

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2009-0016]

Privacy Act of 1974; Department of Homeland Security/United States Coast Guard--030 Merchant Seamen's Records System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 and as part of the Department of Homeland Security's ongoing effort to review and update legacy system of records notices, the Department of Homeland Security is giving notice that it proposes to update and reissue the following legacy record system DOT/CG 589 United States Merchant Seamen's Records, April 11, 2000, as a Department of Homeland Security system of records notice titled DHS/USCG--030 United States Merchant Seamen's Records. The Department of Homeland Security uses DHS/USCG--030 United States Merchant Seamen's Records to administer the Commercial Vessel Safety Program and to determine domestic and international qualification for the issuance of licenses, documents, and staff officer certifications. Categories of individuals, categories of records, and the routine uses of this legacy system of records notice have been reviewed and updated to better reflect the United States Merchant Seamen's Records system. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the Federal Register. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This new system will be included in the Department of Homeland Security's inventory of record systems.

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DATES: Written comments must be submitted on or before July 27, 2009. This new system will be effective July 27, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS-2009-0016] by one of the following methods:

Federal e-Rulemaking Portal: <http://http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>.

Follow the instructions for submitting comments.

Fax: 703-483-3099.

Mail: Mary Ellen Callahan, 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://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>.

Docket: For access to the docket, to read background documents, or comments received, go to <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: David Roberts (202-475-3521), Privacy Officer, United States Coast Guard. For privacy issues please contact: Mary Ellen Callahan (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 107-306, Section 1512, 116 Stat. 2310 (November 25, 2002), the Department of Homeland Security (DHS)/United States Coast Guard (USCG) has relied on previous Privacy Act systems of records notices for the collection maintenance of records that concern the United States Merchant Seamen's Records system of records.

As part of its efforts to streamline and consolidate its record systems, DHS is updating and reissuing a DHS/USCG system of records under the Privacy Act (5 U.S.C. 552a) that deals with United States Merchant Seamen's Records program management. The collection and maintenance of this information will assist DHS/USCG in meeting its obligation to administer the United States Merchant Seamen's Records program.

In accordance with the Privacy Act of 1974 and as part of DHS's ongoing effort to review and update legacy system of records notices, DHS/USCG is giving notice that it proposes to update and reissue the following legacy record system DOT/CG 589 United States Merchant Seamen's Records (65 FR 19476 April 11, 2000) as a DHS/USCG system of records notice titled, DHS/USCG--030 United States Merchant Seamen's Records. The DHS/USCG--030 United States Merchant Seamen's Records system is the USCG's information system that administers the Commercial Vessel Safety Program to determine domestic and international qualifications for the issuance of licenses, documents, and staff officer certifications. Categories of individuals, categories of records, and the routine uses for this legacy system of records notice have been reviewed and updated to better reflect the United States Merchant Seamen's Records record system. This new system will be included in DHS's inventory of record systems. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the Federal Register. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This new system will be included in the Department of Homeland Security'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 United States Merchant Seamen's Records System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS

DHS/USCG-030

SYSTEM NAME:

DHS/USCG--030 United States Merchant Seamen's Records

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the National Maritime Center in Martinsburg, WV, the USCG Headquarters in Washington, DC, the USCG Operations Systems Center in Kearneysville, WV, and in Regional Examination Centers. Archived records are located at the regional Federal Records Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include all current and former United States Merchant Seamen, as well as applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

Full name (including maiden name, if applicable);

Employee identification number;

Mailing address;

Date and place of birth;

Phone number(s), include home, work, fax;

E-mail Address;

Next of Kin's Name, mailing address, phone number and

email address;

Country of citizenship;

Social Security number;

Color of eyes, hair, weight and height;

Type of license or certificate for which the individual is

applying;

Shipping articles;

Log books;

Seamen's license records;

Seamen's biometrics including photographs and fingerprint

records;

Disciplinary records;

Security records;

Current state of application, including granted or denied

with place and date of issuance;

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Information related to narcotics, drinking while under the influence, and conviction records; and

Character references, including full name, contact information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 14 U.S.C. 632; 46 U.S.C. 2103, 7302, 7305, 7314, 7316, 7319, 7502, 7701, 8701; 46 CFR 12.02-25; 49 CFR 1.45, 1.46.

PURPOSE(S):

The principle purpose of this system is to administer the Commercial Vessel Safety Program to determine domestic and international qualifications for the issuance of licenses, documents, and staff officer certifications. This includes establishing eligibility of a merchant mariner's document, duplicate documents, or additional endorsements issued by the Coast Guard and establishing and maintaining continuous records of the persons documentation transactions.

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 (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. 3004 and 3006.

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 private organizations when considered beneficial to the seaman.

I. To other Federal Agencies, such as the Veteran's Administration, the Social Security Administration, the Internal Revenue Service, in connection with benefits and services administered by those agencies.

J. To any source or potential source from which information is requested in the course of an investigation concerning the retention of an employee or other personnel action (other than hiring), or the retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

K. To designated officers and employees of Federal, State, local or international agencies in connection with the hiring or continued employment of an individual, the conduct of a suitability or security investigation of an individual, the grant, renewal, suspension, or revocation of a security clearance, or the certification of security clearances, to the extent that DHS determines the information is relevant and necessary to the hiring agency's decision.

L. To the Maritime Administration for the purpose of merchant mariner call-ups related to national security.

M. To the U.S. Navy for the purpose of verifying the credential status of Navy personnel.

N. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C.552a(b)(12) may be made from this system to "consumer reporting agencies," as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or Federal Claims Collection Act of 1982 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files are stored at a secure, controlled access site managed by either Coast Guard personnel or contract personnel with oversight from Coast Guard personnel. Electronic records are stored on a secure database server at the Coast Guard Operation Systems Center.

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Inactive records are stored by the National Archives and Records Administration at that agency's Federal Records Centers facilities.

RETRIEVABILITY:

Information is retrieved by individual's name and identifying number (e.g. Social Security, MMLD assigned system number or Continuous Discharge Book number) .

SAFEGUARDS:

Electronic records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and 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. Paper records related to issuance of Merchant Mariners' Licenses and Documents (MMLD) are located in Coast Guard Regional Examination Centers or the National Maritime Center in locked file cabinets. Access to records is limited to personnel requiring access for their jobs.

RETENTION AND DISPOSAL:

Paper records related to issuance of Merchant Mariner Licenses and Documents are held on site for five years past the last activity with

the file. After that time they are then transferred to the Washington National Records Center in Suitland, MD. As disposition is pending on this system contingent on NARA approval, records are maintained indefinitely.

SYSTEM MANAGER AND ADDRESS:

United States Coast Guard, National Maritime Center, NMC-4, 100 Forbes Drive, Martinsburg, WV 25404.

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 United States Coast Guard, National Maritime Center, NMC-4, 100 Forbes Drive, Martinsburg, WV 25404.

When seeking records about yourself from this system of records or any other USCG 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://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=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 USCG 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:

Personnel File-seamen, United States Coast Guard officials, other Federal Agencies, and employer. Shipping Articles--Vessels' operators, seamen, masters of vessels, State Department, and Coast Guard officials. Training records--schools certified to provide training for U.S. mariners. Medical records--physicians, hospitals and other medical providers authorized by mariners to provide this information on their behalf. Disciplinary Records-Coast Guard Investigating Officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Dated: June 18, 2009.

Mary Ellen Callahan,
Chief Privacy Officer, Department of Homeland Security.
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