

## DEPARTMENT OF JUSTICE

## 28 CFR Part 16

[AAG/A Order No. 105-95]

**Exemption of System of Records Under the Privacy Act**

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** The Department of Justice (DOJ), U.S. Marshals Service (USMS), amends its Privacy Act regulations in 28 CFR part 16 to exempt a new Privacy Act system of records entitled, "Joint Automated Booking Stations (JABS), USM-014." This system of records is exempted from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(5), (e)(8) and (g) of the Privacy Act (5 U.S.C. 552a). Information in this system of records relates to matters of law enforcement, and the exemptions are necessary to avoid interference with law enforcement responsibilities and to protect the privacy of third parties. The reasons for the exemptions are set forth in the text below.

EFFECTIVE DATE: June 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** Patricia E. Neely on (202) 616-0178.

**SUPPLEMENTARY INFORMATION:** A proposed rule with invitation to comment was published in the **Federal Register** on April 13, 1995 (60 FR 18784). The public was provided 30 days in which to comment. No comments have been received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

**List of Subjects in 28 CFR Part 16**

Administrative Practices and Procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, 28 CFR part 16 is amended as set forth below.

Dated: May 22, 1995.

**Stephen R. Colgate,**  
*Assistant Attorney General for Administration.*

**PART 16—[AMENDED]**

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

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

2. 28 CFR 16.101 is amended by redesignating paragraph (s) as paragraph (u), and by adding new paragraphs (s) and (t) as set forth below.

**§ 16.101 Exemption of U.S. Marshals Service (USMS) Systems—Limited Access, as indicated.**

\* \* \* \* \*

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

Joint Automated Booking Stations, Justice/USM-014

(t) These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2). Where compliance would not interfere with or adversely affect the law enforcement process, the USMS may waive the exemptions, either partially or totally. Exemption from the particular subsections are justified for the following reasons:

(1) From subsections (c)(3) and (d) to the extent that access to records in this system of records may impede or interfere with law enforcement efforts, result in the disclosure of information that would constitute and unwarranted invasion of the personal privacy of collateral record subjects or other third parties, and/or jeopardize the health and/or safety of third parties.

(2) Where access to certain records may be appropriate, exemption from the amendment provisions of subsection (d)(2) is necessary to the extent that the necessary and appropriate justification, together with proof of record inaccuracy, is not provided, and/or to the extent that numerous, frivolous requests to amend could impose an impossible administrative burden by requiring agencies to continuously review booking and arrest data, much of which is collected from the arrestee during the arrest.

(3) From subsection (e)(1) to the extent that it is necessary to retain all information in order not to impede, compromise, or interfere with law enforcement efforts, e.g., where the

significance of the information may not be readily determined and/or where such information may provide leads or assistance to Federal and other law enforcement agencies in discharging their law enforcement responsibilities.

(4) From subsection (e)(2) because, in some instances, the application of this provision would present a serious impediment to law enforcement since it may be necessary to obtain and verify information from a variety of sources other than the record subject to ensure safekeeping, security, and effective law enforcement. For example, it may be necessary that medical and psychiatric personnel provide information regarding the subject's behavior, physical health, or mental stability, etc. To ensure proper care while in custody, or it may be necessary to obtain information from a case agent or the court to ensure proper disposition of the subject individual.

(5) From subsection (e)(3) because the requirement that agencies inform each individual whom it asks to supply information of such information as is required by subsection (e)(3) may, in some cases, impede the information gathering process or otherwise interfere with or compromise law enforcement efforts, e.g., the subject may deliberately withhold information, or give erroneous information.

(6) 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 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 to collect information for law enforcement purposes and may prevent the eventual development of the necessary criminal intelligence or otherwise impede effective law enforcement.

(7) From subsection (e)(8) to the extent that such notice may impede, interfere with, or otherwise compromise law enforcement and security efforts.

(8) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 721**

[OPPTS-50591G; FRL-4951-7]

RIN 2070-AB27

**2-Propenoic Acid, 2-Methyl-, 2[3-(2H-Benzotriazole-2-yl)-4-hydroxyphenyl]ethyl Ester and 2-Substituted Benzotriazole; Modification of Significant New Use Rules**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is modifying the significant new use rules (SNURs) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 2-propenoic acid, 2-methyl-, 2[3-(2H-benzotriazole-2-yl)-4-hydroxyphenyl]ethyl ester and 2-substituted benzotriazole based on a modification to the TSCA 5(e) consent order regulating the substances.

**DATES:** The effective date of this rule is July 10, 1995.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, TSCA Assistance Office (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 25, 1991 (56 FR 19228), EPA issued SNURs establishing significant new uses for 2-propenoic acid, 2-methyl-, 2[3-(2H-benzotriazole-2-yl)-4-hydroxyphenyl]ethyl ester and 2-substituted benzotriazole based on the section 5(e) consent order for the substances. Because of additional data EPA has received for these substances, EPA is modifying the SNURs.

**I. Background**

The Agency proposed the modification of the SNURs for these substances in the **Federal Register** of December 14, 1994 (59 FR 64365). The background and reasons for the modification of the SNURs are set forth in the preamble to the proposed modification. The Agency received one public comment concerning the proposed modification urging EPA to finalize the SNUR modification as soon as possible. As a result EPA is modifying these SNURs.

**II. Objectives and Rationale of Modification of the Rule**

During review of the PMNs submitted for the chemical substances that are the subject of this modification, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substances. EPA identified the tests considered necessary to evaluate the risks of the substances and identified the protective equipment necessary to protect any workers who may be exposed to the substances. The basis for such findings is in the rulemaking record referenced in Unit III. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and SNURs were promulgated. In light of the petition to modify the consent order and SNUR provisions and the recalculation of the risk assessment of the PMN substances based on information provided by the petitioner, the Agency determined air-purifying respirators equipped with high efficiency particulate air filter cartridges would adequately protect the workers who may be exposed to the PMN substances via inhalation. The Agency has determined, therefore, that modifying the consent order and SNUR provisions would not pose an unreasonable risk to human health. The modification of SNUR provisions for the substances designated herein is consistent with the provisions of the section 5(e) order.

**III. Rulemaking Record**

The record for the rule which EPA is modifying was established at OPPTS-50591. This record includes information considered by the Agency in developing the rule and includes the modification to consent orders to which the Agency has responded with this modification. A public version of the record, without any Confidential Business Information, is available in the TSCA Nonconfidential Information Center (NCIC) from 12 noon to 4 p.m., Monday through Friday, except legal holidays. The TSCA NCIC is located in Rm. NE-B607, 401 M St., SW., Washington, DC.

**IV. Regulatory Assessment Requirements**

EPA is modifying the requirements of the rule by eliminating one of the recordkeeping requirements. Any costs or burdens associated with the rule will be reduced when the rule is modified. Therefore, EPA finds that no additional assessments of costs or burdens are necessary under Executive Order 12866,

the Regulatory Flexibility Act (5 U.S.C. 605(b)), or the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 40 CFR Part 721**

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 30, 1995.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended to read as follows:

**PART 721—[AMENDED]**

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

2. In § 721.1765 by revising paragraph (a)(2)(i) to read as follows:

**§ 721.1765 2-Substituted benzotriazole.**

- (a) \* \* \*
- (2) \* \* \*

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

\* \* \* \* \*

3. In § 721.8450 by revising paragraph (a)(2)(i) to read as follows:

**§ 721.8450 2-Propenoic acid, 2-methyl-, 2[3-(2H-benzotriazole-2-yl)-4-hydroxyphenyl]ethyl ester.**

- (a) \* \* \*
- (2) \* \* \*

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

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