

FOR FURTHER INFORMATION CONTACT:

Theresa M. Melchiorre, (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Background**

The notice of proposed rulemaking that is the subject of this document is under section 2036 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG-119532-08) that published on April 30, 2009 (74 FR 19913) does not accurately reflect the information intended to be communicated and thus needs clarification.

Correction to Publication

Accordingly, the notice of proposed rulemaking which was the subject of FR Doc. E9-10003 is corrected as follows:

On page 19917, § 20.2036-1 (c)(2)(iii) *Example 7* (iii), the chart at the top of the page is corrected to read as follows:

§ 20.2036-1 Transfers with retained life estate.

* * * * *

(c) * * *

(2) * * *

(iii) * * *

Example 7. * * *

(iii) * * *

		Year 3	Year 4	Year 5	Amount required to generate annuity
Additional annuity	\$34,560	<u>Deferral period</u>		\$453,026	\$453,026
Additional annuity	\$28,800	<u>Deferral period</u>	\$403,193		\$403,193
Annuity in year of death	\$144,000	\$2,117,647			<u>\$2,117,647</u>
Total amount (sum) included in gross estate					\$2,973,866

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Cynthia E. Grigsby,

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

[FR Doc. E9-12855 Filed 6-2-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF JUSTICE**28 CFR Part 16**

[CPCLO Order No. 002-2009]

Privacy Act of 1974; Implementation

AGENCY: Criminal Division, Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Criminal Division (CRM), Department of Justice, proposes to amend its Privacy Act regulations for a newly modified Privacy Act system of records entitled "Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System," JUSTICE/CRM-028, as described in today's notice section of the Federal Register. The "Organized Crime Drug Enforcement Task Force

Fusion Center and International Organized Crime Intelligence and Operations Center System," JUSTICE/CRM-028, will be exempt from the subsections of the Privacy Act listed below for the reasons set forth in the following text. 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.

DATES: Submit any comments by July 6, 2009.

ADDRESSES: Address all comments to Robin Moss, Privacy Analyst, Office of Privacy and Civil Liberties, Department of Justice, 1331 Pennsylvania Avenue, Room 940, Washington, DC 20530. To ensure proper handling, please reference the CPCLO Order No. on your correspondence. You may view an electronic version of this proposed rule at www.regulations.gov. You may also comment via the Internet to the DOJ Office of Privacy and Civil Liberties at the following e-mail address: DOJPrivacyACTProposedRegulations@usdoj.gov; or by using the www.regulations.gov comment form for this regulation. When submitting comments electronically, you must

include the CPCLO Order No. in the subject box.

FOR FURTHER INFORMATION CONTACT: Robin Moss, 202-514-0208.

SUPPLEMENTARY INFORMATION: This proposed rule seeks to amend 28 CFR 16.91 paragraphs (u) and (v) as set forth below. These modified paragraphs exempt the "Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System," JUSTICE/CRM-028, from certain provisions of the Privacy Act of 1974, as amended.

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

List of Subjects in 28 CFR Part 16

Administrative practices and procedures, Courts, Freedom of Information, Sunshine Act and Privacy.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 2940-2008, it is proposed to amend 28 CFR part 16 as follows:

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

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

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

2. Section 16.91 is amended by revising paragraphs (u) and (v) to read as follows:

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

(u) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j) and/or (k) from subsections (c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2), (3), (4)(G), (H) and (I), (5) and (8); (f) and (g) of 5 U.S.C. 552a: Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System (JUSTICE/CRM-028). 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/or (k).

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

(1) From subsection (c)(3) because to provide the subject with an accounting of disclosures of records in this system could inform that individual of the existence, nature, or scope of an actual or potential law enforcement or counterintelligence investigation by the Organized Crime Drug Enforcement Task Force Fusion Center, the International Organized Crime Intelligence and Operations Center, or the recipient agency, and could permit that individual to take measures to avoid detection or apprehension, to learn the identity of witnesses and informants, or to destroy evidence, and would therefore present a serious impediment to law enforcement or counterintelligence efforts. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record. Moreover, release of an accounting may reveal information that is properly classified pursuant to Executive Order and could compromise the national defense or foreign policy.

(2) From subsection (c)(4) because this subsection is inapplicable to the extent that an exemption is being claimed for subsections (d)(1), (2), (3), and (4).

(3) From subsection (d)(1) because disclosure of records in the system could alert the subject 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 confidential witnesses and informants, of the investigative interest of Organized Crime Drug Enforcement Task Force Fusion Center, International Organized Crime Intelligence and Operations Center, and other intelligence or law enforcement agencies (including those responsible for civil proceedings related to laws against drug trafficking or related financial crimes or international organized crime); lead to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; reveal the details of a sensitive investigative or intelligence technique, or the identity of a confidential source; or otherwise impede, compromise, or interfere with investigative efforts and other related law enforcement and/or intelligence activities. In addition, disclosure could invade the privacy of third parties and/or endanger the life, health, and physical safety of law enforcement personnel, confidential informants, witnesses, and potential crime victims. Access to records could also result in the release of information properly classified pursuant to Executive Order, thereby compromising the national defense or foreign policy.

(4) From subsection (d)(2) because amendment of the records thought to be incorrect, irrelevant, or untimely would also interfere with ongoing investigations, criminal or civil law enforcement proceedings, and other law enforcement activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised, as well as may impact information properly classified pursuant to Executive Order.

(5) From subsections (d)(3) and (4) because these subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(6) From subsection (e)(1) because, in the course of its acquisition, collation, and analysis of information under the statutory authority granted to them, both the Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center will occasionally obtain information, including information properly classified pursuant to Executive Order, that concern 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. It is impossible to determine in advance what information collected during an

investigation will be important or crucial to the apprehension of fugitives. In the interests of effective law enforcement, it is necessary to retain such information in this system of records because it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies. This consideration applies equally to information acquired from, or collated or analyzed for, both law enforcement agencies and agencies of the U.S. foreign intelligence community and military community.

(7) From subsection (e)(2) because in a criminal, civil, or regulatory investigation, prosecution, or proceeding, 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, prosecution, or proceeding would be placed on notice as to the existence and nature of the investigation, prosecution, and proceeding and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Moreover, thorough and effective investigation and prosecution may require seeking information from a number of different sources.

(8) From subsection (e)(3) (to the extent applicable) 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 or reveal the identity of witnesses or confidential informants and endanger their lives, health, and physical safety. The individual could seriously interfere with undercover investigative techniques and could take appropriate steps to evade the investigation or flee a specific area.

(9) From subsections (e)(4)(G), (H) and (I) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(10) From subsection (e)(5) because the acquisition, collation, and analysis of information for law enforcement purposes from various agencies does not permit a determination in advance or a prediction of what information will be matched with other information and thus whether it 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 imposed by subsection (e)(5) would restrict the ability of trained investigators, intelligence analysts, and government attorneys to exercise their judgment in collating and analyzing information and would impede the development of criminal or other intelligence necessary for effective law enforcement.

(11) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement by revealing investigative techniques, procedures, evidence, or interest and interfering with the ability to issue warrants or subpoenas, and could give persons sufficient warning to evade investigative efforts.

(12) From subsections (f) and (g) because these subsections are inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: May 28, 2009.

Kirsten J. Moncada,

Acting Chief Privacy and Civil Liberties Officer.

[FR Doc. E9-12859 Filed 6-2-09; 8:45 am]

BILLING CODE 4410-14-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2009-0314; FRL-8906-2]

Revisions to the California State Implementation Plan, San Diego Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Diego Air Pollution Control District (SDAPCD) portion of the California State Implementation Plan (SIP). The revisions concern the permitting of air pollution sources. We are proposing to approve SDAPCD Rule 27.1—Federal Requirements for the San Diego County Air Pollution Control District's Alternative Mobile Source Emission Reduction Program Approved on September 8, 2000, which is a local rule that regulates air pollution sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by July 6, 2009.

ADDRESSES: Submit comments, identified by docket number EPA-R09-

OAR-2009-0314, by one of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.

- *E-mail:* R9airpermits@epa.gov.
- *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Shaheerah Kelly, Permits Office (AIR-3), U.S. Environmental Protection Agency, Region IX, (415) 947-4156, kelly.shaheerah@epa.gov.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rule: Rule 27.1—Federal Requirements for the San Diego County Air Pollution Control District's Alternative Mobile Source Emission Reduction Program Approved on September 8, 2000. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe the SIP revision is not controversial. If we

receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: May 7, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E9-12790 Filed 6-2-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS-1406-P2]

RIN 0938-AP39

Medicare Program; Proposed Rate Year (RY) 2010 Medicare Severity-Long-Term Care Diagnosis-Related Group (MS-LTC-DRG) Relative Weights and High-Cost Outlier Fixed-Loss Amount

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule; supplemental.

SUMMARY: This supplemental proposed rule presents both proposed rate year (RY) 2010 Medicare severity-long-term care diagnosis-related group (MS-LTC-DRG) relative weights and a proposed RY 2010 high cost outlier (HCO) fixed-loss amount based on the revised fiscal year (FY) 2009 MS-LTC-DRG relative weights presented in an interim final rule with comment period published elsewhere in this **Federal Register**.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 30, 2009.

ADDRESSES: In commenting, please refer to file code CMS-1406-P2. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.