

place after DHS determines that the receiving component or agency has a verifiable need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

The information within this system that meets the functional standard of the National Suspicious Activity Reporting Initiative will be placed into the DHS/ALL—031 Information Sharing Environment Suspicious Activity Reporting Initiative (September 10, 2010, 75 FR 55335).

#### List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

#### PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for part 5 continues to read as follows:

**Authority:** 6 U.S.C. 101 *et seq.*; Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to part 5, the following new paragraph “52”:

#### Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

\* \* \* \* \*

52. The DHS/NPPD—001NICC Records System of Records consists of electronic and paper records and will be used by DHS/NPPD/NICC. The DHS/NPPD—001NICC Records System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; national security and intelligence activities. The DHS/NPPD—001NICC Records System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies.

The Secretary of Homeland Security is exempting this system from the following provisions of the Privacy Act, subject to limitations set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(3). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the

subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: November 5, 2010.

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

[FR Doc. 2010–28569 Filed 11–12–10; 8:45 am]

**BILLING CODE 9110-9A-P**

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

#### 6 CFR Part 5

[Docket No. DHS–2010–0053]

#### Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security Office of Operations Coordination and Planning—003 Operations Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records

**AGENCY:** Privacy Office, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Homeland Security is giving concurrent notice of a newly established system of records pursuant to the Privacy Act of 1974 for the Department of Homeland Security Office of Operations Coordination and Planning—003 Operations Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

**DATES:** Comments must be received on or before December 15, 2010.

**ADDRESSES:** You may submit comments, identified by docket number DHS–2010–0053, 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 notice. All comments received will be posted without change to <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: Michael Page (202–357–7626), Privacy Point of Contact, Office of Operations Coordination and Planning, Department of Homeland Security, Washington, DC 20528. For privacy issues please contact: Mary Ellen Callahan (703–235–

0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

**SUPPLEMENTARY INFORMATION:**

*Background:* In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) Office of Operations Coordination and Planning (OPS), including the National Operations Center (NOC), proposes to establish a new DHS system of records titled, “DHS/OPS—003 Operations Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records.”

This system of records will allow DHS/OPS, including the NOC, to collect, plan, coordinate, report, analyze, and fuse information related to all-threats and all-hazards, law enforcement activities, intelligence activities, man-made disasters and acts of terrorism, natural disasters, and other information collected or received from Federal, State, local, tribal, and territorial agencies and organizations; foreign governments and international organizations; domestic security and emergency management officials; and private sector entities or individuals into the Department.

OPS serves as a joint operations coordination and planning capability at the strategic level to support internal DHS operational decision making, DHS leadership, and participation in interagency operations. OPS integrates DHS and interagency planning and operations coordination in order to prevent, protect, and respond to and recover from all-threats and all-hazards, man-made disasters and acts of terrorism, and natural disasters.

The NOC serves as the nation’s homeland security center for information sharing and domestic incident management, dramatically increasing coordination between federal, state, local, tribal, and territorial agencies and organizations; foreign governments and international organizations; domestic security and emergency management officials; and private sector entities or individuals. The NOC collects and fuses information from a variety of sources everyday to help deter, detect, and prevent terrorist acts as well as to prepare for, respond to, and recover from all-threats and all-hazards, man-made disasters and acts of terrorism, and natural disasters. Operating 24 hours a day, seven days a week, 365 days a year, the NOC provides real-time situational awareness and monitoring of the homeland, coordinates incident and response activities, and, in conjunction with other DHS components, issues

advisories and bulletins concerning threats to homeland security, including natural disasters, as well as specific protective measures. Information on domestic incident management is shared with state Fusion Centers and Emergency Operations Centers (EOC) at all levels through Watch Officer Desks located in the NOC.

The purpose of this system is to:

1. *Collect, plan, coordinate, and analyze* all-threats and all-hazards, law enforcement activities, intelligence activities, man-made disasters and acts of terrorism, natural disasters, and other information collected or received from Federal, State, local, tribal, and territorial agencies and organizations; foreign governments and international organizations; domestic security and emergency management officials; and private sector entities or individuals; and

2. *Report, integrate, and fuse* such information throughout DHS in order to share information, increase coordination, identify and assess the nature and scope of information and understand risks in light of potential or actual vulnerabilities to the homeland; and help deter, detect, and prevent terrorist acts as well as to prepare for, respond to, and recover from all-threats and all-hazards, man-made disasters and acts of terrorism, and natural disasters.

DHS is authorized to implement this program primarily through 5 U.S.C. 301, 552, 552a; 44 U.S.C. 3101; 6 U.S.C. 121; §§ 201 and 514 of the Homeland Security Act of 2002, as amended; § 520 of the Post Katrina Emergency Management Reform Act; 44 U.S.C. 3101; Executive Order (E.O.) 12958; E.O. 9397; E.O. 12333; E.O. 13356; E.O. 13388; and Homeland Security Presidential Directive 5. This system has an effect on individual privacy that is balanced by the need to collect, plan, coordinate, report, analyze, and fuse homeland security information coming into and going out of OPS, including the NOC. Routine uses contained in this notice include sharing with the Department of Justice (DOJ) for legal advice and representation; to a congressional office at the request of an individual; to the National Archives and Records Administration (NARA) for records management; to contractors in support of their contract assignment to DHS; to appropriate Federal, State, tribal, local, international, foreign agency, or other appropriate entity including the privacy sector in their role aiding OPS in their mission; to agencies, organizations or individuals for the purpose of audit; to agencies, entities, or persons during a security or information

compromise or breach; to an agency, organization, or individual when there could potentially be a risk of harm to an individual; and to the news media in the interest of the public. A review of this system is being conducted to determine if the system of records collects information under the Paperwork Reduction Act (PRA).

Consistent with DHS’s information sharing mission, information contained in the DHS/OPS—003 Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records may be shared with other DHS components, as well as appropriate Federal, State, local, tribal, territorial, foreign, or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a verifiable need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

The information within this system that meets the functional standard of the National Suspicious Activity Reporting Initiative will be placed into the DHS/ALL—031 Information Sharing Environment Suspicious Activity Reporting Initiative (September 10, 2010, 75 FR 55335).

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. 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 of 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 individuals in finding such files within the agency.

The Privacy Act allows Government agencies to exempt certain records from

the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/OPS—003 Operations Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records. Some information in DHS/OPS—003 Operations Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records relates to official DHS national security, law enforcement, immigration, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS' ability to obtain information from third parties and other sources; to protect the privacy of third parties; and to safeguard classified information. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

#### List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

#### PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for part 5 continues to read as follows:

**Authority:** 6 U.S.C. 101 *et seq.*; Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, the following new paragraph “53”:

#### Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

\* \* \* \* \*

53. The DHS/OPS—003 Operations Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records consists of electronic and paper records and will be used by DHS/OPS. The DHS/OPS—003 Operations Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; national security and intelligence activities. The DHS/OPS—003 Operations Collection, Planning, Coordination, Reporting, Analysis, and Fusion System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies.

The Secretary of Homeland Security is exempting this system from the following provisions of the Privacy Act, subject to limitations set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(3). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

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information that could be detrimental to homeland security.

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(d) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: November 5, 2010.

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

[FR Doc. 2010–28572 Filed 11–12–10; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2010–1112; Directorate Identifier 2010–NM–051–AD]

RIN 2120–AA64

#### Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 0070 and 0100 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

The flight crew of a F28 Mark 0070 (Fokker 70) aeroplane received a MLG [main landing gear] unsafe message after landing gear down selection during approach. \* \* \*