

On page 42051, column 2, in the preamble under the paragraph heading "Special Rules for Determining Applicability of Mandatory Flat Rate Withholding", lines 2 and 3 from the top of the column, the language, "the final regulations and the revenue procedure provide employers with a" is corrected to read "the final regulations provide employers with a".

**Cynthia E. Grigsby,**

*Senior Federal Register Liaison Officer,  
Publications and Regulations Branch, Legal  
Processing Division, Associate Chief Counsel  
(Procedures and Administration).*

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[AAG/A Order No. 015-2006]

#### Privacy Act of 1974; Implementation

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule amends part 16 of title 28 of the Code of Federal Regulations to reflect the applicability of Privacy Act Systems of Records Notices and any associated exemptions to the newly established National Security Division (NSD) at the Department of Justice. The National Security Division was created by section 506 of the USA PATRIOT Improvement and Reauthorization Act of 2005, by consolidating the resources of the Office of Intelligence Policy and Review (OIPR) and the Criminal Division's Counterterrorism and Counterespionage Sections. Therefore, Privacy Act Systems of Records Notices and any associated exemptions that applied to OIPR and the Criminal Division's Counterterrorism and Counterespionage Sections, are adopted by and applicable to the NSD until modified, superseded, or revoked in accordance with law.

**DATES:** *Effective Date:* This rule is effective October 3, 2006

**FOR FURTHER INFORMATION CONTACT:** Mary Cahill, Justice Management Division, U.S. Department of Justice, 1331 Pennsylvania Ave., NW., Suite 1400, Washington, DC 20530; Telephone: (202) 307-1823.

**SUPPLEMENTARY INFORMATION:** Because OIPR is transferring in its entirety to NSD, all the Privacy Act Systems of Records Notices and exemptions that applied to OIPR are adopted by and now apply to NSD. As a result of the transfer of the Criminal Division's

Sections to NSD, the following Privacy Act System of Records Notice and associated exemptions are adopted by and apply to NSD: "Central Criminal Division Index File and Associated Records, JUSTICE/CRM-001" (to the extent that subject matters therein are transferred to the jurisdiction of NSD), 63 FR 8659 (February 20, 1998), as amended in part by 66 FR 17200 (March 29, 2001), (this notice and associated exemptions continue to apply to the Criminal Division as well). The notices for the following nonexempt Systems of Records are also adopted by and apply to NSD: "Registration and Propaganda Files Under the Foreign Agents Registration Act of 1938, as amended, JUSTICE/CRM-017" 53 FR 16794 (May 11, 1988), and "Registration Files of Individuals Who Have Knowledge of or Have Received Instruction or Assignment in Espionage, Counterespionage, or Sabotage Service or Tactics of a Foreign Government or of a Foreign Political Party, JUSTICE/CRM-018" 52 FR 47197 (December 11, 1987).

No substantive changes are being made to the Privacy Act Systems of Records Notices and associated exemptions at this time, and the adoption by and continued applicability of the notices and exemptions to NSD will not add or remove any substantive rights or obligations of the public.

#### Administrative Procedure Act—5 U.S.C. 553

This rule is a rule of agency organization and relates to a matter relating to agency management and is therefore exempt from the requirements of prior notice and comment and a 30-day delay in the effective date. *See* 5 U.S.C. 553(a)(2), 553(b)(3)(A).

#### Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation 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 was not required to be prepared for this final rule since the Department was not required to publish a general notice of proposed rulemaking for this matter.

#### Executive Order 12866—Regulatory Planning and Review

This action 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 as described by Executive Order 12866 section 3(d)(3) and, therefore, is not a "regulation" or "rule" as defined by that Executive Order. Accordingly, this action has not been reviewed by the Office of Management and Budget.

#### Executive Order 13132—Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, 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

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

#### 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 \$100,000,000 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.

#### Congressional Review Act

This action pertains to agency management, personnel and organizations and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. section 801 does not apply.

#### 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 793-78, title 28 of the Code of Federal Regulations is amended as follows:

