

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1032

[Docket No. AO-313-A48; DA-04-06]

#### Milk in the Central Marketing Area; Delay of Hearing Date

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule; notice of hearing delay.

**SUMMARY:** The Agricultural Marketing Service is delaying the hearing for the proposed rule that appeared in the **Federal Register** of September 22, 2004 (69 FR 56725), which gave notice of a public hearing being held to consider proposals that would amend certain provisions of the Central milk marketing order. The hearing was originally scheduled to begin October 18, 2004, and has been delayed until December 6, 2004.

**DATES:** The hearing will convene at 1 p.m. on Monday, December 6, 2004.

**ADDRESSES:** The hearing will be held at the Hilton Kansas City Airport, 8801 NW 112th Street, Kansas City, Missouri 64153; (816) 891-8900.

**FOR FURTHER INFORMATION CONTACT:** Jack Rower, Marketing Specialist, Order Formulation and Enforcement, USDA/AMS/Dairy Programs, STOP 0231—Room 2971, 1400 Independence Avenue, SW, Washington, DC 20250-0231, (202) 720-2357, e-mail address: [Jack.Rower@usda.gov](mailto:Jack.Rower@usda.gov).

**SUPPLEMENTARY INFORMATION:** In the proposed rule beginning on page 56725 of the **Federal Register** for Wednesday, September 22, 2004, the hearing dates in the third column on page 56725 is changed in both the **DATES** and **SUPPLEMENTARY INFORMATION** sections to read as follows:

**DATES:** The hearing will convene at 1:00 p.m. on Monday, December 6, 2004.

**SUPPLEMENTARY INFORMATION:** This administrative action is governed by the provisions of sections 556 and 557 of

Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Notice is hereby given of a public hearing to be held at the Hilton Kansas City Airport, 8801 NW 112th Street, Kansas City, Missouri 64153; (816) 891-8900, beginning at 1 p.m., on Monday, December 6, 2004, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central milk marketing area. The hearing is being delayed to accommodate a request by industry participants for additional time to prepare for the hearing.

**Authority:** 7 U.S.C. 601-674.

Dated: October 13, 2004.

A.J. Yates,  
*Administrator, Agricultural Marketing Service.*

[FR Doc. 04-23351 Filed 10-14-04; 10:17 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[AAG/A Order No. 014-2004]

#### 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 to add exemptions for a newly-created Privacy Act system of records entitled "Organized Crime Drug Enforcement Task Force Fusion 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 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 November 17, 2004.

**ADDRESSES:** Address all comments to Mary Cahill, Management and Planning

Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building), Facsimile Number (202) 307-1853. To ensure proper handling, please reference the AAG/A Order No. on your correspondence. You may view an electronic version of this proposed rule at [www.regulations.gov](http://www.regulations.gov). You may also comment via the Internet to the DOJ/Justice Management Division at the following e-mail address: [DOJPrivacyACTProposedRegulations@usdoj.gov](mailto:DOJPrivacyACTProposedRegulations@usdoj.gov); or by using the [www.regulations.gov](http://www.regulations.gov) comment form for this regulation. When submitting comments electronically, you must include the AAG/A Order No. in the subject box.

#### FOR FURTHER INFORMATION CONTACT:

Mary Cahill, (202) 307-1823.

**SUPPLEMENTARY INFORMATION:** This proposed rule seeks to amend 28 CFR 16.91 to add paragraphs (u) and (v) as set forth below. These new paragraphs exempt the "Organized Crime Drug Enforcement Task Force Fusion 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. 793-78, it is proposed to amend 28 CFR part 16 as follows:

#### PART 16—[AMENDED]

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

**Authority:** 5 U.S.C. 301, 552, 552a, 552b(g), 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 adding paragraphs (u) and (v) 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), (5), and (8); and (g) of 5 U.S.C. 552a.

Organized Crime Drug Enforcement Task Force Fusion 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 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 12958 (or successor or prior Executive Order) or a statute 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 subsection (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 and other intelligence or law enforcement agencies (including those responsible for civil proceedings related to laws against drug trafficking or related financial crimes); 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 12958 (or successor or prior Executive Order) or by statute, 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.

(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 it, the Organized Crime Drug Enforcement Task Force Fusion Center 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. 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 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.

(10) 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.

(11) From subsection (g) because this subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

(12) In addition, exemption is claimed for this system of records from compliance with the following

provisions of 5 U.S.C. 552a pursuant to the provisions of 5 U.S.C. 552a(k); subsections (c)(3), (d), (e)(1), 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.

Dated: October 9, 2004.

**Paul R. Corts,**

*Assistant Attorney General for Administration.*

[FR Doc. 04-23243 Filed 10-15-04; 8:45 am]

BILLING CODE 4410-14-P

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Parts 252, 257, and 259

[Docket No. RM 2004-6 CARP]

#### Filing of Claims for Cable, Satellite, and DART Royalties

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Proposed rule.

**SUMMARY:** The Copyright Office of the Library of Congress is proposing to amend its regulations governing the filing of claims to allow for the on-line submission of cable, satellite, and DART claims and to require claimants file their claims by hand delivery or by mail using forms created by the Copyright Office.

**DATES:** Comments must be received no later than November 17, 2004.

**ADDRESSES:** If hand delivered by a private party, an original and five copies of comments should be brought to Room LM-401 of the James Madison Memorial Building and the envelope should be addressed as follows: Office of the General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000 between 8:30 a.m. and 5 p.m. If delivered by a commercial courier, an original and five copies of comments must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Streets, N.E. between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station,

Washington, DC. 20024. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

#### FOR FURTHER INFORMATION CONTACT:

David O. Carson, General Counsel, or Gina Giuffreda, Attorney-Advisor, Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Copyright Act directs the Copyright Office to collect royalties paid by cable systems and satellite carriers for the retransmission of over-the-air broadcast signals, 17 U.S.C. 111(d)(4)(A), 119(b)(4)(A), respectively, as well as royalties paid by manufacturers and importers of digital audio recording devices and media ("DART") who distribute the products in the United States. 17 U.S.C. 1003. Eligibility to receive royalties from any of these three funds is predicated upon the submission of a claim during the time specified by statute: DART claims must be filed during the months of January and February, 17 U.S.C. 1007; cable and satellite claims must be filed during the month of July, 17 U.S.C. 111, 119.<sup>1</sup>

Prior to 2002, claims to the cable, satellite, and DART royalties generally were considered timely filed with the Copyright Office only if they were hand delivered to the correct location within the Copyright Office during the requisite month, or if the claim was mailed to the correct address and bore the appropriate U.S. Postal Service postmark. However, in October 2001, concerns about possible anthrax contamination of mail addressed to facilities in the District of Columbia caused severe disruptions of postal service to the Copyright Office.

<sup>1</sup> In any year in which the last day of February falls on Saturday, Sunday, a holiday or other nonbusiness day within the District of Columbia or the Federal Government, DART claims received by the Copyright Office by the first business day in March, or properly addressed and deposited with sufficient postage with the United States Postal Service by the first business day in March and bearing a U.S. postmark shall be considered timely filed. 37 CFR 259.5(b). Likewise, in any year in which July 31 falls on Saturday, Sunday, a holiday or other nonbusiness day within the District of Columbia or the Federal Government, cable and satellite claims received by the Copyright Office by the first business day in August or claims that are properly addressed and deposited with sufficient postage with the United States Postal Service by the first business day in August and bearing a U.S. postmark shall be considered timely filed. 37 CFR 252.4(b), 257.4(b).

See 66 FR 62942 (December 4, 2001) and 66 FR 63267 (December 5, 2001). As a result, the Copyright Office announced alternative methods for the filing of DART, cable, and satellite claims for the claim year 2001. See 67 FR 5213 (February 5, 2002) and 67 FR 21176 (April 30, 2002). Specifically, the Office waived its CARP regulations requiring that claims bear the original signature of the copyright owner claimant or of a duly authorized representative of the copyright owner claimant to allow the submission of claims via electronic mail as file attachments to specified mailboxes. 67 FR 5213 (February 5, 2002) and 67 FR 21176, 21177 (April 30, 2002). Additionally, since the volume of DART claims received by the Office is significantly lower than that of cable and satellite claims, the Office also waived its CARP regulation prohibiting the filing of claims by facsimile transmission and allowed DART claims to be filed via facsimile. See 67 FR 5214 (February 5, 2002).

Although mail delivery to the Copyright Office resumed, the Office continued to experience delays in the receipt of mail due in part to the diversion of all incoming mail to an off-site location for screening. Consequently, the Office again waived its CARP regulations that required an original signature and prohibited the submission of DART claims via facsimile transmission, and the Office offered alternative methods for the electronic filing of DART, cable, and satellite claims for the claim years 2002 and 2003. However, instead of submitting claims via electronic mail, claimants were allowed to make on-line submissions of claims. DART: See 67 FR 71477 (December 2, 2002) and 68 FR 74481 (December 24, 2003); cable and satellite: See 68 FR 32381 (May 30, 2003) and 69 FR 30577 (May 28, 2004).

As noted in the May 28, 2004, Notice regarding the filing of claims to the 2003 cable and satellite royalty funds, the Office's mail will continue to be diverted to an off-site location for screening. Moreover, problems associated with untimely filings of claims by mail, see *Metro-Goldwyn-Mayer Studios, Inc. v. Peters*, 309 F. Supp.2d. 48 (D.D.C. 2004), and *Universal Studios LLLP v. Peters*, 308 F. Supp.2d. 1 (D.D.C. 2004), have led the Office to conclude that claimants should be encouraged to file their claims electronically. Indeed, the vast majority of claims filed for claim years 2001 through 2003 have been filed electronically. In addition, the electronic submission of claims has proven to be more administratively efficient for the Office. Therefore, the