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DEPARTMENT OF JUSTICE

[CPCLO Order No. 009-2017]

Privacy Act of 1974; Systems of Records

AGENCY: United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.

ACTION: Notice of a Modified System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a component within the United States Department of Justice (DOJ or Department), proposes to modify a system of records notice titled JUSTICE/ATF-008, "Regulatory Enforcement Record System."

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day notice and comment period in which to comment on the routine uses, described below. Therefore, please submit any comments by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, National Place Building, 1331 Pennsylvania Avenue, NW, Suite 1000, Washington, DC 20530; by facsimile at 202-307-0693; or by email at privacy.compliance@usdoj.gov. To ensure proper handling, please reference the above CPCLO Order No. on your correspondence.

FOR FURTHER INFORMATION CONTACT: Peter Chisholm, Acting Chief, Disclosure Division, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue, NE, Washington, DC 20226, or by facsimile at 202-648-9619.

SUPPLEMENTARY INFORMATION:

ATF has not changed the maintenance or operations of the existing system of records. However, to appropriately inform the public on this system of records, ATF is updating the system of records notice for JUSTICE/ATF-008, last published in its entirety in the Federal Register at 68 FR 3551 (Jan. 24, 2003), and amended at 82 FR 24147 (May 25, 2017). First, ATF has made certain editorial changes to this system of records notice. These editorial changes include: updating ATF contact information (for example, adding the new ATF Headquarters address and web page information); informing the public of ATF's records control schedule change; and making other editorial and conforming changes. Some editorial changes have also been made to the routine uses, including modifying the Department's model routine uses to more accurately describe the agencies or entities that may require information from ATF, as well as re-ordering the routine uses to list the routine uses unique to this system of records first, followed by the Department's model routine uses.

Second, ATF has made substantive updates to certain sections of this system of records notice. These modifications include: updating the listed authorities; updating the security classification; adding to the list of system managers; supplementing the purposes for the system to more accurately describe why ATF collects, maintains, uses, and disseminates regulatory enforcement records; clarifying certain descriptions of categories of records, individuals, and sources; and revising and adding routine uses to more

accurately describe the entities to or circumstances under which ATF may disclose regulatory information. Examples of these changes include: (1) adding a routine use that allows ATF to disclose information to a licensed industry member to verify the validity of a license or permit before the distribution of explosives materials, accomplished electronically, through an “EZ-Check” system, for purposes of enhancing regulatory enforcement and public safety as envisioned by the Safe Explosives Act, Title XI, Subtitle C, of the Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2135, 2280; (2) republishing two breach response routine uses consistent with the requirements in OMB Memorandum M-17-12; (3) adding a routine use that would allow ATF to provide a copy of the hearing transcript to the subject of a revocation hearing; and (4) adding to the purpose of this system of records, which explains that ATF provides verification of suitability, eligibility, or qualification of individuals who are engaged or propose to engage in activities regulated by ATF. The entire notice is republished for the convenience of the public.

In accordance with 5 U.S.C. 552a(r), ATF has provided a report to OMB and to Congress on this notice of a modified system of records.

Peter A. Winn,
Acting Chief Privacy and Civil Liberties Officer,
United States Department of Justice.

JUSTICE/ATF-008

SYSTEM NAME AND NUMBER:

Regulatory Enforcement Record System, JUSTICE/ATF-008.

SECURITY CLASSIFICATION:

Sensitive But Unclassified Information and/or Controlled Unclassified Information.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue, NE, Washington, DC 20226. Components of this system of records are also geographically dispersed throughout ATF's district offices, field offices, and the Martinsburg, West Virginia location. A list of field offices is available on ATF's website at <https://www.atf.gov/contact/atf-field-divisions>, or by writing to the Chief, Disclosure Division, 99 New York Avenue, NE, 4.E-301, Washington, DC 20226. A list of offices at the Martinsburg, West Virginia location is available on ATF's website at <https://www.atf.gov/contact/licensing-and-other-services> or by writing to the Chief, Disclosure Division, 99 New York Avenue, NE, 4.E-301, Washington, DC 20226.

SYSTEM MANAGER(S):

Assistant Director, Enforcement and Program Services; Assistant Director, Field Operations; and Assistant Director, Science & Technology, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue, NE, Washington, DC 20226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 26 U.S.C. 7011; (2) 18 U.S.C. 923(a); (3) 18 U.S.C. 923(b); (4) 18 U.S.C. 843(a); (5) 22 U.S.C. 2278; (6) 26 U.S.C. 6001; (7) 26 U.S.C. 6011(a); (8) 26 U.S.C.

6201; (9) 26 U.S.C. 7122; (10) 18 U.S.C. 843(d); (11) 18 U.S.C. 923(f); (12) Pub. L. 107-296, 116 Stat. 2135; (13) 18 U.S.C. 845; and (14) 18 U.S.C. 925.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to determine suitability, eligibility, or qualifications of individuals who are engaged or propose to engage in activities regulated by ATF; provide verification of suitability, eligibility, or qualification of individuals who are engaged or propose to engage in activities regulated by ATF; achieve compliance with laws under ATF's jurisdiction; interact with Federal, state, local, tribal, and foreign government agencies or associations with regard to industrial development, revenue protection, public health and safety, ecology, and other areas of joint jurisdictional concern. When a criminal investigation results in a compilation of information contained in this system of records, the information shall be transferred to the ATF's Criminal Investigation Report System and become part of that system for all purposes of the Privacy Act of 1974.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been issued permits or licenses, have filed applications with ATF, have registered with ATF, have been granted or applied for relief from federal firearms or explosives disabilities to restore firearms or explosives privileges, or are responsible persons or employees of a licensee or permittee to the extent that the records concern private individuals or entrepreneurs, including, but not limited to: (a) Explosives licensees, permittees, employees, and responsible persons; (b) Claimants for refund of taxes; (c) Federal Firearms Licensees, employees and responsible persons; (d) Collectors of firearms or ammunition; (e) Importers of firearms or ammunition; (f) Users of

explosive materials; and (g) Applicants who have been denied employment with licensed possessors or permittees of explosive materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigative material compiled for law enforcement purposes which may consist of the following: (1) Abstracts of offers in compromise; (2) Administrative law judge decisions; (3) Assessment records, including: (a) notices of proposed assessments, (b) notices of shortages or losses, (c) notices to the Internal Revenue Service to assess taxes, (d) recommendation for assessments; (4) Claim records, including: (a) claims, (b) letters of claim rejection, (c) sample reports, (d) supporting data, (e) vouchers and schedules of payment; (5) Comments on proposed rulemakings; (6) Complaints from third parties; (7) Correspondence concerning records in this system and related matters; (8) Financial statements; (9) Inspection and investigation reports; (10) Joint demands on principals and sureties for payment of excise tax liabilities; (11) Letters of reprimand; (12) Lists of permittees and licensees; (13) Lists of officers, directors and principal stockholders; (14) Mailing lists and addressograph plates; (15) Notices of delinquent reports; (16) Offers in compromise; (17) Operation records, including: (a) operating reports, (b) reports of required inventories, (c) reports of thefts or losses of firearms, (d) reports of thefts of explosive materials, (e) transaction records, (f) transaction reports; (18) Orders of revocation, suspension or annulment of permits or licenses; (19) ATF Office of Chief Counsel memoranda and opinions; (20) Reports of violations; (21) Permit status records; (22) Qualifying and background records, including: (a) access authorizations, (b) advertisement records, (c) applications, (d) bonds, (e) business histories, (f) criminal records, (g) diagrams of premises, (h) educational

histories, (i) employment histories, (j) environmental records, (k) financial data, (l) formula approvals, (m) label approvals, (n) licenses, (o) notices, (p) permits, (q) personal references, (r) plant profiles, (s) plant capacities, (t) plats and plans, (u) registrations, (v) sample reports, (w) signature authorities, (x) special permissions and authorizations, (y) statements of process; (23) Show cause orders; (24) Tax records, including: (a) control cards relating to periodic payment and prepayment of taxes, (b) excise and special tax returns, (c) notices of tax discrepancy or adjustment; (25) Explosive license or permit denials; and (26) Lists of applicants for relief from federal firearms or explosives disabilities and those granted such relief.

RECORD SOURCE CATEGORIES:

Examples include: (1) Acquaintances; (2) ATF personnel; (3) Business and professional associates; (4) Creditors; (5) Criminal records; (6) Financial institutions; (7) Former employers; (8) Internal Revenue Service; (9) Military records; (10) Physicians, Psychiatrists, and other medical professionals; (11) The subject individual; (12) References; (13) Police reports; (14) Witnesses; (15) Federal, state, local, tribal, and foreign law enforcement agencies; (16) Federal, state, local, tribal, and foreign regulatory agencies; (17) ATF Office of Chief Counsel memoranda and opinions; (18) Field investigation reports; and (19) Third parties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for

the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

A. To Federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning: (1) the suitability or eligibility of an individual for a license or permit; (2) an individual's status regarding relief from federal firearms or explosives disabilities; (3) whether the issuance of a license or permit to import, manufacture, deal in, or purchase explosives would be in violation of federal or state law or regulation; and (4) whether to add to, delete from, revise, or update information previously provided from this record system.

B. To individuals and organizations for ATF to obtain or verify information pertinent to ATF's decision to grant, deny, or revoke a license or permit, or pertinent to an ongoing investigation or inspection.

C. To a licensed industry member to verify the validity of a license or permit before the distribution of explosives materials.

D. To individuals who are the subject of a license revocation hearing in order to obtain a copy of the hearing transcript.

E. To employees of the Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, when necessary to accomplish a DOJ or Treasury function related to this system of records.

F. To an organization or individual in either the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, to the extent the information is relevant to the protection of life or property.

G. To national and international intelligence gathering organizations for the purpose of identifying individuals suspected of terrorism or criminal activities or convicted of crimes.

H. To any agency, organization, or individual for the purpose of performing authorized audit or oversight operations of ATF and meeting related reporting requirements.

I. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil, or regulatory in nature – the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

J. To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

K. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

L. To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

M. To the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

N. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

O. To appropriate officials and employees of a Federal agency or entity, including the White House, that require information relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; the classification of a job; or the issuance of a grant or benefit.

P. To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, local, tribal, territorial, foreign and international government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

Q. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

R. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

S. To appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

T. To another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

U. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Active records are stored in file folders in secure filing cabinets. Inactive records are stored in file folders at Federal Records Centers. Records or portions of records are also stored in electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, permit or license number, by document locator number, or by employer identification number (EIN).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with General Records Schedule numbers 4.1, 4.2, and 4.3 issued by the National Archives and Records Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives Records Control Schedule and disposed of by shredding, burning or degaussing.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Direct access is limited to personnel in the Department of Justice with need for the records in the performance of their official duty. Records are transmitted to routine users on a need to know basis or where a right to access is established and to others upon verification of the substance and propriety of the request. These records are stored in restricted-access areas in lockable metal file cabinets in rooms locked during non-duty hours. The records stored in electronic media are access controlled and password protected.

RECORD ACCESS PROCEDURES:

All requests for access to records must be in writing and should be addressed to the Disclosure Division, Privacy Act Request, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue, NE, 4.E-301, Washington, DC 20226. The envelope and letter should be clearly marked "Privacy Act Access Request." The request must describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort. The request must include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Some information may be exempt from the access provisions as described in the "EXEMPTIONS PROMULGATED FOR THE SYSTEM" paragraph, below. An individual who is the subject of a record in this system of records may access those records that are not exempt from access. A determination as to whether a record may be accessed will be made at the time a request is received.

Although no specific form is required, you may obtain forms for this purpose from the FOIA/Privacy Act Mail Referral Unit, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530, or on the Department of Justice website at <https://www.justice.gov/oip/submit-and-track-request-or-appeal>.

More information regarding the Department's procedures for accessing records in accordance with the Privacy Act can be found at 28 CFR part 16 subpart D, "Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974."

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the address indicated in the "RECORD ACCESS

PROCEDURES” paragraph, above. All requests to contest or amend records must be in writing and the envelope and letter should be clearly marked “Privacy Act Amendment Request.” All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record. Some information is not subject to amendment, such as tax return information. Some information may be exempt from the amendment provisions as described in the “EXEMPTIONS PROMULGATED FOR THE SYSTEM” paragraph, below. An individual who is the subject of a record in this system of records may contest or amend those records that are not exempt. A determination of whether a record is exempt from the amendment provisions will be made after a request is received.

More information regarding ATF’s procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR 16.46, “Requests for Amendment or Correction of Records.”

NOTIFICATION PROCEDURES:

Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the “RECORD ACCESS PROCEDURES” paragraph, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3), (d)(1), (2), (3) and (4), (e)(1), (e)(4)(G), (H), and (I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). The exemptions will be applied only to the extent that the information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2). Rules have been

published in the Federal Register at 68 FR 19148 (April 18, 2003), and promulgated at 28 CFR 16.106, in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e).

HISTORY:

68 FR 3551, 558 (January 24, 2003): Last published in full;

72 FR 3410 (January 25, 2007): Added one routine; and

82 FR 24147 (May 25, 2017): Rescinded 72 FR 3410 and added two routine uses.

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