

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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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; 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 procedure, Freedom of Information Act, Government in the Sunshine Act, and 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 No. 793–78, it is proposed to amend 28 CFR part 16 as follows:

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL 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 16.97 is amended by adding paragraphs (p) and (q) to read as follows:

§ 16.97 Exemption of Bureau of Prisons Systems—limited access.

* * * * *

(p) The following system of records is exempt from 5 U.S.C. 552a (c)(3) and (4), (d)(1)–(4), (e)(2) and (3), (e)(5), and (g):

Inmate Electronic Message Record System (JUSTICE /BOP–013).

(q) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and/or (k)(2).

Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) to the extent that this system of records is exempt from subsection (d), and for such reasons as those cited for subsection (d) in paragraph (q)(3) below.

(2) From subsection (c)(4) to the extent that exemption from subsection (d) makes this exemption inapplicable.

(3) From the access provisions of subsection (d) because exemption from this subsection is essential to prevent access of information by record subjects that may invade third party privacy; frustrate the investigative process; jeopardize the legitimate correctional interests of safety, security and good order to prison facilities; or otherwise compromise, impede, or interfere with BOP or other law enforcement agency activities.

(4) From the amendment provisions of subsection (d) because amendment of the records may interfere with law enforcement operations and would impose an impossible administrative burden by requiring that, in addition to efforts to ensure accuracy so as to withstand possible judicial scrutiny, it would require that law enforcement information be continuously reexamined, even where the information may have been collected from the record subject. Also, some of these records come from other Federal criminal justice agencies or State, local and foreign jurisdictions, or from Federal and State probation and judicial offices, and it is administratively impossible to ensure that records comply with this provision.

(5) From subsection (e)(2) because the nature of criminal and other investigative activities is such that vital information about an individual can be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely solely upon information furnished by the individual concerning his/her own activities since it may result in inaccurate information and compromise ongoing criminal investigations or correctional management decisions.

(6) From subsection (e)(3) because in view of BOP's operational responsibilities, application of this provision to the collection of information is inappropriate. Application of this provision could provide the subject with substantial information which may in fact impede the information gathering process or compromise ongoing criminal investigations or correctional management decisions.

(7) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Material which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance at a later date or as an investigation progresses. Also, some of these records may come from other Federal, State, local and foreign law enforcement agencies, and from Federal and State probation and judicial offices and it is administratively impossible to ensure that the records comply with this provision. It would also require that law enforcement information be continuously reexamined even where the information may have been collected from the record subject.

(8) From subsection (g) to the extent that this system is exempted from other provisions of the Act.

Dated: November 7, 2005.

Paul R. Corts,

Assistant Attorney General for Administration.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[R05–OAR–2005–IN–0008; FRL–7997–7]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Delaware County to Attainment of the 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make a determination that the Delaware County ozone nonattainment area has attained the 8-hour ozone National Ambient Air Quality Standard (NAAQS). This proposed determination is based on three years of complete, quality-assured ambient air quality monitoring data for the period of 2002–2004 that demonstrate that the 8-hour ozone NAAQS has been attained in the area.

EPA is proposing to approve a request from the State of Indiana to redesignate Delaware County to attainment of the 8-hour ozone NAAQS. This request was submitted by the Indiana Department of Environmental Management (IDEM) on August 25, 2005. In proposing to approve this request, EPA is also proposing to approve the State's plan for maintaining the 8-hour ozone NAAQS through 2015 in this area as a revision to the Indiana State Implementation Plan (SIP). EPA is also proposing to find adequate and approve the State's 2015 Motor Vehicle Emission Budgets (MVEBs) for this area.

In the final rules section of this **Federal Register**, EPA is approving the State's ozone redesignation request and the requested SIP revision as a direct final rule without prior proposal because EPA views this action as non-controversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we do not receive any adverse comments in response to these direct final and proposed rules, we do not contemplate taking any further action in relation to this proposed rule. If EPA receives adverse comments with respect to this rule, we will publish a timely withdrawal of the action, informing the public that the rule will not take effect. EPA will respond to the public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in