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[Notices]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2012-0073]

Privacy Act of 1974; Department of Homeland Security, U.S.

Customs and Border Protection--DHS/CBP-018--Customs--Trade Partnership

Against Terrorism (C-TPAT) System, System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

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SUMMARY: In accordance with the Privacy Act of 1974, the Department of

Homeland Security proposes to

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establish a new system of records titled, ``Department of Homeland

Security, U.S. Customs and Border Protection, DHS/CBP-018 Customs--

Trade Partnership Against Terrorism System of Records.'' This system of

records allows the Department of Homeland Security/U.S. Customs and

Border Protection, DHS/CBP-018, Customs-Trade Partnership Against

Terrorism to collect and maintain records about members of the trade

community related to Customs and Border Protection's Customs-Trade

Partnership Against Terrorism program. Businesses accepted into the

program, called partners, agree to analyze, measure, monitor, report,

and enhance their supply chains in exchange for greater security and

facilitated processing offered by Customs and Border Protection. The

Customs-Trade Partnership Against Terrorism program allows Customs and

Border Protection to focus its resources on higher risk businesses and

thereby assists the agency in achieving its mission to secure the

border and facilitate the movement of legitimate international trade.

This new system of records collects and manages information, including

personally identifiable information, about prospective, ineligible,

current, or former trade partners in Customs-Trade Partnership Against

Terrorism, and other entities and individuals in their supply chains.

This system also collects and maintains information, including

personally identifiable information, regarding members of a foreign

government secure supply chain program that have been recognized by

Customs and Border Protection, through a mutual recognition arrangement

or comparable arrangement, as being compatible with the program. The

Customs-Trade Partnership Against Terrorism program provides a Security

Link Portal, which allows partners and applicants to access and manage

their information. Customs and Border Protection is publishing this new

system of records notice in order to notify the public about the

system, permit trade partners access to the information they provide,

and offer a description of how and where information is collected and

maintained. Additionally, the Department of Homeland Security is

issuing a Notice of Proposed Rulemaking elsewhere in the Federal

Register, to exempt this system of records from certain provisions of

the Privacy Act. This newly established system will be included in the

Department of Homeland Security's inventory of record systems.

DATES: The new system of records will be effective April 12, 2013,

unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number DHS-

2012-0073 by one of the following methods:

 Federal e-Rulemaking Portal: [http://www.regulations.gov](http://www.regulations.gov/).

Follow the instructions for submitting comments.

 Fax: 202-343-4010.

 Mail: Jonathan R. Cantor, Acting 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 to [http://www.regulations.gov](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](http://www.regulations.gov/).

FOR FURTHER INFORMATION CONTACT: For general questions please contact:

Laurence E. Castelli (202-325-0280), CBP Privacy Officer, U.S. Customs

and Border Protection, 90 K Street NE. Washington, DC 20229. For

privacy issues please contact: Jonathan R. Cantor (202-343-1717),

Acting Chief Privacy Officer, Privacy Office, Department of Homeland

Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

 In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the

Department of Homeland Security (DHS), US Customs and Border Protection

(CBP) proposes to establish a new DHS system of records titled, ``DHS/

CBP-018-C-TPAT System of Records.''

 CBP is publishing this new system of records notice to notify the

public about the system and offer a description of how CBP collects and

maintains information pertaining to prospective, ineligible, current,

or former trade partners in C-TPAT; other entities and individuals in

their supply chains; and members of foreign governments' secure supply

chain programs that have been recognized by CBP, through a mutual

recognition arrangement or comparable arrangement, as being compatible

with C-TPAT.

 CBP will use the information collected and maintained through the

C-TPAT program to carry out its trade facilitation, law enforcement,

and national security missions. In direct response to 9/11, CBP

challenged the trade community to partner with the government to design

a new approach to supply chain security--one that protects the United

States from acts of terrorism by improving security while facilitating

the flow of compliant cargo and conveyances. The result was the

Customs-Trade Partnership Against Terrorism (C-TPAT)--an innovative,

voluntary government/private sector partnership program. C-TPAT is a

voluntary program in which certain types of businesses agree to

cooperate with CBP in the analysis, measurement, monitoring, reporting,

and enhancement of their supply chains.

 Businesses accepted in to C-TPAT are called partners and agree to

take actions to protect their supply chain, identify security gaps, and

implement specific security measures and best practices in return for

facilitated processing of their shipments by CBP. The program focuses

on improving security from the point of origin (including manufacturer,

supplier, or vendor) through a point of distribution to the

destination. The current security guidelines for C-TPAT program members

address a broad range of topics including personnel, physical and

procedural security; access controls; education, training and

awareness; manifest procedures; conveyance security; threat awareness;

and documentation processing. These guidelines offer a customized

solution for the members, while providing a clear minimum standard that

approved companies must meet.

 Businesses eligible to fully participate in C-TPAT include U.S.

importers; U.S./Canada highway carriers; U.S./Mexico highway carriers;

rail and sea carriers; licensed U.S. Customs brokers; U.S. marine port

authority/terminal operators; U.S. freight consolidators; ocean

transportation intermediaries and non-operating common carriers;

Mexican and Canadian manufacturers; and Mexican long-haul carriers. As

part of its development, CBP plans to include exporters from the United

States in C-TPAT.

 There are three tiers of C-TPAT partnership, with each tier having

its own set of requirements and corresponding facilitated processing.

In general, businesses are considered applicants until CBP has vetted

the information in the application and accepted the business into the

program. Once accepted, the business is designated as a Tier One

certified partner, and a site visit is arranged. The site visit is used

to validate the partner's supply chain security and leads to importers

becoming Tier Two validated partners. As C-TPAT has incorporated other

eligible business types, it has led

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to those businesses becoming certified, validated non-importers. If an

importer with Tier Two validated partner status exemplifies best

practices in its supply chain security, it may attain Tier Three

validated partner status. As a business progresses up the tiers, it

receives more facilitated processing at ports of entry.

 Information is collected directly from C-TPAT partners or applicant

businesses seeking membership in C-TPAT and indirectly from trade

partners or through Mutual Recognition Arrangements (MRA) or memoranda

of understanding relating to harmonization efforts between CBP and the

foreign secured supply chain program. In the course of enrolling,

certifying, and validating C-TPAT trade partners and their supply

chains, the C-TPAT system will receive personally identifiable

information (PII) and confidential business information from trade

entities and their representatives.

 To participate in the C-TPAT program, a company is required to

submit a confidential, on-line application using the C-TPAT Security

Link Portal, [https://ctpat.cbp.dhs.gov](https://ctpat.cbp.dhs.gov/). The C-TPAT Security Link Portal

is the public-facing portion of the C-TPAT system used by applicants to

submit the information in their company and supply chain security

profiles. Initially, the applicant business provides basic business-

identifying information in the company profile using the online

application form. This business-identifying information is used to

verify the identity and actual existence of the applicant business and

may include basic identifying elements and/or PII used in the

importation of cargo, such as U.S. Social Security Numbers (SSN) for

sole proprietors, Internal Revenue Service Business Identification

Numbers, and Customs assigned identification numbers (such as

Manufacturer Identification numbers and Broker/Filer codes, etc.).

Point of contact information is collected for the business, as well as

owner information.

 Additionally, the applicant business must complete a Supply Chain

Security Profile (SCSP). The information provided in the SCSP is a

narrative description of the procedures the applicant business uses to

adhere to each C-TPAT Security Criteria or Guideline articulated for

their particular business type (importer, customs broker, freight

forwarder, air, sea, and land carriers, contract logistics providers,

etc.) together with any supporting documentation. Data elements entered

by the applicant business are accessible for update or revision through

the C-TPAT Security Link Portal. An applicant's SCSP must provide

supply chain security procedures for each business in the applicant's

supply chain, even if those businesses are not, or do not desire to

become partners of C-TPAT separately. This information is focused on

the security procedures of those businesses (e.g., whether the business

conducts background investigations on employees), rather than the

individuals related to those businesses (e.g., a list of employee

names).

 A CBP Supply Chain Security Specialist (SCSS) vets the SCSP

information provided by the applicant by querying that information

through various information sources and systems, and queries of

publicly available data (e.g., through Google). The SCSS will then

evaluate the SCSP information against the results provided by such

system vetting, derogatory or otherwise, and indicate whether the

applicant is fit for the program in the Security Link Portal.

Derogatory vetting results are incorporated into an issue paper for a

C-TPAT supervisor's approval, and the issue paper is stored separately

from the Security Link Portal on an internal C-TPAT SharePoint, which

is only accessible by appropriate CBP employees and supervisors.

 Vetting results containing PII are not stored in the C-TPAT

Security Link Portal. When a query reveals derogatory information about

a business applicant or partner, the SCSS makes a notation on the

internal portion of the C-TPAT Security Link Portal indicating the

existence of derogatory information and a citation to the appropriate

records. For instance, if a query of an applicant in TECS results in

derogatory information, the TECS ID is used as an identifier for the

record in the C-TPAT Security Link Portal, rather than the contents of

the TECS record. However, specific details regarding the incident or

violation giving rise to the unfavorable analysis will be maintained

within the C-TPAT SharePoint site and the relevant source system. The

SCSS is responsible for vetting all C-TPAT applicants, and conducts

this vetting of business entities every 6-12 months to ensure continued

compliance.

 Consistent with DHS's information sharing mission, information

stored in DHS/CBP-018 Customs--Trade Partnership Against Terrorism (C-

TPAT) System may be shared with other DHS components that have a need

to know the information to carry out their national security, law

enforcement, immigration, intelligence, or other homeland security

functions. In addition, information may be shared with appropriate

federal, state, local, tribal, territorial, foreign, or international

government agencies consistent with the routine uses set forth in this

system of records notice.

 Additionally, DHS is issuing a Notice of Proposed Rulemaking to

exempt this system of records from certain provisions of the Privacy

Act, elsewhere in the Federal Register. This newly established system

will be included in DHS's inventory of record systems.

II. Privacy Act

 The Privacy Act embodies fair information practice principles in a

statutory framework governing the means by which Federal Government

agencies collect, maintain, use, and disseminate 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 U.S. 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.

 Below is the description of the DHS/CBP-018 Customs--Trade

Partnership Against Terrorism (C-TPAT) System of Records. In accordance

with 5 U.S.C. 552a(r), DHS has provided a report of this system of

records to the Office of Management and Budget and to Congress.

System of records:

 Department of Homeland Security (DHS)/U.S. Customs and Border

Protection (CBP)-018.

System name:

 DHS/CBP-018 Customs--Trade Partnership Against Terrorism (C-TPAT)

Security classification:

 Unclassified, for official use only, law enforcement sensitive.

System location:

 Records are maintained at CBP Headquarters, Washington, DC and

field offices in C-TPAT's Security Link Portal and a CBP collaborative

intranet.

Categories of individuals covered by the system:

 Individuals, including Points of Contact (POC), owners, and others

associated with prospective, ineligible, current, or former C-TPAT

business

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entities; individuals associated with the supply chain of such C-TPAT

business entities; and individuals associated with business entities in

foreign governments secure supply chain programs that have been

recognized by CBP, through harmonization, a mutual recognition

arrangement, or comparable arrangement, as being compatible with C-

TPAT.

Categories of records in the system:

 At the Application level, information is collected from the

applicant about itself and those members of its international supply

chain. Pre-set fields of business-identifying information within the

company profile portion of the online application include:

 Business Entity Type;

 Application Exception Token;

 Legal Business Name;

 Other Name(s) by which the Business is known (i.e.,

``Doing Business As''), if applicable;

 Business Telephone;

 Business Fax;

 Business Web site address;

 Business history;

 Physical Address(es);

 Mailing Address(es);

 Owner Type: (e.g., Corporation\ Partnership\Sole

Proprietor, etc.);

 Years in Business;

 Number of Employees;

 Business Points of Contacts;

 First Name;

 Last Name;

 Title;

 Email Address (also used to log in to the Security Link

Portal);

 Password;

 Telephone Number;

 Contact Type;

 U.S. Social Security Numbers (as volunteered by sole

proprietors as their tax identification number);

 Internal Revenue Service Business Identification Numbers;

 Customs assigned identification numbers (Importers of

Record (IOR) number; Manufacturer Identification Numbers (MID) and

Broker/Filer codes, etc.);

 Issue Papers, including information regarding whether the

applicant is eligible for C-TPAT membership or source record numbers

for such information;

 Narrative description of supply chain security procedures

for applicant and other entities in applicant's supply chain;

 Validation supporting documentation (e.g., bills of

lading; audits--internal & external; proof of background checks;

contractual obligations; via a letter from a senior business partner

officer attesting to compliance; statements demonstrating compliance

with C-TPAT security criteria or an equivalent World Customs

Organization accredited security program administered by a foreign

customs authority; importer security questionnaire); and

 Account Status.

 Information received from and confirmed to countries with which CBP

has a Mutual Recognition Arrangement (MRA) includes:

 Legal Business Name;

 Other Name(s) by which the Business is known (i.e.,

``Doing Business As''), if applicable;

 Company Type;

 Date Partner Certified;

 Account Status;

 Vetting Status;

 Date Validation Completed;

 SCSS Name;

 Office Assigned Name;

 Mutual Recognition Country;

 Business identifying numbers, e.g.:

 [cir] Standard Carrier Alpha Code (SCAC);

 [cir] IOR;

 [cir] MID;

 By Applicant request, information received from, and forwarded to,

foreign secure supply chain programs pursuant to a harmonization

program may include, but is not limited to:

 Legal Name;

 Doing Business As;

 Telephone Number;

 Fax Number;

 Web site;

 Owner Type;

 Business Start Date;

 Number of Employees;

 Brief Company History;

 Primary Address, Type;

 Primary Address, Name;

 Primary Address, Country;

 Primary Address, Street Address;

 Primary Address, City;

 Primary Address, State/Province;

 Primary Address, Zip/Postal Code;

 Mailing Address:

 [cir] Type;

 [cir] Name;

 [cir] Country;

 [cir] Street Address;

 [cir] City;

 [cir] State/Province; and

 [cir] Zip/Postal Code.

 Primary Contact:

 [cir] Email Address;

 [cir] Type;

 [cir] Salutation;

 [cir] First Name;

 [cir] Last Name;

 [cir] Title; and

 [cir] Telephone Number.

 Partner Notifications;

 Number of Entries;

 U.S. Department of Transportation (DOT) Issued Number;

 U.S. National Motor Freight Traffic Association Issued;

 SCAC;

 Dun & Bradstreet Number;

 Services Offered;

 Driver Sources;

 Entries related to harmonization country;

 The entire Security Profile (Upon Request):

 [cir] Account Number;

 [cir] Risking Status;

 [cir] MSR Status;

 [cir] Validation Type;

 [cir] Validation Closed Date;

 [cir] Validation Status;

 [cir] Validation Type Verification (Government Contact);

 [cir] Verification Type Start Date;

 [cir] Verification Type: (phone, visit, mutual recognition);

 [cir] Verification Visit address;

 [cir] Business Type; and

 [cir] Harmonization Host Program.

 Account Status;

 Vetting Status;

 Minimum Security Requirements/Security Profile Status;

 Validation Status; and

 Harmonization Status.

Authority for maintenance of the system:

 This system and program are authorized by 6 U.S.C. 901 note

(Security and Accountability for Every Port Act of 2006 (SAFE Port

Act), including 6 U.S.C. 961-973. Pilot programs enhancing secure

supply chain practices related to C-TPAT are also authorized by

Homeland Security Presidential Directive/HSPD-8, ``National

Preparedness'' Section 22 (December 17, 2003).

Purpose(s):

 The purpose of this system is to verify the identity of C-TPAT

partners, determine enrollment level, and provide identifiable ``low

risk'' entities with fewer random checks and facilitated processing.

The information will be cross-referenced with data maintained in CBP's

other cargo and enforcement databases and will be shared with other law

enforcement systems, agencies or foreign entities, as appropriate, when

related to ongoing investigations or operations. Information will be

used to analyze, measure, monitor, report, and enhance business supply

chains to permit facilitated processing of C-TPAT partner shipments by

CBP.

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.

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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). Any disclosure of

information must be made consistent with the official duties of the

person making the disclosure. The routine uses are as follows:

 A. To the Department of Justice (DOJ), including the United States

Attorneys Offices, or other federal agency conducting litigation or in

proceedings before any court, adjudicative or administrative body, when

it is relevant or 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 when DOJ or

DHS has agreed to represent the employee; or

 4. The United States or any agency thereof.

 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 (NARA) or

General Services Administration pursuant to records management

inspections being conducted under the authority of 44 U.S.C. 2904 and

2906.

 D. To an agency or organization 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. DHS 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

individuals that rely 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, when 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.

 H. To appropriate foreign governmental agencies or multilateral

governmental organizations pursuant to an arrangement between CBP and a

foreign government or multilateral governmental organization regarding

supply chain security.

 I. To an appropriate federal, state, local, territorial, tribal, or

foreign governmental agencies or multilateral governmental

organizations or other appropriate authority or entity when necessary

to vet a C-TPAT applicant or validate a C-TPAT partner.

 J. To appropriate federal, state, local, tribal, or foreign

governmental agencies or multilateral governmental organizations when

DHS reasonably believes there to be a threat or potential threat to

national or international security for which the information may be

relevant in countering the threat or potential threat.

 K. To a federal, state, tribal, or local agency, or other

appropriate entity or individual, or foreign governments, in order to

provide relevant information related to intelligence,

counterintelligence, or antiterrorism activities authorized by U.S.

law, Executive Order, or other applicable national security directive.

 L. To an organization or individual in either the public or private

sector, either foreign or domestic, when there is a reason to believe

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

terrorist activity or conspiracy, or when the information is relevant

and necessary to the protection of life or property.

 M. To third parties during the course of a law enforcement

investigation to the extent necessary to obtain information pertinent

to the investigation.

 N. To an appropriate federal, state, local, tribal, foreign, or

international agency, if the information is relevant to a requesting

agency's decision concerning the hiring or retention of an individual,

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

benefit, or if the information is relevant to a DHS 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.

 O. To a federal, state, local, tribal, or foreign governmental

agency or multilateral governmental organization for the purpose of

consulting with that agency or entity: (1) To assist in making a

determination regarding redress for an individual in connection with

the operations of a DHS component or program; (2) for the purpose of

verifying the identity of an individual seeking redress in connection

with the operations of a DHS component or program; or (3) for the

purpose of verifying the accuracy of information submitted by an

individual who has requested such redress on behalf of another

individual.

 P. To appropriate federal, state, local, tribal, or foreign

governmental agencies or multilateral governmental organizations for

the purpose of protecting the vital health interests of a data subject

or other persons (e.g., to assist such agencies or organizations in

preventing exposure to or transmission of a communicable or

quarantinable disease or to combat other significant public health

threats; appropriate notice will be provided of any identified health

threat or risk).

 Q. 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.