entities; and
7. To Federal, State, local, and Tribal law enforcement, national security or homeland security agencies, information about airmen whenever such agencies are engaged in the performance of threat assessments affecting the safety of transportation or national security.

**Departmental Routine Uses:**

8. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DOT decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.
10. A record from this system of records may be disclosed, as a routine use, to a Federal

agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

11a. Routine Use for Disclosure for Use in Litigation. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

11b. Routine Use for Agency Disclosure in Other Proceedings. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof in his/her official capacity, or (c) Any employee of DOT or any agency thereof in his/her individual capacity where DOT has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding, provided,

however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

12. The information contained in this system of records will be disclosed to the Office of Management and Budget, OMB in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
13. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).
14. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.
15. Routine Use for disclosure to the Coast Guard and to Transportation Security Administration. A record from this system of records may be disclosed as a routine use to the Coast Guard and to the Transportation Security Administration if information from this system was shared with either agency when that agency was a component of the Department of Transportation before its transfer to the Department of Homeland Security and such disclosure is necessary to accomplish a DOT, TSA or Coast Guard function related to this system of records.

16. DOT may make available to another agency or instrumentality of any government jurisdiction, including State and local governments, listings of names from any system of records in DOT for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims, regardless of the stated purpose for the collection of the information in the system of records. These enforcement activities are generally referred to as matching programs because two lists of names are checked for match using automated assistance. This routine use is advisory in nature and does not offer unrestricted access to systems of records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using Instructions on reporting computer matching programs to the Office of Management and Budget, OMB, Congress, and the public, published by the Director, OMB, dated September 20, 1989.
17. It shall be a routine use of the information in any DOT system of records to provide to the Attorney General of the United States, or his/her designee, information indicating that a person meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by DOT to the Attorney General, or his/her designee, it shall be a routine use of the information in any DOT system of records to make any disclosures of such information to the National Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.
- 18a. To appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records; (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is

reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

- 18b. To another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
19. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (a) resolving disputes between FOIA requesters and Federal agencies and (b) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.
20. DOT may disclose records from this system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.
21. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under section (b)(1) of the Privacy Act.
22. DOT may disclose from this system, as a routine use, records consisting of, or relating to, terrorism information (6 U.S.C. 485(a)(5)), homeland security information (6 U.S.C. 482(f)(1)), or law enforcement information (Guideline 2 Report attached to White House Memorandum, "Information Sharing Environment, November 22, 2006) to a Federal, State, local, tribal, territorial, foreign government and/or multinational agency, either in

response to its request or upon the initiative of the Component, for purposes of sharing such information as is necessary and relevant for the agencies to detect, prevent, disrupt, preempt, and mitigate the effects of terrorist activities against the territory, people, and interests of the United States of America, as contemplated by the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108-458) and Executive Order 13388 (October 25, 2005).

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records in this system of records are stored in hard copy format in a secure facility and in an electronic database system.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Applicant medical records in this system are primarily retrieved by name, SSN, and unique identifiers/reference numbers, such as PI, MID, FTN, applicant ID, and certificate number.

**POLICIES AND PRACTICE FOR RETENTION AND DISPOSAL OF RECORDS:**

A new National Archives and Records Administration (NARA) records schedule requesting 100-year retention for airmen medical certification records is being developed. The FAA will treat these records as permanent records until it receives an approval of record disposition authority from NARA. Any previous schedules attributed to this record type are superseded.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RECORD ACCESS PROCEDURES:**

Individuals seeking notification of whether this system of records contains information about them may contact the System Manager at the address provided in the section “System Manager.” When seeking records about yourself from this system of records or any other Departmental system of records your request must conform to the Privacy Act regulations set forth in 49 CFR part 10. You must sign your request and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

**CONTESTING RECORD PROCEDURE:**

See “Record Access Procedures” above.

**NOTIFICATION PROCEDURE:**

See “Record Access Procedures” above.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

Records that support FAA legal actions (i.e., revocation of medical certifications), such as pre-decisional notes in airmen medical files that are incorporated into investigatory files, are exempted from certain access and disclosure requirements of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2).

**HISTORY:** None.

**Issued in Washington, DC.**

**Karyn Gorman,**

*Departmental Chief Privacy Officer.*

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