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## GOVERNMENT ACCOUNTABILITY OFFICE

### 4 CFR Part 81

#### Public Availability of Government Accountability Office Records

**AGENCY:** Government Accountability Office.

**ACTION:** Final rule.

**SUMMARY:** This rule is a revision of portions of GAO's records rule. These revisions clarify procedures to obtain Government Accountability Office (GAO) documents. Published GAO documents such as testimonies, reports, and decisions are available to the public on GAO's Web site and also may be requested over the telephone. Their wide availability eliminates the need for regulations governing their request, and accordingly published GAO documents are no longer subject to the procedures of this part. The revisions also clarify that records compiled for law enforcement purposes by another agency and records provided by GAO to another agency for law enforcement purposes are not subject to disclosure. The previous regulatory language on this point was imprecise. The changes also add steps to the procedures for using GAO's public reading facility, to facilitate the efficient use of the facility. Finally, the revisions make various housekeeping changes reflecting shifts in GAO's operating procedures.

These changes clarify for the public which GAO documents are subject to this part and how to obtain such documents.

**DATES:** Effective March 8, 2011.

**FOR FURTHER INFORMATION CONTACT:** John A. Bielec, Assistant General Counsel, 202-512-2846.

**SUPPLEMENTARY INFORMATION:** Part 81 of Title 4 of the Code of Federal Regulations contains the procedures for

members of the public to obtain GAO documents.

GAO is amending paragraph (b) of § 81.1 to remove all published GAO documents, such as reports and decisions, from this part's purview. All such documents are publicly available on GAO's Web site, <http://www.gao.gov>, and may also be ordered over the telephone. Accordingly, regulations governing requests for public disclosure of such documents are unnecessary. It is also well established that when an agency makes its documents widely available to the public, the agency need not reproduce those documents again in response to a Freedom of Information Act (FOIA) request. *Department of Justice v. Tax Analysts*, 492 U.S. 136, 152 (1989). While GAO is not subject to FOIA, the principle applies equally in this context.

Published GAO documents may be downloaded free of charge from GAO's Web site. Print copies may be ordered by telephone, but GAO charges a fee to print and ship documents requested this way, as provided in § 81.7, which is unchanged by this rule. Under this revised rule, GAO will no longer accept requests via fax or mail for published documents. Requests for GAO documents not available on GAO's Web site remain subject to this part and must be submitted in writing to GAO, via either mail or e-mail, in accordance with § 81.4. Technical amendments to paragraphs (a) and (c) of § 81.1 are made as needed to conform with these changes.

Paragraph 81.6(g) is amended to clarify the types of documents GAO considers to be compiled for law enforcement purposes. Such documents are not subject to disclosure under this part.

Although GAO is not a law enforcement agency, it occasionally collects, during the course of its audits and investigations, records from law enforcement agencies that those agencies compiled for their own law enforcement purposes. While GAO did not compile the records, they are nonetheless exempt from disclosure because they were originally compiled for law enforcement purposes and may still be used for such purposes by the originating agency. Disclosure of such records would undermine the originating agency's law enforcement mission.

During the course of its work, GAO also occasionally receives information from non-law enforcement sources that indicates possible civil or criminal wrongdoing by another party. GAO forwards such information to other Federal, State, or local agencies with enforcement jurisdiction over the matter. The receiving agencies may use the information for their own investigations, prosecutions, or other law enforcement matters. GAO considers such information to be compiled for law enforcement purposes if, at the time GAO receives a request under this part for the information, the receiving agency advises GAO that the information is being, or will be, used by that agency for a law enforcement purpose. In these circumstances, GAO's disclosure of the information could undermine law enforcement operations. "Law enforcement" in this context includes civil and administrative as well as criminal matters.

This policy is consistent with the United States Supreme Court's ruling that information not originally compiled for law enforcement purposes is nevertheless exempt from public disclosure if, at the time of a request, it is being used for law enforcement purposes. *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 153-55 (1989).

Section 81.8 is amended to advise individuals who wish to use GAO's public reading facility to schedule an appointment and to have GAO's staff determine whether the records sought are included in the public reading facility collection.

Section 81.2 is amended to clarify and identify the entity within GAO that administers this part. Section 81.4 is amended to delete language that GAO records may be requested via a link on GAO's Web site. GAO will continue to accept requests for GAO records by e-mail. Paragraph (m) of § 81.6 is amended to correctly identify the entity within GAO that operates GAO FraudNet.

GAO submitted for comment a proposed rule containing these amendments, which was published in the **Federal Register** on November 24, 2010 (75 FR 71567). GAO received no comments on the proposed rule.

GAO is not subject to the Administrative Procedure Act.

**List of Subjects in 4 CFR Part 81**

Administrative practice and procedure, Archives and records, Computer technology, Electronic products, Freedom of information, Public reading room, Requests for records.

For the reasons stated in the preamble, the Government Accountability Office amends 4 CFR part 81 as follows:

**PART 81—PUBLIC AVAILABILITY OF GOVERNMENT ACCOUNTABILITY OFFICE RECORDS**

■ 1. The authority citation for part 81 continues to read as follows:

**Authority:** 31 U.S.C. 711.

■ 2. Amend § 81.1 to revise the first sentence of paragraph (a), to revise paragraph (b), and to add paragraph (c) to read as follows:

**§ 81.1 Purpose and scope of part.**

(a) This part implements the policy of the U.S. Government Accountability Office (GAO) with respect to the public availability of GAO records, except as set forth in paragraph (b) of this section.

(b) GAO published testimonies, reports, decisions, special publications, or listings of publications are not included within the scope of this part. These documents may be obtained from the GAO Web site, <http://www.gao.gov>, or by telephone at 202-512-6000, TDD 202-512-2537, or 1-866-801-7077 (toll free). These publications may be downloaded free of charge from the GAO Web site. Paper copies requested from GAO are subject to a printing, shipping, and handling fee.

(c) Requests for all other GAO records are within the scope of this part and should be submitted to GAO as directed in paragraph (a) of § 81.4.

■ 3. Revise § 81.2 to read as follows:

**§ 81.2 Administration.**

GAO's Chief Quality Officer administers this part and may promulgate such supplemental rules or regulations as may be necessary.

■ 4. In § 81.4, remove the second sentence of paragraph (a).

■ 5. Amend § 81.6 to revise paragraph (g) and the sentence following the italic heading in paragraph (m) to read as follows:

**§ 81.6 Records which may be exempt from disclosure.**

\* \* \* \* \*

(g) Records compiled for law enforcement purposes that originate in another agency, or records provided by

GAO to another agency for law enforcement purposes.

\* \* \* \* \*

(m) \* \* \* Records obtained by the GAO Forensic Audits and Special Investigations (GAO FraudNet) are an example of records that could contain information covered by this exemption.

■ 6. Amend § 81.8 to add a new second sentence, and to revise the last sentence as follows:

**§ 81.8 Public reading facility.**

\* \* \* To determine if a record is part of the public reading facility collection and to schedule an appointment to visit the facility, contact the Library reference desk at 202-512-2585. The facility is open to the public from 8:30 a.m. to 4 p.m. except Saturdays, Sundays, and Federal holidays.

**Lynn H. Gibson,**

*General Counsel, U.S. Government Accountability Office.*

[FR Doc. 2011-4988 Filed 3-7-11; 8:45 am]

**BILLING CODE 1610-02-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 21, 25, 121, and 129**

[Docket No. FAA-2011-0186; Amendment Nos. 21-94, 25-133, 121-354, and 129-50; SFAR 111]

**RIN 2120-AJ92**

**Lavatory Oxygen Systems**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This action temporarily authorizes variances from existing standards related to the provisioning of supplemental oxygen inside lavatories. This action is necessitated by other mandatory actions that temporarily render such oxygen systems inoperative.

**DATES:** This interim rule is effective March 8, 2011 and remains in effect until further notice. Submit comments on or before May 9, 2011.

**ADDRESSES:** Send comments identified by docket number FAA-2011-0186 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., Room W12-140, West

Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

*Privacy:* The FAA will post all comments it receives, without change, to <http://www.regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Gardlin, Airframe and Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue, SW., Renton, WA 98057-3356; *telephone:* (425) 227-2136; *e-mail:* [jeff.gardlin@faa.gov](mailto:jeff.gardlin@faa.gov).

For legal questions concerning this action, contact Douglas Anderson, Federal Aviation Administration, Office of the Regional Counsel, ANM-7, Northwest Mountain Region, 1601 Lind Avenue, SW., Renton, WA 98057-3356; *telephone:* (425) 227-2166; *e-mail:* [douglas.anderson@faa.gov](mailto:douglas.anderson@faa.gov).

**SUPPLEMENTARY INFORMATION:****Good Cause**

The FAA finds that notice and public comment to this interim rule are impracticable. This rule, together with Airworthiness Directive 2011-04-09, addresses an emergency situation relating to a security vulnerability in transport category airplanes. These rules both mandate action necessary to address this vulnerability and provide interim relief from other regulatory