

**PART 1309—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, IMPORTERS, AND EXPORTERS OF LIST I CHEMICALS [AMENDED]**

3. The authority citation for Part 1309 is proposed to be amended to read as follows:

**Authority:** 21 U.S.C. §§ 821, 822, 823, 824, 830, 871(b), 875, 877, 886a, 958.

4. Section 1309.11 is proposed to be revised to read as follows:

**§§ 1309.11 Fee amounts.**

(a) For each application for registration or reregistration to manufacture for distribution the applicant shall pay an annual fee of \$2,386.

(b) For each application for registration or reregistration to distribute (either retail distribution or non-retail distribution), import, or export a List I chemical, the applicant shall pay an annual fee of \$1,193.

5. Section 1309.12 is proposed to be revised to read as follows:

**§§ 1309.12 Time and method of payment; refund.**

(a) For each application for registration or reregistration to manufacture for distribution, distribute (either retail distribution or non-retail distribution), import, or export a List I chemical, the applicant shall pay the fee when the application for registration or reregistration is submitted for filing.

(b) Payment should be made in the form of a personal, certified, or cashier's check or money order made payable to "Drug Enforcement Administration." Payments made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. These application fees are not refundable.

6. Section 1309.24 is proposed to be revised to read as follows:

**§§ 1309.24 Waiver of registration requirement for certain activities.**

(a) The requirement of registration is waived for any agent or employee of a person who is registered to engage in any group of independent activities, if such agent or employee is acting in the usual course of his or her business or employment.

(b) The requirement of registration is waived for any person whose activities with respect to List I chemicals are limited to the distribution of red phosphorus, white phosphorus, or hypophosphorous acid (and its salts) to: another location operated by the same firm solely for internal end-use; or an EPA or State licensed waste treatment or disposal firm for the purpose of waste disposal.

(c) The requirement of registration is waived for any person whose distribution of red phosphorus or white phosphorus is limited solely to residual quantities of chemical returned to the producer, in reusable rail cars and intermodal tank containers which conform to International Standards Organization specifications (with capacities greater than or equal to 2,500 gallons in a single container).

(d) The requirement of registration is waived for any retail distributor whose activities with respect to List I chemicals are limited to the distribution of below-threshold quantities of a pseudoephedrine, phenylpropanolamine, or combination ephedrine product that is regulated pursuant to § 1300.02(b)(28)(i)(D) of this chapter, in a single transaction to an individual for legitimate medical use, irrespective of whether the form of packaging of the product meets the definition of "ordinary over-the-counter pseudoephedrine or phenylpropanolamine product" under § 1300.02(b)(31) of this chapter.

(e) The requirement of registration is waived for any manufacturer of a List I chemical, if that chemical is produced solely for internal consumption by the manufacturer and there is no subsequent distribution or exportation of the List I chemical.

(f) If any person exempted under paragraph (b), (c) or (d) of this section also engages in the distribution, importation or exportation of a List I chemical, other than as described in such paragraph, the person shall obtain a registration for such activities, as required by § 1309.21 of this part.

(g) The Administrator may, upon finding that continuation of the waiver would not be in the public interest, suspend or revoke a waiver granted under paragraph (b), (c), or (d) of this section pursuant to the procedures set forth in §§ 1309.43 through 1309.46 and §§ 1309.51 through 1309.55 of this part.

(h) Any person exempted from the registration requirement under this section shall comply with the security requirements set forth in §§ 1309.71–1309.73 of this part and the recordkeeping and reporting requirements set forth under parts 1310 and 1313 of this chapter.

Dated: November 8, 2005.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. 05–22681 Filed 11–15–05; 8:45 am]

**BILLING CODE 4410–09–P**

**DEPARTMENT OF JUSTICE**

**28 CFR Part 16**

[AAG/A Order No. 015–2005]

**Privacy Act of 1974; Implementation**

**AGENCY:** Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Justice, Tax Division, proposes to amend 28 CFR part 16 to exempt a newly revised Privacy Act system of records entitled "Files of Applicants For Attorney and Non-Attorney Positions with the Tax Division, Justice/TAX–003," as described in today's notice section of the **Federal Register**, from 5 U.S.C. 552a(c)(3), (d)(1), and (e)(1). The exemptions will be applied only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) and (k)(5). The exemptions are necessary to protect the confidentiality of employment records. The Department also proposes to delete as obsolete provisions exempting two former Tax Division systems of records: "Freedom of Information/Privacy Act Request Files, Justice/TAX–004;" and "Tax Division Special Project Files, Justice/TAX–005." The records in Tax-004 are now covered by a Departmentwide system notice, "Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Requests and Administrative Appeals, DOJ–004". The relevant records in TAX–005 are now part of the revised system entitled "Criminal Tax Case Files, Special Project Files, Docket Cards, and Associated Records, Justice/TAX–001."

**DATES:** Submit any comments by December 27, 2005.

**ADDRESSES:** Address all comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building), Facsimile Number (202) 307–1853. To ensure proper handling, please reference the AAG/A Order No. 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 DOJ/Justice Management Division at the following e-mail address: [DOJPrivacyACTProposedRegulations@usdoj.gov](mailto:DOJPrivacyACTProposedRegulations@usdoj.gov); or by using the <http://www.regulations.gov> comment form for this regulation. When submitting comments electronically, you must include the AAG/A Order No. in the subject box.

**FOR FURTHER INFORMATION CONTACT:** Mary Cahill, (202) 307–1823.

**SUPPLEMENTARY INFORMATION:** 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, 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, Sunshine Act and Privacy.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, it is proposed to amend 28 CFR part 16 as follows:

#### PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

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

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

2. Section 16.93 is amended by:

- a. Removing the first sentence of paragraph (a)(2);
- b. Revising paragraph (b) introductory text;
- c. Revising paragraphs (e) and (f).

Therefore, amend the section to read as follows:

#### § 16.93 Exemption of Tax Division Systems—limited access.

\* \* \* \* \*

(b) The system of records listed under paragraph (a)(1) of this section is exempted for the reasons set forth below, from the following provisions of 5 U.S.C. 552a:

\* \* \* \* \*

(e) The following system of records is exempt from subsections (c)(3), (d)(1), and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2) and (k)(5): Files of Applicants for Attorney and Non-Attorney Positions with the Tax Division, Justice/TAX–003. These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) and (k)(5).

(f) Exemption from the particular subsections is justified for the following reasons:

(1) From subsection (c)(3) because an accounting could reveal the identity of confidential sources and result in an unwarranted invasion of the privacy of others. Many persons are contacted who, without an assurance of anonymity, refuse to provide information concerning an applicant for a position with the Tax Division.

Disclosure of an accounting could reveal the identity of a source of information and constitutes a breach of the promise of confidentiality by the Tax Division. This would result in the reduction in the free flow of information vital to a determination of an applicant's qualifications and suitability for federal employment.

(2) From subsection (d)(1) because disclosure of records in the system could reveal the identity of confidential sources and result in an unwarranted invasion of the privacy of others. Many persons are contacted who, without an assurance of anonymity, refuse to provide information concerning an applicant for a Tax Division position. Access could reveal the identity of the source of the information and constitute a breach of the promise of confidentiality on the part of the Tax Division. Such breaches ultimately would restrict the free flow of information vital to a determination of an applicant's qualifications and suitability.

(3) From subsection (e)(1) because in the collection of information for investigation and evaluative purposes, it is impossible to determine in advance what exact information may be of assistance in determining the qualification and suitability of an applicant. Information which may appear irrelevant, when combined with other seemingly irrelevant information, can on occasion provide a composite picture of an applicant for a position which assists in determining whether the applicant should be hired.

Dated: November 7, 2005.

**Paul R. Corts,**  
*Assistant Attorney General for Administration.*

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**BILLING CODE 4410–16–P**

## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[AAG/A Order No. 017–2005]

#### Privacy Act of 1974; Implementation

**AGENCY:** Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Justice, Bureau of Prisons (Bureau or BOP), proposes to exempt a Privacy Act system of records from the following subsections of the Privacy Act: (c)(3) and (4), (d)(1)–(4), (e)(2) and (3), (e)(5), and (g). This system of records is the “Inmate Electronic Message Record System, (JUSTICE/BOP–013)”, as stated

and described in today's notice section of the **Federal Register**.

The exemptions are necessary to preclude the compromise of institution security, to better ensure the safety of inmates, Bureau personnel and the public, to better protect third party privacy, to protect law enforcement and investigatory information, and/or to otherwise ensure the effective performance of the Bureau's law enforcement functions.

**DATES:** Submit any comments by January 17, 2006.

**ADDRESSES:** Address all comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building), Facsimile Number (202) 307–1853. To ensure proper handling, please reference the AAG/A Order No. 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 DOJ/Justice Management Division at the following e-mail address: [DOJPrivacyACTProposedRegulations@usdoj.gov](mailto:DOJPrivacyACTProposedRegulations@usdoj.gov); or by using the <http://www.regulations.gov> comment form for this regulation. When submitting comments electronically, you must include the AAG/A Order No. in the subject box.

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