

received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be change in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA-7, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, which described the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Dunkirk, NY. A GPS RWY 1 SIAP has been developed for the Angola Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic

impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In considered of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA NY E5 Dunkirk, NY [Revised]

Chautauqua County/Dunkirk Airport, NY

(lat. 42°29'36"N., long. 79°16'19"W.)

Angola Airport, NY

(lat. 42°39'37"N., long. 78°59'28"W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Chautauqua County/Dunkirk Airport and within an 11.8-mile radius of the airport extending clockwise from a 022° to a 264° bearing from the airport and within a 6.3-mile radius of the Angola Airport and within 4 miles each side of the 359° bearing from the airport extending from the 6.3-mile radius to 10.5 miles south of the airport.

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Issued in Jamaica, New York, on May 27, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98-14887 Filed 6-3-98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 152-98]

Exemption of System of Records Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice, Federal Bureau of Investigation,

proposes to exempt the National Instant Criminal Background Check System (NICS) from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (2), and (3); (e)(4)(G) and (H); (e)(5) and (8); and (g). The purpose of the proposed rule is to exempt the NICS from certain requirements of the Privacy Act for the reasons specified below. The exemptions are necessary because some information in NICS is from law enforcement records. Therefore, to the extent that they may be subject to exemption under subsections (j)(2), (k)(2), and (k)(3), these records are not available under the Privacy Act and not subject to certain of its procedures such as obtaining an accounting of disclosures, notification, access, or amendment/correction.

DATES: Comments must be submitted on or before July 6, 1998.

ADDRESSES: All comments should be submitted to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely, (202) 616-0178.

SUPPLEMENTARY INFORMATION: In the notice section of today's **Federal Register**, the Department of Justice provides a description of the “National Instant Criminal Background Check System (NICS), JUSTICE/FBI-018.” Also in the rules section of today's **Federal Register**, the Department of Justice provides proposed rules to establish policies and procedures for operating the system, ensuring the privacy and security of the NICS, and implementing its alternative access and appeal provisions.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that this order will not have “a significant economic impact on a substantial number of small entities.”

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.

Dated: May 7, 1998.

Stephen R. Colgate,

Assistant Attorney General for Administration.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793-78, it is proposed to revise 28 CFR part 16, as set forth below.

PART 16—[AMENDED]

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

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

2. It is proposed that 28 CFR 16.96 be amended by adding paragraphs (p) and (q) to read as follows:

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

* * * * *

(p) The National Instant Criminal Background Check System (NICS), (JUSTICE/FBI-018), a Privacy Act system of records, is exempt:

(1) Pursuant to 5 U.S.C. 552a(j)(2), from subsections (c) (3) and (4); (d); (e) (1), (2), (3); (e)(4) (G) and (H); (e) (5) and (8); and (g); and

(2) Pursuant to 5 U.S.C. 552a(k) (2) and (3), from subsections (c) (3), (d), (e) (1), and (e)(4) (G) and (H).

(q) These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(2), and (k)(3). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the accounting of disclosures would place the subject on notice that the subject is or has been the subject of investigation and result in a serious impediment to law enforcement.

(2) From subsection (c)(4) to the extent that it is not applicable since an exemption is claimed from subsection (d).

(3)(i) From subsection (d) and (e)(4) (G) and (H) because these provisions concern an individual's access to records which concern the individual and such access to records in the system would compromise ongoing investigations, reveal investigatory techniques and confidential informants, invade the privacy of persons who provide information in connection with a particular investigation, or constitute a potential danger to the health or safety of law enforcement personnel.

(ii) In addition, from subsection (d)(2) because, to require the FBI to amend information thought to be not accurate, timely, relevant, and complete, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative burden by forcing the agency to continuously retrograde its investigations attempting to resolve these issues.

(iii) Although the Attorney General is exempting this system from subsection

(d) and (e)(4) (G) and (H), an alternate method of access and correction has been provided in 28 CFR, part 25, subpart A.

(4) From subsection (e)(1) because it is impossible to state with any degree of certainty that all information in these records is relevant to accomplish a purpose of the FBI, even though acquisition of the records from state and local law enforcement agencies is based on a statutory requirement. In view of the number of records in the system, it is impossible to review them for relevancy.

(5) From subsections (e) (2) and (3) because the purpose of the system is to verify information about an individual. It would not be realistic to rely on information provided by the individual. In addition, much of the information contained in or checked by this system from Federal, State, and local criminal history records.

(6) From subsection (e)(5) because it is impossible to predict when it will be necessary to use the information in the system, and, accordingly, it is not possible to determine in advance when the records will be timely. Since most of the records are from State and local or other Federal agency records, it would be impossible to review all of them to verify that they are accurate. In addition, no alternate procedure is being established in 28 CFR, part 25, subpart A, so the records can be amended if found to be incorrect.

(7) From subsection (e)(8) because the notice requirement could present a serious impediment to law enforcement by revealing investigative techniques and confidential investigations.

(8) From subsection (g) to the extent that, pursuant to subsections (j)(2), (k)(2), and (k)(3), the system is exempted from the other subsections listed in paragraph (p) of this section.

[FR Doc. 98-14796 Filed 6-3-98; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 25

[AG Order No. 2158-98]

RIN 1105-AA51

National Instant Criminal Background Check System Regulations

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The United States Department of Justice is publishing a proposed rule for the National Instant Criminal Background Check System (NICS) to

establish policies and procedures for ensuring the privacy and security of this system and to implement a NICS appeals policy for persons who have been denied the purchase of a firearm because of information in the NICS they believe to be erroneous or incorrect. Specifically, this rule will detail policies for validating NICS data, storing, accessing, and querying records in the system, retaining and destroying NICS information, and correcting erroneous data in the system.

DATES: Written comments must be received on or before September 2, 1998.

ADDRESSES: All comments concerning this proposed rule should be mailed to: Mr. Emmet A. Rathbun, NICS Project Manager, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306-0147.

FOR FURTHER INFORMATION CONTACT: Mr. Emmet A. Rathbun, NICS Project Manager, telephone number (304) 625-2000.

SUPPLEMENTARY INFORMATION: On November 30, 1993, Pub. L. 103-159 (107 Stat. 1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C Chapter 44). Title I of Pub. L. 103-159, the "Brady Handgun Violence Prevention Act" ("Brady Act"), requires the Attorney General to establish by November 30, 1998, "a national instant criminal background check system that any [firearms] licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law." To implement the NICS, the Brady Act authorizes the development of hardware and software systems to link State criminal history check systems into the national system. It also authorizes the Attorney General to obtain official information from any Federal Department or agency on persons for whom receipt of a firearm would be in violation of the law.

The Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury, issued proposed regulations, 63 FR 8379 (Feb. 19, 1998), Notice Number 857, "Implementation of Pub. L. 53-159, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act," which specify how Federal firearms licensees (FFLs) shall interact with the NICS. In general, the proposed ATF regulations: Specify the time when an FFL must contact the NICS; detail the criteria that