to file all workpapers that fully support the data reported on Form No. 6 page 700, including a total cost-of-service. ATA and NPGA also assert that pipelines must file Form No. 6 before initiating an index rate increase. ATA and NPGA also argue that the Commission should change the interest rates applicable to refunds as provided in 18 CFR § 340.1(c)(2)(i) to reflect the pipeline's rate of return as reported on Form No. 6, page 700.

130. SPOPS urges, in its reply comments, that shippers and customers should be allowed access to the workpapers underlying page 700. SPOPS also contends that the page 700 data should reveal both the nominal and the real rate of return on equity, including the amount of dollars of equity both collected in rates and dollars placed in rate base. SPOPS states that the current rate of return on equity must be known to determine the need for the index increase to attract capital.

131. In reply comments, AOPL argues that the Commission has addressed and rejected the proposal regarding segmented data and workpapers. AOPL states the Commission in its ruling explained that page 700 is designed to be a preliminary screening tool for pipeline rate filings and not form the basis of a decision or demonstrates the just and reasonableness of proposed or existing rates. AOPL asserts the Commission has revisited this issue as recently as December 2008 and upheld its initial views.

2. Commission Determination

132. The Commission finds that the proposals to modify Form No. 6 are outside the scope of this proceeding, which is to set the going-forward index level.

The Commission orders: Consistent with our review and verification of the sample pipeline Form No. 6 data, and the application of the previously approved Order No. 561 methodology to that data, the Commission determines that the appropriate oil pricing index for the next five years, July 1, 2011 through June 30, 2016, should be PPI–FG+2.65.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–32062 Filed 12–21–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[CPCLO Order No. 006–2010]

Privacy Act of 1974; Implementation

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Final rule.

SUMMARY: The Federal Bureau of Investigation (FBI), a component of the Department of Justice, issued a proposed rule for a new Privacy Act system of records entitled, the "Data Integration and Visualization System (DIVS)," JUSTICE/FBI–021, 75 FR 53262 (August 31, 2010). DIVS is exempt from the subsections of the Privacy Act listed below for the reasons set forth in the following text. Information in this system of records related to matters of law enforcement and the exemptions are necessary to avoid interference with the national security and criminal law enforcement functions and responsibilities of the FBI. This document addresses a public comment on the proposed rule.

DATES: *Effective Date:* December 22, 2010.

FOR FURTHER INFORMATION CONTACT: Erin Page, Assistant General Counsel, Privacy and Civil Liberties Unit, Office of the General Counsel, FBI, Washington, DC 20535–0001, telephone 202–324–3000.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 2010, the FBI published notice of a new Privacy Act system of records entitled, "Data Integration and Visualization System (DIVS)," JUSTICE/FBI–021, which became effective on October 1, 2010. In conjunction with publication of the DIVS system of records notice, the FBI initiated a rulemaking to exempt DIVS from a number of provisions of the Privacy Act, in accordance with subsections 553a(j) and/or (k). On August 31, 2010, the FBI published at 75 FR 53262 a proposed rule exempting records in the DIVS from Privacy Act subsections (c)(3), and (4); (d)(1), (2), (3) and (4); (e)(1), (2) and (3); (e)(4)(G), (H) and (I); (e)(5) and (8); (f) and (g).

Public Comment

The FBI received one comment on the proposed rule. The commenter concurred with the exemptions cited but requested that the FBI provide more information explaining the FBI's "internal controls" in protecting the data itself from improper violations. The FBI determined that the public comment merited no change in the rule, as the commenter concurred with the exemptions claimed, and because an exemption rule does not provide an appropriate venue for the discussion requested.

Regulatory Flexibility Act

This proposed rule relates to individuals as opposed to small business entities. Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, therefore, the proposed rule will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, codified as a note to 5 U.S.C. 601, requires the FBI to comply with small entity requests for information and advice about compliance with statutes and regulations within FBI jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at *http://www.sba.gov/advo/archive/sum_sbrefa.html.*

Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), requires that the FBI consider the impact of paperwork and other information collection burdens imposed on the public. There is no current or new information collection requirements associated with this proposed rule. The records that are contributed to DIVS are created by the FBI or other law enforcement and intelligence entities and sharing of this information electronically will not increase the paperwork burden on the public.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, 109 Stat. 48, requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A "Federal mandate" is a new or additional enforceable duty, imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend,

in aggregate, $100 million or more in any one year, the UMRA analysis is required. This proposed rule would not impose Federal mandates on any State, local, or tribal government or the private sector.

List of Subjects in 28 CFR Part 16

Administrative practices and procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

■ Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 2940–2008, 28 CFR Part 16 is amended as follows:

PART 16—[AMENDED]

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552(b)(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

Subpart E—Exemption of Records Systems Under the Privacy Act

■ 2. Section 16.96 is amended to add new paragraphs (v) and (w) to read as follows:

§ 16.96 Exemption of Federal Bureau of Investigation Systems—limited access.

* * * * *

(v) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2) and (3); (e)(4)(G), (H) and (I); (e)(5) and (8); (f) and (g) of the Privacy Act:

(1) Data Integration and Visualization System (DIVS), (JUSTICE/FBI–021).

(2) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) and/or (k). Where compliance would not appear to interfere with or adversely affect the intelligence and law enforcement purpose of this system, and the overall law enforcement process, the applicable exemption may be waived by the FBI in its sole discretion.

(w) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3), the requirement that an accounting be made available to the named subject of a record, because this system is exempt from the access provisions of subsection (d). Also, because making available to a record subject the accounting of disclosures from records concerning him/her would specifically reveal any investigative interest in the individual by the FBI or agencies that are recipients of the disclosures. Revealing this information could compromise ongoing, authorized law enforcement and intelligence efforts, particularly efforts to identify and defuse any potential acts of terrorism or other potential violations of criminal law. Revealing this information could also permit the record subject to obtain valuable insight concerning the information obtained during an investigation and to take measures to impede the investigation, *e.g.*, destroy evidence or flee the area to avoid the investigation.

(2) From subsection (c)(4) notification requirements because this system is exempt from the access and amendment provisions of subsection (d) as well as the access to accounting of disclosures provision of subsection (c)(3). The FBI takes seriously its obligation to maintain accurate records despite its assertion of this exemption, and to the extent it, in its sole discretion, agrees to permit amendment or correction of records, it will share that information in appropriate cases.

(3) From subsection (d)(1), (2), (3), and (4), (e)(4)(G) and (H) because these provisions concern individual access to and amendment of law enforcement, intelligence and counterintelligence, and counterterrorism records, and compliance could alert the subject of an authorized law enforcement or intelligence activity about that particular activity and the investigative interest of the FBI and/or other law enforcement or intelligence agencies. Providing access could compromise sensitive information classified to protect national security; disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; could provide information that would allow a subject to avoid detection or apprehension; or constitute a potential danger to the health or safety of law enforcement personnel, confidential sources, and witnesses.

(4) From subsection (e)(1) because it is not always possible to know in advance what information is relevant and necessary for law enforcement and intelligence purposes, and a major tenet of DIVS is that the relevance and utility of certain information that may have a nexus to terrorism or other crimes may not always be evident until and unless it is vetted and matched with other sources of information that are necessarily and lawfully maintained by the FBI.

(5) From subsection (e)(2) and (3) because application of this provision could present a serious impediment to efforts to solve crimes and improve national security. Application of these provisions would put the subject of an investigation on notice of that fact and allow the subject an opportunity to engage in conduct intended to impede that activity or avoid apprehension.

(6) From subsection (e)(4)(I), to the extent that this subsection is interpreted to require more detail regarding the record sources in this system than has been published in the **Federal Register**. Should the subsection be so interpreted, exemption from this provision is necessary to protect the sources of law enforcement and intelligence information and to protect the privacy and safety of witnesses and informants and others who provide information to the FBI. Further, greater specificity of properly classified records could compromise national security.

(7) From subsection (e)(5) because in the collection of information for authorized law enforcement and intelligence purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. With time, seemingly irrelevant or untimely information may acquire new significance when new details are brought to light. Additionally, the information may aid in establishing patterns of activity and providing criminal or intelligence leads. It could impede investigative progress if it were necessary to assure relevance, accuracy, timeliness and completeness of all information obtained during the scope of an investigation. Further, some of the records searched by and/or contained in DIVS may come from other agencies and it would be administratively impossible for the FBI to vouch for the compliance of these agencies with this provision.

(8) From subsection (e)(8) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on the FBI and may alert the subjects of law enforcement investigations, who might be otherwise unaware, to the fact of those investigations.

(9) From subsections (f) and (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: November 2, 2010.

Nancy C. Libin,

Chief Privacy and Civil Liberties Officer.

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