

SUMMARY: In 2001, this agency published a request for comments seeking information on the causes and potential safety risks associated with headlamp glare. After receiving and reviewing more than 5,000 public comments, the agency has identified five separate issues that may become the subject of rulemaking in the future. However, before the agency considers whether to initiate rulemaking, it plans to conduct evaluations and research in a number of areas. Accordingly, the agency is terminating public proceedings on this subject by withdrawing the request for comments. The agency will continue to study the issue of glare and headlamp performance, including any new information submitted by the public.

FOR FURTHER INFORMATION CONTACT: The following persons at the NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

For non-legal issues, you may call Mr. Richard Van Iderstine, Office of Crash Avoidance Standards (telephone: 202-366-2720) (fax: 202-366-7002).

For legal issues, you may call Mr. Eric Stas, Office of Chief Counsel (Telephone: 202-366-2992) (Fax: 202-366-3820).

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*, establishes performance requirements for lighting-related equipment on new motor vehicles, as well as their location. The standard also covers replacement lighting equipment. The present version of FMVSS No. 108 sets minimum and maximum headlamp intensities to ensure that the driver of the vehicle sees as much of the roadway as possible, while minimizing the glare for other drivers using the road.

In response to over 200 consumer complaints of headlamp glare, NHTSA published a request for comments on September 28, 2001, on the issue of glare from headlamps (*see* 66 FR 49594; *see also* 66 FR 59769 (November 30, 2001) (notice reopening comment period)). Some of the questions in the request for comments addressed auxiliary forward illumination devices, high-mounted headlamps, glare from high-intensity discharge (HID) headlamps, and light source and color issues.

As noted in the summary above, NHTSA received over 5,000 submissions pursuant to this request for comments, most of which can be classified as individual complaints from

persons concerned about the increasing incidence of nighttime glare from front-mounted lamps.¹ The commenters most frequently discussed extra headlamps, high-mounted headlamps, blue headlamps, HID headlamps, and certain other issues related to glare.

After reviewing these comments, the agency has identified five discrete issue areas related to glare that need further evaluation and may be considered for future regulatory action: (1) Auxiliary forward illumination devices; (2) headlamp mounting height; (3) headlamp light source issues; (4) HID headlamps, and (5) aiming.

NHTSA has also identified several research topics related to glare that the agency is undertaking with universities, including research to quantify the benefits of reducing glare and improving headlamp performance, human factors testing of driver reaction to various types of headlamps, the potential safety-related benefits of adaptive frontal headlighting systems, and measurement of the effects of spectral distribution, lamp size, and luminance on glare and visual performance.

II. Reason for Withdrawal

In light of the agency's plans for further evaluation and research related to glare, there will be no further public proceedings in the immediate future. We are terminating the current public proceedings by withdrawing the request for comments. We may consider initiating separate glare-related rulemakings under FMVSS No. 108 on the above-mentioned topics in the future. If we decide to do so, we will commence new public proceedings.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued: August 31, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1507

[Docket No. TSA-2004-18984, Amendment 1507-1]

RIN 1652-AA36

Privacy Act of 1974: Implementation of Exemptions; Registered Traveler Operations Files

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: TSA proposes to exempt the Registered Traveler Operations Files (DHS/TSA 015) from several provisions of the Privacy Act. Public comment is invited.

DATES: Submit comments by October 8, 2004.

ADDRESSES: You must identify the TSA docket number when you submit comments to this rulemaking, using any one of the following methods:

Comments Filed Electronically: You may submit comments through the docket Web site at <http://dms.dot.gov>. Please be aware that anyone is able to search the electronic form of all comments received into 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.). You may review the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

You also may submit comments through the Federal eRulemaking portal at <http://www.regulations.gov>.

Comments Submitted by Mail, Fax, or In Person: Address or deliver your written, signed comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001; Fax: 202-493-2251.

Reviewing Comments in the Docket: You may review the public docket containing comments in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is located on the plaza level of the NASSIF Building at the Department of Transportation address above. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

¹ See Docket No. NHTSA-2001-8885.

See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: Conrad Huygen, Privacy Act Officer, TSA Office of Information Management Programs, TSA-17, West Tower, 11th Floor, 601 S. 12th Street, Arlington, VA 22202-4220; telephone (571) 227-1954; facsimile (571) 227-2912.

SUPPLEMENTARY INFORMATION:

Comments Invited

TSA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. See **ADDRESSES** above for information on where to submit comments.

With each comment, please include your name and address, identify the docket number at the beginning of your comments, and give the reason for each comment. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. You may submit comments and material electronically, in person, or by mail as provided under **ADDRESSES**, but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in two copies, in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing.

If you want TSA to acknowledge receipt of your comments on this rulemaking, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Except for comments containing confidential information and SSI, we will file in the public docket all comments we receive, as well as a report summarizing each substantive public contact with TSA personnel concerning this rulemaking. The docket is available for public inspection before and after the comment closing date.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late to the extent practicable. We may change this rulemaking in light of the comments we receive.

Availability of Rulemaking Document

You may obtain an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket

Management System (DMS) Web page (<http://dms.dot.gov/search>);

(2) Accessing the Government Printing Office's Web page at http://www.access.gpo.gov/su_docs/aces/aces140.html; or

(3) Visiting the TSA's Law and Policy Web page at <http://www.tsa.dot.gov/public/index.jsp>.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Background

TSA plans to conduct a pilot program at a limited number of airports to test and evaluate the merits of a registered traveler program (RT), in which travelers may volunteer to undergo a limited security threat assessment in order to expedite the pre-boarding process. In the RT pilot, TSA would positively identify volunteer travelers using advanced identification technology and then conduct a security threat assessment to ensure that the volunteer does not pose a security threat. TSA believes that this process has the potential to enhance the allocation of its limited security resources on individuals who are more likely to pose a security threat. However, it is important to note that all travelers who volunteer and are deemed eligible for the RT pilot program will be required to undergo physical screening at the screening checkpoint in the selected pilot locations.

Summary of Proposed Rule

In conjunction with the establishment of a new system of records to facilitate the RT Pilot Program, Registered Traveler Operations Files (DHS/TSA 015), TSA proposes to exempt portions of the system from 5 U.S.C. 552a(c)(3) (accounting of disclosures), (d) (access to records), (e)(1) (relevancy of necessary information), (e)(4)(G), (H) and (I) (agency requirements), and (f) (agency rules) pursuant to exemptions (k)(1) and (k)(2) of the Act. These exemptions are being claimed in accordance with the Privacy Act so that the security aspects of the system may properly function and to prevent the unauthorized disclosure of classified and law enforcement information.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that TSA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no current or new information collection

requirements associated with this proposed rule.

Analysis of Regulatory Impacts

This proposal is not a "significant regulatory action" within the meaning of Executive Order 12886. 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.

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 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 aggregate, \$100 million or more in any one year the UMRA analysis is required. This proposal would not impose Federal mandates on any State, local, or tribal government or the private sector.

Executive Order 13132, Federalism

TSA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this document has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94-163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major

regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1507

Privacy, Transportation Security.

The Proposed Amendment

In consideration of the foregoing, the Transportation Security Administration proposes to amend Part 1507 of Chapter XII, Title 49 of the Code of Federal Regulations, as follows:

PART 1507 PRIVACY ACT— EXEMPTIONS

1. The authority cited for part 1507 is revised to read as follows:

Authority: 49 U.S.C. 114(l)(1), 40113, 5 U.S.C. 552a(j) and (k).

2. Section 1507.3 is revised by adding a new paragraph (i) to read as follows:

§ 1507.3 Exemptions.

* * * * *

(i) *Registered Traveler Operations Files (DHS/TSA 015)*

The purpose of this system is to pre-screen and positively identify volunteer travelers using advanced identification technologies and conduct security threat assessment to ensure that the volunteer does not pose a security threat. This system may expedite the pre-boarding process for the traveler and improve the allocation of TSA's security resources on individuals who may pose a security threat. Pursuant to exemptions (k)(1)

and (k)(2) of the Privacy Act, DHS/TSA 015 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of heightened security concerns relating to an actual or potential criminal, civil, or regulatory violation to the existence of an investigative interest on the part of the Transportation Security Administration as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to transportation security law enforcement efforts and efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the program suitability determination, which undermines the entire system.

(2) From subsection (d) (Access to Records) because access to some of the records contained in this system of records could permit the individual who is the subject of a record to impede the program suitability determination. Amendment of the records would interfere with ongoing security assessment investigations and program suitability determinations and impose an impossible administrative burden by

requiring such investigations to be continuously reinvestigated. The information contained in the system may also include classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information also could disclose security-sensitive information that could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of screening applicants for program suitability, TSA must be able to review information from a variety of sources. What information is relevant and necessary may not always be apparent until after the evaluation is completed. In the interests of transportation security, it is appropriate to include a broad range of information that may aid in determining an applicant's suitability for the RT program.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access and amendment provisions of subsection (d).

Issued in Arlington, Virginia, on August 30, 2004.

Susan T. Tracey,

Chief Administrative Officer.

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