safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have Federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA–2006–25723; Directorate Identifier 2006–NM–007–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by October 5, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 airplanes, certificated in any category; serial numbers 4001 and 4003 and subsequent.

Unsafe Condition

(d) This AD results from reports of incidents of airspeed mismatch between the pilot, co-pilot, and standby airspeed indications caused by contamination in the pitot static system. We are issuing this AD to prevent erroneous/misleading altitude and airspeed information from a contaminated pitot static system to the flightcrew, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Initial and Repetitive Cleaning and Inspection of the Pitot Static Drain Holes

(f) Within 30 days after the effective date of this AD, do paragraphs (f)(1) and (f)(2) of this AD. Thereafter, repeat the actions in paragraphs (f)(1) and (f)(2) of this AD at intervals not to exceed 70 flight hours.

(1) Clean the drain holes of all the pitot static probes in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Paragraph 4.B., Procedure 2, subparagraphs (1) through (3) of Bombardier Task 20–00–40–170–801 in the Bombardier Dash 8 Q400 Aircraft Maintenance Manual (AMM), PSM 1–84–2, Part 2, is one approved method for accomplishing the requirements of this paragraph.

(2) Before further flight after cleaning the drain holes of the pitot static probes, as specified in paragraph (f)(1) of this AD, do a general visual inspection of the drain holes of all the pitot static probes for blockages, in accordance with a method approved by the Manager, New York ACO. Paragraph 4.A., Procedure 1, of Bombardier Task 20–00–40–170–801 in the Bombardier Dash 8 Q400 AMM, PSM 1–84–2, Part 2, is one approved method for accomplishing the requirements of this paragraph.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(g) If any blockage is found in the drain hole of any pitot static probe during the inspection required in paragraph (f)(2) of this AD, before further flight, repeat the cleaning and inspection specified in paragraphs (f)(1) and (f)(2) of this AD on the affected pitot static probe.

Cleaning of the Pitot Static Lines

(h) Within 30 days after the effective date of this AD, clean the pitot lines of the pitot static system in accordance with a method approved by the Manager, New York ACO. Bombardier Task 34–11–00–170–801 in the Bombardier Dash 8 Q400 AMM, PSM 1–84–2, Part 2, is one approved method for accomplishing the actions required by this paragraph. Thereafter, repeat the cleaning of the pitot lines at intervals not to exceed 600 flight hours.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, New York ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) Canadian airworthiness directive CF–2005–15, dated May 18, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on August 23, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–14628 Filed 9–1–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

28 CFR Part 20

[Docket No. FBI 111P; AG Order No. 2833–2006]

RIN 1110–AA25

Inclusion of Nonserious Offense Identification Records

AGENCY: Federal Bureau of Investigation, Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice (the Department) proposes to amend part 20 of its regulations appearing at title 28 of the Code of Federal Regulations (CFR) pertaining to criminal justice information systems and the appendix to that part. The amendment will permit the retention and exchange of criminal history record information (CHRI) and fingerprint submissions relating to nonserious offenses (NSOs) in the Federal Bureau of Investigation's

(FBI's) Fingerprint Identification Records System (FIRS) and the Interstate Identification Index (III) when provided by a criminal justice agency for retention by the FBI.

DATES: Written comments must be received on or before November 6, 2006.

ADDRESSES: All comments concerning this proposed rule should be mailed to: Assistant General Counsel Harold M. Sklar, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. To ensure proper handling, please reference FBI Docket No. 111P on your correspondence. You may view an electronic version of this proposed rule at *http://www.regulations.gov*. You may also comment via the Internet to the FBI at *enexreg@leo.gov* or by using the *http://www.regulations.gov* comment form for this regulation. When submitting comments electronically, you must include FBI Docket No. 111P in the subject box.

FOR FURTHER INFORMATION CONTACT: Assistant General Counsel Harold M. Sklar, telephone number (304) 625–2000.

SUPPLEMENTARY INFORMATION: The Department proposes to amend section 20.32 of part 20 of its regulations, and the Appendix thereto, defining the offenses that may serve as the basis for maintaining fingerprints and CHRI in its criminal history record information systems. The relevant FBI information systems include the FIRS, which maintains fingerprints records, and the III System, which maintains fingerprint-supported CHRI. The amendment broadens the definition of includable offenses to permit the retention of information relating to currently excluded NSOs as well as information relating to ''serious and/or significant adult or juvenile offenses.'' The revised regulation will permit the retention and exchange of fingerprints and CHRI relating to NSOs when provided by the criminal justice agency, as defined in 28 CFR 20.3(g), for retention by the FBI. Such NSO information is currently maintained only at the state and local levels. The proposed change will allow for the more uniform collection of CHRI at the Federal level. It will establish more uniform sharing of such information among the States by allowing States to make NSO information available for national criminal history record searches for both criminal justice and non-criminal justice purposes by submitting such information for retention by the FBI.

The general authority for the FBI to collect and exchange CHRI is found in 28 U.S.C. 534(a), which states in pertinent part that the Attorney General shall ''acquire, collect, classify, and preserve identification, criminal identification, crime, and other records'' and ''exchange such records and information with, and for the official use of, authorized officials of the Federal Government, including the United States Sentencing Commission, the States, cities, and penal and other institutions.''

The term ''criminal history record information'' is defined in the regulations as follows:

> * * * information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records if such information does not indicate the individual's involvement with the criminal justice system.

28 CFR 20.3(d)

In 1974, the FBI implemented a policy limiting the acquisition and retention of NSOs, primarily based upon processing capacity concerns in a manual record keeping environment, *i.e.*, before advances in technology made feasible the automated and digital storage and processing of much larger numbers of such records. *See* 39 FR 5636 (Feb. 14, 1974). At that time, the Department promulgated a rule, published at 28 CFR 20.32 (Includable offenses), which states that CHRI maintained in the III and the FIRS shall include ''serious and/or significant adult and juvenile offenses,'' but exclude arrests and court actions concerning ''nonserious offenses'' that are not accompanied by a serious or significant offense. Examples given in the regulation of NSOs include ''drunkenness, vagrancy, disturbing the peace, curfew violation, loitering, false fire alarm, non-specific charges of suspicion or investigation, and traffic violations (except data will be included on arrests for vehicular manslaughter, driving under the influence of drugs or liquor, and hit and run).'' 28 CFR 20.32(b).

In *Tarlton* v. *Saxbe*, 407 F. Supp. 1083 (D.D.C. 1976), upon reversal and remand from *Tarlton* v. *Saxbe*, 507 F.2d 1116 (D.C. Cir. 1974), the District Court for the District of Columbia interpreted this rule in a situation involving a plaintiff seeking to enjoin the dissemination of entries reflecting ''non-serious offenses'' in the FBI's system of records. The *Tarlton* court found that the language in 28 CFR 20.32(b) reflected the then-existing FBI policy, which excluded NSOs from the system [*id.* at 1087 n.15] and directed that NSOs ''are to be deleted from all FBI criminal records—upon request for dissemination for all individuals over age 35, and upon conversion to computerized files for all other individuals * * *.'' *Id.* at 1089. This decision was based on the content of the existing regulation rather than any other legal requirement. As a result of the District Court's decision, the FBI destroyed previously-retained NSOs that were unaccompanied by serious offenses.

Since the 1970s, however, several events have prompted reconsideration of the language of section 20.32(b). First, definitions of ''serious'' or ''significant'' offenses and NSOs vary significantly among the States. Therefore, numerous states have requested exceptions from the FBI's regulatory restriction on submitting NSOs so that the FBI's repository of criminal history records would more closely mirror state-maintained criminal history repositories. Revising the FBI's policy to allow for retention of NSOs in the FBI's records systems also will help create a more uniform policy for collecting CHRI. This will increase the likelihood that law enforcement agencies in one state requesting criminal history searches for a criminal justice purpose will have the same information available to law enforcement agencies in the state where the records originate.

Additionally, with the significant increase in requests for CHRI to conduct criminal background checks for noncriminal justice employment and licensing purposes, some NSOs have acquired greater significance. For example, a state school bus driver applicant in one state with a history of certain traffic offenses in another jurisdiction may be disqualified from employment based upon those traffic offenses under the law of his or her state of residence. However, if those traffic offenses from another state are NSOs and are not included in the FBI's systems of records, a check of the FBI's records would result in a response to the inquiring agency that no prior record was located. As a result, individuals with potentially disqualifying criminal records may gain employment in positions from which they would otherwise be prohibited. Therefore, permitting the FBI to retain and to exchange NSOs will assist in producing more complete and uniform background checks. At the same time, inclusion of NSOs in the FBI information systems will not affect the enforcement of state laws that require the filtering out or redaction of specified offenses, such as certain significant or

non-significant offenses, in connection with licensing or employment checks. These restrictions on record dissemination are applied by the recipient or agency that has the authority to request the CHRI from the FBI.

As originally promulgated, the rule served an administrative purpose to alleviate the workload in the 1970s when the FBI manually collected and stored fingerprint cards. By adopting the policy of not accepting fingerprint cards relating to NSOs, the FBI was then able to significantly reduce the number of fingerprint cards processed. In 1999, however, the FBI initiated the Integrated Automated Fingerprint Identification System (IAFIS), an automated system for storing and searching digitized fingerprint images. Digitized fingerprint images require far less storage space than fingerprint cards; thus, IAFIS solved the legacy system's capacity problem. Furthermore, the introduction of IAFIS has resulted in more timely identifications predicated upon latent fingerprint submissions, including latent fingerprints obtained from crime scenes. Hence, retaining NSOs will increase law enforcement's latent fingerprint search capability by increasing the universe of criminal history record fingerprint submissions retained by the FBI against which a latent fingerprint search can be made.

Based on the above considerations, we are proposing to amend 28 CFR 20.32 to remove the existing distinction between ''serious and/or significant'' offenses and NSOs and to state more generally that ''[t]he III System and the FIRS shall maintain all fingerprints and CHRI relating to adult and juvenile offenses submitted by criminal justice agencies for retention, consistent with the FBI's capacity to collect and exchange such information.''

The NSOs will be acquired, collected, classified and preserved with all other CHRI. The procedures by which an individual may obtain a copy of his or her identification record from the FBI to review and to request any change, correction, or update are set forth in 28 CFR 20.34 and §§ 16.30–16.34.

Applicable Administrative Procedures and Executive Orders

Executive Order 12866

The proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this proposed rule is a significant regulatory action under section 3(f) of Executive Order 12866, and accordingly this proposed rule has been reviewed by the Office of Management and Budget. The Department has also assessed the costs and benefits of this rule. As stated more fully in the Regulatory Flexibility Act section below, this rule imposes no costs on entities requesting information from the FBI because the request for information is entirely optional on the part of the requesting entity. In addition, the regulation imposes no cost on entities providing information to the FBI, as the new requirement is entirely dependent on what information those entities, in their discretion, choose to submit. The FBI anticipates that its costs for processing the additional information that this rule proposes to make available will be covered by its current and future appropriations. Further, the FBI believes that this rule provides substantial, but difficult to quantify, benefits by enhancing the reliability of background checks for noncriminal justice employment and licensing purposes and providing greater opportunity for latent fingerprint searches.

Executive Order 13132—Federalism

This proposed regulation will not have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. While it provides that States may submit additional fingerprints, it does not require their submission.

In drafting this proposed rule the FBI consulted the FBI's Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is an advisory committee established pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2. It consists of representatives of numerous Federal, State and local criminal justice agencies across the United States. It recommends general policy to the FBI Director regarding the philosophy, concept, and operational principles of the IAFIS, Law Enforcement Online, National Crime Information Center, National Instant Criminal Background Check System, Uniform Crime Reporting, and other systems and programs administered by the FBI's CJIS Division. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

The proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this proposed regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This rule imposes no costs on businesses, organizations, or governmental jurisdictions (whether large or small). On the contrary, it proposes changes to Department regulations that will allow the FBI to respond more fully to requests for CHRI by including NSO information, thereby enhancing the utility of latent fingerprint searches and the reliability of background checks for noncriminal justice employment and licensing purposes.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This proposed rule will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The proposed rule does not contain collection of information requirements. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, is not required.

List of Subjects in 28 CFR Part 20

Classified information, Crime, Intergovernmental relations, Investigations, Law enforcement, Privacy.

Accordingly, part 20 of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS

1. Revise the authority citation for part 20 to read as follows:

Authority: 28 U.S.C. 534; 42 U.S.C. 14614(c), 42 U.S.C. 14615; Pub. L. 92–544, 86 Stat. 1115; 42 U.S.C. 3711, *et seq.*; Pub. L. 99–169, 99 Stat. 1002, 1008–1011, as amended by Pub. L. 99–569, 100 Stat. 3190, 3196; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

2. Revise § 20.32 to read as follows:

§ 20.32 Includable offenses.

The III System and the FIRS shall maintain fingerprints and criminal history record information relating to adult and juvenile offenses submitted by criminal justice agencies for retention, consistent with the FBI's capacity to collect and exchange such information, except where non-retention of such fingerprints is specified by the submitting agency.

3. In the appendix to part 20 revise the discussion of § 20.32 to read as follows:

Appendix to Part 20—Commentary on Selected Sections of the Regulations on Criminal History Record Information Systems

* * * * *

§ 20.32. This section requires the FBI to retain all fingerprints and criminal history record information relating to adult or juvenile serious offenses submitted for retention by a criminal justice agency and enables the FBI to retain all fingerprints and criminal history record information relating to adult or juvenile nonserious offenses submitted for retention by a contributing agency, consistent with the FBI's authority to collect and exchange such information, as set out at 28 U.S.C. 534, except where non-retention of such fingerprints is specified by the submitting agency. The FBI is to implement this requirement consistent with the FBI's capacity to collect and exchange such information.

Dated: August 28, 2006.

Paul J. McNulty,

Acting Attorney General.

[FR Doc. E6–14605 Filed 9–1–06; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AT29

Injurious Wildlife Species; Silver Carp (Hypophthalmichthys molitrix) and Largescale Silver Carp (Hypophthalmichthys harmandi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of environmental documents.

SUMMARY: The U.S. Fish and Wildlife Service proposes to add all forms (diploid and triploid) of live silver carp (*Hypophthalmichthys molitrix*), gametes, eggs, and hybrids; and all forms (diploid and triploid) of live largescale silver carp (*Hypophthalmichthys harmandi*), gametes, eggs, and hybrids to the list of injurious fish, mollusks, and crustaceans under the Lacey Act. This listing would have the effect of prohibiting the importation and interstate transportation of any live animal, gamete, viable egg, or hybrid of the silver carp and largescale silver carp, without a permit in limited circumstances. The best available information indicates that this action is necessary to protect the interests of human beings, and wildlife and wildlife resources, from the purposeful or accidental introduction and subsequent establishment of silver carp and largescale silver carp populations in ecosystems of the United States.

DATES: Comments must be submitted on or before November 6, 2006.

ADDRESSES: You may submit comments, identified by RIN number 1018–AT29, by any of the following methods:

- *E-mail: silvercarp@fws.gov.* Include ''RIN number 1018–AT29'' in the subject line of the message. See the Public Comments Solicited section below for file format and other information about electronic filing.
- *Fax:* (703) 358–1800.
- *Mail/Hand Delivery/Courier:* Chief, Branch of Invasive Species, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 322, Arlington, VA 22203.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and Regulatory Information Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Erin Williams, Branch of Invasive Species, at *erin_williams@fws.gov,* or (703) 358–2034.

SUPPLEMENTARY INFORMATION:

Background

In October 2002, the U.S. Fish and Wildlife Service (Service) received a petition signed by 25 members of Congress representing the Great Lakes region to add bighead, silver, and black carp to the list of injurious wildlife under the Lacey Act (18 U.S.C. 42). A follow-up letter to the original petition had seven additional Legislator signatures that support the petition. The Service published a **Federal Register** notice of inquiry on silver carp (68 FR 43482–43483, July 23, 2003) and provided a 60-day public comment period. We received 31 comments in total, but 12 of these did not address the issues raised in the notice of inquiry. We considered the information provided in the 19 relevant comments. Most of the comments supported the addition of silver carp to the list of injurious wildlife. One commenter noted that silver carp have no commercial value, but was concerned that listing would hinder control and management. One commenter asked us to delay listing until a risk assessment could be completed. Biological synopses and risk assessments were compiled for silver and largescale silver carp.

Under the terms of the injurious wildlife provisions of the Lacey Act, the Secretary of the Interior is authorized to prohibit the importation and interstate transportation of species designated by the Secretary as injurious. Injurious wildlife are defined as those species and offspring and eggs that are injurious to wildlife and wildlife resources, to human beings, and to the interests of forestry, horticulture, or agriculture of the United States. Wild mammals, wild birds, fish, mollusks, crustaceans, amphibians, and reptiles are the only organisms that can be added to the injurious wildlife list.

Species listed as injurious (including their gametes or eggs) may not be imported into the United States or transported between States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means without a permit issued by the Service. Permits may be granted for the importation or transportation of