

§ 189.5

operating schedules and are necessary for flight regularity;

(v) Concerning non-routine landings to be made by aircraft en route or about to depart;

(vi) Concerning parts or materials urgently needed to operate aircraft en route or scheduled to depart within 48 hours; or

(vii) Concerning pre-flight arrangement of air navigation services and, in the case of non-scheduled or irregular operations, operational servicing of aircraft scheduled to depart within 48 hours.

(2) Messages originated by and addressed to aircraft operating agencies or their representatives that directly bear on the efficient and economic conduct or day to day operations, if adequate non-United States communications facilities are not available and the messages concern—

(i) Matter described in paragraph (b)(1) of this section, but not meeting the time limitations described in paragraph (b)(1) of this section;

(ii) Aircraft parts, equipment, or supplies, air navigation or communications, or essential ground facilities;

(iii) Train or hotel reservations for passengers or employees;

(iv) Lost baggage or personal effects;

(v) Tickets or cargo shipments and payment therefore;

(vi) Location of passengers and cargo;

(vii) New or revised passenger or cargo rates;

(viii) Crew assignments and similar operations personnel matters taking effect within 7 days;

(ix) Post flight reports for record purposes;

(x) Publicity and special handling regarding dignitaries; or

(xi) Reservations, when originated by aircraft operating agencies to secure space required in transport aircraft.

§ 189.5 Limitation of liability.

The United States is not liable for any omission, error, or delay in transmitting or relaying, or for any failure to transmit or relay, any message accepted for transmission or relayed under this part, even if the omission, error, delay, or failure to transmit or relay is caused by the negligence of an employee of the United States.

14 CFR Ch. I (1–1–04 Edition)

PART 193—PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION

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AUTHORITY: 49 U.S.C. 106(g), 40113, 40123.

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§ 193.1 What does this part cover?

This part describes when and how the FAA protects from disclosure safety and security information that you submit voluntarily to the FAA. This part carries out 49 U.S.C. 40123, protection of voluntarily submitted information.

§ 193.3 Definitions.

Agency means each authority of the Government of the United States, whether or not the agency is within or subject to review by another agency, but does not include—

- (1) The Congress;
- (2) The courts of the United States;
- (3) The governments of the territories or possessions of the United States;
- (4) The government of the District of Columbia;
- (5) Court martial and military commissions.

De-identified means that the identity of the source of the information, and the names of persons have been removed from the information.

Disclose means to release information to a person other than another agency. Examples are disclosures under the Freedom of Information Act (5 U.S.C. 552), in rulemaking proceedings, in a

press release, or to a party to a legal action.

Information includes data, reports, source, and other information. "Information" may be used to describe the whole or a portion of a submission of information.

Summarized means that individual incidents are not specifically described, but are presented in statistical or other general form.

Voluntary means that the information was not required to be submitted as part of a mandatory program, and was not submitted as a condition of doing business with the government. "Voluntarily-provided information" does not include information submitted as part of complying with statutory, regulatory, or contractual requirements, except that information submitted as part of complying with a voluntary program under this part is considered to be voluntarily provided.

§ 193.5 How may I submit safety or security information and have it protected from disclosure?

(a) You may do so under a program under this part. The program may be developed based on your proposal, a proposal from another person, or a proposal developed by the FAA.

(b) You may be any person, including an individual, a company, or an organization.

(c) You may propose to develop a program under this part using either the notice procedure in §193.11 or the no-notice procedure in §193.13.

(d) If the FAA decides to protect the information that you propose to submit it issues an order designating the information as protected under this part.

(e) The FAA only issues an order designating information as protected if the FAA makes the findings in §193.7.

(f) The designation may be for a program in which all similar persons may participate, or for a program in which only you submit information.

(g) Even if you receive protection from disclosure under this part, this part does not establish the extent to which the FAA may or may not use the information to take enforcement action. Limits on enforcement action ap-

plicable to a program under this part will be in another policy or rule.

§ 193.7 What does it mean for the FAA to designate information as protected?

(a) *General.* When the FAA issues an order designating information as protected under this part, the FAA does not disclose the information except as provided in this part.

(b) *What findings does the FAA make before designating information as protected?* The FAA designates information as protected under this part when the FAA finds that—

(1) The information is provided voluntarily;

(2) The information is safety or security related;

(3) The disclosure of the information would inhibit the voluntary provision of that type of information;

(4) The receipt of that type of information aids in fulfilling the FAA's safety and security responsibilities; and

(5) Withholding such information from disclosure, under the circumstances provided in this part, will be consistent with the FAA's safety and security responsibilities.

(c) *How will the FAA handle requests for information under the Freedom of Information Act (FOIA)?* The FAA does not disclose information that is designated as protected under this part in response to a FOIA request.

(d) *What if the FAA obtains from another source the same information I submit?* Only information received under a program under this part is protected from disclosure under this part. Information obtained by the FAA through another means is not protected under this part.

(e) *Sharing information with other agencies.* The FAA may provide information that you have submitted under this part to other agencies with safety or security responsibilities. The agencies are subject to the requirements of 49 U.S.C. 40123 regarding nondisclosure of information. The FAA will give the information to another agency only if, for each such request, the other agency provides the FAA with adequate assurance, in writing, that—