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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2008-0110]

Privacy Act of 1974; United States Coast Guard--013 Marine
Information for Safety and Law Enforcement (MISLE) 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 record notices, the Department of Homeland Security is giving notice that it proposes to add a system of records to its inventory of record systems titled United States Coast Guard Marine Information for Safety and Law Enforcement System of Records. This system is a compilation of five legacy record systems: DOT/CG 679, Marine Information for Safety and Law Enforcement System (April 22, 2002), DOT/CG 588, Marine Safety Information System (April 11, 2000), DOT/CG 505, Recreational Boating Law Enforcement Case Files (April 11, 2000), DOT/CG 590, Vessel Identification System (April 11, 2000), DOT/CG 591, Merchant Vessel Documentation System (April 11, 2000). This record system will allow the Department of Homeland Security/United States Coast Guard to collect and maintain records regarding marine, safety and law enforcement information. Categories of individuals, categories of records, and routine uses of these legacy system of records notices have been consolidated and updated to better reflect the United States Coast Guard's marine, safety and law enforcement information. 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.

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-2008-0110 by one of the following methods:

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

Follow the instructions for submitting comments.

Fax: 703-483-2999.

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://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: 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 107-296, Section 1512, 116 Stat. 2310 (Nov. 25, 2002), the Department of Homeland Security (DHS)/United States Coast Guard (USCG) have relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records regarding marine, safety and law enforcement information.

As part of its efforts to streamline and consolidate its record systems, DHS is updating and reissuing a USCG system of records under the Privacy Act (5 U.S.C. 552a) that deals with marine safety and law enforcement information. This record system will allow DHS/USCG to collect and maintain records regarding marine safety and law enforcement information. This record system will allow the Department of Homeland Security/United States Coast Guard to collect and maintain records regarding marine information and law enforcement information.

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 record notices, the Department of Homeland Security is giving notice that it proposes to add a system of records to its inventory of record systems titled United States Coast Guard Marine Information System and Law Enforcement System of Records. This

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system is a compilation of five legacy record systems: DOT/CG 679, Marine Information for Safety and Law Enforcement System (67 FR 19612 April 22, 2002), DOT/CG 588, Marine Safety Information System (65 FR 19475 April 11, 2000), DOT/CG 505, Recreational Boating Law Enforcement Case Files (65 FR 19475 April 11, 2000), DOT/CG 590, Vessel Identification System (65 FR 19475 April 11, 2000), DOT/CG 591, Merchant Vessel Documentation System (65 FR 19475 April 11, 2000). This record system will allow the Department of Homeland Security/United States Coast Guard to collect and maintain records regarding marine safety, security, environmental protection and law enforcement information. Categories of individuals, categories of records, and routine uses of these legacy systems of records notices have been consolidated and updated to better reflect the United States Coast Guard's marine safety, security, environmental protection and law enforcement 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 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 stored and retrieved by the name of the individual or by some identifying number such as property address, mailing address, or symbol assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. DHS extends administrative Privacy Act protections to all individuals where information is maintained on both U.S. citizens, lawful permanent residents, and visitors. Individuals may request 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 Marine Information for Safety and Law Enforcement 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-013

System name:

United States Coast Guard Marine Information for Safety and Law Enforcement (MISLE).

Security classification:

Sensitive, but Unclassified.

System location:

Records are maintained at the United States Coast Guard (USCG) Headquarters in Washington, DC, the USCG Operations Systems Center, Kearneysville, WV, and other field locations.

Categories of individuals covered by the system:

Individuals with established relationship(s) and/or associations with vessels and marine transportation facilities and activities regulated by the USCG. Specifically, vessel owners, operators, charterers, masters, crew and/or agents, mortgagees, lien claimants, vessel builders, facility owners, managers or employees, individuals who own, operate, or represent marine transportation companies and

other individuals who come in contact with the USCG through its law enforcement, marine safety, investigation, and environmental activities.

Categories of records in the system:

Categories of records in this system include:

Name of individual, vessel, or facility;

Home and work addresses;

Phone numbers;

Facility number, involved party identification number, social security number, drivers license number, Immigration and Naturalization Service number, military identification number, U.S. Coast Guard license number, cellular number, foreign seaman's booklet number, resident alien number, merchant mariners license or documentation number, tax payer identification number;

Casualty case number;

Pollution incident case number;

Date of incident;

Civil penalty case number;

Biometric information through photographs including height, weight, eye color and hair color;

Videos;

Information on vessels and vessel characteristics including: Vessel identification data, registration data, port visits, inspection data, documentation data, port safety boarding, casualties, pollution incidents, and civil violations if applicable and associated information (data pertaining to people or organizations associated with vessels);

Information on marine transportation facilities including: Name, identification number, location, commodities handled, equipment certificates, approvals, inspection reports, pollution incidents, casualties, violations of U.S. laws, and data pertaining to people or organizations associated with those facilities;

For owners, operators, agents, and crew members:

Statements submitted by USCG relating to boarding, investigations as a result of a pollution and/or casualty incident, as well as any violations of United States law, along with civil penalty actions taken as a result of such violations. Such reports could contain names of passengers on vessels, as well as witnesses to such violations.

Narratives, reports and documents by USCG personnel describing their activities on vessels and within facilities including incident reports, violations of laws and international treaties,

Authority for maintenance of the system:

5 U.S.C. 301; 14 U.S.C 89a, 93(a) and (c), 632; 16 U.S.C 1431; The Federal Records Act, 33 U.S.C 1223; 33 U.S.C. 1228; 44 U.S.C. 3101; 46 U.S.C. 3717; 46 U.S.C. 12501; 46 U.S.C. 12119; 12502; 46 CFR par 67.1 et seq.; 49 CFR 1.45, 1.46.

Purpose(s):

The purpose of this system is to establish a safety, security and law enforcement performance history of vessels, facilities, people and organizations engaged in marine transportation, including enforcement action, that can be used to identify and address safety, security and environmental risks and to establish vessel eligibility for documentation as a U.S. flag vessel.

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 or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when:

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 Federal and State safety enforcement agencies, including, but not limited to, the Maritime Administration, U.S. Department of Transportation, and National Transportation Safety Board, to access historical data that may assist in safety investigations and improve transportation safety.

I. To Federal, State, and local environmental agencies, including, but not limited to, the U.S. Environmental Protection Agency, to access historical data that may improve compliance with U.S. laws relating to environmental protection.

J. To the United States Department of Commerce and National Technical Information Service (NTIS) to provide the characteristics of vessels documented by the USCG and owner information. This information is the same as that published in the annual publication ``Merchant Vessels of the United States'' (also known as the ``blue book''). This information is distributed electronically and is sold to the public.

K. To Federal and State numbering and titling officials to access information for improving the tracking, registering, and titling of vessels.

L. To the U.S. Department of Defense and related entities, including, but not limited to, the Military Sealift Command and U.S. Navy, to access data on safety information regarding vessels chartered by those agencies.

M. To other Federal and State agencies not listed above, including, but not limited to, the U.S. Census Bureau, U.S. Department of Labor, and U.S. Department of Commerce, to access historical data for improving general statistical information.

N. To the International Maritime Organization or intergovernmental organizations, nongovernmental organizations, or foreign governments in order to conduct joint investigations, operations, and inspections;

O. To Federal, State, or local agencies with which the U.S. Coast Guard Memorandum or Understanding, Memorandum of Agreement, or Inspection and Certification Agreement pertaining to Marine Safety, Maritime Security, Maritime Law Enforcement, and Marine Environmental Protection activities.

P. 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:

None.

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

Storage:

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

Retrievability:

Records may be retrieved by name of individual, vessel, or facility, facility number, involved party identification number, social security number, drivers license number, Immigration and Naturalization Service number, military identification number, U.S. Coast Guard license number, cedula number, foreign seaman's booklet number, resident alien number, merchant mariners license or documentation number, tax payer identification number person or organization name, casualty case number, pollution incident case number, date of incident, civil penalty

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case number, USCG unit entering data or incident location.

Safeguards:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated and paper 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 and paper files 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:

Records are retained indefinitely because the records schedules are currently pending. A copy of this system has been transferred to the National Archives and Records Administration permanent records collection. The following records schedule has been proposed:

A. Notifications associated with a Case or Activity are considered historically important and so are maintained permanently by the National Archives. USCG will transfer the records to the National Archives at least every five years after the close of a case or activity. In some cases, information may transferred prior to the five years.

B. Notifications not associated with a Case or Activity are maintained for five years and then destroyed or deleted. Information collected by MISLE is stored for a minimum of five years after the record is created, after which the information will be retained, archived or destroyed in accordance with the MISLE Records Schedule approved by the National Archives and Records Administration. All system hardware and data is stored at OSC, Kearneysville, WV. Backups are performed daily. Copies of backups are stored at an off-site location.

System Manager and address:

United States Coast Guard, Operations Systems Management Division, CG-635, 2100 2nd Street, SW., Washington, DC 20593-0001; Boating Safety Division, CG-5422; United States Coast Guard National Vessel Documentation Center, 792 T J Jackson Drive, Falling Waters, WV 25419.

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 USCG, Commandant (CG-611), 2100 2nd

St., SW., Attn: FOIA Coordinator, Washington, DC 20593-0001. Specific FOIA contact information can be found at <http://www.dhs.gov/foia> under ``contacts.''

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 subscribed to pursuant to 28 U.S.C. 1746, a law that permits statements to be made under penalty or 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 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:

All information entered into the MISLE is gathered from USCG boarding, USCG inspections, and USCG documentation offices, vessel notice of arrival reports in the course of normal routine business. This information is gathered from the owners, operators, crew members, agents, passengers, witnesses, other government agencies and United States Coast Guard personnel.

Exemptions claimed for the system:

The Secretary of Homeland Security has exempted this system from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). In addition, 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.
[FR Doc. E9-14906 Filed 6-24-09; 8:45 am]

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