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[Notices]

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[FR Doc No: E6-511]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS-2005-0054]

Privacy Act of 1974; Systems of Records

AGENCY: Privacy Office; Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

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SUMMARY: The Bureau of Customs and Border Protection proposes to revise

its system of records for collecting carrier, broker and importer/

exporter account information to both update the system and to add as a

category of records the customs declarations that postal mailers are

required to complete for international mail transactions.

DATES: The new system of records will be effective February 21, 2006

unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by DHS-2005-0054, by one

of the following methods:

 Federal eRulemaking Portal: [http://www.regulations.gov](http://www.regulations.gov/).

Follow the instructions for submitting comments via docket number DHS-

2005-0054.

 Fax: 202-572-8727.

 Mail: Comments by mail are to be addressed to the

Regulations Branch, Office of Regulations and Rulings, Bureau of

Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint

Annex), Washington, DC 20229. Comments by mail may also be submitted to

Maureen Cooney, Acting Chief Privacy Officer, Department of Homeland

Security, 601 S. 12th Street, Arlington, VA 22202-4220.

 Instructions: All submissions received must include the agency name

and docket number for this rulemaking. All comments received will be

posted without change to [http://www.regulations.gov](http://www.regulations.gov/), including any

personal information provided. For detailed instructions on submitting

comments and additional information on the rulemaking process, see the

``Public Participation'' heading of the SUPPLEMENTARY INFORMATION

section of this document.

 Docket: For access to the docket to read background documents or

comments received, go to [http://www.regulations.gov](http://www.regulations.gov/). Submitted comments

may also be inspected during regular business days between the hours of

9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations

and Rulings, Bureau of

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Customs and Border Protection, 799 9th Street, NW., 5th Floor,

Washington, DC. Arrangements to inspect submitted comments should be

made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Laurence E. Castelli (202-572-8712),

Chief, Privacy Act Policy and Procedures Branch, Bureau of Customs and

Border Protection, Office of Regulations & Rulings, Mint Annex, 1300

Pennsylvania Ave., NW., Washington, DC 20229.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection

(CBP) is engaged in a multi-year modernization effort to update its

information systems. As part of this modernization effort, CBP has

developed the Automated Commercial Environment (ACE) to streamline

business processes, to facilitate growth in trade, to ensure cargo

security, to provide means to combat terrorism through monitoring what

materials and which persons enter and leave the country, and to foster

participation in global commerce, while ensuring compliance with U.S.

laws and regulations. ACE replaces CBP's current Automated Commercial

System, a twenty-plus-year-old trade information database.

 The operation of ACE will require that CBP collect personally

identifiable information from importers, brokers, truck carriers, and

U.S. Postal Service customs declarations. The system will also include

personally identifiable information about CBP employees and employees

of other agencies. The information that is collected will be used to

operate the automated commercial environment in order to assist in

protecting the country's borders by monitoring and regulating incoming

cargo and people.

 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 personally identifiable

information. 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 from which information is

retrieved by the name of the individual or by some identifying number,

symbol, or other identifying particular assigned to the individual. In

the Privacy Act, individual is defined to encompass United States

citizens and legal permanent residents. ACE involves the collection of

information that will be maintained in a system of records.

 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 recordkeeping

practices transparent, to notify individuals regarding the uses to

which personally identifiable information is put, and to assist the

individual to more easily find such files within the agency.

 DHS is here publishing a description of the Automated Commercial

Environment system of records. In accordance with 5 U.S,C. 552a(r), a

report concerning this record system has been sent to the Office of

Management and Budget and to the Congress.

 Interested persons are invited to participate in this rulemaking by

submitting written data, views, or arguments on all aspects of the

proposed rule. CBP also invites comments that relate to the economic,

environmental, or federalism affects that might result from this

proposed rule. Comments that will provide the most assistance to CBP in

developing these procedures will reference a specific portion of the

proposed rule, explain the reason for any recommended change, and

include data, information, or authority that support such recommended

change.

DHS/CBP-001

System Name:

 Automated Commercial Environment/International Trade Data System

(ACE/ITDS).

System Location:

 This computer database is located at the Bureau of Customs and

Border Protection (CBP) National Data Center in Washington, DC.

Computer terminals are located at Customhouses and ports throughout the

United States and at CBP Headquarters, Washington, DC, as well as

appropriate facilities for other participating government agencies.

Categories of Individuals Covered by the System:

 Individuals involved in the importation of merchandise, members of

the trade community, including but not limited to truck carriers,

vessel, vehicle, and aircraft operators or crew, Customhouse brokers,

importers and their authorized agents (i.e., trade users), persons

required to file Customs Declarations for international mail

transactions (including sender and recipient), DHS/CBP employees, and

employees of other Federal Government agencies.

Categories of Records in the System:

 The database is comprised of carrier, broker, and importer/exporter

account information (this includes personally identifying information

(name and address, phone and/or fax), as well as the Significant

Activity Log (a message log between the ACE Portal Account Owner and

CBP that tracks their communications sent through ACE) and the Action

Plans referenced in the Significant Activity Log), entry information,

and manifest information. The database also includes information

obtained from Customs declarations filed with the United States Postal

Service in connection with the import or export of goods through the

mail. System files may contain information about DHS/CBP employees,

other Federal employees, companies, and individuals involved in

commercial land, sea, and/or air border transactions.

 The following information may be stored in the database for the

establishment of an ACE Secure Data Portal truck carrier account:

Carrier name, Carrier address, Carrier identification (i.e., the truck

carrier identification SCAC code (the unique Standard Carrier Alpha

Code) assigned for each carrier by the National Motor Freight Traffic

Association), Department of Transportation number, Taxpayer ID number,

DUNS (Dun and Bradstreet Number), Organizational structure, Name of

Insurer, Policy number, Date of Issuance and Amount. The carrier can

create users and points of contact, and may also choose to store

details associated with driver/crew, conveyance, and equipment for

purposes of expediting the creation of manifests.

 The ACE database is also comprised of manifest information that

includes specific details regarding the crew or drivers as well as

passengers involved in a commercial land border crossing. For crew or

drivers, the system will include:

 (1) Person on arriving conveyance who is in charge; (2) Names of

all crew members; (3) Date of birth of each crew member; (4) Commercial

driver's license (CDL)/drivers license number for each crew member; (5)

CDL/driver's license State/province of issuance for each crew member;

(6) CDL country of issuance for each crew member; (7) Travel document

number for each crew member; (8) Travel document country of issuance

for each crew member; (9) Travel document State/province of issuance

for each crew member; (10) Travel document type for each crew member;

(11) Address for each crew member; (12) Gender of each crew member;

(13) Nationality/citizenship of each crew member; (14)

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Hazmat endorsement for each crew member.

 For passengers, the information consists of: (1) Names of all

passengers; (2) Date of birth of each passenger; (3) Travel document

number for each passenger; (4) Travel document country of issuance for

each passenger; (5) Travel document State/province of issuance for each

passenger; (6) Travel document type for each passenger; (7) Gender of

each passenger; (8) Nationality of each passenger.

 Further, the ACE database includes specific details regarding

trips, equipment, conveyances, and shipments, but this information does

not primarily identify individuals, except those who might be shippers

or consignees.

Authority for Maintenance of the System:

 19 U.S.C. 66, 1448, 1481, 1483, 1484, 1505, 1624, and 2071.

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 or

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:

 (1) To the Bureau of the Census by providing magnetic tapes or

other form of electronic data transmission containing foreign trade

data;

 (2) To appropriate Federal, State, local, foreign, or tribal

agencies responsible for investigating or prosecuting the violations

of, or for enforcing or implementing, a statute, rule, regulation,

order, or license, where CBP becomes aware of an indication of a

violation or potential violation of civil or criminal law or

regulation;

 (3) To a Federal, State, local, tribal, territorial, foreign, or

international agency, maintaining civil, criminal or other relevant

enforcement information or other pertinent information, which has

requested information relevant to or necessary to the requesting

agency's or the bureau's hiring or retention of an individual, or

issuance of a security clearance, license, contract, grant, or other

benefit;

 (4) To a court, magistrate, or administrative tribunal in the

course of presenting evidence, including disclosures to opposing

counsel or witnesses in the course of civil discovery, litigation, or

settlement negotiations, in response to a subpoena, or in connection

with criminal law proceedings;

 (5) To third parties during the course of an investigation to the

extent necessary to obtain information pertinent to the investigation;

 (6) To an agency, organization, or individual for the purposes of

performing authorized audit or oversight operations;

 (7) 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;

 (8) To contractors, grantees, experts, consultants, students, and

others performing or working on a contract, service, grant, cooperative

agreement, or other assignment for the Federal Government, when

necessary to accomplish an agency function related to this system of

records;

 (9) To the Department of Justice, the United States Attorney's

Office, or a consumer reporting agency for further collection action on

any delinquent debt when circumstances warrant;

 (10) To a former employee of the Department for purposes of:

responding to an official inquiry by a Federal, State, or local

government entity or professional licensing authority, in accordance

with applicable Department regulations; or facilitating communications

with a former employee that may be necessary for personnel-related or

other official purposes where the Department requires information and/

or consultation assistance from the former employee regarding a matter

within that person's former area of responsibility;

 (11) To an organization or individual in either the public or

private sector, either foreign or domestic, where there is a reason to

believe that the recipient is or could become the target of a

particular terrorist activity or conspiracy, to the extent the

information is relevant to the protection of life or property;

 (12) To the Department of Justice or other Federal agency

conducting litigation or in proceedings before any court, adjudicative

or administrative body, when: (a) DHS, or (b) any employee of DHS in

his/her official capacity, or (c) any employee of DHS in his/her

individual capacity where DOJ or DHS has agreed to represent the

employee, or (d) the United States or any agency thereof, is a party to

the litigation or has an interest in such litigation;

 (13) 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. Sections 2904 and

2906;

 (14) To a Federal, State, local, tribal, territorial, foreign, or

international agency, if necessary to obtain information relevant to a

Department of Homeland Security decision concerning the hiring or

retention of an employee, the issuance of a security clearance, the

reporting of an investigation of an employee, the letting of a

contract, or the issuance of a license, grant or other benefit;

 (15) To a Federal agency, pursuant to the International Trade Data

System Memorandum of Understanding, consistent with the receiving

agency's legal authority to collect information pertaining to and/or

regulate transactions in international trade.

Policies and Practices for Storing, Retrieving, Accessing, Retaining,

Disposing of Records in the System:

Storage:

 The data is stored electronically at the CBP Data Center for

current data and offsite at an alternative data storage facility for

historical logs and system backups.

Retrievability:

 The data is retrievable by name or personal identifier from an

electronic database. Only individuals with a need to know can access

the data. The system manager, in addition, has the capability to

maintain system back-ups for the purpose of supporting continuity of

operations and the discrete need to isolate and copy specific data

access transactions for the purpose of conducting security incident

investigations.

Safeguards:

 Access to the computer area is controlled by a security pass

arrangement and personnel not connected with the operation of the

computer are prohibited from entering. The building security is

protected by a uniformed guard. Access at the ports is in the booths

and from any PC connected to the LAN. At the ports of processing,

terminal rooms are under close supervision during working hours and

locked after close of business. The system security officer issues a

unique private five digit identification code to each authorized user.

Access to the computer from other than system terminals is controlled

through a security software package. Users must input a unique

identification code and password during the terminal log-in procedure

to gain access to the system. The password is not printed or displayed

at the port of processing. The system validates the user ID by

transaction type, thereby limiting a

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system user's access to information on a ``need-to-know'' basis. A

listing of identification codes of authorized users can be printed only

by request of the security officer. The passwords are changed

periodically to enhance security.

Retention and Disposal:

 Files are retained on-line in a system database. Personal

information collected in ACE as part of the regulation of incoming

cargo and people will be retained in accordance with the U.S. Customs

Records Schedules approved by the National Archive and Records

Administration for the forms on which the data is submitted. This means

that cargo, crew, driver, and passenger information collected from a

manifest presented in connection with the arrival of a vessel, vehicle

or aircraft will be retained for six years. Information collected in

connection with the submission of a Postal Declaration for a mail

importation will be retained for a maximum of six years and three

months (as set forth pursuant to NARA Authority N1-36-86-1, U.S.

Customs Records Schedule, Schedule 9 Entry Processing, Items 4 and 5).

Personal information collected in connection with the creation of a

carrier, broker, or importer/exporter account will be retained for up

to three years following the closing of the account either through

withdrawal by the individual or denial of access by CBP. Lastly,

information pertaining to CBP and PGA employees will be retained for as

long as the individual maintains her or his portal access to ACE and

authorization to access the information.

System Manager(s) and Address:

 Director, Office of Automated Systems, U.S. Customs and Border

Protection Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC

20229.

Notification Procedures:

 To determine whether this system contains records relating to you,

write to Customer Satisfaction Unit, Office of Field Operations, U.S.

Customs and Border Protection, Room 5.5-C, 1300 Pennsylvania Avenue,

NW., Washington, DC 20229 (phone: (202) 344-1850 and fax: (202) 344-

2791).

Record Access Procedures:

 Requests for notification or access must be in writing and should

be addressed to the Customer Satisfaction Unit, Office of Field

Operations, U.S. Customs and Border Protection, Room 5.5-C, 1300

Pennsylvania Avenue, NW., Washington, DC 20229. Requests should conform

to the requirements of 6 CFR part 5, subpart B, which provides the

rules for requesting access to Privacy Act records maintained by DHS.

The envelope and letter should be clearly marked ``Privacy Act Access

Request.'' The request should include a general description of the

records sound and must include the requester's full name, current

address, and data and place of birth. The request must be signed and

either notarized or submitted under penalty of perjury.

 Additionally, operational record access may be obtained through the

ACE Secure Data Portal for those individuals and entities who have been

approved access in accordance with the procedures published in the

Federal Register at 67 FR 21800 dated May 1, 2002.

Contesting Record Procedures:

 Same as ``Record Access Procedures.''

Record Source Categories:

 The system contains data received on authorized CBP forms or

electronic formats from individuals and/or companies incidental to the

conduct of foreign trade and required by CBP in administering the

tariff laws and regulations of the United States. The system also

contains information pertaining to International Mail Transactions,

which is obtained from the United States Postal Service by electronic

data transmission.

Exemptions Claimed for the System:

 None.

 Dated: December 22, 2005.

Maureen Cooney,

Acting Chief Privacy Officer, Department of Homeland Security.

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