

persons. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public rulemaking proceedings in connection with issuance of this amendment are impracticable and unnecessary, and good cause is found for making the regulations effective less than 30 days after publication in the Federal Register.

The foregoing regulation shall become effective on publication (3-26-76).

Done at Washington, D.C., on March 19, 1976.

HARRY C. MUSSMAN,
Acting Administrator, Animal
and Plant Health Inspection
Service.

[FR Doc. 76-8427 Filed 3-25-76; 8:45 am]

Title 16—Commercial Practices
CHAPTER II—CONSUMER PRODUCT
SAFETY COMMISSION
PART 1207—SAFETY STANDARD FOR
SWIMMING POOL SLIDES

Establishment of Standard; Corrections

In FR Doc. 76-1183 appearing at page 2742 of the January 19, 1976 FEDERAL REGISTER, the Consumer Product Safety Commission promulgated a consumer product safety standard for swimming pool slides. The FEDERAL REGISTER document states that the swimming pool slide standard shall become effective on July 19, 1976. This date is 182 days after the date of promulgation of the standard and was changed by the FEDERAL REGISTER from 180 days because the 180th day is a Saturday. However, section 9(d) of the Consumer Product Safety Act (15 U.S.C. 2058(d)) specifies that a consumer product safety standard shall take effect no more than 180 days from the date of promulgation of the regulation unless the Commission finds for good cause that a different effective date is in the public interest. Since such a finding has not been made by the Commission, the effective date of the standard should be July 17, 1976, 180 days after promulgation of the standard. It is corrected below. The following corrections are also made to FR Doc. 76-1183:

1. Page 2748, second column, 17th line, "is aware" is changed to "is unaware".

2. Page 2750, first column, paragraph 7, fourth line, "test or the slide's" is changed to "test of the slide's".

3. Page 2751, first column, thirty-seventh line, "Authority: Secs. 2, 7, 9, 14 . . ." is changed to read as follows:

AUTHORITY: Secs. 2, 7, 9, 14, 30 . . . 86 Stat. 1207, 1212, 1215, 1220, 1236; (15 U.S.C. 2051, 2056, 2058, 2063, 2079).

4. Section 1207.5(d)(2), which appears in the first and second columns of page 2754, is changed to read as follows:

§ 1207.5 Design.

(d) * * *

(2) *Extent of handrails.* (i) *Maximum angle ladder.* If ladder handrails for a ladder inclined 15 degrees or less from the vertical extend below the slide tran-

sition area, they shall be parallel to the ladder rails at a perpendicular distance from them of 4 to 6 inches (10.16 to 15.24 cm) (see figure D.). The handrail shall begin 3 to 5 feet (0.91 to 1.52 meters) above the pool deck. Handrails should not provide a means of entrapment.

(ii) *Extent of handrails for ladders, steps stairs, or ramps.* For slides not using the minimum angle ladder (15 degrees or less from the vertical), the perpendicular distance between the ladder handrails and the ladder rails below the slide transition area shall be the distance "X" as shown in table 1.

5. Page 2764, third column, thirty-first line, "July 19, 1976" is changed to "July 17, 1976".

Dated: March 22, 1976.

SADYE E. DUNN,
Secretary, Consumer Product
Safety Commission.

[FR Doc. 76-8618 Filed 3-25-76; 8:45 am]

Title 17—Commodity and Securities
Exchanges

CHAPTER II—SECURITIES AND
EXCHANGE COMMISSION

[Release No. 34-11935]

PART 240—GENERAL RULES AND REGU-
LATION; SECURITIES EXCHANGE ACT
OF 1934

FOCUS

Broker-Dealer Reports; Correction

In the FEDERAL REGISTER published on December 30, 1975 (40 FR 59706), the Securities and Exchange Commission announced the adoption of the FOCUS Report program including several forms and related rules. A number of errors were contained therein.

On page 59714 the phrase "a Statement of Income, a Statement of Changes in Financial Position," has been incorrectly omitted from paragraph (d)(2) of § 240.17a-5. In paragraph (e)(4)(iii)(C) on page 59715 the reference to paragraph "b)" should be "(d)".

1. Paragraph 240.17a-5(d)(2) should be inserted to read:

(d) * * *

(2) The annual audited report shall contain a Statement of Financial Condition (in a format and on a basis which is consistent with the total reported on the Statement of Financial Condition contained in Form X-17A-5 (§ 249.617 of this chapter) Part II or IIA), a Statement of Income, a Statement of Changes in Financial Position, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Such statements shall be in a format which is consistent with such statements as contained in Form X-17A-5 (§ 249.617 of this chapter) Part II or Part IIA.

2. Paragraph 240.17a-5(e)(4)(iii)(C) should be corrected to read:

(e) * * *

(4) * * *

(iii) * * *

(C) For all or any portion of a fiscal year ending in 1976 and each fiscal year thereafter, comparison of amounts reflected in Form X-17A-5 (§ 249.617 of this chapter) as required by paragraph (d) of this section, with amounts reported in the Annual General Assessment Reconciliation (Form SIPC-7);

Dated: March 19, 1976.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-8629 Filed 3-25-76; 8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE,
DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 74-13]

PART I—INCOME TAX; TAXABLE YEARS
BEGINNING AFTER DECEMBER 31, 1953

Change in Corporate Tax Rates and
Increase in Surtax Exemption

By a notice of proposed rule making appearing in the FEDERAL REGISTER for November 25, 1975 (40 FR 54582), as corrected by a notice of correction appearing in the FEDERAL REGISTER for December 9, 1975 (40 FR 57364), amendments to the Income Tax Regulations (26 CFR Part 1) under sections 11, 21, and 962 of the Internal Revenue Code of 1954 were proposed to reflect the changes made by section 303(a), (b) and (c) (3) and section 305(b) of the Tax Reduction Act of 1975 (Public Law 94-12, 88 Stat. 44, 45). These proposed rules do not reflect changes made by the Revenue Adjustment Act of 1975 (Public Law 94-164). After consideration of all relevant matter presented by interested persons regarding the proposed rules, this document adopts those rules as proposed with two minor changes. The rule established by the last sentence of § 1.11-1(d) as proposed which specifies the normal tax rate (22 percent) for purposes of sections 244, 247, 804, 907, 922 and §§ 1.51-1 and 1.815-4 has been limited to taxable years beginning after December 31, 1963, and ending before January 1, 1976.

Section 1.11-1(c) of the regulations is amended to provide for the reduction in the corporate normal tax rate on taxable income from 22 percent to 20 percent on the first \$25,000 of taxable income. Section 1.11-1(d) is amended to provide for the increase in the surtax exemption from \$25,000 to \$50,000. Taxable income in excess of \$25,000 but not in excess of \$50,000 is taxed at a rate of 22 percent. Taxable income in excess of \$50,000 is taxed at the rate of 48 percent. These amendments also indicate the change in the corporate tax rate and the increase in the surtax exemption apply only to taxable years ending after December 31, 1974 and before January 1, 1976. The amendment to the regulations under section 21 (relating to the effect of changes in rate during a taxable year)

provides that the increase in the corporate surtax exemption shall be treated as a change in a rate of tax. According to TIR-1369 issued May 2, 1975, the subsequent decrease in the surtax exemption shall also be treated as a change in rate.

In addition a cross reference in the regulations under 962 is amended to reflect the temporary increase in the surtax exemption from \$25,000 to \$50,000.

Adoption of amendments to the regulations. On November 25, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 54582) in order to conform the Income Tax Regulations (26 CFR Part I) under sections 11, 21, and 962 of the Internal Revenue Code of 1954 to the changes made by section 303 (a), (b) and (c) (3) and section 305(b) of the Tax Reduction Act of 1975 (Public Law 94-12, 89 Stat. 44, 45). This notice of proposed rule making was corrected by a notice of correction appearing in the FEDERAL REGISTER (40 FR 57364) for December 9, 1975. After consideration of all relevant matter presented by interested persons regarding the proposed rules, the amendments of the Income Tax Regulations (26 CFR Part I) are hereby adopted as proposed and corrected, except that the figures in example 8 of § 1.21-1(n) have been changed to reflect the fact that the fiscal year ending June 30, 1976, contains 366 days (rather than 365) and § 1.11-1 (d) is amended as shown.

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (88A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner.

Approved: March 18, 1976.

CHARLES M. WALKER,
Assistant Secretary of the
Treasury.

PARAGRAPH 1. Section 1.11 is amended by revising subsection (b) and the historical note. These revised provisions read as follows:

§ 1.11 Statutory provisions; tax imposed.

Sec. 11. Tax imposed. * * *

(b) Normal tax. The normal tax is equal to—

(1) In the case of a taxable year ending before January 1, 1975, or after December 31, 1975, 22 percent of the taxable income, and

(2) In the case of a taxable year ending after December 31, 1974, and before January 1, 1976, the sum of—

(A) 20 percent of so much of the taxable income as does not exceed \$25,000, plus

(B) 22 percent of so much of the taxable income as exceeds \$25,000.

[Sec. 11 as amended by sec. 2, Tax Rate Extension Act 1955 (69 Stat. 114); sec. 2, Tax Rate Extension Act 1956 (70 Stat. 66); sec. 2, Tax Rate Extension Act 1957 (71 Stat. 9); sec. 2, Tax Rate Extension Act 1958 (72 Stat. 259); sec. 2, Tax Rate Extension Act 1959 (73 Stat. 157); sec. 201, Public Debt and Tax Rate Extension Act 1960 (74 Stat. 290); sec. 10 (d), Act of Sept. 14, 1960 (Public Law 86-779, 74

Stat. 1009); sec. 2, Tax Rate Extension Act 1961 (75 Stat. 193); sec. 2, Tax Rate Extension Act 1962 (76 Stat. 114); sec. 2, Tax Rate Extension Act 1963 (77 Stat. 72); sec. 121, Rev. Act 1964 (78 Stat. 25) (The 30 percent normal tax rate applies for taxable years beginning after December 31, 1953 and before January 1, 1964); sec. 104(b)(2), Foreign Investors Tax Act 1966 (80 Stat. 1557); sec. 401(b)(2)(B), Tax Reform Act 1969 (83 Stat. 602); sec. 303(a), Tax Reduction Act 1975 (89 Stat. 44).]

PAR. 2. Section 1.11-1 is amended by revising paragraphs (c), (d) and (e). These revised provisions read as follows:

§ 1.11-1 Tax on corporations.

(c) The normal tax is at the rate of 22 percent and is applied to the taxable income for the taxable year. However, in the case of a taxable year ending after December 31, 1974, and before January 1, 1976, the normal tax is at the rate of 20 percent of so much of the taxable income as does not exceed \$25,000 and at the rate of 22 percent of so much of the taxable income as does exceed \$25,000 and is applied to the taxable income for the taxable year.

(d) The surtax is at the rate of 26 percent and is upon the taxable income (computed without regard to the deduction, if any, provided in section 242 for partially tax-exempt interest) in excess of \$25,000. However, in the case of a taxable year ending after December 31, 1974, and before January 1, 1976, the surtax is upon the taxable income (computed as provided in the preceding sentence) in excess of \$50,000. In certain circumstances the exemption from surtax may be disallowed in whole or in part. See sections 269, 1551, 1561, and 1564 and the regulations thereunder. For purposes of sections 244, 247, 804, 907, 922 and §§ 1.51-1 and 1.815-4, when the phrase "the sum of the normal tax rate and the surtax rate for the taxable year" is used in any such section, the normal tax rate for all taxable years beginning after December 31, 1963, and ending before January 1, 1976, shall be considered to be 22 percent.

(e) The computation of the tax on corporations imposed under section 11 may be illustrated by the following example:

Example. The X Corporation, a domestic corporation, has gross income of \$86,000 for the calendar year 1974. The gross income includes interest of \$5,000 on United States obligations for which a deduction under section 242 is allowable in determining taxable income subject to the normal tax. It has other deductions of \$11,000. The tax of the X Corporation under section 11 for the calendar year is \$28,400 (\$15,400 normal tax and \$13,000 surtax) computed as follows:

COMPUTATION OF NORMAL TAX		
Gross income	.....	\$86,000
Deductions:		
Partially tax-exempt interest	.....	\$5,000
Other	.....	11,000
		16,000
Taxable income	.....	70,000
Normal tax (22 percent of \$70,000)	.....	15,400

COMPUTATION OF SURTAX

Taxable income	.....	\$70,000
Add: Amount of partially tax-exempt interest deducted in computing taxable income	.....	5,000
Taxable income subject to surtax	.....	75,000
Less: Exemption from surtax	.....	25,000
Excess of taxable income subject to surtax over exemption	.....	50,000
Surtax (26 percent of \$50,000)	.....	13,000

PAR. 3. Section 1.21 is amended by adding a new subsection (f) immediately after subsection (e) and by revising the historical note. These added and revised provisions read as follows:

§ 1.21 Statutory provisions; effect of changes.

(f) Increase in surtax exemption. In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 303(b) of the Tax Reduction Act of 1975 in section 11(d) (relating to corporate surtax exemption) shall be treated as a change in a rate of tax.

[Sec. 21 as amended by sec. 132, Rev. Act 1964 (78 Stat. 31); sec. 803(e), Tax Reform Act 1969 (83 Stat. 487); sec. 305(b)(2), Tax Reduction Act 1975 (89 Stat. 45).]

PAR. 4. Section 1.21-1 is amended as follows:

(1) Paragraph (h) (1) is amended by adding at the end thereof a new sentence to read as set forth below.

(2) Paragraph (n) is amended by revising example (7) and by adding a new example (8) to read as set forth below.

§ 1.21-1 Change in rate during a taxable year.

(h) (1) * * * The amendment of section 11(d) by the Tax Reduction Act of 1975 which increases to \$50,000 the surtax exemption for a taxable year ending during 1975 constitutes a change in rate for such portion of the taxable year (if less than the entire taxable year) as follows December 31, 1974. Similarly, the return of the surtax exemption to \$25,000 for a taxable year ending during 1976 constitutes a change in rate for such portion of the taxable year (if less than the entire taxable year) as follows December 31, 1975.

(n) The application of section 21 may be illustrated by the following examples:

Example (7). The surtax exemption of corporation M (one of 4 subsidiary corporations of W corporation), which files its income tax returns on the basis of a fiscal year ending March 31, is \$4,187 for its taxable year which includes December 31, 1974, because M elects the additional tax under section 1562 for the period April 1, 1974, through December 31, 1974. Section 1562 is repealed effective for the period on or after January 1, 1975. For its taxable year ending in 1975, the taxable income of M is \$100,000. M's income tax liability is determined for the period January 1, 1975, through March 31, 1975, by taking into account two rates of normal tax under section 11 (b) (2) (A)

RULES AND REGULATIONS

and (B) and the increase to \$500,000 in the surtax exemption available to the component members of a controlled group of corporations under section 1561 (a) (1) for taxable years ending in 1975. Because no apportionment plan is effective under § 1.1561-3 with respect to the controlled group on December 31, 1974, the surtax exemption of M for the period January 1, 1975, through March 31, 1975, is \$10,000 (\$50,000 - 5) under § 1.1561-2 (a) (4). M's tax liability for the taxable year ending March 31, 1975, is computed as follows:

1974 TENTATIVE TAX	
Taxable income	\$100,000
Normal tax on \$100,000 (1974 rates) 22 percent of \$100,000	22,000
Surtax on \$95,833 (1974 rates and \$4,167 surtax exemption) 26 percent of \$95,833	24,917
Additional tax on \$4,167 6 percent of \$4,167	250
Total tentative tax at rates and surtax exemption effective on and after January 1, 1974	47,167

1975 TENTATIVE TAX	
Taxable income	\$100,000
Normal tax on \$100,000 (1975 rates) 20 percent of \$100,000	\$1,000
22 percent of \$95,000	20,900
Surtax on \$90,000 (1975 rates and \$10,000 surtax exemption) 26 percent of \$90,000	23,400
Total tentative tax at rates and surtax exemption effective on and after January 1, 1975	\$45,300

The 1974 and 1975 tentative taxes are apportioned as follows:

1974-275/365 of \$47,167	\$35,537
1975-90/365 of \$45,300	11,170

Total tax for the taxable year \$46,707

Example (8). Corporation N files its income tax returns on the basis of a fiscal year ending June 30. For its taxable year ending in 1976, the taxable income of N is \$100,000. N's income tax liability is determined for the period July 1, 1975, through December 31, 1975, by taking into account two rates of normal tax under section 11 (b) (2) (A) and (B) and the increase to \$50,000 in the surtax exemption under section 11 (d). For the period January 1, 1976, through June 30, 1976, N's income tax liability is determined by taking into account the single normal tax rate under section 11 (b) (1) and the \$25,000 surtax exemption under section 11 (d). N's tax liability for the taxable year ending June 30, 1976, is computed as follows:

1975 TENTATIVE TAX	
Taxable income	\$100,000
Normal tax on \$100,000 (1975 rates) 20 percent of \$100,000	\$5,000
22 percent of \$75,000	16,500
Surtax on \$50,000 (1975 rates and \$50,000 surtax exemption) 26 percent of \$50,000	13,000

Total tentative tax at rates and surtax exemption effective on and after January 1, 1975 \$34,500

1976 TENTATIVE TAX	
Taxable income	\$100,000
Normal tax on \$100,000 (1976 rates) 22 percent of \$100,000	\$22,000
Surtax on \$75,000 (1976 rates and \$25,000 surtax exemption) 26 percent of \$75,000	19,500

Total tentative tax at rates and surtax exemption effective on and after January 1, 1976 \$41,500

The 1975 and 1976 tentative taxes are apportioned as follows:

1975-184/366 of \$34,500	\$17,344
1976-182/366 of \$41,500	20,637

Total tax for the taxable year 37,981

PAR. 5. Section 1.962-1 is amended by revising paragraph (b)(1)(ii). This revised provision reads as follows:

§ 1.962-1 Limitation of tax for individuals on amounts included in gross income under section 951(a).

(b) Rules of application. . . .

(1) Application of section 11. . . .

(ii) Limitation on surtax exemption.

The surtax exemption provided by section 11(c) shall not exceed an amount which bears the same ratio to \$25,000 (\$50,000 in the case of a taxable year ending after December 31, 1974, and before January 1, 1976) as the amounts included in his gross income under section 951(a) for the taxable year bear to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United States shareholder includes any amount in his gross income under section 951(a) for the taxable year.

[FR Doc.76-8704 Filed 3-25-76;8:45 am]

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Use of Form 843; Claims for Refund or Credit; Correction

On March 16, 1976, an amendment to the Statement of Procedural Rules was published in the FEDERAL REGISTER (41 FR 11021). The heading to § 601.105 should read as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

JAMES F. DRING,
Director, Legislation and
Regulations Division.

[FR Doc.76-8705 Filed 3-25-76;8:45 am]

Title 28—Judicial Administration CHAPTER I—DEPARTMENT OF JUSTICE [Order No. 645-76]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Exemption of Record Systems Under the Privacy Act

This order clarifies Order No. 627-75 of October 22, 1975, as published in the FEDERAL REGISTER on October 30, 1975 (40 FR 50642), which adopted in final form the Privacy Act regulations of the Department of Justice. By notice of proposed rulemaking, published in the FEDERAL REGISTER on August 27, 1975, the Department of Justice proposed regulations adding Subpart D (Protection of Privacy of Individual Records) and Subpart E (Exemption of Record Systems Under the Privacy Act) to 28 CFR Part 16 (40 FR 39404, 39408). No comments were received with respect to these two subparts. Order No. 627-75, which expressly adopted Subpart D, was intended to cover Subpart E as well.

Additional notices of proposed exemptions of record systems under the Privacy Act, which were inadvertently omitted from the group of notices published on August 27, 1975, were published on October 30, 1975 (40 F.R. 50647). No comments were received with respect to these notices of proposed systems of records.

Pursuant to the authority vested in me by 5 U.S.C. 552a, and as Attorney General of the United States, the new Subpart E of Part 16 of Chapter I of Title 28, Code of Federal Regulations, is adopted as published in the FEDERAL REGISTER of August 27, 1975 (40 F.R. 39408), and amended October 30, 1975 (40 F.R. 50647).

Dated: March 18, 1976.

EDWARD H. LEVI,
Attorney General.

Subpart E—Exemption of Records Systems Under the Privacy Act

Sec.	
16.70	[Reserved]
16.71	Exemption of the Office of the Deputy Attorney General Systems.
16.72-16.75	[Reserved]
16.76	Exemption of the Office of Management and Finance Systems.
16.77	[Reserved]
16.78	Exemption of the Watergate Special Prosecution Force Systems—Limited access.
16.79	Exemption of Pardon Attorney System.
16.80	[Reserved]
16.81	Exemption of United States Attorneys Systems—Limited access.
16.82-16.83	[Reserved]
16.84	Exemption of Board of Immigration Appeals System.
16.85	Exemption of Board of Parole Systems—Limited access.
16.86-16.87	[Reserved]
16.88	Exemption of Antitrust Division Systems.
16.89	[Reserved]
16.90	Exemption of Civil Rights Division Systems.
16.91	Exemption of Criminal Division Systems—Limited access, as indicated.

- Sec.
16.92 Exemption of Land and Natural Resources Division System.
16.93 Exemption of Tax Division System—Limited access.
16.94-16.95 [Reserved]
16.96 Exemption of Federal Bureau of Investigation Systems—Limited access.
16.97 Exemption of Bureau of Prisons Systems—Limited access.
16.98 Exemption of Drug Enforcement Administration Systems.
16.99 Exemption of Immigration and Naturalization Service System—Limited access.
16.100 Exemption of Law Enforcement Assistance Administration System—Limited access.
16.101 Exemption of U.S. Marshals Service Systems—Limited access, as indicated.

§ 16.70 [Reserved]

§ 16.71 Exemption of the Office of the Deputy Attorney General Systems.

(a) The following systems of records are exempt from 5 U.S.C. 552a (d) (1) and (e) (1):

- (1) Appointed Assistant United States Attorneys Personnel System (JUSTICE/DAG-001).
- (2) Assistant United States Attorneys Applicant Records System (JUSTICE/DAG-002).
- (3) Presidential Appointee Candidate Records System (JUSTICE/DAG-009).
- (4) Presidential Appointee Records System (JUSTICE/DAG-010).
- (5) Special Candidates for Presidential Appointments Records System (JUSTICE/DAG-011).
- (6) United States Judges Records System (JUSTICE/DAG-014).

These exemptions apply only to the extent that information in those systems is subject to exemption pursuant to 5 U.S.C. 552a(k) (5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d) (1) because many persons are contacted who, without an assurance of anonymity, refuse to provide information concerning a candidate for a judgeship or assistant U.S. Attorney position. Permitting access to the information supplied by persons after a promise of confidentiality has been given, could reveal the identity of the source of the information and constitute a breach of the promised confidentiality on the part of the Department of Justice. Such breaches ultimately would restrict the free flow of information vital to a determination of a candidate's qualifications and suitability.

(2) 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 qualifications and suitability of a candidate. Information which may appear irrelevant, when combined with other apparently irrelevant information, can on occasion, provide a composite picture of a candidate for a

position which assists in determining whether that candidate should be nominated for appointment.

§§ 16.72-16.75 [Reserved]

§ 16.76 Exemption of Office of Management and Finance Systems.

(a) The following system of records is exempt from 5 U.S.C. 552a(d):

- (1) Controlled Substances Act Non-public Records (JUSTICE/OMF-002).

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 552 a(j).

(b) Exemption from subsection (d) is justified for the following reasons:

(1) Pub. L. 91-513 (Controlled Substances Act), Sec. 404(b) states that the nonpublic record "shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection." It is therefore maintained that it is the intent of Congress that these nonpublic records, by definition, receive no further exposure.

(c) The following system of records is exempt from 5 U.S.C. 552a(d):

- (1) Security Clearance Information System (SCIS) (JUSTICE/OMF-008)—Limited access.

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 552a (j) and (k).

(d) Exemption from subsection (d) is justified for the following reason:

(1) Access to records in the system would reveal the identity(ies) of the source(s) of information collected in the course of a background investigation. Such knowledge might be harmful to the source who provided the information as well as violate the explicit or implicit promise of confidentiality made to the source during the investigation.

(e) Consistent with the legislative purpose of the Privacy Act of 1974, the Office of Management and Finance will grant access to nonexempt material in SCIS records which are maintained by the Security and Administrative Services Staff. Disclosure will be governed by the Department's Privacy Regulations, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from this system will be made on a case-by-case basis."

§ 16.77 [Reserved]

§ 16.78 Exemption of Watergate Special Prosecution Force Systems—Limited access.

(a) The following systems of records are exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5), (f) and (g):

- (1) Watergate Special Prosecution Force Investigative and Prosecutory File (JUSTICE/WSPF-001).

- (2) Watergate Special Prosecution Force Automated Investigative File (JUSTICE/WSPF-002).

These exemptions apply to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because the release of the accounting of disclosures made under subsection (b) of the Act, including those disclosures permitted under the routine uses published for these systems of records would permit the subject of an investigation of an actual or potential criminal, civil or regulatory violation to determine whether he is the subject of an investigation or to obtain valuable information concerning the nature of that investigation, material compiled during the investigation, and the identity of witnesses and informants. Disclosure of the accounting would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f) (1) is specifically exempted for these systems of records.

(2) From subsection (c) (4) because an exemption is being claimed for subsection (d) of the Act. This section is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3) From subsection (d) because access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4) From subsection (e) (1) because the notices for these systems of records published in the Federal Register set forth the basic statutory or related authority for maintenance of these systems.

However, in the course of criminal or other law enforcement investigations, cases, and matters the Watergate Special Prosecution Force will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority, or may compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain such information in these systems of records since it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies.

(5) From subsection (e) (2) because in a criminal or other law enforcement investigation or prosecution, the requirement that the information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the investigation and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(6) From subsection (e) (3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e) (3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7) From subsections (e) (4) (G) and (H) because an exemption is being claimed for subsections (d) and (f) of the Act. These subsections are inapplicable to the extent that these systems of records are exempted from subsections (d) and (f).

(8) From subsection (e) (4) (I) because the categories of sources of the records in these systems have been published in the Federal Register in broad generic terms in the belief that this is all that subsection (e) (4) (I) of the Act requires.

In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) From subsection (e) (5) because in the collection of information for criminal or other law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e) (5) would restrict the ability

of trained investigators, intelligence analysts, and government attorneys to exercise their judgment in reporting on information and investigations and impede the development of criminal or other intelligence necessary for effective law enforcement.

"(10) From subsection (f) because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since an exemption is being claimed for subsection (d) of the Act, the rules required pursuant to this subsection are inapplicable.

"(11) From subsection (g) because an exemption is being claimed for subsections (d) and (f).

"(c) Consistent with the legislative purpose of the Privacy Act of 1974, the Watergate Special Prosecution Force will grant access to nonexempt material in records which are maintained by the Watergate Special Prosecution Force. Disclosure will be governed by the Department's Privacy Regulations, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal, civil or regulatory violation will not be altered to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems of records will be made on a case-by-case basis."

§ 16.79 Exemption of Pardon Attorney System.

(a) The following system of records is exempt from 5 U.S.C. 552a(d):

(1) Executive Clemency Files (JUSTICE/OPA-001).

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j).

(b) Exemption from subsection (d) is justified for the following reasons:

(1) Executive clemency files contain investigatory and evaluative reports relating to applicants for Executive clemency. Release of such information to the subject would jeopardize the integrity of the investigative process, invade the right of candid and confidential communications among officials concerned with recommending clemency decisions

to the President, 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) The purpose of the creation and maintenance of these files is to enable the Pardon Attorney to prepare for the President's ultimate decisions on matters which are within the President's exclusive jurisdiction by virtue of Article II, section 2, clause 1 of the Constitution, which commits pardons to the exclusive discretion of the President."

§ 16.80 [Reserved]

§ 16.81 Exemption of United States Attorneys Systems—Limited access.

(a) The following systems of records are exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (h):

(1) Citizen Complaint Files (JUSTICE/USA-003).

(2) Civil Case Files (JUSTICE/USA-005).

(3) Consumer Complaints (JUSTICE/USA-006).

(4) Criminal Case Files (JUSTICE/USA-007).

(5) Kline—District of Columbia and Maryland Stock and Land Interrelationship Filing System (JUSTICE/USA-010).

(6) Major Crimes Division Investigation Files (JUSTICE/USA-011).

(7) Prosecutor's Management Information System (PROMIS) (JUSTICE/USA-012).

(8) U.S. Attorney, District of Columbia Superior Court Division, Criminal Files (JUSTICE/USA-014).

These exemptions apply to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because the release of the disclosure accounting for disclosures pursuant to the routine uses published for these systems would permit the subject of a criminal investigation and/or civil case or matter under investigation, litigation, regulatory or administrative review or action, to obtain valuable information concerning the nature of that investigation, case or matter and present a serious impediment to law enforcement or civil legal activities.

(2) From subsection (c) (4) since an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in these systems would inform the subject of criminal investigation and/or civil investigation, matter or case of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, apprehension or legal obligations, and present a serious impediment to law enforcement and other civil remedies.

(4) From subsection (e) (1) because in the course of criminal investigations and/or civil investigations, cases or matters, the United States Attorneys often obtain information concerning the violation of laws or civil obligations other than those relating to an active case or matter. In the interests of effective law enforcement and civil litigation, it is necessary that the United States Attorneys retain this information since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought within the United States Attorneys' offices.

(5) From subsection (e) (2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection, apprehension or legal obligations and duties.

(6) From subsection (e) (3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e) (3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e) (4) (G) and (H) because these systems of records are exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) From subsection (e) (5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e) (5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(9) From subsection (e) (8) because the individual notice requirements of subsection (e) (8) could present a serious impediment to law enforcement as this could interfere with the United States Attorneys' ability to issue subpoenas and could reveal investigative techniques and procedures.

(10) From subsection (f) because these systems of records have been exempted from the access provisions of subsection (d).

(11) From subsections (g) and (h) because these systems of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(c) Consistent with the legislative purpose of the Privacy Act of 1974, the Executive Office for United States Attorneys will grant access to nonexempt material in records which are maintained by the United States Attorneys. Disclosure will be governed by the Department's Privacy Regulations, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal, civil or regulatory violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis."

§§ 16.82-16.83 [Reserved]

§ 16.84 Exemption of Board of Immigration Appeals System.

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

(1) Decisions of the Board of Immigration Appeals (JUSTICE/BIA-001).

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsections (d) (2), (3) and (4) because the decisions reflected constitute official records of opinions rendered in quasi-judicial proceedings. Administrative due process could not be achieved by the ex parte "correction" of such opinions by the subject of the opinion.

§ 16.85 Exemption of Board of Parole System—Limited access.

(a) The following systems of records are exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (2) and (3), (e) (4) (G) and (H), (e) (8), (f) and (g):

(1) Docket Scheduling and Control System (JUSTICE/BPR-001).

(2) Inmate and Supervision Files System (JUSTICE/BPR-003).

(3) Labor and Pension Case, Legal File, and General Correspondence System (JUSTICE/BPR-004).

(4) Statistical, Educational and Developmental System (JUSTICE/BPR-006).

(5) Workload Record, Decision Result, and Annual Report System (JUSTICE/BPR-007).

These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(j).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because revealing disclosure of accountings to inmates and persons on supervision could compromise legitimate law enforcement activities and Board of Parole responsibilities.

(2) From subsection (c) (4) because the exemption from subsection (d) will make notification of disputes inapplicable.

(3) From subsection (d) because this is essential to protect internal processes by which Board personnel are able to formulate decisions and policies with regard to federal prisoners and persons under supervision, to prevent disclosures of information to federal inmates or persons on supervision that would jeopardize legitimate correctional interests of security, custody, supervision, or rehabilitation, to permit receipt of relevant information from other federal agencies, state and local law enforcement agencies, and federal and state probation and judicial offices, to allow private citizens to express freely their opinions for or against parole, to allow relevant criminal history type information of co-defendants to be kept in files, to allow medical, psychiatric and sociological material to be available to professional staff, and to allow a candid process of fact selection, opinion formulation, evaluation and recommendation to be continued by professional staff. The legal files contain case development material and, in addition to other reasons, should be exempt under the attorney-client privilege. Each labor or pension applicant has had served upon him the material in his file which he did not prepare and may see his own file at any time.

(4) From subsection (e) (2) because primary collection of information directly from federal inmates or persons on supervision about criminal sentence, criminal records, institutional performance, readiness for release from custody, or need to be returned to custody is highly impractical and inappropriate.

(5) From subsection (e) (3) because application of this provision to the operations and collection of information by the Board, which is primarily from sources other than the individual, is inappropriate.

(6) From subsections (e) (4) (G) and (H) because exemption from the access provisions of (d) makes publication of agency procedures under (d) inapplicable.

(7) From subsection (e) (8) because the nature of the Board's activities renders notice of compliance with compulsory legal process impractical.

(8) From subsection (f) because exemption from the provisions of subsection (d) will render compliance with provisions of this subsection inapplicable.

(9) From subsection (g) because exemption from the provisions of subsection (d) will render the provisions on suits to enforce (d) inapplicable.

(c) Consistent with the legislative purpose of the Privacy Act of 1974, the Board

of Parole will initiate a procedure whereby present or former federal inmates in custody or persons under supervision may review copies of material in files relating to them which are maintained by the Board of Parole. Disclosure of the contents will be effected by providing copies of documents to requesters through the mails. Disclosure will be limited to the extent that investigative data, letters or memoranda containing facts selected from the whole fact picture, and items of opinion, conclusion and recommendation, items from exempt sources such as the courts, medical and psychiatric data harmful to continuation of therapy, data which would jeopardize privacy rights of others, and information furnished with a legitimate expectation of confidentiality will not be made available. The controlling principle behind the limited access is to allow disclosures except those which would impair the integrity of the Board's decision or policy making processes, the confidentiality of its sources, the effectiveness of the Department of Justice's investigative processes, and the privacy of third parties; or jeopardize the legitimate correctional interests of release from custody, supervision, control and rehabilitation and the decision and policy making processes connected therewith; the documentation of which is exemptable from the Privacy Act. The limitations on disclosure may be changed generally or in regard to certain documentation due to pending or future decisions and directions of the Department of Justice."

§§ 16.86-16.87 [Reserved]

§ 16.88 Exemption of Antitrust Division Systems.

(a) The following systems of records are exempt from 5 U.S.C. 552a (c) (3), (d), (e) (1), (e) (4) (G) and (H), and (f):

(1) Computerized Document Retrieval System—"United States v. International Business Machines" ("CDRS-IBM") (JUSTICE/ATR-002).

(2) Computerized Document Retrieval System—"Tire cases" ("CDRS-Tire Cases") (JUSTICE/ATR-003).

These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k). It is noted however, that the provisions of 5 U.S.C. 552a are not applicable to these systems by virtue of 5 U.S.C. 552a(d) (5).

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

(1) Exemption from subsection (c) (3) is justified because these systems are maintained only in aid of on-going antitrust enforcement proceedings (e.g., pretrial/trial). Documents retrieved by using information ("key-words") stored electronically in these systems are, and will be required in the ordinary course of conducting all proceedings in "United States v. The Goodyear Tire & Rubber Company," Civil No. C-73-835 (N.D. Ohio), "United States v. The Firestone Tire & Rubber Company," Civil No. C-

73-836 (N.D. Ohio), and "United States v. International Business Machines," Civil No. 69-Civ.-200 (S.D. N.Y.). Consequently, in the course of such protracted and complex antitrust proceedings, the presentation, production or other routine and necessary disclosure of documents retrieved from these systems will be required to be made before the courts and as otherwise required by order of court or pursuant to binding rules of procedure.

(2) 5 U.S.C. 552a(d) does not apply to these systems by virtue of 5 U.S.C. 552a (d) (5). In addition, exemptions from subsections (d), (e) (4) (G) and (H), and (f), all related to matters concerned with individual access to information in systems of records, are justified under 5 U.S.C. 552a(k) because access to the documents retrievable from these systems and compiled for law enforcement purposes could result in the invasion of the privacy of private persons named or otherwise identified in such documents as well as the unjustified disclosure of commercial and financial information of a confidential nature obtained from various firms connected with or involved in the referenced proceedings.

(3) Exemption from subsection (e) (1) is justified because the collection of documents prior to and during the judicial proceedings necessarily involves the assemblage, indexing and storage in these types of systems of information relative to individuals who are not ultimately required to appear or otherwise connected with actual litigation."

§ 16.89 [Reserved]

§ 16.90 Exemption of Civil Rights Division Systems.

(a) The following system of records is exempt from 5 U.S.C. 552a(d):

(1) Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission (JUSTICE/CRT-007).

This exemption applies to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d) because this system contains investigatory material compiled by the Equal Opportunity Commission pursuant to its authority under 42 U.S.C. 2000e-8, 42 U.S.C. 2000e-8(e) and 44 U.S.C. 3508 make it unlawful to make public in any manner whatsoever any information obtained by the Commission pursuant to the authority.

(c) The following systems of records are exempt from 5 U.S.C. 552a (c) (3) and (d):

(1) Records Obtained by Office of Special Litigation Concerning Residents of Certain State Institutions (JUSTICE/CRT-005).

(2) Files of Federal Programs Section, Civil Rights Division (JUSTICE/CRT-006).

These exemptions apply only to the extent that information in these systems

is subject to exemption pursuant to 5 U.S.C. 552a(k).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because the release of the disclosure accounting for disclosure pursuant to the routine uses published for this system may enable the subject of an investigation to gain valuable information concerning the nature and scope of the investigation and seriously hamper law enforcement efforts.

(2) From subsection (d) because freely permitting access to records in this system would compromise ongoing investigations and reveal investigatory techniques. In addition, these records may be subject to protective orders entered by federal courts to protect their confidentiality. Many of the records contained in these systems are copies of documents which are the property of state agencies and were obtained under express or implied promises to strictly protect their confidentiality.

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

(1) Central Civil Rights Division Index File and Associated Records (JUSTICE/CRT-001).

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

(f) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsections (c) (3) and (d) for the reasons listed in 16.90(d) (1) and (2) above.

(2) From subsection (g) because exemption from the provision of subsection (d) will render the provisions on suits to enforce (d) inapplicable."

§ 16.91 Exemption of Criminal Division Systems—Limited access, as indicated.

(a) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j) (2) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a; in addition, the following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a (k) (1) and (k) (2) from subsections (c) (3), (d), (e) (1), (e) (4) (G), (H), and (I), and (f) of 5 U.S.C. 552a:

(1) Central Criminal Division, Index File and Associated Records System of Records (JUSTICE/CRM-001)—Limited Access.

(2) General Crimes Section, Criminal Division, Central Index File and Associated Records System of Records (JUSTICE/CRM-004)—Limited Access.

These exemptions apply to the extent that information in those systems are subject to exemption pursuant to 5 U.S.C. 552a (j) (2), (k) (1) and (k) (2).

(b) The systems of records listed under paragraphs b(1) and b(2) of this

section are exempted, for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

(1). (c)(3). The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for these systems of records, would permit the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to determine whether he is the subject of investigation, or to obtain valuable information concerning the nature of that investigation, and the information obtained, or the identity of witnesses and informants and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) is specifically exempted for these systems of records.

(2). (c)(4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this subsection is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3). (d). Access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation, or the nature and scope of the information and evidence obtained as to his activities, or the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4). (e)(1). The notices of these systems of records published in the Federal Register set forth the basic statutory or related authority for maintenance of this system. However, in the course of criminal or other law enforcement investigations, cases, and matters, the Criminal Division or its components will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain such information in these systems of records since it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies.

(5). (e)(2). In a criminal investigation or prosecution, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the investigation and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(6). (e)(3). The requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7). (e)(4) (G) and (H). Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records)

of the Act these subsections are inapplicable to the extent that these systems of records are exempted from subsections (f) and (d).

(8). (e)(4)(I). The categories of sources of the records in these systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9). (e)(5). In the collection of information for criminal law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators, intelligence analysts, and government attorneys in exercising their judgment in reporting on information and investigations and impede the development of criminal or other intelligence necessary for effective law enforcement.

(10). (e)(8). The individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue warrants or subpoenas and could reveal investigative techniques, procedures, or evidence.

(11). (f). Procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records pertaining to him dealing with an actual or potential criminal, civil, or regulatory investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules require pursuant to subsection (f) (2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

(12). (g). Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that these systems of records are exempted from subsections (d) and (f).

(13). In addition, exemption is claimed for these systems of records from compliance with the following provisions of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to the provisions of 5 U.S.C. 552a(k)(1): subsections (c)(3), (d), (e)(1), (e)(4) (G), (H) and (I) and (f) to the extent that the records contained in these systems are specifically authorized to be kept secret in the interests of national defense and foreign policy.

(c) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsection (c) (3) and (4), (d), (e) (1), (2) and

(3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a:

(1) Criminal Division Witness Security Program, File System of Records (JUSTICE/CRM-002).

(2) Narcotic and Dangerous Drug Witness Security, Program File System of Records (JUSTICE/CRM-009).

These exemptions apply to the extent that information in these systems are subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(d) The systems of records listed under paragraphs (c) (1) and (c) (2) of this section are exempted, for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

(1). (c)(3) The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for these systems of records, would permit the subject of an investigation of an actual or potential criminal violation, which may include those protected under the Witness Security Program, to determine whether he is the subject of a criminal investigation, to obtain valuable information concerning the nature of that investigation and the information obtained, or the identity of witnesses and informants and the nature of their reports, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) is specifically exempted for these systems of records. Moreover, disclosure of the disclosure accounting to an individual protected under the Witness Security Program could jeopardize the effectiveness and security of the Program by revealing the methods and techniques utilized in relocating witnesses and could therefore jeopardize the ability to obtain, and to protect the confidentiality of, information compiled for purposes of a criminal investigation.

(2). (c)(4) Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this section is inapplicable.

(3). (d) Access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal violation, which may include those protected under the Witness Security Program, of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, access to the records in these systems to an individual protected under the Witness Security Program could jeopardize the effectiveness and security of the Program by revealing the methods and techniques utilized in relocating witnesses and could therefore jeopardize the ability to obtain, and to protect the confidentiality of, information compiled for purposes of a criminal investigation.

(4). Exemption is claimed from subsection (e)(1) for the reasons stated in subsection (b)(4) of this section.

(5). (e)(2) In the course of preparing a Witness Security Program for an individual,

much of the information is collected from the subject. However, the requirement that the information be collected to the greatest extent practicable from the subject individual would present a serious impediment to criminal law enforcement because the individual himself may be the subject of a criminal investigation or have been a participant in, or observer of, criminal activity. As a result, it is necessary to seek information from other sources. In addition, the failure to verify the information provided from the individual when necessary and to seek other information could jeopardize the confidentiality of the Witness Security Program and lead to the obtaining and maintenance of incorrect and uninvestigated information on criminal matters.

(6). (e) (3) The requirement that individuals supplying information be provided with a form stating the requirements of subsection (e) (3) would constitute a serious impediment to law enforcement in that it could compromise or reveal the identity of witnesses and informants protected under the Witness Security Program.

(7). (e) (4) (G) and (H). Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act these subsections are inapplicable.

(8). (e) (4) (I). The categories of sources of the records in these systems have been published in the Federal Register in broad generic terms in the belief that this is all that subsection (e) (4) (I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in the system, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal law enforcement information and of witnesses and informants protected under the Witness Security Program.

(9). Exemption is claimed from subsections (e) (5) and (e) (8) for the reasons stated in subsection (b) (9) and (b) (10) of this section.

(10). Procedures for notice to an individual pursuant to subsection (f) (1) as to the existence of records contained in these systems pertaining to him would inform the subject of an investigation of an actual or potential criminal violation, which may include those protected under the Witness Security Program, of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful conduct and/or completion of an investigation pending or future, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, notices as to the existence of records contained in these systems to an individual protected under the Witness Security Program could jeopardize the effectiveness and security of the Program by revealing the methods and techniques utilized in relocating witnesses and could therefore jeopardize the ability to obtain, and to protect the confidentiality of, information compiled for purposes of a criminal investigation.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsection (f) (2) through (5) are inapplicable.

(11). (g) Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is

inapplicable and is exempted for the reasons set forth for those subsections.

(e) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j) (2) from subsections (c) (3) and (4), (d), (e) (4) (G), (H) and (I), (f), and (g) of 5 U.S.C. 552a:

(1) Organized Crime and Racketeering Section File Check Out System of Records (JUSTICE/CRM-011).

(2) Organized Crime and Racketeering Section, Intelligence and Special Services Unit, Information Request System of Records (JUSTICE/CRM-014).

These exemptions apply to the extent that information in those systems are subject to exemption pursuant to 5 U.S.C. 552a(j) (2).

(f) The systems of records listed under paragraphs (e) (1) and (e) (2) of this section are exempted for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

(1). (c) (3). The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for these systems of records, would permit the subject of an investigation of an actual or potential criminal violation to determine whether he is the subject of a criminal investigation and would therefore present a serious impediment to law enforcement. The records in these systems contain the names of the subjects of the files in question and the system is accessible by name of the person checking out the file and by name of the subject of the file. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f) (1) is specifically exempted for these systems of records.

(2). (c) (4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this section is inapplicable.

(3). (d). Access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation. This would present a serious impediment to effective law enforcement because it could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4). Exemption is claimed from subsections (e) (4) (G), (H) and (I) for the reasons stated in subsections (b) (7) and (b) (8) of this section.

(5). (f). These systems may be accessed by the name of the person who is the subject of the file and who may also be the subject of a criminal investigation. Procedures for notice to an individual pursuant to subsection (f) (1) as to the existence of records pertaining to him, which may deal with an actual or potential criminal investigation or prosecution, must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of the investigation or prosecution pending or future. In addition mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsection (f) (2) through (5) are inapplicable.

(6). (g). Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) of the Act this section is inapplicable and is exempted for the reasons set forth for those subsections.

(g) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j) (2) from subsections (c) (4), (d), (e) (4) (G), (H) and (I), (f) and (g) of 5 U.S.C. 552a:

File of Names Checked to Determine If Those Individuals Have Been the Subject of an Electronic Surveillance System of Records (JUSTICE/CRM-003).

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

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

(1). (c) (4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this section is inapplicable to the extent that this system of records is exempted from subsection (d).

(2). (d). The records contained in this system of records generally consist of information filed with the court in response to the request and made available to the requestor. To the extent that these records have been so filed, no exemption is sought from the provisions of this subsection. Occasionally, the records contain pertinent logs of intercepted communications and other investigative reports not filed with the court. These records must be exempted because access to such records could inform the subject of an investigation and of the nature of the informal violation of the existence of that investigation and of the nature of the information and evidence obtained by the government. This would present a serious impediment to effective law enforcement because it could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(3). Exemption is claimed from subsections (e) (4) (G), (H) and (I) for the reasons stated in subsections (b) (7) and (b) (8) of this section.

(4). (f). The records contained in this system of records generally consist of information filed with the court and made available to the requestor. To the extent that these records have been so filed, no exemption is sought from the provisions of this subsection. Occasionally, the records contain pertinent logs of intercepted communications and other investigative reports not filed with the court. These records must be exempted from a requirement of notification as to their existence because such notice to an individual would be detrimental to the successful conduct and/or completion of a criminal investigation or prosecution pending or future. In addition, mere notice of the existence of such logs or investigative reports could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Rec-

ords) the rules required pursuant to subsection (f) (2) through (5) are inapplicable to the extent that this system of records is exempted for subsection (d).

(6). (g). Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that this system of records is exempted from subsection (d) and (f).

(i) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j) (2) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a:

(1) Information File on Individuals and Commercial Entities Known or Suspected of Being Involved in Fraudulent Activities System of Records (JUSTICE/CRM-006).

(2) The Stocks and Bonds Intelligence Control Card File System of Records (JUSTICE/CRM-021).

These exemptions apply only to the extent that information in these systems are subject to exemption pursuant to 5 U.S.C. 552a (j) (2).

(j) The systems of records listed in paragraphs (i) (1) and (i) (2) of this section are exempted, for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

(1). (c) (3). The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for these systems of records, would permit the subject of an investigation of an actual or potential criminal violation to determine whether he is the subject of a criminal investigation, to obtain valuable information concerning the nature of that investigation, and the information obtained, or the identity of witnesses and informants, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f) (1) is specifically exempted for this system of records.

(2). (c) (4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this section is inapplicable to the extent that this system of records is exempted from subsection (d).

(3). (d). Access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4). Exemption is claimed from subsections (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (e) (8) for the reasons stated in subsections (b) (4), (b) (5), (b) (8), (b) (7), (b) (8), (b) (9) and (b) (10) of this section.

(5). (f). Procedures for notice to an individual pursuant to subsection (f) (1) as

to the existence of records pertaining to him dealing with an actual or potential criminal investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsection (f) (2) through (5) are inapplicable to these systems of records.

(6). (g). Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable and is exempted for the reasons set forth for those subsections.

(k) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j) (2) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f) and (g) of section 5 U.S.C. 552a:

Organized Crime and Racketeering Information System of Records (JUSTICE/CRM-010).

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).

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

(1). Exemption is claimed from subsections (c) (3), (c) (4) and (d) for the reasons stated in subsections (j) (1), (j) (2) and (j) (3) of this section.

(2). (e) (1) The notice for this system of records published in the Federal Register sets forth the basic statutory or related authority for maintenance of this system. However, in the course of organized crime investigations information will occasionally be obtained concerning actual or potential violations of law that are not strictly within statutory or other authority, or information may be compiled in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain such information in this system of records since it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies.

(3). Exemption is claimed from subsections (e) (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8) for the reasons stated in subsections (b) (5), (b) (6), (b) (7), (b) (8), (b) (9) and (b) (10) of this section.

(4). Exemption is claimed from sections (f) and (g) for the reasons stated in subsections (j) (5) and (j) (6) of this section.

(m) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j) (2) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a; in addition, the following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(k) (1) from subsections (c) (3), (d), (e) (1), (e) (4) (G), (H) and (I) and (f) of 5 U.S.C. 552a:

Organized Crime and Racketeering Section, Criminal Division, General Index File and Associated Records System of Records (JUSTICE/CRM-012).

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j) (2) and (k) (1).

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

(1). Exemption is claimed from subsections (c) (3) and (4) and (d) for the reasons stated in subsections (j) (1), (j) (2) and (j) (3) of this section.

(2). (e) (1). The notice for this system of records published in the Federal Register sets forth the basic statutory or related authority for maintenance of this system. However, in the course of criminal investigations, cases, and matters, the Organized Crime and Racketeering Section will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority, or may compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain such information in this system of records since it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies.

(3). Exemption is claimed from subsections (e) (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f) and (g) for the reasons stated in subsections (b) (5), (b) (6), (b) (7), (b) (8), (b) (9), (b) (10), (b) (11) and (b) (12) of this section.

(4). In addition, exemption is claimed for this system of records from compliance with the following provisions of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to the provisions of 5 U.S.C. 552a(k) (1): subsections (c) (3), (d), (e) (1), (e) (4) (G), (H) and (I) and (f) to the extent that the records contained in this system are specifically authorized to be kept secret in the interests of national defense and foreign policy.

(o) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j) (2) from subsections (c) (3) and (4), (d), (e) (2) and (3), (e) (4) (G), (H) and (I), (e) (8), (f) and (g) of 5 U.S.C. 552a:

(1) Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions System of Records (JUSTICE/CRM-019).

(2) Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions in Narcotics and Dangerous Drug Cases System of Records (JUSTICE/CRM-020).

These exemptions apply only to the extent that information in these systems are subject to exemption pursuant to 5 U.S.C. 552a(j) (2).

(p) The systems of records listed in paragraph (o) (1) and (o) (2) of this section are exempted for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

(1). (c) (3). The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published

for these systems of records, would permit the subject of an electronic interception to obtain valuable information concerning the interception, including information as to whether he is the subject of a criminal investigation, by means other than those provided for by statute. Such information could interfere with the successful conduct and/or completion of a criminal investigation, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) is specifically exempted for these systems of records.

(2). (c)(4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this section is inapplicable.

(3). (d). Access to the records contained in these systems would inform the subject of an electronic interception of the existence of such surveillance including information as to whether he is the subject of a criminal investigation by means other than those provided for by statute. This could interfere with the successful conduct and/or completion of a criminal investigation and therefore present a serious impediment to law enforcement.

(4). (e)(2). In the context of an electronic interception, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the investigation and this would therefore destroy the efficacy of the interception.

(5). (e)(3). The requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential electronic interception or reveal the identity of witnesses or confidential informants.

(6). (e)(4) (G) and (H). Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act these subsections are inapplicable.

(7). Exemption is claimed from subsections (e)(4)(I) and (e)(8) for the reasons stated in subsections (b)(8) and (b)(10) of this section.

(8). (f). Procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records pertaining to him dealing with an electronic interception other than pursuant to statute must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation pending or future. In addition, mere notice of the fact of an electronic interception could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsection (f)(2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

(9). (g). Since an exemption is being claimed for subsection (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that these systems of records are exempted from subsection (d) and (f).

(q) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4) (G), (H), and (I), (e)(8), (f) and (g) of 5 U.S.C. 552a; in addition the following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(k)(1) and (k)(2) from subsections (c)(3), (d), (e)(4) (G), (H) and (I), and (f) of 5 U.S.C. 552a:

Witness Immunity Records System of Records (JUSTICE/CRM-022).

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 (k)(1) and (k)(2).

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

(1). (c)(3) Release of the accounting of disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for this system of records, (a) as to a witness for whom immunity has been proposed, would inform the individual of the existence of the proposed immunity prematurely, thus creating a serious impediment to effective law enforcement in that the witness could flee, destroy evidence, or fabricate testimony; and (b) as to a witness to whom immunity has been granted, or for whom it has been denied, would reveal the nature and scope of the activities, if any, of the witness known to the government, which would also create a serious impediment to effective law enforcement.

(2). (c)(4) Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this section is inapplicable to the extent that this system of records is exempted from subsection (d).

(3). (d) Access to the records contained in this system (a) as to a witness for whom immunity has been proposed, would inform the individual of the existence of the proposed immunity prematurely, thus presenting a serious impediment to effective law enforcement in that the witness could flee, destroy evidence, or fabricate testimony; and (b) as to a witness to whom immunity has been granted, or for whom it has been denied, would reveal the nature and scope of the activities, if any, of the witness known to the government, which would also create a serious impediment to effective law enforcement.

(4). (e)(2) In a witness immunity request matter, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the immunity request and often the subject of the underlying investigation or prosecution would be placed on notice as to the existence of the investigation and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(5). Exemption is claimed from subsections (e)(3), (e)(4) (G), (H) and (I), and (e)(8) for the reasons stated in subsections (b)(6), (b)(7), (b)(8) and (b)(10) of this section.

(6). (f). Procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records pertaining to him (a) as to a witness for whom immunity has been proposed, would inform the individual of the existence of the proposed

immunity prematurely, thus presenting a serious impediment to effective law enforcement in that the witness could flee, destroy evidence, or fabricate testimony; and (b) as to a witness to whom immunity has been granted, or for whom it has been denied, would reveal the nature and scope of the activity, if any, of the witness known to the government, which would also create a serious impediment to effective law enforcement.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsection (f)(2) through (5) are inapplicable to this system of records to the extent that this system of records is exempted from subsection (d).

(7). (g) Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that this system of records is exempted for subsections (d) and (f).

(8). In addition, exemption is claimed for this system of records from compliance with the following provisions of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to the provisions of 5 U.S.C. 552a(k)(1): subsections (c)(3), (d), (e)(1), (e)(4) (G), (H) and (I) and (f) to the extent that the records contained in this system are specifically authorized to be kept secret in the interests of national defense and foreign policy."

§ 16.92 Exemption of Land and Natural Resources Division System.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (d):

(1) Docket Card System (JUSTICE/LDN-003).

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

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because that portion of the Docket Card System relating to enforcement of criminal provisions of the above statutes is being exempted from access and contest; the provisions for disclosure of accounting is not applicable.

(2) From subsection (d) because of the need to safeguard the identity of confidential informants and to facilitate the enforcement of the criminal provisions of the above statutes.

§ 16.93 Exemption of Tax Division System—Limited access.

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

(1) Tax Division Central Classification Cards, Index Docket Cards and Associated Records (JUSTICE/TAX-001).

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

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d) because access to the records contained in this system would inform the subject of an investigation of the information and evidence obtained as to his activities, and of the identity of witnesses and informants. The knowledge gained from such access to these records would present a serious impediment to effective law enforcement because it could be used to prevent the successful prosecution of the case, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(2) From subsection (e)(2) because in a criminal or other law enforcement investigation or prosecution, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(3) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form specifying the requirements of (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(c) Consistent with the legislative purpose of the Privacy Act of 1974, the Tax Division will grant access to non-exempt material in records which are maintained by the Tax Division. Disclosure will be governed by the Department's Privacy Regulations, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal, civil or regulatory violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from this system will be made on a case-by-case basis."

§§ 16.94-16.95 [Reserved]

§ 16.96 Exemption of Federal Bureau of Investigation Systems—Limited access.

(a) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2), and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (m):

(1) Central Records System (JUSTICE/FBI-002).

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

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of accounting disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement or background investigations which may involve law enforcement aspects or the compromising of classified material.

(2) From subsections (c) (4), (d), (e) (4) (G) and (H), (f) and (g) because these provisions concern individual access to records and such access might compromise ongoing investigations, reveal investigatory techniques and confidential informants, and invade the privacy of private citizens who provide information in connection with a particular investigation. In addition, exemption from subsections (d), (e) (4) (G) and (H) is necessary to protect the security of information classified in the interest of national defense and foreign policy.

(3) From subsection (e)(1) because information may be received in the course of a criminal, civil or background investigation which may involve a violation of law under the jurisdiction of another government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement and to establish patterns of activity which may relate to the jurisdiction of both the FBI and other agencies. In addition, classified information may be received which relates to the constitutional powers of the President or the jurisdiction of some other agency. Such information is not susceptible to segregation.

(4) From subsection (e)(2) because collecting information from the subject of criminal or national security investigations would thwart the investigation by placing the subject of the investigation on notice.

(5) From subsection (e)(3) because supplying an individual with a form containing the information specified would result in a substantial invasion of privacy of the subject of the investigation, would compromise the existence of a confidential investigation, and would inhibit private citizens from cooperating with the FBI.

(6) From (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

(7) From subsection (m) because if the system were ever operated by a contractor it would still be necessary to continue exemption from these same provisions.

(c) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and

(4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (m):

(1) Electronic Surveillance (Elsur) Indices (JUSTICE/FBI-006).

These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of accounting disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, resulting in a serious impediment to law enforcement.

(2) From subsections (c) (4), (d) (e) (4) (G) and (H), and (g) because these provisions concern an individual's access to records which concern him and such access to records in this system would compromise ongoing investigations, reveal investigatory techniques and confidential informants, and invade the privacy of private citizens who provide information in connection with a particular investigation.

(3) From subsection (e)(1) because these indices must be maintained in order to provide the information as described in the "routine uses" of this particular system.

(4) From subsections (e) (2) and (3) because compliance is not feasible given the subject matter of the indices.

(5) From subsection (e)(5) because this provision is not applicable to the indices in view of the "routine uses" of the indices. For example, it is impossible to predict when it will be necessary to utilize information in the system and, accordingly it is not possible to determine when the records are timely.

(6) From subsection (e)(8) because the notice requirement could present a serious impediment to law enforcement by revealing investigative techniques, procedures and the existence of confidential investigations.

(7) From subsection (m) for the reasons stated in subsection (b)(7) of this section.

(e) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (m):

(1) Identification Division Records System (JUSTICE/FBI-009).

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

(f) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) for the reasons stated in subsection (d)(1) of this section.

(2) From subsections (c) (4), (d), (e) (4) (G) and (H), (f) and (g) because these provisions concern an individual's access to records which concern him.

Such access is directed at allowing the subject of a record to correct inaccuracies in it. Although an alternate system of access has been provided in 28 CFR 16.30 to 34 and 28 CFR 20.34, the vast majority of records in this system concern local arrests which it would be inappropriate for the FBI to undertake to correct.

(3) From subsection (e) (1) because it is impossible to state with any degree of certainty that all information on these records is relevant to accomplish a purpose of the FBI, even though acquisition of the records from state and local law enforcement agencies is based on a statutory requirement. In view of the number of records in the system it is impossible to review them for relevancy.

(4) From subsection (e) (2) because the records in the system are necessarily furnished by criminal justice agencies due to their very nature.

(5) From subsection (e) (3) because compliance is not feasible due to the nature of the records.

(6) From subsection (e) (5) because the vast majority of these records come from local criminal justice agencies and it is administratively impossible to ensure that the records comply with this provision. Submitting agencies are, however, urged on a continuing basis to ensure that their records are accurate and include all dispositions.

(7) From subsection (e) (8) because the FBI has no logical manner to ascertain whether process has been made public and compliance with this provision would, in any case, provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(8) From subsection (m) for the reasons stated in subsection (b) (7) of this section.

(g) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (8), (f), (g) and (m):

(1) National Crime Information Center (NCIC) (JUSTICE/FBI-001).

These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a (j).

(h) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) for the reasons stated in subsection (d) (1) of this section.

(2) From subsections (c) (4), (d), (e) (4) (G) and (H), and (g) for the reasons stated in subsection (d) (2) of this section. When records are properly subject to access by the individual, an alternate means of access is provided in subsection (i) of this section.

(3) From subsection (e) (1) because information contained in this system is primarily from state and local records, and it is for the official use of agencies outside the Federal Government in accordance with 28 U.S.C. 534.

(4) From subsections (e) (2) and (3) because it is not feasible to comply with

these provisions given the nature of this system.

(5) From subsection (e) (8) for the reasons stated in subsection (d) (6) of this section.

(6) From subsection (m) for the reasons stated in subsection (b) (7) of this section.

(i) Access to computerized criminal history records in the National Crime Information Center is available to the individual who is the subject of the record pursuant to procedures and requirements specified in the Notice of Systems of Records compiled by the National Archives and Records Service and published under the designation:

National Crime Information Center (NOIC) (JUSTICE/FBI-001).

Information on access is also published in the Appendix to Part 20 of the Code of Federal Regulations in relation to 28 CFR 20.34.

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

(a) The following systems of records are exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (2) and (3), (e) (4) (H), (e) (8), (f) and (g):

(1) Custodial and Security Record System (JUSTICE/BOP-001).

(2) Industrial Inmate Employment Record System (JUSTICE/BOP-003).

(3) Inmate Administrative Remedy Record System (JUSTICE/BOP-004).

(4) Inmate Central Record System (JUSTICE/BOP-005).

(5) Inmate Commissary Accounts Record System (JUSTICE/BOP-006).

(6) Inmate Physical and Mental Health Record System (JUSTICE/BOP-007).

(7) Inmate Safety and Accident Compensation Record System (JUSTICE/BOP-008).

(8) Federal Tax Claims Act Record System (JUSTICE/BOP-009).

These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a (j).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because inmates will not be permitted to gain access or to contest contents of these record systems under the provisions of subsection (d) of 5 U.S.C. 552a. Revealing disclosure accountings can compromise legitimate law enforcement activities and Bureau of Prisons responsibilities.

(2) From subsection (c) (4) because exemption from provisions of subsection (d) will make notification of formal disputes inapplicable.

(3) From subsection (d) because exemption from this subsection is essential to protect internal processes by which Bureau personnel are able to formulate decisions and policies with regard to federal prisoners, to prevent disclosure of information to federal inmates that would jeopardize legitimate correctional interests of security, custody, or rehabilitation, and to permit receipt of relevant in-

formation from other federal agencies, state and local law enforcement agencies, and federal and state probation and judicial offices.

(4) From subsection (e) (2) because primary collection of information directly from federal inmates about criminal sentences or criminal records is highly impractical and inappropriate.

(5) From subsection (e) (3) because in view of the Bureau of Prisons' responsibilities, application of this provision to its operations and collection of information is inappropriate.

(6) From subsection (e) (4) (H) because exemption from provisions of subsection (d) will make publication of agency procedures under this subsection inapplicable.

(7) From subsection (e) (8) because the nature of Bureau of Prisons law enforcement activities renders notice of compliance with compulsory legal process impractical.

(8) From subsection (f) because exemption from provisions of subsection (d) will render compliance with provisions of this subsection inapplicable.

(9) From subsection (g) because exemption from provisions of subsection (d) will render provisions of this subsection inapplicable.

(c) Consistent with the legislative purpose of the Privacy Act of 1974 (Pub. L. 93-579) the Bureau of Prisons will initiate a procedure whereby federal inmates in custody may gain access and review their individual prison files maintained at the institution of incarceration. Access to these files will be limited only to the extent that the disclosure of records to the inmate would jeopardize internal decision-making or policy determinations essential to the effective operation of the Bureau of Prisons; to the extent that disclosure of the records to the inmate would jeopardize privacy rights of others, or a legitimate correctional interest of security, custody, or rehabilitation; and to the extent information is furnished with a legitimate expectation of confidentiality. The Bureau of Prisons will continue to provide access to former inmates under existing regulations as is consistent with the interests listed above. Under present Bureau of Prisons regulations, inmates in federal institutions may file administrative complaints on any subject under the control of the Bureau. This would include complaints pertaining to information contained in these systems of records."

§ 16.98 Exemption of Drug Enforcement Administration Systems.

(a) The following systems of records are exempt from 5 U.S.C. 552a (c) (3), (d), (e) (4) (G) and (H), and (f):

(1) Automated Records and Consummated Orders System/Diversion Analysis and Detection System (ARCOS/DADS) (JUSTICE/DEA-004).

(2) Controlled Substances Act Registration Records (JUSTICE/DEA-006).

(3) Registration Status/Investigation Records (JUSTICE/DEA-016).

(4) Drug Theft Reporting System (JUSTICE/DEA-023).

These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the revealing of the disclosure accounting pursuant to the routine uses published for these systems would enable the subject of an investigation to gain valuable information concerning the nature and scope of the investigation and seriously hamper the regulatory functions of the Drug Enforcement Administration.

(2) From subsection (d) because access to records contained in these systems might provide the subject of an investigation information that could enable him to avoid compliance with the Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91-513).

(3) From subsections (e)(4)(G) and (H) because these systems or records are exempt from individual access pursuant to subsection (k) of the Act.

(4) From subsection (f) because these systems are exempt from the access provisions of subsection (d).

(c) The following systems of records are exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (h):

(1) Addict/Abusers System (JUSTICE/DEA-001).

(2) Air Intelligence Program (JUSTICE/DEA-002).

(3) Automated Intelligence Records (Pathfinder I) (JUSTICE/DEA-003).

(4) DEA/FAA Trans-border Flight Plan Reporting System (JUSTICE/DEA-007).

(5) Defendant Data System (JUSTICE/DEA-008).

(6) Domestic Intelligence Data Base (JUSTICE/DEA-009).

(7) International Intelligence Data Base (JUSTICE/DEA-011).

(8) Investigative Reporting and Filing System (JUSTICE/DEA-012).

(9) Office of Internal Security Records (JUSTICE/DEA-014).

(10) Operations Files (JUSTICE/DEA-015).

(11) Security Files (JUSTICE/DEA-017).

(12) Source Registry Narcotics (SRN/1) (JUSTICE/DEA-018).

(13) System to Retrieve Information from Drug Evidence (STRIDE) (JUSTICE/DEA-019).

(14) Drug Enforcement Administration Semi-Automated Narcotic Trafficker Profiles (KISS) (JUSTICE/DEA-025).

(15) Drug Enforcement Administration Specialized Automated Intelligence Files (JUSTICE/DEA-026).

These exemptions apply only to the extent that information in these systems is subject to exemptions pursuant to 5 U.S.C. 552a (j) and (k).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From (c)(3) because the release of the disclosure accounting for disclosure pursuant to the routine uses published for these systems would permit the subject of a criminal investigation to obtain valuable information concerning the nature of that investigation and present a serious impediment to law enforcement.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to records contained in these systems would alert a subject to the existence of an investigation and thereby provide information to the subject which might enable him to avoid detection or apprehension, and present serious impediment to law enforcement.

(4) From subsection (e)(1) because in the course of criminal investigations, the Drug Enforcement Administration often detects violation of non-drug related laws. In the interests of effective law enforcement, it is necessary that DEA retain all information obtained in criminal investigations because it can aid in establishing patterns of criminal activity and assist other law enforcement agencies that are charged with enforcing other segments of criminal law.

(5) From subsection (e)(2) because information collected to the greatest extent possible from the subject individual of a criminal investigation would provide the subject with valuable information which might preclude detection or apprehension of the subject individual.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life or physical safety of confidential informants.

(7) From subsections (e)(4)(G) and (H) because these systems of records are exempt from individual access pursuant to subsection (j) of the Privacy Act of 1974.

(8) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(9) From subsection (e)(8) because the individual notice requirements could present a serious impediment to law enforcement by interfering with the Drug Enforcement Administration's ability to

issue administrative techniques and procedures.

(10) From subsection (f) because these systems have been exempted from the access provisions of subsection (d).

(11) From subsections (g) and (h) because these systems are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(e) The following systems of records are from 5 U.S.C. 552a (d)(1) and (e)(1).

(1) Grants of Confidentiality Files (GCF) (JUSTICE/DEA-022).

(2) DEA Applicant Investigations (JUSTICE/DEA-024).

These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k)(5).

(f) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d)(1) because many persons are contacted who, without an assurance of anonymity, refuse to provide information concerning an applicant for a grant of confidentiality with DEA. Permitting access to the information supplied by persons after a promise of confidentiality has been given could reveal the identity of the source of the information and constitute a breach of the promised confidentiality on the part of the Drug Enforcement Administration. Such breaches ultimately would restrict the free flow of information vital to a determination of an applicant's qualifications for a grant.

(2) From (e)(1) because in the collection of information for investigative and evaluative purposes, it is impossible to determine in advance what exact information may be of assistance in determining the qualifications and suitability of a candidate. Information which may appear irrelevant, when combined with other apparently irrelevant information can on occasion, provide a composite picture of an applicant which assists in determining whether a grant of confidentiality is warranted.

§ 16.99 Exemption of Immigration and Naturalization Service System—Limited access.

(a) The following subsystems of the Immigration and Naturalization Service Index System are exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f), (g), and (h):

(1) Agency Information Control Record Index.

(2) Alien Enemy Index.

(3) Centralized Index.

(4) Congressional Mail Unit Index.

(5) Air Detail Office Index.

(6) Anti-smuggling Index (general).

(7) Anti-smuggling Information Centers Systems for Canadian and Mexican Borders.

(8) Border Patrol Sectors General Index System.

(9) Contact Index.

(10) Criminal, Immoral, Narcotic, Racketeer and Subversive Indexes.

- (11) Enforcement Correspondence Control Index System.
- (12) Document Vendors and Alterers Index.
- (13) Informant Index.
- (14) Suspect Third Party Index.
- (15) Examination Correspondence Control Index.
- (16) Extension Training Enrollee Index.
- (17) Intelligence Index.
- (18) Naturalization and Citizenship Indexes.
- (19) Personnel Investigations Unit Indexes.
- (20) Service Look-Out Subsystem.
- (21) White House and Attorney General Correspondence Control Index.
- (22) Fraudulent Document Center Index.
- (23) Emergency Reassignment Index.

These exemptions apply to the extent that information in these subsystems is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k).

These exemptions apply to the extent that information in these subsystems is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because the release of the disclosure accounting for disclosure pursuant to the routine uses published for these subsystems would permit the subject of a criminal or civil investigation to obtain valuable information concerning the nature of that investigation and present a serious impediment to law enforcement.

(2) From subsection (c) (4) since an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in these subsystems would inform the subject of a criminal or civil investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and present a serious impediment to law enforcement.

(4) From subsection (e) (1) because in the course of criminal or civil investigations, the Immigration and Naturalization Service often obtains information concerning the violation of laws other than those relating to violations over which INS has investigative jurisdiction. In the interests of effective law enforcement, it is necessary that INS retain this information since it can aid in establishing patterns of criminal activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal law.

(5) From subsection (e) (2) because in a criminal or civil investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the

investigation and would therefore be able to avoid detection or apprehension.

(6) From subsection (e) (3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e) (3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life or physical safety of confidential informants.

(7) From subsections (e) (4) (G) and (H) because these subsystems of records are exempt from individual access pursuant to subsection (j) of the Privacy Act of 1974.

(8) From subsection (e) (4) (I) because the Immigration and Naturalization Service maintains the confidentiality of sources of information in order to protect their privacy and physical safety and to maintain the confidentiality of their cooperation. The publication of categories of sources would constitute a breach of confidentiality on the part of INS and restrict the free flow of information essential to effective law enforcement.

(9) From subsection (e) (5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e) (5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(10) From subsection (e) (8) because the individual notice requirements of subsection (e) (8) could present a serious impediment to law enforcement as this could interfere with the Immigration and Naturalization Service's ability to issue administrative subpoenas and could reveal investigative techniques and procedures.

(11) From subsection (f) because these subsystems of records have been exempted from the access provisions of subsection (d).

(12) From subsection (g) because these subsystems of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(13) From subsection (h) because to permit the parent of any minor, or the legal guardian of an individual who has been legally declared incompetent to obtain access to a record which is exempt to the individual would be a serious impediment to law enforcement in that it would enable the individual by himself or through the aid of others, to avoid detection or apprehension.

(14) In addition, these subsystems of records are exempt from compliance with the following provisions of the Privacy

Act of 1974 (5 U.S.C. 552a), subsections (c) (3), (d), (e) (1), (e) (4) (G), (H) and (I), and (f) to the extent that the records contained in these subsystems are classified pursuant to Executive order.

(c) The Border Patrol Academy Index Subsystem is exempt from 5 U.S.C. 552a (d) and (f).

This exemption applies only to the extent that information in this subsystem is subject to exemption pursuant to 5 U.S.C. 552a (k).

(d) Exemptions for the particular subsections are justified for the following reasons.

(1) From subsection (d) because exemption is claimed only for those testing and examination materials used to determine an individual's qualifications for retention and promotion in the Immigration and Naturalization Service. This is necessary to protect the integrity of testing materials and to insure fair and uniform examinations.

(2) From subsection (f) because the subsystem of records has been exempted from the access provisions of subsection (d).

§ 16.100 Exemption of Law Enforcement Assistance Administration System—Limited access.

(a) The following system of records is exempt from 5 U.S.C. 552a (d), (e) (4) (G) and (H), and (f):

(1) Investigative System (JUSTICE/LEAA-003).

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

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d) because access to the investigation records contained in this system would inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation.

(2) From subsections (e) (4) (G) and (H) because an exemption is being claimed from subsection (d).

(3) From subsection (f) because notice to an individual pursuant to this subsection as to the existence of records pertaining to him dealing with an actual or potential criminal investigation or prosecution must be exempt because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution, pending or future. Additionally, mere notice of the fact of an investigation could inform the subject, or others that their activities are under or may come under an investigation and could enable the subjects to avoid detec-

tion or apprehension, to destroy evidence, and to fabricate testimony.

(c) Consistent with the legislative purpose of the Privacy Act of 1974, the Law Enforcement Assistance Administration will grant access to nonexempt material in the Investigative System (JUSTICE/LEAA-003). Disclosure to subjects of records contained in this system will be governed by the Department's Privacy Regulations but will be limited to the extent that subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation, the physical safety of witnesses, and law enforcement personnel, the privacy of third parties will not be violated, and that the disclosure would not otherwise present an impediment to effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. Decisions to release information from this system will be made on a case-by-case basis.

§ 16.101 Exemption of U.S. Marshals Service Systems—Limited access, as indicated.

(a) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (2) and (3), (e) (4) (G) and (H), (e) (8), and (f) and (g):

(1) Warrant Information System (JUSTICE/USM-007).

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

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because the release of disclosure accounting for disclosure made pursuant to subsection (b) of the Act, including those permitted under routine uses published for this system of records would permit a person to determine whether he is the subject of a criminal investigation, and to determine whether a warrant has been issued against him, and therefore present a serious impediment to law enforcement.

(2) From subsection (c) (4) since an exemption is being claimed for subsection (d) of the Act, this section is inapplicable.

(3) From subsection (d) because access to records would inform a person for whom a federal warrant has been issued of the nature and scope of information obtained as to his activities, of the identity of informants, and afford the person sufficient information to enable the subject to avoid apprehension. These factors would present a serious impediment to law enforcement in that they would thwart the warrant process and endanger lives of informants etc.

(4) From subsection (e) (2) because the requirement that information be collected to the greatest extent practical from the subject individual would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the war-

rant and would therefore be able to avoid detection or apprehension.

(5) From subsection (e) (3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e) (3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal identity of confidential informants.

(6) From subsections (e) (4) (G) and (H) since an exemption is being claimed for subsections (f) and (d) of the Act, these subsections are inapplicable.

(7) From subsection (e) (8) because the individual notice requirement of this subsection would present a serious impediment to law enforcement in that it would give persons sufficient warning to avoid warrants, subpoena, etc.

(8) From subsection (f) because procedures for notice to an individual pursuant to subsection (f) (1) as to existence of records pertaining to him dealing with warrants must be exempted because such notice to individuals would be detrimental to the successful service of a warrant. Since an exemption is being claimed for subsection (d) of the Act the rules required pursuant to subsections (f) (2) through (5) are inapplicable to this system of records.

(9) From subsection (g) since an exemption is being claimed for subsection (d) and (f) this section is inapplicable and is exempted for the reasons set forth for these subsections.

(c) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (2) and (3), (e) (4) (G) and (H), (e) (8), (f) (2) and (g):

(1) Witness Security System (JUSTICE/USM-008).

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).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because the release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act including those permitted under routine uses published for this system of records would hamper the effective functioning of the Witness Security Program which by its very nature requires strict confidentiality vis-a-vis the records.

(2) From subsection (c) (4) for the reason stated in (b) (2) of this section.

(3) From subsection (d) because the United States Marshals Service Witness Security Program aids efforts of law enforcement officials to prevent, control or reduce crime. Access to records would present a serious impediment to effective law enforcement through revelation of confidential sources and through disclosure of operating procedures of the program, and through increased exposure of the program to the public.

(4) From subsection (e) (2) because in the Witness Security Program the requirement that information be collected to the greatest extent possible from the

subject individual would constitute an impediment to the program, which is sometimes dependent on sources other than the subject witness for verification of information pertaining to the witness.

(5) From subsection (e) (3) for the reason stated in (b) (5) of this section.

(6) From subsections (e) (4) (G) and (H) for the reason stated in (b) (6) of this section.

(7) From subsection (e) (8) for the reason stated in (b) (7) of this section.

(8) From subsection (f) (2) since an exemption is being claimed for subsection (d) of the Act the rules required pursuant to subsection (f) (2) through (5) are inapplicable to this system of records.

(9) From subsection (g) for the reason stated in (b) (9) of this section.

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

(1) Internal Inspection Information System (JUSTICE/USM-002)—Limited access.

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

(f) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c) (3) because the release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act where disclosure of such record would reveal a source who furnished information to the government in confidence.

(2) From subsection (a) (4) for the reason stated in (b) (2) of this section.

(3) From subsection (d) because access to information in this system which was obtained from a confidential source would impede the effective investigation into employee conduct for purposes of determining suitability, eligibility, or qualifications for Federal employment in that it would inhibit furnishing of information by sources which desire to remain confidential.

(4) From subsection (e) (2) for the reason stated in (b) (4) of this section.

(5) From subsection (e) (3) for the reason stated in (b) (5) of this section.

(6) From subsections (e) (4) (G) and (H) for the reason stated in (b) (6) of this section.

(7) From subsection (f) for the reason stated in (b) (8) of this section.

(8) From subsection (g) for the reason stated in (b) (9) of this section.

(g) Consistent with the legislative purpose of the Privacy Act of 1974, the United States Marshals Service will grant access to nonexempt material in records which are maintained by the Service. Disclosure will be governed by the Department's Privacy Regulations, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal, civil or regulatory violation will not be alerted to the investigation; the physical

safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from this system will be made on a case-by-case basis.

[FR Doc. 76-8650 Filed 3-25-76; 8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY

PART 60—IMMIGRATION; IMMIGRANT LABOR CERTIFICATION

Amendment of Schedule A; Geographic Limitation

Notice is hereby given that the Department of Labor is amending 29 CFR 60.7 Schedules.

Section 212(a)(14) of the Immigration and Nationality Act, 79 Stat. 911, 8 U.S.C.A. 1182, provides the statutory authority under which the Secretary of Labor makes his determinations regarding labor certification of aliens seeking to enter the United States for the purposes of permanent employment. An alien seeking to immigrate for such a purpose is ineligible to receive a visa and is excluded from admission into the United States unless the Secretary of Labor has certified that qualified United States workers are not available and that the alien's employment will not adversely affect wages and working conditions of United States workers similarly employed.

To facilitate the labor certification procedure, the Department of Labor has published, at 29 CFR 60.7, schedules and lists which contain pre-determinations that, for the occupations contained in Schedule A at § 60.7 and subject to any geographic limitations set forth therein, there are not sufficient United States workers available and that employment of aliens in such occupations would not create an adverse effect.

29 CFR 60.2(b) provides for the revision of the Schedules and listings described at § 60.7 as necessary and at such times as may be appropriate.

Presently, Schedule A Groups I and II provide for the pre-certification of nurses on a nationwide basis. However, the recent financial crisis in New York City has necessitated a major reduction in public health services. The New York Regional Office of the Department of Labor has reported that there are over 400 registered nurses in the active applicant files of the New York Department of Labor local offices in New York City plus approximately 3,000 nurses on the Nurses Registry.

In that such data reflects the availability of qualified United States resident nurses 29 CFR 60.7 Schedules, Schedule A, is amended to exclude the

pre-certification of nurses in New York Standard Metropolitan Statistical Area. This area includes New York, Bronx, Kings, Queens, Richmond, Putnam, Rockland, and Westchester Counties, New York and Bergen County, New Jersey.

This amendment is made pursuant to 29 CFR 60.2(b) and is published as a finding of fact that U.S. resident nurses are now able, willing, qualified and available for employment in the New York Standard Metropolitan Statistical Area. Further, this amendment applies only to the pre-certification of alien nurses and does not prohibit qualified aliens from seeking certification under the procedures set forth at 29 CFR Part 60. Nor does this amendment affect those aliens who have obtained pre-certification under § 60.7 prior to the effective date of this amendment.

To publish this amendment as a proposal or to delay its effective date would result in an immediate and considerable increase in the number of new applications for pre-certification under existing procedures. The effect of such an increase would create an over supply of certified alien nurses in the domestic labor force thereby restricting employment opportunities for available qualified U.S. Workers. Therefore, for the above reasons procedures for publication for notice and comment on this amendment would be impracticable and contrary to the public interest. For the same reasons, this amendment will be effective immediately upon publication of the document in the FEDERAL REGISTER.

In consideration of the foregoing, 29 CFR 60.7 Schedules is amended to read as follows:

§ 60.7 Schedules.

SCHEDULE A

Group I: Persons who received an advanced degree in any of the following specialties from an institution of higher learning accredited in the country where the degree was obtained (equivalent to a Ph. D. or master's degree conferred by American colleges or universities):

Dietetics.
Medicine and Surgery.
Nursing, except that certification for nurses shall not be granted for employment in the New York Standard Metropolitan Statistical Area.

Pharmacy.
Physical Therapy.

Group II: Persons who have received a degree conferred by an accredited institution of higher learning in any of the following specialties (equivalent to the bachelor's degree conferred by American colleges or universities) or have experience or a combination of experience and education equivalent to such degree:

Dietetics.
Nursing, except that certification for nurses shall not be granted for employment in the New York Standard Metropolitan Statistical Area.

Pharmacy.
Physical Therapy.

AUTHORITY: Sec. 212(a)(14) Immigration and Nationality Act, 79 Stat. 911, 8 U.S.C.A. 1182 Secretary's Order 4-75, 40 FR 18515.

Signed at Washington, D.C. this 12th day of March 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for
Employment and Training.

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CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

South Carolina; Approval of Plan Supplements

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the FEDERAL REGISTER (37 FR 25932) of the approval of the South Carolina plan and adoption of Subpart C of Part 1952 containing the decision and describing the plan. By letters submitted during the period January 15, 1975, through November 26, 1975, Edgar L. McGowan, Commissioner, South Carolina Department of Labor, submitted supplements to the plan involving developmental and State initiated changes. (See Subparts B and E, 29 CFR Part 1953.) Following Regional Office review, the supplements were forwarded to the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for his determination as to whether they should be approved. The supplements are described below.

2. *Description of the supplements.* (a) Narrative and Appendix Updates. Various sections of the South Carolina plan have been amended to more accurately describe current South Carolina operating conditions. The changes merely correct the State plan document to reflect other previously approved State plan amendments, e.g., South Carolina amended legislation (approved September 25, 1975, 40 FR 44432). Updated organization and manpower charts, job specifications, and mission and function statements are also included.

(b) Regulations. South Carolina has promulgated several minor amendments to existing State occupational safety and health regulations in accord with previous commitments:

(1) Article I, General.
Section 1.02G—Definition of "person" expanded to include "organization of employees."