[Federal Register Volume 73, Number 245 (Friday, December 19, 2008)]

[Notices]

[Pages 77764-77768]

From the Federal Register Online via the Government Publishing Office [[www.gpo.gov](http://www.gpo.gov/)]

[FR Doc No: E8-29802]

-----------------------------------------------------------------------

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2008-0153]

Privacy Act of 1974; U.S. Customs and Border Protection--013

Seized Assets and Case Tracking System

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

-----------------------------------------------------------------------

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

Homeland Security is giving notice that it proposes to consolidate

twelve legacy record systems into a U.S. Customs and Border Protection

system of records notice titled, U.S. Customs and Border Protection

Seizures and Violators (SEACATS): Treasury/CS.021 Arrest/Seizure/Search

Report and Notice of Penalty File, October 18, 2001, Treasury/CS.096

Fines, Penalties, and Forfeiture Control and Information Retrieval

System, October 18, 2001, Treasury/CS.098 Fines, Penalties, and

Forfeitures Records, October 18, 2001, Treasury/CS.099 Fines,

Penalties, and Forfeiture Files (Supplementary Petitions), October 18,

2001, Treasury/CS.100 Fines, Penalties, and Forfeiture Records, October

18, 2001, Treasury/CS.125 Intelligence Log, October 18, 2001, Treasury/

CS.136 All Liquidated Damage, Penalty, and Seizure Cases; Prior

Violators, October 18, 2001, Treasury/CS.156 Narcotic Violator File,

October 18, 2001, Treasury/CS.209 Resumes of Professional Artists,

October 18, 2001, Treasury/CS.213 Seized Asset and Case Tracking

System, October 18, 2001, Treasury/CS.215 Seizure Report File, October

18, 2001, Treasury/CS.227 Temporary Importation Under Bond (TIB)

Defaulter Control System, October 18, 2001, and Treasury/CS.258

Violator's Case Files, October 18, 2001. Categories of individuals,

categories of records, and the routine uses of these legacy system of

records notices have been consolidated and updated to better reflect

the U.S. Customs and Border Protection seizures and violators record

systems. DHS is issuing a Notice of Proposed Rulemaking 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 system will be

included in the Department's inventory of record systems.

DATES: Written comments must be submitted on or before January 20,

2009. This new system will be effective January 20, 2009.

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

2008-0153 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: 1-866-466-5370.

Mail: Hugo Teufel III, Chief Privacy Officer, Privacy

Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the

agency name and docket number for this rulemaking. All comments

received will be posted without change and may be read at [http://www.regulations.gov](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), Chief, Privacy Act Policy and

Procedures Branch, U.S. Customs and Border Protection, Office of

International Trade, Regulations & Rulings, Mint Annex, 1300

Pennsylvania Ave., NW., Washington, DC 20229. For privacy issues

contact: Hugo Teufel III (703-235-0780), Chief Privacy Officer, Privacy

Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the savings clause in the Homeland Security Act of

2002, Public Law 107-296, Section 1512, 116 Stat. 2310 (November 25,

2002), the Department of Homeland Security (DHS)/U.S. Customs and

Border Protection (CBP) have relied on preexisting Privacy Act systems

of records notices for the collection and maintenance of records

pertaining to seizures and violators.

As part of its efforts to streamline and consolidate its record

systems, DHS is establishing a component system of records under the

Privacy Act (5 U.S.C. 552a) for DHS/CBP that pertains to seizures made,

and persons found violating laws and regulations enforced,

[[Page 77765]]

by DHS/CBP. This record system will allow DHS/CBP to collect and

maintain records regarding seizures and violators.

In accordance with the Privacy Act of 1974, DHS is giving notice

that it proposes to consolidate twelve legacy record systems into a

DHS/CBP system of records notice titled, U.S. Customs and Border

Protection Seizures and Violators (SEACATS): Treasury/CS.021 Arrest/

Seizure/Search Report and Notice of Penalty File (66 FR 52984 October

18, 2001), Treasury/CS.096 Fines, Penalties, and Forfeiture Control and

Information Retrieval System (66 FR 52984 October 18, 2001), Treasury/

CS.098 Fines, Penalties, and Forfeitures Records (66 FR 52984 October

18, 2001), Treasury/CS.099 Fines, Penalties, and Forfeiture Files

(Supplementary Petitions) (66 FR 52984 October 18, 2001), Treasury/

CS.100 Fines, Penalties, and Forfeiture Records (66 FR 52984 October

18, 2001), Treasury/CS.125 Intelligence Log (66 FR 52984 October 18,

2001), Treasury/CS.136 All Liquidated Damage, Penalty, and Seizure

Cases; Prior Violators (66 FR 52984 October 18, 2001), Treasury/CS.156

Narcotic Violator File (66 FR 52984 October 18, 2001), Treasury/CS.209

Resumes of Professional Artists (66 FR 52984 October 18, 2001),

Treasury/CS.213 Seized Asset and Case Tracking System (66 FR 52984

October 18, 2001), Treasury/CS.215 Seizure Report File (66 FR 52984

October 18, 2001), Treasury/CS.227 Temporary Importation Under Bond

(TIB) Defaulter Control System (66 FR 52984 October 18, 2001), and

Treasury/CS.258 Violator's Case Files (66 FR 52984 October 18, 2001).

Categories of individuals, categories of records, and the routine uses

of these legacy systems of records notices have been consolidated and

updated to better reflect DHS/CBP seizures and violators 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

system will cover all seizure, civil and criminal cases relating to

violators of the customs, immigration, agriculture and other laws and

regulations administered or enforced by DHS/CBP.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory

framework governing the means by which the U.S. 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 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. 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 DHS/CBP Seizures and

Violators 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 (OMB) and

to Congress.

System of Records

DHS/CBP-013

System name:

U.S. Customs and Border Protection Seized Assets and Case Tracking

System (SEACATS).

Security classification:

Unclassified.

System location:

This computer database is located at the U.S. Customs and Border

Protection National Data Center in the Washington, DC area. Computer

terminals are located at CBP sites and ports throughout the United

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

facilities under the jurisdiction of the U.S. Department of Homeland

Security (DHS) and other locations at which officers of DHS may be

posted or operate to facilitate DHS's mission of homeland security.

Terminals may also be located at appropriate facilities for other

participating government agencies pursuant to agreement. Records are

maintained at the U.S. Customs and Border Protection Headquarters in

Washington, DC and in field offices.

Categories of individuals covered by the system:

Categories of individuals covered by this system include current

and former violators and alleged or otherwise suspected violators of

Custom, immigration, agriculture or other laws and regulations

administered or enforced by DHS/CBP, and related parties involved in,

or affected by, an inquiry concerning the violation of Customs,

immigration, agriculture or other law enforced or administered by DHS/

CBP. This system includes:

Persons who are believed to be involved in activities

which constitute, or may develop into, possible violation of Customs,

immigration, agriculture or other laws administered or enforcement by

DHS/CBP.

Persons who smuggle, or are suspected of smuggling,

merchandise or contraband, including narcotics and other illegal drugs,

into the U.S.;

Vessels, aircraft and other conveyances that have been

used in connection or with or found in violation of Customs,

immigration, agriculture or other laws and regulations enforced or

administered by DHS/CBP;

Individuals and businesses fined, penalized, or forced to

forfeit merchandise because of violations of Customs, immigration,

agriculture and/or other laws administered or enforced by DHS/CBP;

Individuals and businesses who have filed false invoices,

documents, or statements that result in a violation of Customs,

immigration, agriculture or other laws and regulations administered or

enforced by DHS/CBP;

Individuals and businesses who have filed supplemental

petitions for relief from fines, penalties, and forfeitures assessed

for violations of the laws and regulations administered or enforced by

DHS/CBP;

Owners, claimants, and other interested parties to seized

property;

Purchasers of forfeited property;

Individuals to whom prohibited merchandise is addressed;

and

Individuals who assist in the enforcement of customs,

navigation, immigration, agriculture and other laws administered or

enforced by DHS/CBP.

Categories of records in the system:

Categories of records in this system may include:

Individual's name;

Business name;

Aliases;

Social security number;

[[Page 77766]]

Physical description of the individual;

Addresses;

Telephone numbers;

Occupation;

Violator's previous record;

Driver's license;

Passport number;

Entry documentation;

Personal identifying number, such as informant number;

Case number or seizure number;

Vessel name, including registration number;

Aircraft name and tail number;

License Plate Number;

Type of violation/suspected violation;

Description of violation/alleged violation, including

circumstances surrounding the violation/alleged violation, including

section of law violated or alleged to have been violated;

Date and place of violation/alleged violation;

On-site disposition actions, such as whether a seizure was

made, an item was detained, or inspection occurred;

Sender of the seized or detained goods;

Intended recipient of the seized or detained goods;

Parties entitled to legal notice or who are legally

liable;

Bond information;

Notices;

Investigative reports and disposition of fines, penalties,

and forfeitures;

Memoranda;

Petitions and supplemental petitions;

Recommendations pertaining to litigation;

Referrals to Department of Justice;

Notes from officers related to a DHS/CBP action;

Case information pertaining to violation;

Actions taken by DHS/CBP;

Documents relating to the internal review and

consideration of the request for relief and decision thereon;

Property description;

Estimated foreign value of merchandise;

Duty;

Domestic value of merchandise;

CBP Port code;

Delivery to seizure clerk; and

Applicants for awards of compensation and determination of

such applications.

Authority for maintenance of the system:

5 U.S.C. 301; the Federal Records Act, 44 U.S.C. 3101; the

immigration laws, including 8 U.S.C. 1221, 1321-1328, 8 CFR parts 270,

274, 280; the Customs laws, including 18 U.S.C. 542, 545 and 19 U.S.C.

66, 1436, 1497, 1509, 1592, 1593a, 1594, 1595a, 1618, 1619, 1624, 1703

and, 19 CFR parts 1623, 171 and 172; the agriculture laws, including 7

U.S.C. 8303, 8304, 8307; Executive Order 9373.

Purpose(s):

The purpose of this system is to (1) document individuals and

businesses who violated, or are alleged to have violated, Custom,

immigration, agriculture and other laws and regulations enforced or

administered by DHS/CBP; (2) collect and maintain records on fines,

penalties, and forfeitures; and (3) collect and maintain records of

individuals who have provided assistance with respect to identifying or

locating individuals who have or are alleged to have violated Customs,

immigration, agriculture and other laws and regulations enforced or

administered by DHS/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.

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 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 or any component in his/her official

capacity;

3. Any employee of DHS or any component in his/her individual

capacity where DOJ or DHS has agreed to represent the employee; or

4. The U.S. or any agency thereof, is a party to the litigation or

has an interest in such litigation, and DHS or CBP 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 or CBP

collected the records.

B. To a congressional office 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 or CBP suspects or has confirmed that the security or

confidentiality of information in the system of records has been

compromised;

2. DHS or CBP 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, CBP, 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 or CBP'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 or CBP, 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/CBP officers and employees.

G. To appropriate Federal, State, local, tribal, or foreign

governmental agencies or multilateral governmental organizations

responsible for investigating or prosecuting the violations of, or for

enforcing or implementing, a statute, rule, regulation, order, license,

or treaty where DHS determines that the information would assist in the

enforcement of civil or criminal laws.

H. To an appropriate Federal, State, local, tribal, foreign, or

international agency, if the information is relevant and necessary 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 and

necessary to a DHS decision concerning the hiring or retention of an

employee, the issuance of a security clearance, the reporting of

[[Page 77767]]

an investigation of an employee, the letting of a contract, or the

issuance of a license, grant or other benefit and disclosure is

appropriate to the proper performance of the official duties of the

person making the request.

I. 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 or in connection with criminal law proceedings or in

response to a subpoena from a court of competent jurisdiction.

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

investigation to the extent necessary to obtain information pertinent

to the investigation, provided disclosure is appropriate to the proper

performance of the official duties of the officer making the

disclosure.

K. To a consumer reporting agency in accordance with section

3711(3) of Title 31.

L. 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 any component is necessary to demonstrate the accountability of DHS

or a component'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.

M. To appropriate Federal, State, local, tribal, or foreign

governmental agencies or multilateral governmental organizations where

DHS is aware of a need to utilize relevant data for purposes of testing

new technology and systems designed to enhance national security or

identify other violations of law.

N. To a Federal, State, or local agency, or other appropriate

entity or individual, or through established liaison channels to

selected foreign governments, in order to provide intelligence,

counterintelligence, or other information for the purposes of

intelligence, counterintelligence, or antiterrorism activities

authorized by U.S. law, Executive Order, or other applicable national

security directive.

Disclosure to consumer reporting agencies:

Yes, when appropriate and in accordance with section 3711(3) of

Title 31.

Policies and practices for storing, retrieving, accessing, retaining,

and disposing of records in the system:

Storage:

Records in this system are stored electronically or on paper in

secure facilities in a locked drawer behind a locked door. The records

are stored on magnetic disc, tape, digital media, and CD-ROM.

Retrievability:

Records are retrieved by individual's name; business name; vessel

name; aircraft name; case number; year and CBP port code;

identification codes; identifying number; date of violation; type of

violation; name of the person to which seized items are addressed; case

or seizure number by fiscal year; and phone number.

Safeguards:

Records in this system are safeguarded in accordance with

applicable rules and policies, including all applicable DHS automated

system security access policies. Strict controls have been imposed to

minimize the risk of compromising the information that is being stored.

Access to the computer system containing the records in this system is

limited to those individuals who have a need to know the information

for the performance of their official duties and who have appropriate

clearances or permissions.

Retention and disposal:

Records related to a law enforcement action; or that are linked to

an alleged violation of law or regulation, or are matches or suspected

matches to enforcement activities, investigations or cases (i.e.,

administrative penalty actions or criminal prosecutions), will remain

accessible until the conclusion of the law enforcement matter and any

other enforcement matters or related investigative, administrative, or

judicial action to which it becomes associated plus five years. Records

associated with a law enforcement matter, where all applicable statutes

of limitation have expired prior to the conclusion of the matter, will

be retained for two years following the expiration of the applicable

statute of limitations.

System Manager and address:

Customs and Border Protection, Customs and Border Protection

Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

Notification procedure:

The Secretary of Homeland Security has exempted this system from

notification, access, and amendment because of the law enforcement

nature of the information. However, CBP will review requests on a case

by case and release information as appropriate. 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 CBP's FOIA Officer, 1300 Pennsylvania Avenue, NW., Mint

Annex, Washington, DC 20229. 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 CBP system of records your request must conform with the

Privacy Act regulations set forth in 6 CFR part 5. You must first

verify your identity, meaning that you must provide your full name,

current address and date and place of birth. You must sign your

request, and your signature must either be notarized or submitted under

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

of perjury as a substitute for notarization. While no specific form is

required, you may obtain forms for this purpose from the Director,

Disclosure and FOIA, [http://www.dhs.gov](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 CBP 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:

Individuals, including individuals petitioning for relief of fines,

penalties, and forfeitures; DHS/CBP employees, including DHS/CBP

employees who prepare Customs Form 5955a (Notice of Penalty or

liquidated Damages Incurred and Demand for Payment) and Customs

[[Page 77768]]

Form 151 (Search/Arrest/Seizure Report) at the time and place where the

violation occurred; Information and representations supplied by

importers, brokers and other agents pursuant to the entry and

processing of merchandise or in the clearing of individuals or baggage

through Customs. Also included is information gathered pursuant to DHS/

CBP investigations of suspected or actual violations of Customs,

immigration, agriculture and other laws enforced or administered by

DHS/CBP, regulations, recommendations, and information supplied by

other agencies; Port Director of CBP who has jurisdiction over fines,

penalties, and forfeitures; penalty notices; Search/Arrest/Seizure

Reports transmitted to the Fines, Penalties, and Forfeitures Office by

ports and stations within the area; and mail shipments.

Exemptions claimed for the system:

Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act,

portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4);

(d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5)

and (e)(8); (f), and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system

is exempt from the following provisions of the Privacy Act, subject to

the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3),

(d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). In addition, to

the extent a record contains information from other exempt systems of

records, CBP will rely on the exemptions claimed for those systems.

Dated: December 10, 2008.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8-29802 Filed 12-18-08; 8:45 am]

BILLING CODE 4410-10-P