



Office of the Secretary

[Docket No. DOT- OST 2023-0067]

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) proposes to establish a new system of records (hereafter referred to as “Notice”) titled, “Department of Transportation, Federal Aviation Administration DOT/FAA 857 Accidents, Incidents and Investigations.” This system of records supports the FAA’s mission of aviation safety by investigating and sharing accident and incident information with stakeholders, including the National Transportation Safety Board (NTSB). The information maintained in this system includes several kinds of records such as toxicology reports, autopsy reports, incident and accident reports (including small Unmanned Aircraft System (small UAS) accident reports), maintenance records, responses to regulatory and statutory non-compliance determinations, data request logs, medical case reviews, and other records that support FAA accidents, incidents and investigations. Other information included are toxicology records regarding investigations of accidents or incidents for other modes of transportation and special requests from transportation entities from foreign governments.

DATES: Submit comments on or before [*INSERT DATE 30 DAYS AFTER THE DATE OF 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 AFTER DATE OF PUBLICATION DATE IN THE FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by docket number DOT-OST-2023-0067

by any of the following methods:

- *Federal e-Rulemaking Portal:* <https://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-2023-0067. All comments received will be posted without change to <https://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 [https:// www.regulations.gov](https://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; or 202-366-3140.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DOT proposes to issue a new system of records notice titled, “DOT/FAA 857 Accidents, Incidents and Investigations.”

Records covered by this Notice 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 group records more precisely and consolidate records with similar purposes, authorities, categories of individuals, categories of records, records sources, and retention timeframes. This system of records covers all facets of aviation accidents, incidents and other accidents or incidents-related investigations with stakeholders.

Accidents and Incidents Investigations

An accident is an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and until such time as all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage. Incidents are events that do not meet aircraft damage or personal injury thresholds contained in the National Transportation Safety Board (NTSB). When a civil aviation accident or incident occurs, the FAA conducts an investigation at the site of the accident or incident. Information collected by the FAA during the investigation is entered into FAA Form 8020-23, FAA Accident/Incident Report, and that information is exchanged as needed with FAA systems in order to determine if a particular airman was involved in a prior accident or incident, to further investigate aircraft parts safety and provide analysis to address safety issues regarding aircraft. Concurrently, the FAA provides a specimen collection kit to a medical examiner or coroner to collect autopsy specimen(s) from deceased airmen or non-airmen involved in the accident or incident. The medical examiner or coroner sends the collected autopsy specimens or samples to AAM-610 for them to perform a toxicological analysis. In addition, the FAA occasionally performs toxicology studies on living individuals to be tested directly by the FAA. Also, the FAA also has authority to conduct accident and incident investigations pertaining to commercial space. While most records related to commercial space investigations pertain to business entities rather than individuals, the FAA could perform toxicology studies on individuals involved in commercial space accidents or

incidents. Finally, at times, the NTSB or other foreign or domestic government entities provide the FAA samples from individuals involved in aviation or non-aviation transportation accidents or incidents. The toxicological analysis determines the presences of toxic gases, alcohol, and/or drugs in fluids and tissues of individuals involved in the accident or incident, and FAA uses the results of the toxicological analysis to make a determination of medical factors involved in the accident or incident. Or, if the toxicology analysis was performed on behalf of another entity, the FAA provides the toxicology results and other information pertaining to the toxicology analysis to the requesting entity. With respect to aviation accidents, the NTSB is responsible for conducting investigation to determine the probable cause of transportation accidents or incidents. This Notice does not cover the NTSB investigation.

This system of records covers certificated airmen, including remote pilots in command (remote PICs), non-certified individuals and non-airmen. Certificated airmen may include certain designees, check airmen, pilots, mechanics, and remote pilots. Remote PICs are those who operate small UAS and are subject to accident reporting required under 14 CFR part 107. Non-certified individuals may include individuals who may have been in control of the aircraft at the time of the accident. Non-airmen may include individuals involved in transportation accidents or incidents involving other modes of transportation, including commercial space.

The system of records maintains records such as toxicology reports, autopsy reports, accident and incident reports (including small UAS accident reports required under 14 CFR part 107), aircraft maintenance records, engineering analyses, responses to regulatory and statutory non-compliance determinations, data request logs, medical case reviews, witness statements, and other records that support FAA accidents, incidents and investigations.

This system maintains records about individuals which may include: names, dates of birth, social security number, driver license number, contact information (email address, phone number, home/business address), accident location (city/state/zip code), small UAS accident report reference number, small UAS Registration Service (sUASRS) registration number,

airman/remote pilot certificate number, NTSB investigation number, federal tracking number (FTN), and medical examiner case number. Records created or compiled for investigative purposes are exempted from certain access and disclosure requirements of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2)¹.

DOT has included both system specific and departmental general routine uses, as they align with the purpose of this system of records to support the FAA's mission of aviation safety. 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. To users of FAA's Skywatch system, including the Department of Defense (DoD), the Department of Homeland Security (DHS), the Department of Justice (DOJ) and other authorized government users, information on airman, aircraft and operator records available for their use in managing, tracking and reporting aviation-related security events.
2. To the NTSB investigators and medical officers who use the data in their efforts to determine the cause of transportation accidents and incidents.
3. To Medical Examiners or Coroners who use FAA toxicology results in their medical examiner's report.
4. To Federal, State, local and Tribal law enforcement and security agencies, information about airmen, when engaged in an official investigation or security threat assessment in which airmen are involved, or which affect the safety of transportation or national security.
5. To Federal, State, local, Tribal, and foreign government agencies who use toxicology services provided by the FAA, information pertaining to the toxicology study requested by the agency.

¹ eCFR: 43 CFR part 2 subpart K -- Privacy Act.

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:

Department of Transportation (DOT)/Federal Aviation Administration (FAA) 857
Accidents, Incidents and Investigations.

SECURITY CLASSIFICATION:

Sensitive, unclassified

SYSTEM LOCATION:

- (1) Toxicology/Autopsy records: Civil Aerospace Medical Institute, Mike Monroney
Aeronautical Center, 6500 S. MacArthur Blvd., Oklahoma City, Oklahoma 73169;
- (2) Air Traffic Organization Application Portal (AAP) records: William J. Hughes
Technical Center in Atlantic City, New Jersey;
- (3) Accident/Incident records: Airmen Records Building, Enterprise Data Center, Mike
Monroney Aeronautical Center, 6500 S. MacArthur, Oklahoma City, Oklahoma 73169;
- (4) Small UAS records: Amazon Web Services US East/West Public Cloud;

(5) Future Flight Services Program: 43881 Devin Shafron Drive Suite 150 Ashburn, VA 20147 and 5300 Alliance Gateway Freeway Suite 500 Fort Worth, TX 76177; and

(6) Operational and Supportability Implementation System: Twenty-five sites that include: FAA Support Facilities Washington, DC 20024 and Anchorage, AK, Flight Service Stations (FSSs) various locations, Second Level Support Facilities Egg Harbor Township, NJ 08405 and Oklahoma City, OK 73169 and Vendor Support Facilities, Melbourne FL 32902.

SYSTEM MANAGER(S):

(1) Toxicology/Autopsy records: Manager, Office of Aerospace Medicine (AAM)-610, Bioaeronautical Sciences Research Branch, Mike Monroney Aeronautical Center, 6500 S. MacArthur Blvd, Oklahoma City, OK 73169. Contact information for system manager is 9-AVS-AAM612-kmrt-service@faa.gov.

(2) Air Traffic Organization Application Portal (AAP) records: William J. Hughes Technical Center in Atlantic City, New Jersey. Contact information for system manager is available at https://www.faa.gov/about/office_org/field_offices/fsdo/.

(3) Accident/Incident records: Manager, Enterprise Data Center, Airmen Records Building, Mike Monroney Aeronautical Center, 6500 S. MacArthur Blvd, Oklahoma City, OK 73169, contact information for system manager is available at https://www.faa.gov/about/office_org/field_offices/fsdo/.

(4) Small UAS records: Manager, Amazon Web Services US East/West Public Cloud. Contact information for system manager is UAShelp@faa.gov.

(5) Future Flight Services Program: Manager, AJR-B2 In-Service Manager, 950 L'Enfant Plaza SW Washington, DC 20024. Contact information for system manager is 202-267-6447.

(6) Operational and Supportability Implementation System: Manager, AJR-B2 In-Service Manager, 950 L'Enfant Plaza SW Washington, DC 20024. Contact information for system manager is 202-267-6447.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 40101, 40113, 44701, 44703, 45101–106, 51 U.S.C. 50917.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to support the FAA's mission of aviation safety by collecting, maintaining and sharing information related to aviation accidents, incidents and other investigations with stakeholders in order to facilitate risk-based decision making to reduce accidents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on certificated airmen including remote PICs; non-certificated individuals; and non-airmen involved in transportation incidents and/or accidents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system consist of reports specific to aviation accidents and incidents; other transportation-related accidents and incidents; and small UAS accidents which includes the following: names; dates of birth; social security number; driver license number; airmen certification number; contact information (email address, phone numbers, and home/business address); aircraft registration number; aircraft tail number; calls sign; sUASRS registration number; unique accident report reference number; locations of accident (including but not limited to city, state, and zip code); certificate/license issue; rating types; dates and types of pilot training received in the last 24 months; dates hired (air carrier only); airman medical history (airman medical information, airman medications, and airman self-reported pathologies); NTSB investigation number; FTN; case tracking number (including NTSB identity numbers); medical examiner case number; medical information of individuals (contained in autopsy, hospital, or toxicology reports); photos of accident scenes; witness statements; physical

specimens/remains (received in toxicology kits); medical findings from reports; medical certification examinations and medical examiner (license or certification) numbers.

RECORD SOURCE CATEGORIES:

Sources of records include: certificated airmen including remote PICs; non-certificated individuals; non-airmen; small UAS operators; crew members; passengers; persons on the ground and witnesses; FAA employees and contractors; first responders; Federal/State/local/Tribal law enforcement officials; NTSB employees; and medical professionals (including pathologists, medical examiners, physicians and laboratory specialists).

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

In addition to those disclosures generally permitted 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 FAA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

System Specific Routine Uses:

1. To users of FAA's Skywatch system, including the Department of Defense (DoD), the Department of Homeland Security (DHS), the Department of Justice (DOJ) and other authorized government users, information on airman, aircraft and operator records available for their use in managing, tracking and reporting aviation-related security events.
2. To the NTSB investigators and NTSB medical officers who use the data in their efforts to determine the cause of transportation accidents and incidents.
3. To Medical Examiners or Coroners who use FAA toxicology results in their medical examiner's report.
4. To Federal, State, local and Tribal law enforcement and security agencies, information about airmen, when engaged in an official investigation or security threat assessment in which airmen are involved, or which affect the safety of transportation or national

security.

5. To Federal, State, local, Tribal, and foreign government agencies who use toxicology services provided by the FAA, information pertaining to the toxicology study requested by the agency.

Departmental Routine Uses:

6. 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.
7. 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.
8. 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.
- 9a. 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.

9b. 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.

10. 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.

11. 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).
12. 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.
13. 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.
14. 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.

15a. 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.

15b. 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.

16. 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.

17. 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.

18. 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.
19. 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 are stored in a hard copy format and electronically in databases.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are primarily retrieved by personal identifiers, such as names, social security number, airman/remote pilot certificate number, driver license number, FTN, case number, reference number or accident/incident location.

POLICIES AND PRACTICE FOR RETENTION AND DISPOSAL OF RECORDS:

The FAA has developed new records retention and disposition schedules for Accident and Incident Investigation Reports and UAS Accident Reporting. The new records retention and disposition schedules are pending approval of National Archives and Records Administration, and FAA will maintain the records indefinitely until NARA's approval. FAA is proposing to maintain the Accident and Incident Investigation Report records until pilot is deceased or has reached 99 years of age. UAS Accident Reporting records will be destroyed 3 years after a case is completed and closed.

For Toxicology Reports and Autopsy Records, the FAA is developing a new records retention schedule. The proposed schedule will include hard copy file destruction 5 years after cut off with all electronic file destruction 50 years after cut off. These electronic toxicology records must be maintained for 50 years so that the FAA can conduct research and trend analysis studies. All records will be maintained indefinitely until NARA approves the new retention schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT FAA 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 the computer system containing the records in this system is limited to 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 RECORDS PROCEDURES:

“Record Access Procedures” above.

NOTIFICATION PROCEDURES:

See “Record Access Procedures” above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Records created or compiled for investigatory purposes are exempted from certain access and disclosure requirements of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2).²

HISTORY:

None.

Issued in Washington, DC.

Karyn Gorman,

Departmental Chief Privacy Officer

[FR Doc. 2023-23421 Filed: 10/23/2023 8:45 am; Publication Date: 10/24/2023]

² eCFR: 43 CFR part 2 subpart K -- Privacy Act.