

create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations attempting to resolve questions of accuracy, etc.

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

(5) From subsection (e)(1) because:

(i) It is not possible in all instances to determine relevancy or necessity of specific information in the early stages of a personnel-related action.

(ii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed unnecessary. It is only after the information is assessed that its relevancy and necessity in a specific investigative activity can be established.

(iii) ATF might obtain information concerning violations of law not under its jurisdiction, but in the interest of effective law enforcement, dissemination will be made to the agency charged with enforcing such law.

(iv) In interviewing individuals or obtaining other forms of evidence during an investigation, information could be obtained, the nature of which would leave in doubt its relevancy and necessity. Such information, however, could be relevant to another investigation or to an investigative activity under the jurisdiction of another agency.

(6) 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.

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

(1) Regulatory Enforcement Record System (JUSTICE/ATF-008).

(2) Technical and Scientific Services Record System (JUSTICE/ATF-009).

(3) 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). Where

compliance would not appear to interfere with or adversely affect the overall law enforcement process, ATF may waive the applicable exemption.

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

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest, whether civil, criminal or regulatory, not only of ATF, but also of the recipient agency. This would permit the record subject to take measures to impede the investigation, e.g., destroy evidence, intimidate potential witnesses or flee the area to avoid the thrust of the investigation thus seriously hampering the regulatory and law enforcement functions of ATF.

(2) From subsections (d)(1), (e)(4)(G) and (H), and (f) because these provisions concern individual access to investigative and compliance records, disclosure of which could compromise sensitive information, interfere with the overall law enforcement and regulatory process by revealing a pending sensitive investigation, possibly identify a confidential source or disclose information, including actual or potential tax information, which would constitute an unwarranted invasion of another individual's personal privacy, reveal a sensitive investigative technique, or constitute a potential danger to the health or safety of law enforcement personnel.

(3) From subsection (d)(2) because, due to the nature of the information collected and the essential length of time it is maintained, to require ATF to amend information thought to be incorrect, irrelevant or untimely, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations and compliance actions attempting to resolve questions of accuracy, etc.

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

(5) From subsection (e)(1) because:

(i) It is not possible in all instances to determine relevancy or necessity of specific information in the early stages of a criminal, civil, regulatory, or other investigation.

(ii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed unnecessary. It is only after the information is assessed that its relevancy and necessity in a specific

investigative or regulatory activity can be established.

(iii) In any investigation or compliance action ATF might obtain information concerning violations of law not under its jurisdiction, but in the interest of effective law enforcement, dissemination will be made to the agency charged with enforcing such law.

(iv) In interviewing individuals or obtaining other forms of evidence during an investigation, information could be obtained, the nature of which would leave in doubt its relevancy and necessity. Such information, however, could be relevant to another investigation or compliance action or to an investigative activity under the jurisdiction of another agency.

(6) 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, regulatory, and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 03-005]

RIN 2115-AA97

Safety Zone: San Diego Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of San Diego Bay in support of the Gatorade January 24th Fireworks Show. This temporary safety zone is necessary to provide for the safety of the crews, spectators, participants of the event, participating vessels, other vessels, and users of the