

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

#### 6 CFR Part 5

[Docket No. DHS 2017–0026]

### Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)-024 CBP Intelligence Records System (CIRS) System of Records

**AGENCY:** Department of Homeland Security, Privacy Office.

**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 (DHS)/U.S. Customs and Border Protection (CBP)-024 CBP Intelligence Records System (CIRS) 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 October 23, 2017.

**ADDRESSES:** You may submit comments, identified by docket number DHS 2017–0026, by one of the following methods:

- *Federal e-Rulemaking Portal:* <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 notice. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*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: Debra L. Danisek (202) 344–1610, Privacy Officer, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., 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)/U.S. Customs and Border Protection (CBP) proposes to concurrently establish a new DHS system of records titled, “DHS/CBP–024 CBP Intelligence Records System (CIRS) System of Records” and this notice of proposed rulemaking 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.

The CIRS system of records is owned by CBP’s Office of Intelligence (OI). CIRS contains information collected by CBP to support CBP’s law enforcement intelligence mission. This information includes raw intelligence information collected by CBP’s OI, public source information, and information initially collected by CBP pursuant to its immigration and customs authorities. This information is analyzed and incorporated into intelligence products. CBP currently uses the Analytical Framework for Intelligence (AFI) and the Intelligence Reporting System (IRS) information technology (IT) systems to facilitate the development of finished intelligence products. These products are disseminated to various stakeholders including CBP executive management, CBP operational units, various government agencies, and the Intelligence Community. Information collected by CBP for an intelligence purpose that is not covered by an existing DHS System of Records Notice (SORN) and is not incorporated into a finished intelligence product is retained

and disseminated in accordance with this SORN. Finished intelligence products, and the information contained in those products, regardless of the original source system of that information, are also retained and disseminated in accordance with this SORN.

CIRS is the exclusive CBP SORN for finished intelligence products and any raw intelligence information, public source information, or other information collected by CBP for an intelligence purpose that is not subject to an existing DHS SORN. CIRS records were previously covered by CBP’s Automated Targeting System SORN, DHS/CBP–006, 77 FR 30297 (May 22, 2012), and CBP’s Analytical Framework for Intelligence System SORN, DHS/CBP–017, 77 FR 13813 (June 7, 2012). As part of the intelligence process, CBP investigators and analysts must review large amounts of data to identify and understand relationships between individuals, entities, threats, and events to generate law enforcement intelligence products that provide CBP operational units with actionable information for law enforcement purposes.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/CBP–024 CBP Intelligence Records System (CIRS) System of Records. Some information in CIRS 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 retains the ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

In appropriate circumstances, when 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.

A notice of system of records for DHS/CBP-024 CIRS System of Records is also published in this issue of the **Federal Register**.

## 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 from 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. Additionally, and similarly, the Judicial Redress Act (JRA) provides a statutory right to covered persons to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

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.

### 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. In appendix C to part 5, add paragraph 78:

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

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78. The DHS/CBP-024 CBP Intelligence Records System (CIRS) System of Records consists of electronic and paper records and

will be used by DHS and its components. The CIRS 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; and national security and intelligence activities. The CIRS 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, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 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). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), has exempted this system from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). When this system receives a record from another system exempted in that source system under 5 U.S.C. 552a(k)(1), (k)(2), or (j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here. 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) and (4) (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 and Amendment 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 subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) 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 and amendment 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, amend, 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.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and

complete records; or failure to otherwise comply with an individual's right to access or amend records.

**Jonathan R. Cantor**

*Acting Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. 2017-19717 Filed 9-20-17; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 21

[Docket No. FAA-2017-0851]

#### Airworthiness Criteria: Glider Design Criteria for DG Flugzeugbau GmbH Model DG-1000M Glider

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

**ACTION:** Notice of proposed design criteria.

**SUMMARY:** This notice announces the availability of and requests comments on the proposed design criteria for the DG Flugzeugbau GmbH model DG-1000M glider. The Administrator finds the proposed design criteria, which make up the certification basis for the DG-1000M glider, acceptable. These final design criteria will be published in the **Federal Register**.

**DATES:** Comments must be received on or before October 23, 2017.

**ADDRESSES:** Send comments identified by docket number FAA-2017-0851 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC, 20590-0001.

- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

*Privacy:* The FAA will post all comments it receives, without change, to <http://regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA

docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays. **FOR FURTHER INFORMATION CONTACT:** Mr. Jim Rutherford, AIR-692, Federal Aviation Administration, Policy & Innovation Division, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, MO 64106, telephone (816) 329-4165, facsimile (816) 329-4090.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the design criteria, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments received on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these airworthiness design criteria based on received comments.

##### Background

On May 18, 2011, DG Flugzeugbau GmbH submitted an application for type validation of the DG-1000M glider in accordance with the Technical Implementation Procedures for Airworthiness and Environmental Certification Between the FAA and the European Aviation Safety Agency (EASA), dated May 05, 2011. This model is a variant of the DG-1000T powered glider and will be added to existing Type Certificate No. G20CE. The model DG-1000M is a two-seat, mid-wing, self-launching, powered glider with a retractable engine and fixed-pitch propeller. It is constructed from carbon and glass fiber reinforced plastic, and features a conventional T-type tailplane. The glider also features a 65.6 foot (20 meter) wingspan and a

maximum weight of 1,742 pounds (790 kilograms).

The EASA type certificated the DG-1000M powered glider under Type Certificate Number (No.) EASA.A.072 on March 17, 2011. The associated EASA Type Certificate Data Sheet (TCDS) No. EASA.A.072 defines the DG Flugzeugbau GmbH certification basis submitted to the FAA for review and acceptance.

The applicable requirements for glider certification in the United States can be found in FAA Advisory Circular (AC) 21.17-2A, "Type Certification—Fixed-Wing Gliders (Sailplanes), Including Powered Gliders," dated February 10, 1993. AC 21.17-2A has been the basis for certification of gliders and powered gliders in the United States for many years. AC 21.17-2A states that applicants may utilize the Joint Aviation Requirements (JAR)-22, "Sailplanes and Powered Sailplanes," or another accepted airworthiness criteria, or a combination of both, as the accepted means for showing compliance for glider type certification.

##### Type Certification Basis

The applicant proposed a Certification Basis based on JAR-22, amendment 6, dated August 01, 2001. In addition to JAR-22 requirements, the applicant proposed to comply with other requirements from the certification basis referenced in EASA TCDS No. EASA.A.072, including an equivalent safety finding.

##### List of Subjects in 14 CFR Part 21

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these airworthiness criteria is as follows:

**Authority:** 42 U.S.C. 7572; 49 U.S.C. 106(f), 106(g), 40105, 40113, 44701-44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

##### The Proposed Design Criteria

Applicable Airworthiness Criteria under § 21.17(b).

Based on the Special Class provisions of § 21.17(b), the following airworthiness requirements form the FAA Certification Basis for this design:

1. 14 CFR part 21, effective February 1, 1965, including amendments 21-1 through 21-92 as applicable.
2. JAR-22, amendment 6, dated August 01, 2001.
3. EASA Equivalent Safety Finding to JAR 22.207(c)—Stall warning. (FAA issued corresponding Equivalent Level of Safety (ELOS) Memorandum No. ACE-07-01A, dated April 02, 2012, as an extension to an existing ELOS finding).
4. "Standards for Structural Substantiation of Sailplane and Powered Sailplane Parts Consisting of Glass or Carbon Fiber