

(S E R V E D)
(February 8, 1988)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

46 CFR Part 503

[Docket No. 87-23]

ACCESS TO ANY RECORD OF IDENTIFIABLE PERSONAL INFORMATION

AGENCY: Federal Maritime Commission

ACTION: Final Rule

SUMMARY: The Federal Maritime Commission is amending its Privacy Act regulations to adopt exemptions from disclosure requirements in regard to information about individuals which is included in certain investigatory materials.

DATE: Effective 30 days from date of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Secretary
Federal Maritime Commission
1100 L Street, N.W.
Washington, D.C. 20573
(202) 523-5725

SUPPLEMENTARY INFORMATION:

The Federal Maritime Commission ("Commission") by notice published December 2, 1987 (52 FR 45835) proposed to amend its regulations implementing the Privacy Act ("Act"), 5 U.S.C. 552a. The proposed amendment would promulgate an exemption under subsections (k)(2) and (5) of the Act for various systems of records^{*/} within the agency. The exemption would apply to those systems of records which include either investigatory material compiled for law enforcement purposes or investigatory material compiled for the purpose of determining suitability for Federal civilian employment or for access to classified information, but, in regard to the latter, only to the extent disclosure would reveal the identity of a confidential source. The thrust of the exemption is that the provisions of subsections (c)(3) and (d) of the Act, requiring an accounting of disclosures and access to records for an individual about whom the records pertain, would not routinely apply in regard to these classes of investigatory records. The exemption is appropriate in regard to law enforcement records to avoid compromise of ongoing investigations, revelation of the identity of confidential sources, or invasion of personal privacy of third parties. The exemption is appropriate in regard to personnel related investigatory records to protect confidential sources.

^{*/} The Commission recently published an updated notice of the existence and character of the agency's systems of records (52 FR 10802; April 3, 1987).

No comments were received in response to the notice of proposed rulemaking. Accordingly, the Commission has determined to adopt the proposed rule as final, without change.

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981.

The Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

Therefore, pursuant to 5 U.S.C. 552a(k) and 553, Part 503 of Title 46, Code of Federal Regulations is amended as follows:

1. The Authority Citation for Part 503 continues to read as follows:

AUTHORITY: 5 U.S.C. 552, 552a, 552b, 553; E.O. 12356, 47 FR 14874, 15557, 3 CFR 1982 Comp., p. 167.

2. Section 503.68 is revised to read as follows:

§ 503.68 Exemptions

The following systems of records are exempt from the provisions of 5 U.S.C. 552a(c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosures and access to and opportunity to amend the records. The scope of the exemptions and the reasons therefor are described for each particular system of records.

(a) FMC--1 Personnel Security File. All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5), regarding suitability, eligibility or qualifications for Federal

civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality. Exemption from disclosure is required to honor promises of confidentiality.

(b) FMC--7 Licensed Ocean Freight Forwarders File. All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(c) FMC--22 Investigatory Files. All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(d) FMC--24 Informal Inquiries and Complaint Files. All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(e) FMC--25 Inspector General File.

(1) All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(2) All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5), regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality. Exemption from disclosure is required to honor promises of confidentiality.

(f) FMC--26 Administrative Grievance File.

(1) All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

(2) All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5), regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality.

Exemption from disclosure is required to honor promises of confidentiality.

By the Commission.

Joseph C. Polking
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Secretary