

CFR part 31) relating to the IRS TIN Matching Program.

Section 3406(a)(1) requires a *payor* to withhold on any reportable payment (as defined in section 3406(b)(1)) in certain situations, including if (1) the payee fails to furnish his TIN to the *payor* as required or (2) the Secretary notifies the *payor* that the TIN furnished by the payee is incorrect. Section 3406(i) provides that the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 3406.

Regulations under section 3406(i) provide that the Commissioner has the authority to establish TIN matching programs through revenue procedures or other appropriate guidance. Under the regulations, a *payor* participating in a TIN matching program may, before filing information returns with respect to reportable payments, contact the IRS with respect to the TIN furnished by the payee. The regulations provide that the IRS will inform the *payor* whether or not the name/TIN combination furnished by the payee matches a name/TIN combination maintained for the TIN matching program.

Pursuant to the authority in the regulations, the IRS issued Rev. Proc. 97-31 (1997-1 C.B. 703) and implemented a TIN matching program for Federal agency payors. The IRS is now issuing a second revenue procedure pursuant to that authority (as amended by these temporary regulations). This revenue procedure will expand the scope of the IRS TIN Matching Program to allow all payors (and not merely Federal agency payors), as well as payors' authorized agents, to participate in TIN matching. In addition, the IRS and the Treasury Department expect to issue additional published guidance that will allow payment card organizations to act on behalf of cardholder/payors for purposes of soliciting, collecting, and validating merchant/payees' names and TINs through TIN matching if certain requirements are met.

#### Explanation of Provisions

These regulations specifically authorize a payor's authorized agent to participate in TIN matching by providing that, for purposes of the TIN matching program, the term *payor* includes an agent designated by the *payor* to participate in TIN matching on behalf of the *payor*.

#### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a

regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**. Pursuant to section 7805(f), the temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of the regulations is Donna Welch, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

#### List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

#### Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

#### PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

1. The authority citation for part 31 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 31.3406(j)-1T also issued under 26 U.S.C. 3406(i). \* \* \*

2. Section 31.3406(j)-1 is amended by revising paragraphs (a) and (f) to read as follows:

#### § 31.3406(j)-1 Taxpayer Identification Number (TIN) matching program.

(a) [Reserved]. For further guidance, see § 31.3406(j)-1T(a).

\* \* \* \* \*

(f) [Reserved]. For further guidance, see § 31.3406(j)-1T(f).

3. Section 31.3406(j)-1T is added to read as follows:

#### § 31.3406(j)-1T Taxpayer Identification Number (TIN) matching program (temporary).

(a) *The matching program.* Under section 3406(i), the Commissioner has

the authority to establish Taxpayer Identification Number (TIN) matching programs. The Commissioner may prescribe in a revenue procedure (see § 601.601(d)(2) of this chapter) or other appropriate guidance the scope and the terms and conditions of participating in any TIN matching program. In general, under a matching program, prior to filing information returns with respect to reportable payments as defined in section 3406(b)(1), a *payor* of those reportable payments who is entitled to participate in the matching program may contact the Internal Revenue Service (IRS) with respect to the TIN furnished by a payee who has received or is likely to receive a reportable payment. The IRS will inform the *payor* whether or not a name/TIN combination furnished by the payee matches a name/TIN combination maintained in the data base utilized for the particular matching program. For purposes of this section, the term *payor* includes an agent designated by the *payor* to participate in TIN matching on the *payor's* behalf.

(b) through (e) [Reserved]. For further guidance, see § 31.3406(j)-1(b) through (e).

(f) *Effective date.* The provisions of this section are applicable on or after June, 18, 1997, except the last sentence in paragraph (a) of this section which is applicable on January 31, 2003. The applicability of this section expires on January 30, 2006.

**David A. Mader,**

*Acting Deputy Commissioner of Internal Revenue.*

Approved: January 17, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

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#### DEPARTMENT OF JUSTICE

#### 28 CFR Parts 0, 9, 11, 16, 71, 77

[AG Order No. 2650-2003]

#### Organization of the Bureau of Alcohol, Tobacco, Firearms, and Explosives

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Homeland Security Act of 2002 transferred certain law enforcement and regulatory functions of the Bureau of Alcohol, Tobacco and Firearms from the Department of the Treasury to the Department of Justice and changed its name to the Bureau of Alcohol, Tobacco, Firearms, and Explosives. This rule delegates specific authorities to that Bureau and

incorporates it into the structure of the Department of Justice.

**EFFECTIVE DATE:** January 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Stuart Frisch, General Counsel, Justice Management Division, Rm. 520, National Place Building, United States Department of Justice, Washington, DC 20530; Telephone (202) 514-3452; FAX: (202) 514-4317.

**SUPPLEMENTARY INFORMATION:**

### Introduction

The Homeland Security Act of 2002, Pub. L. 107-296, title XI, 116 Stat. 2135 (Nov. 25, 2002) ("Act"), transferred certain law enforcement and regulatory authorities, functions, personnel, and assets of the former Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury to the Department of Justice as the Bureau of Alcohol, Tobacco, Firearms, and Explosives. The Act also created new authorities, particularly in the area of regulation of explosives.

The Attorney General (with minimal exceptions not relevant here) is vested with the responsibility for the management of all functions of the Department of Justice and may delegate those functions to officials of the Department as he deems appropriate. 28 U.S.C. 509, 510. In implementing his statutory responsibilities for the Act and the administration of the Department, the Attorney General is issuing these regulations for the internal management of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

This final rule creates a new subpart of title 28, Code of Federal Regulations (CFR), part 0, regarding the establishment, functions, and management of the Bureau of Alcohol, Tobacco, Firearms, and Explosives. This rule also makes minor technical amendments to other Department regulations relating to authority for processing petitions for remission or mitigation of forfeitures, compromise of claims, maintenance of reading rooms, program fraud civil remedies, and ethical standards. These changes align the Bureau of Alcohol, Tobacco, Firearms, and Explosives with other law enforcement components within the Department of Justice.

### Transfer Authority in the Homeland Security Act of 2002

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002). Section 1111 of the Act establishes in the Department the "Bureau of Alcohol, Tobacco, Firearms, and Explosives," and generally transfers

most of the non-tax authorities, functions, personnel and assets of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury to the Department of Justice. This transfer is effective on January 24, 2003.

Under the Homeland Security Act of 2002, the Department of the Treasury retains authority over certain tax provisions relating to alcohol, tobacco and firearms, as well as the Federal Alcohol Administration Act. Those functions will be handled by the new Tax and Trade Bureau in the Department of the Treasury.

### A. Part 0—Organization of the Department of Justice

The amendment to 28 CFR 0.1 adds the Bureau of Alcohol, Tobacco, Firearms, and Explosives to the list of bureaus within the Department of Justice.

This rule redesignates subpart W as subpart W-1, and creates a new subpart W for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, consistent with the subparts that delegate authority to other bureaus of the Department.

New 28 CFR 0.130 delegates to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("Director"), subject to the direction of the Attorney General and Deputy Attorney General, responsibilities with respect to the investigation and enforcement of federal firearms, explosives, and arson laws, as well as the provisions of title 18, United States Code, with respect to violations involving alcohol and tobacco. Paragraphs (a) through (c) reflect the authorities that were previously exercised by the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury and which were transferred in the Homeland Security Act of 2002, plus new authority enacted in the Safe Explosives Act, title XI, subtitle C, of the Homeland Security Act of 2002. Paragraph (d) reflects the management of new authority which may be delegated by the Attorney General in the future as authorized by section 1111(b)(3) of the Homeland Security Act of 2002.

Section 0.131 delegates to the Director specific functions previously performed by the Bureau of Alcohol, Tobacco and Firearms, including the operation of laboratories, the National Explosives Licensing Center, the National Firearms Licensing Center, the National Firearms Registration and Transfer Record, the Arson and Explosives National Repository, the National Tracing Center, and a new Explosives Training and Research Facility, as well as specific

functions performed by law enforcement bureaus of the Department of Justice.

Section 0.132 delegates to the Director authority to settle certain claims against the Bureau of Alcohol, Tobacco, Firearms, and Explosives and its personnel within certain applicable monetary limits.

Section 0.133 of this rule provides administrative continuity in the transfer of functions from the Department of the Treasury to the Department of Justice by adopting and carrying forward certain extant regulations specifically relating to the authorities transferred to the Department of Justice. In a separate rule, these regulations are being recodified in a new chapter II of 27 CFR.

There are other regulations issued by the Department of the Treasury, or the former Bureau of Alcohol, Tobacco and Firearms, that apply to both the authorities that were transferred to the Department of Justice and the authorities that were retained in the Department of the Treasury pursuant to the Homeland Security Act. For example, the regulations in 27 CFR part 70 contain general rules on procedure and administration. Many of these rules apply only to taxes collected by the Department of the Treasury. However, some of these rules also apply to administration of the National Firearms Act, which will be enforced by the Department of Justice. Paragraph (a)(2) continues the application of these regulations to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives until amended, or otherwise revised.

Accordingly, this section provides that, pending the issuance of new regulations or other changes in authority, all other regulations issued by the Department of the Treasury or the Bureau of Alcohol, Tobacco and Firearms prior to January 24, 2003, shall continue to apply to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, to the extent that such regulations apply to the authorities or functions transferred to the Department of Justice pursuant to the Homeland Security Act of 2002 or the regulations in this part, unless the application of such regulations would be inconsistent with statutes or regulations applicable to the Department of Justice.

Similarly, paragraph (a)(3) continues the orders and other legal authorities related to the former Bureau of Alcohol, Tobacco and Firearms. Paragraph (a)(4) alters the effect of the reference to appropriate entities and officials of the Department of the Treasury before the transfer to refer to the corresponding

entities and officials of the Department of Justice after the transfer. Finally, paragraph (b) makes four exceptions for specific matters relating to forfeitures. In the future, when it is clear that pending proceedings no longer depend on such pre-existing authority, the Department will make the necessary adjustments to change the nomenclature in the regulations transferred to chapter II, title 27, and to eliminate obsolete regulations.

#### *B. Conforming Authorities in Other Parts of 28 CFR*

Additionally, a number of conforming changes are required in other parts in 28 CFR to incorporate the Bureau of Alcohol, Tobacco, Firearms, and Explosives into the Department of Justice. These changes affect only the internal administration of the Department.

Amendments to part 9 apply the procedures used by the Department of Justice for remission and mitigation of forfeiture to the Bureau of Alcohol, Tobacco, Firearms, and Explosives. 27 CFR part 72 will not be applicable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives after transfer to the Department of Justice.

Similarly, under the Department of Justice authority in amendments to part 11, the Director is delegated authority to compromise claims under the Debt Collection Act, 31 U.S.C. 3711. This replaces authority previously exercised within the Department of the Treasury under 31 CFR part 5.

Amendments to part 16 establish the various Freedom of Information Act functions, 5 U.S.C. 552, within the Department for the Bureau of Alcohol, Tobacco, Firearms, and Explosives. These provisions replace Department of the Treasury regulations. 31 CFR part 1.

The Chief Counsel of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is designated as the reviewing official under the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.* Finally, in 28 CFR part 77 attorneys in the office of the Chief Counsel of the Bureau of Alcohol, Tobacco, Firearms, and Explosives are brought under the ethical standards applicable to Department of Justice attorneys under 28 U.S.C. 530B.

Finally, the Department notes that all Department of Justice regulations and policy applicable to its Bureaus and employees, such as the policy statements of 28 CFR part 50, automatically become applicable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives through this transfer of functions under the Act.

#### Administrative Procedure Act

This rule relates to matters of agency management and personnel and, therefore, is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2) and (d). The rule only continues extant provisions of the regulations of the former Bureau of Alcohol, Tobacco and Firearms and makes appropriate changes to reflect the transfer certain law enforcement functions of the former Bureau of Alcohol, Tobacco and Firearms to the Department of Justice.

#### Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis is not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

#### Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management and personnel matters as described by Executive Order 12866, § 3(d)(3) and, therefore, is not a "regulation" or "rule" as defined by that Executive Order.

#### Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

#### Executive Order 13132

This rule will not have substantial direct effects 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. Therefore, in accordance with Executive Order 13132, Federalism, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### 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 are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a rule for purposes of the reporting requirement of 5 U.S.C. 801.

#### List of Subjects 28 CFR Part 0

Authority delegations (government agencies), Government employees, Organization and functions (government agencies), Whistleblowing.

#### 28 CFR Part 9

Administrative practice and procedure, Crime, Seizures and forfeitures.

#### 28 CFR Part 11

Claims, Government contracts, Government employees, Income taxes, Lawyers, Wages.

#### 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of information, Privacy, Sunshine Act.

#### 28 CFR Part 71

Administrative practice and procedure, Claims, Fraud, Penalties.

#### 28 CFR Part 77

Government employees, Investigations, Law enforcement, Lawyers.

Accordingly, chapter I of title 28 of the Code of Federal Regulations is amended as follows:

#### **PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE**

1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

**§ 0.1 [Amended]**

2. In § 0.1, under the subheading “Bureaus”, the words “Bureau of Alcohol, Tobacco, Firearms, and Explosives.” are added following “United States Marshals Service.”

**§ 0.137 [Removed]**

3. Section 0.137 is removed.

**Subpart W—[Redesignated as Subpart W–1]**

4. Subpart W (§§ 0.130 through 0.132) is redesignated as subpart W–1.

**§§ 0.130–0.132 [Redesignated]**

5. Sections 0.130 through 0.132 are redesignated as sections 0.135 through 0.137, respectively.

**§§ 0.130–0.133 [Added]**

6. Subpart W, and §§ 0.130 through 0.133 are added to read as follows:

**Subpart W—Bureau of Alcohol, Tobacco, Firearms, and Explosives**

Sec.

0.130 General functions.

0.131 Specific functions.

0.132 Delegation respecting claims against the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

0.133 Transition and continuity of regulations.

**Subpart W—Bureau of Alcohol, Tobacco, Firearms, and Explosives**

**§ 0.130 General functions.**

Subject to the direction of the Attorney General and the Deputy Attorney General, the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall:

(a) Investigate, administer, and enforce the laws related to alcohol, tobacco, firearms, explosives, and arson, and perform other duties as assigned by the Attorney General, including exercising the functions and powers of the Attorney General under the following provisions of law:

(1) 18 U.S.C. chapters 40 (related to explosives), 44 (related to firearms), 59 (related to liquor trafficking), and 114 (related to trafficking in contraband cigarettes);

(2) Chapter 53 of the Internal Revenue Code of 1986, 26 U.S.C. chapter 53 (related to certain firearms and destructive devices);

(3) Chapters 61 through 80, inclusive, of the Internal Revenue Code of 1986, 26 U.S.C. chapters 61–80, insofar as they relate to activities administered and enforced with respect to chapter 53 of

the Internal Revenue Code of 1986, 26 U.S.C. chapter 53;

(4) 18 U.S.C. 1952 and 3667, insofar as they relate to liquor trafficking;

(5) 49 U.S.C. 80303 and 80304, insofar as they relate to contraband described in section 80302(a)(2) or 80302(a)(5); and

(6) 18 U.S.C. 1956 and 1957, insofar as they involve violations of:

(i) 18 U.S.C. 844(f) or (i) (relating to explosives or arson),

(ii) 18 U.S.C. 922(l) (relating to the illegal importation of firearms),

(iii) 18 U.S.C. 924(n) (relating to illegal firearms trafficking),

(iv) 18 U.S.C. 1952 (relating to traveling in interstate commerce in aid of racketeering enterprises insofar as they concern liquor on which Federal excise tax has not been paid);

(v) 18 U.S.C. 2341–2346 (trafficking in contraband cigarettes);

(vi) Section 38 of the Arms Export Control Act, as added by Public Law 94–329, section 212(a)(1), as amended, 22 U.S.C. 2778 (relating to the importation of items on the U.S. Munitions Import List), except violations relating to exportation, in transit, temporary import, or temporary export transactions;

(vii) 18 U.S.C. 1961 insofar as the offense is an act or threat involving arson that is chargeable under State law and punishable by imprisonment for more than one year; and

(viii) Any offense relating to the primary jurisdiction of Bureau of Alcohol, Tobacco, Firearms, and Explosives that the United States would be obligated by a multilateral treaty either to extradite the alleged offender or to submit the case for prosecution if the offender were found within the territory of the United States;

(b) Investigate, seize, and forfeit property involved in a violation or attempted violation within the investigative jurisdiction set out in paragraph (a), under 18 U.S.C. 981 and 982;

(c) Subject to the limitations of 3 U.S.C. 301, exercise the authorities of the Attorney General under section 38 of the Arms Export Control Act, 22 U.S.C. 2778, relating to the importation of defense articles and defense services, including those authorities set forth in 27 CFR part 47; and

(d) Perform any other function related to the investigation of violent crime or domestic terrorism as may be delegated to the Bureau of Alcohol, Tobacco, Firearms, and Explosives by the Attorney General.

**§ 0.131 Specific functions.**

The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall:

(a) Operate laboratories in support of Bureau activities; provide, with or without cost, technical and scientific assistance, including expert testimony, to Federal, State, or local agencies; and make available the services of the laboratories to foreign law enforcement agencies and courts under procedures agreed upon by the Secretary of State and the Attorney General;

(b) Operate the National Explosives Licensing Center to review applications for explosives licenses and permits; determine the eligibility of applicants; issue licenses and permits on approved explosives applications; coordinate with field offices the inspection of applicants, licensees, and permittees; and maintain an explosives license and permit database;

(c) Operate the National Firearms Licensing Center to review applications for firearms licenses; determine the eligibility of applicants; issue licenses on approved firearms applications; coordinate with field offices the inspection of applicants and licensees; and maintain a firearms license database;

(d) Maintain and operate the National Firearms Registration and Transfer Record (NFRTR), pursuant to section 5841 of the Internal Revenue Code of 1986, 26 U.S.C. 5841, as a registry of all National Firearms Act (NFA) firearms in the United States that are not in the possession or under the control of the United States;

(e) Maintain and operate the Arson and Explosives National Repository, a national repository of information on incidents involving arson and the suspected criminal misuse of explosives, under 18 U.S.C. 846(b);

(f) Maintain and operate the National Tracing Center to process requests from Federal, State, local, and foreign law enforcement agencies for the tracing of crime guns; and collect and analyze trace data, out-of-business records, reports of firearms stolen or lost from the inventories of licensees or interstate shipments, and multiple sales reports contained in the Firearms Tracing System (FTS), under 18 U.S.C. chapter 44;

(g) Establish, maintain and operate an Explosives Training and Research Facility to train Federal, State, and local law enforcement officers to investigate bombings and explosions, properly handle, utilize, and dispose of explosives materials and devices, train canines as explosives detection canines, and conduct research on explosives, as authorized by section 1114 of the Homeland Security Act of 2002;

(h) Pay awards for information or assistance and pay for the purchase of

evidence or information as authorized by 28 U.S.C. 524;

(i) Subject to applicable statutory restrictions on the disclosure of records of information:

(1) Release information obtained by the Bureau and Bureau investigative reports to Federal, State, and local officials engaged in the enforcement of laws related to alcohol, tobacco, arson, firearms, and explosives offenses;

(2) Release information obtained by Bureau and Bureau investigative reports to Federal, State, and local prosecutors, and State licensing boards, engaged in the institution and prosecution of cases before courts and licensing boards related to alcohol, tobacco, arson, firearms and explosives offenses;

(3) Authorize the testimony of Bureau officials in response to subpoenas or demands issued by the prosecution in Federal, State, or local criminal cases involving offenses under the jurisdiction of the Bureau; and

(4) Except as provided in paragraph (i)(1) of this section, authorize all other production of information or testimony of Bureau officials in response to subpoenas or demands of courts or other authorities as governed by subpart B of part 16 of this chapter.

**§ 0.132 Delegation respecting claims against the Bureau of Alcohol, Tobacco, Firearms, and Explosives.**

(a) The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is authorized to exercise the power and authority vested in the Attorney General under 28 U.S.C. 2672 to consider, ascertain, adjust, determine, compromise and settle any claim thereunder not exceeding \$50,000 in any one case caused by the negligent or wrongful act or omission of any employee of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

(b) The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is authorized to exercise the power and authority vested in the Attorney General under 31 U.S.C. 3724, with regard to claims arising out of the lawful activities of Bureau of Alcohol, Tobacco, Firearms, and Explosives personnel in an amount not to exceed \$50,000 in any one case.

(c) The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives is authorized to redelegate the power and authority vested in him in paragraph (b) of this section to the Chief Counsel of the Bureau of Alcohol, Tobacco, Firearms, and Explosives and the Chief Counsel's designee within the Office of Chief Counsel. This authority shall not be further redelegated below the Associate Chief Counsel level.

**§ 0.133 Transition and continuity of regulations.**

(a) Except as otherwise provided in this section, and to the extent applicable to the functions transferred to the Department of Justice by the Homeland Security Act of 2002:

(1) The regulations contained in 27 CFR part 46, subpart F (Distribution of Cigarettes), part 47 (Importation of Arms, Ammunition and Implements of War), part 55 (Commerce in Explosives), part 178 (Commerce in Firearms and Ammunition), and part 179 (Machine Guns, Destructive Devices, and Certain Other Firearms) as in effect on January 23, 2003 (*see* 27 CFR chapter I, revised as of July 1, 2002), shall continue in effect with respect to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law.

(2) The regulations promulgated by the Department of the Treasury relating to the Bureau of Alcohol, Tobacco and Firearms, or by the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, in effect as of January 23, 2003, shall continue to apply to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives until amended, modified, superseded, terminated, set aside, or revoked in accordance with law, unless the application of such regulations would be inconsistent with statutes or regulations applicable to the Department of Justice.

(3) All orders, delegations, determinations, rules, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges of the Bureau of Alcohol, Tobacco and Firearms completed or in effect as of January 23, 2003, and all matters and proceedings pending therein on January 23, 2003, shall continue in effect according to their terms, to the extent that they relate to the authorities or functions transferred to the Department of Justice pursuant to the Homeland Security Act of 2002, until amended, modified, superseded, terminated, set aside, or revoked in accordance with law, unless such application would be inconsistent with statutes or regulations applicable to the Department of Justice.

(4) References in such regulations, orders, delegations, determinations, rules, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges to the Secretary of Treasury, the Department of Treasury, the Director of the Bureau of Alcohol, Tobacco and Firearms, or the Bureau of Alcohol,

Tobacco and Firearms or its officers, employees, agents or organizational units or functions shall be deemed to refer, as appropriate, on and after January 24, 2003, to the Attorney General, the Department of Justice, the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Bureau of Alcohol, Tobacco, Firearms, and Explosives or to its officers, employees, or agents or its corresponding organizational units or functions, respectively.

(b) Exceptions. Notwithstanding the provisions of paragraph (a) of this section, 27 CFR part 72, and 27 CFR 46.155, 178.152 and 179.182 as in effect on January 23, 2003, shall not be deemed applicable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

**§ 0.138 [Amended]**

7. In § 0.138, in the section heading, "Bureau of Alcohol, Tobacco, Firearms, and Explosives," is added following the words "Drug Enforcement Administration," and in paragraph (a), the words "the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives," are added following "the Administrator of the Drug Enforcement Administration,".

**§ 0.140 [Amended]**

8. In § 0.140, the words "the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives," are added following the words "the Administrator of the Drug Enforcement Administration,".

**§ 0.141 [Amended]**

9. In § 0.141, the words "the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives," are added following "the Administrator of the Drug Enforcement Administration,".

**§ 0.142 [Amended]**

10. In § 0.142 introductory text, the words "Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives," are added following the words "Administrator of the Drug Enforcement Administration,".

11. In paragraph (g) of § 0.142, the words "the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives," are added following the words "the Director of the Federal Bureau of Investigation".

**§ 0.143 [Amended]**

12. In § 0.143, the words "the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives," are added following the words "the Administrator

of the Drug Enforcement Administration.”.

**§ 0.144 [Amended]**

13. In § 0.144, the words “Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following the words “Administrator of the Drug Enforcement Administration.”.

**§ 0.145 [Amended]**

14. In § 0.145, the words “the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following the words “the Administrator of the Drug Enforcement Administration.”.

**§ 0.146 [Amended]**

15. In § 0.146, the words “the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following the words “the Administrator of the Drug Enforcement Administration.”.

**§ 0.147 [Amended]**

16. In § 0.147, the words “for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Assistant Director, Management;” are added following the words “Drug Enforcement Administration, the Director of the Office of Administration and Management;”.

**§ 0.148 [Amended]**

17. In § 0.148, the words “the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following the words “the Administrator of the Drug Enforcement Administration.”.

**§ 0.149 [Amended]**

- 18. In § 0.149:
  - a. Redesignate paragraphs (a) through (c) as paragraphs (a)(1) through (a)(3);
  - b. Redesignate the introductory paragraph of the section as paragraph (a) introductory text and add the words “the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” following the words “the Administrator of the Drug Enforcement Administration.”; and
  - c. Designate the undesignated paragraph at the end of the section as paragraph (b).

**§ 0.151 [Amended]**

19. In § 0.151, the words “the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following the words “the Administrator of the Drug Enforcement Administration.”.

**§ 0.152 [Amended]**

20. In § 0.152, the words “, the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following the words “the Administrator of the Drug Enforcement Administration”.

**§ 0.153 [Amended]**

21. In § 0.153, the words “the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following the words “the Administrator of the Drug Enforcement Administration.”.

**§ 0.154 [Amended]**

22. In § 0.154, the words “the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following the words “the Administrator of the Drug Enforcement Administration.”.

**§ 0.155 [Amended]**

23. In § 0.155, the words “the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” are added following “the Administrator of the Drug Enforcement Administration.”.

**PART 9—REGULATIONS GOVERNING THE REMISSION OR MITIGATION OF CIVIL AND CRIMINAL FORFEITURES**

24. The authority citation for part 9 continues to read as follows:

**Authority:** 28 U.S.C. 509, 510, 515–518, 524; 8 U.S.C. 1324; 15 U.S.C. 1177; 17 U.S.C. 509; 18 U.S.C. 512, 981, 982, 1467, 1955, 1963, 2253, 2254, 2513; 19 U.S.C. 1613, 1618; 21 U.S.C. 853, 881; 22 U.S.C. 401.

**§ 9.1 [Amended]**

25. In § 9.1, in paragraph (b)(1), the words “within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, authority to grant remission and mitigation is delegated to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;” are added following the words “within the Drug Enforcement Administration, authority to grant remission and mitigation is delegated to the Forfeiture Counsel, Office of Chief Counsel;”.

26. In § 9.3, redesignate paragraph (e)(1)(iii) as paragraph (e)(1)(iv), and add a new paragraph (e)(1)(iii) to read as follows:

**§ 9.3 Petitions in administrative forfeiture cases.**

- \* \* \* \* \*
- (e) \* \* \*
- (1) \* \* \*

(iii) Bureau of Alcohol, Tobacco, Firearms, and Explosives, Special Agent in Charge, Asset Forfeiture and Seized

Property Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226.  
\* \* \* \* \*

**§ 9.4 [Amended]**

27. In § 9.4, before the period at the end of paragraph (e), add the words “, and except in Bureau of Alcohol, Tobacco, Firearms, and Explosives cases, where the copy shall be submitted to the Special Agent in Charge, Asset Forfeiture and Seized Property Branch, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 650 Massachusetts Avenue, NW., Washington, DC 20226”.

**PART 11—DEBT COLLECTION**

28. The authority citation for part 11 continues to read as follows:

**Authority:** 5 U.S.C. 301, 28 U.S.C. 509, 510, 31 U.S.C. 3718, 3720A.

**§ 11.6 [Amended]**

29. In § 11.6(b), the words “the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF),” are added following the abbreviation “(FBI),”.

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

30. The authority citation 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.

31. In § 16.2, redesignate paragraphs (b)(11) and (b)(12) as paragraphs (b)(12) and (b)(13), respectively, and add a new paragraph (b)(11) to read as follows:

**§ 16.2 Public reading rooms.**

- \* \* \* \* \*
- (11) Bureau of Alcohol, Tobacco, Firearms, and Explosives—650 Massachusetts Avenue, NW., Washington, DC;
- \* \* \* \* \*

**Appendix I to Part 16 [Amended]**

32. In Appendix I to part 16—Components of the Department of Justice, Subpart C, add the words “Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, Washington, DC 20226” following the item headed “Tax Division”:

**PART 71—IMPLEMENTATION FOR ACTIONS INITIATED BY THE DEPARTMENT OF JUSTICE**

33. The authority citation for part 71 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510; 31 U.S.C. 3801–3812; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

34. In § 71.2, in the definition of “Reviewing Official”, redesignate paragraphs (e) and (f) as paragraphs (f) and (g), respectively, and add a new paragraph (e) to read as follows:

**§ 71.2 Definitions.**

\* \* \* \* \*

(e) For the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), the Chief Counsel, ATF;

\* \* \* \* \*

**PART 77—ETHICAL STANDARDS FOR ATTORNEYS FOR THE GOVERNMENT**

35. The authority citation for part 77 continues to read as follows:

**Authority:** 28 U.S.C. 530B.

**§ 77.2 [Amended]**

36. In § 77.2, in paragraph (a), add the words “the Chief Counsel for ATF and any attorney employed in that office;” following the words “the Chief Counsel for the DEA and any attorney employed in that office;”.

Dated: January 23, 2003.

**John Ashcroft,**

*Attorney General.*

[FR Doc. 03–1896 Filed 1–29–03; 8:45 am]

**BILLING CODE 4410–19–P**

**DEPARTMENT OF JUSTICE**

**28 CFR Part 16**

[AAG/A Order No. 005–2003]

**Privacy Act of 1974; Implementation**

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice, Office of the Pardon Attorney (OPA), is exempting a Privacy Act system of records entitled “Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA–001)” from subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), and (e)(5) of the Privacy Act. Information in this system relates to the investigation and evaluation of applicants for executive clemency and case-related correspondence regarding such applicants and the clemency process. The exemptions are necessary to avoid interference with clemency investigations and decision-making, when such interference could impair the Department of Justice’s ability to provide candid recommendations to the President for his ultimate decisions on clemency matters, and to prevent

unwarranted invasions of the personal privacy of third parties.

**EFFECTIVE DATE:** This final rule is effective January 31, 2003.

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

**SUPPLEMENTARY INFORMATION:** On October 31, 2002 (67 FR 66348), a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

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 the order will not have “a significant impact on a substantial number of small entities.”

**List of Subjects in Part 16**

Administrative practices and procedures, Courts, Freedom of Information 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, 28 CFR Part 16 is amended as follows:

**PART 16—[AMENDED]**

1. The authority citation 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. Section 16.79 is revised to read as follows:

**§ 16.79 Exemption of Pardon Attorney System.**

(a) The following system of records is exempt from 5 U.S.C. 552a, subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), and (e)(5); Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA–001). These exemptions apply only to the extent that information in this system of records is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

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

(1) From subsection (c)(3) because:

(i) The purpose of the creation and maintenance of the Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA–001) is to enable the Justice Department to prepare reports and recommendations to the President for his ultimate decisions on clemency matters, which are committed to exclusive discretion of the President pursuant to Article II, Section 2, Clause 1 of the Constitution.

(ii) Release of the disclosure accounting, for disclosures pursuant to

the routine uses published for this system, would permit the requester to obtain valuable information concerning the nature and scope of a clemency investigation, invade the right of candid and confidential communications among officials concerned with making recommendations to the President in clemency matters, and disclose the identity of persons who furnished information to the Government under an express or implied promise that their identities would be held in confidence.

(2) From subsection (c)(4) because the exemption from subsections (d)(1), (d)(2), (d)(3), and (d)(4) will make notification of disputes inapplicable.

(3) From subsections (d)(1), (d)(2), (d)(3), and (d)(4) is justified for the reasons stated in paragraph (b)(1) of this section.

(4) From subsection (e)(5) is justified for the reasons stated in paragraph (b)(1) of this section.

Dated: January 17, 2003.

**Paul R. Corts,**

*Assistant Attorney General for Administration.*

[FR Doc. 03–2252 Filed 1–30–03; 8:45 am]

**BILLING CODE 4410–29–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 273–0370a; FRL–7441–5]

**Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and Monterey Bay Unified Air Pollution Control District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) and the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portions of the California State Implementation Plan (SIP). The ICAPCD revision concerns the emission of particulate matter (PM–10) from agricultural burning. The MBUAPCD revision concerns the emission of PM–10 from incinerator burning. We are approving the local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on April 1, 2003 without further notice, unless EPA receives adverse comments by March 3, 2003. If we receive such comments, we