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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2008-0088]

Privacy Act of 1974; Federal Emergency Management Agency--003
National Flood Insurance Program Files System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it proposes to consolidate five legacy record systems and a new program into a Department of Homeland Security system of records notice titled, Department of Homeland Security Federal Emergency Management Agency--003 National Flood Insurance Program Files: FEMA/FIMA-2 National Flood Insurance Direct Servicing Agent Application and Related Documents Files (January 23, 2002); FEMA/FIMA-3 National Flood Insurance Bureau and Statistical Agent (BSA) Data Elements and Related Files (January 23, 2002); FEMA/FIMA-6 National Flood Insurance Special Direct Facility Repetitive Loss Target Group Records and Related Files (January 23, 2002); FEMA/FIMA-7 National Flood Insurance Community Rating System and Related Documents Files (January 23, 2002); and FEMA/FIA-2 National Flood Insurance Application and Related Documents Files (January 23, 2002), and the newly created National Flood Insurance Program Modernization, Business Process Improvement, and Systems Engineering Management Systems. This system will enable the Department of Homeland Security to administer the Federal Emergency Management Agency National Flood Insurance Program. Categories of individuals, categories of records, and the routine uses of these legacy system of records notices have been consolidated and updated to better reflect the Department of Homeland Security's Federal Emergency Management Agency National Flood Insurance Program record systems. This system will be included in the Department's inventory of record systems.

DATES: Written comments must be submitted on or before January 20, 2009. This new system will be effective January 20, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS-2008-0088 by one of the following methods:

Federal e-Rulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

Fax: 1-866-466-5370.

Mail: Hugo Teufel III, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Federal Emergency Management Agency Acting Privacy Officer, Federal Emergency Management Agency. For privacy issues please contact: Hugo Teufel III (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107-296, Section 1512, 116 Stat. 2310 (November 25, 2002), the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) has relied on preexisting Privacy Act systems

of records notices for the collection and maintenance of records pertaining to the National Flood Insurance Program, which is administered by DHS/FEMA.

In 1968, Congress created the National Flood Insurance Program (NFIP) in response to the rising cost of taxpayer funded disaster relief for flood victims and the increasing amount of damage caused by floods. The Mitigation

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Directorate, a component of FEMA, manages the NFIP and oversees the floodplain management and mapping components of the Program.

Nearly 20,000 communities across the United States and its territories participate in the NFIP by adopting and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes Federally-backed flood insurance available to homeowners, renters, and business owners in these communities.

Typically, a home or business owner will seek flood insurance from an insurance company that provides other lines of business such as car insurance or property and casualty homeowners insurance. In other cases, a mortgage lender will require flood insurance in addition to regular homeowner's insurance. If a homeowner's insurance company participates in the NFIP's Write-Your-Own (WYO) Program, and the home or business owner's building is located in a participating NFIP community, the home or business owner can purchase flood insurance.

This record system will allow DHS/FEMA to collect and maintain records regarding applicants, policyholders, and others, including insurance agents, associated with the National Flood Insurance Program. The system will be used by DHS to collect and maintain records on applicants and beneficiaries of the FEMA National Flood Insurance Program, as well as others who are involved in the National Flood Insurance Program, including WYO business transactions. The collection and maintenance of this information will assist DHS in meeting its obligation to administer the FEMA National Flood Insurance Program.

In accordance with the Privacy Act of 1974, DHS is giving notice that it proposes to consolidate five legacy record systems: FEMA/FIMA-2 National Flood Insurance Direct Servicing Agent Application and Related Documents Files (67 FR 3193 January 23, 2002), FEMA/FIMA-3 National Flood Insurance Bureau and Statistical Agent (BSA) Data Elements and Related Files (67 FR 3193 January 23, 2002), FEMA/FIMA-6 National Flood Insurance Special Direct Facility (SDF) Repetitive Loss Target Group Records and Related Files (67 FR 3193 January 23, 2002), FEMA/FIMA-7 National Flood Insurance Community Rating System and Related Documents Files (67 FR 3193 January 23, 2002), and FEMA/FIA-2 National Flood Insurance Application and Related Documents Files (67 FR 3193 January 23, 2002) into a DHS/FEMA system of records notice titled, Federal Emergency Management Agency National Flood Insurance Program Files. This system will enable DHS/FEMA to administer the National Flood Insurance Program. Categories of individuals, categories of records, and the routine uses of these legacy system of records notices have been consolidated and updated to better reflect DHS/FEMA's National Flood Insurance Program record systems. This system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the Federal Register a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such files within the agency. Below is the description of the Federal Emergency Management Agency National Flood Insurance Program Files System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this newly revised system of records to the Office of Management and Budget (OMB) and to Congress.
System of Records: DHS/FEMA-003

System name:

Federal Emergency Management Agency--003 National Flood Insurance Program Files.

Security classification:

Unclassified.

System location:

Records are maintained at the Federal Emergency Management Agency Headquarters in Washington, DC and in field offices.

Categories of individuals covered by the system:

Categories of individuals covered by this system include applicants and policyholders of flood insurance; Severe Repetitive Loss (SRL) property owners (previously known as ``Repetitive Loss Target Group'' (RLTG)); insurance companies and agents; WYO Companies and lenders; communities that submit Community Rating Survey (CRS) applications; and certified flood adjusters.

Categories of records in the system:

Categories of records in this system include:

- Individual's name;
- Social security number;
- Addresses;
- Telephone numbers;
- E-mail address;
- Tax ID numbers;
- Insurance policy numbers and information;
- Group Flood Insurance Program (GFIP) Certificate Holders
- Property information:
 - [cir] Bank/lender
 - [cir] Date of mortgage
 - [cir] Address of bank/lender
 - [cir] Loan information, such as: loan number, names and addresses of first and possible second mortgagees, and file or identification number of loan;
 - [cir] Taxpayer's identification number
- Administration records, such as: transaction errors and rejects per WYO Company, documents and photographs necessary to substantiate a claim for losses due to burglary or robbery, reports of adjusters, and adjusters' bills paid by the program;
- Names and contact information of insurance agents;
- Write Your Own Companies (WYO's);
- Severe Repetitive Loss (SRL) property owners;
- Community Rating System (CRS) applications to adjust NFIP insurance premiums based on the mitigation of activities implemented by a community;
- Names and contact information of individuals seeking NFIP data; and

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Data elements required for reporting purposes under the FEMA Mitigation Directorate Bureau and Statistical Agent contract for private insurance companies. Data elements include, but are not limited to:

- [cir] Data elements regarding policy reinstatement with/without policy changes,
- [cir] Data elements regarding insurance claims, and
- [cir] Data elements regarding payment of claims.

Authority for maintenance of the system:

The Federal Records Act, 44 U.S.C. 3101; National Flood Insurance Act of 1968, as amended and Flood Disaster Protection Act of 1973, 42 U.S.C. 4001, et seq.

Purpose(s):

The purpose of this system is to manage the National Flood Insurance Program, to assess National Flood Insurance Program user satisfaction, and to provide information on the National Flood Insurance Program to those who inquire.

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 under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records of

information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ) (including United States Attorney Offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee of DHS in his/her official capacity;
3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal Government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual who relies upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To insurance agents, brokers, adjusters, lending institutions, WYO Companies as authorized under 44 CFR 62.23, the Army Corps of Engineers, Small Business Association, the American Red Cross, the United States Department of Agriculture Farm Service Agency, State and local governments, including State and local individual and family grant and assistance agencies, National Flood Insurance Program policy and claims records for carrying out the purposes of the National Flood Insurance Program, to determine eligibility for benefits, and to verify non-duplication of benefits following a flooding event.

I. To States to provide Group Flood Insurance Program (GFIP) certificates for carrying out the purposes of the National Flood Insurance Program.

J. To property loss reporting bureaus, State insurance departments, and insurance companies to investigate fraud or potential fraud in connection with claims, subject to the approval of the Office of Inspector General, DHS.

K. To State and local government individual and family grant agencies to ascertain the degree of financial burden that State and local governments expect to assume in the event of a flooding disaster.

L. To State and local government agencies to further the National Flood Insurance Program marketing activities.

M. To State and local government agencies that provide the names and addresses of policyholders and a brief general description of their plan for acquiring and relocating their flood prone properties to ensure that they are engaged in flood plain management, improved real

property acquisitions, relocation projects that are consistent with the National Flood Insurance Program and, upon the approval of the Administrator, Federal Insurance Mitigation Administration, that the use furthers the flood plain management and hazard mitigation goals of the agency.

N. To the Army Corps of Engineers, State and local government agencies and municipalities to review National Flood Insurance Program policy and claims files to assist in hazard mitigation and flood plain management activities and in monitoring compliance with the flood plain management measures duly adopted by the community.

O. To lending institutions, mortgage servicing companies, and others servicing mortgage loan portfolios, as well as private companies engaged in or planning to engage in activities to market or assist lenders and mortgage servicing companies to comply with the requirements of the Flood Disaster Protection Act of 1973, including lender compliance, and to market the sale of flood insurance policies under the National Flood Insurance Program.

P. To current owners of properties designated under the National Flood

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Insurance Program as SRL Target Group properties, the dates and dollar amounts of loss payments made to prior owners so current owners may evaluate whether that designation is appropriate and may, if they believe the designation is not appropriate, use the information to appeal that designation.

Q. To the Special Direct Facility National Flood Insurance Program Repetitive Loss records for the processing of SRL Target Group policyholder underwriting and claims records.

R. To Preferred Risk Property (PRP) owners who are contesting the denial of the PRP applications, the properties' prior loss history.

S. To Federal, State, and local government agencies to conduct research, analysis, and feasibility studies.

T. To communities to provide repetitive loss records that pertain to that community.

U. To OMB in connection with the review of private relief legislation in accordance with OMB Circular No. A-19.

Disclosure to consumer reporting agencies:

Disclosure under 5 U.S.C. 552a(b)(12). DHS/FEMA may make disclosures from this system to ``consumer reporting agencies'' as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f), as amended; or the Federal Claims Collection Act of 1966 31 U.S.C. 3701(a)(3), as amended.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD-ROM.

Retrievability:

Records will be retrieved by individual's name; insurance policy number; Repetitive Loss Target Group number; property address; zip code; telephone number; insurance agents; company name, including lenders and WYO Companies; community name; and Community Rating System application number.

Safeguards:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated system security 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 those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

Retention and disposal:

Policy records are kept as long as the property owner is enrolled in the insurance program and pays the policy premiums, and cutoff when the file becomes inactive. Policy records are destroyed 5 years after the cutoff with FEMA Records Schedule N1-311-86-1, Item 1A13a(2). Claim records are maintained for 6 years and 3 months after final action, unless litigation exists. Records are disposed of FEMA Records Schedule N1-311-86-1, Item 2A12(2)(b). Claim records with pending litigation are destroyed after review by General Counsel with FEMA Records Schedule N1-311-86-1, Item 2A13a(1). Consumer records, including Community Rating System records, are retired to the Federal Record Center 2 years

after cutoff, and destroyed 10 years after cutoff, IAW FEMA Records Schedule N1-311-02-01, Item 4.

System Manager and address:

Administrator, Federal Insurance and Mitigation Administration,
Federal Emergency Management Agency Headquarters, 500 C Street, SW.,
Washington, DC 20472.

Notification procedure:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to FEMA's FOIA Officer, 500 C Street, SW., Attn: FOIA Coordinator, Washington, DC 20472.

When seeking records about yourself from this system of records or any other FEMA system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. 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. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, <http://www.dhs.gov> or 1-866-431-0486. In addition you should provide the following:

An explanation of why you believe the Department would have information on you,

Specify when you believe the records would have been created,

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.

Without this bulleted information the FEMA may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

Record access procedures:

See ``Notification procedure'' above.

Contesting record procedures:

See ``Notification procedure'' above.

Record source categories:

Individual's who apply for and individuals who are insured under the National Flood Insurance Program, WYO Companies, flood insurance agents and lenders, individuals who request information on the National Flood Insurance Program, appraisal records, title reports, and homeowner reports.

Exemptions claimed for the system:

None.

Dated: December 10, 2008.

Hugo Teufel III,
Chief Privacy Officer, Department of Homeland Security.
[FR Doc. E8-29794 Filed 12-18-08; 8:45 am]

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