

incorporates it into the structure of the Department of Justice.

EFFECTIVE DATE: January 24, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Introduction

The Homeland Security Act of 2002, Pub. L. 107-296, title XI, 116 Stat. 2135 (Nov. 25, 2002) ("Act"), transferred certain law enforcement and regulatory authorities, functions, personnel, and assets of the former Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury to the Department of Justice as the Bureau of Alcohol, Tobacco, Firearms, and Explosives. The Act also created new authorities, particularly in the area of regulation of explosives.

The Attorney General (with minimal exceptions not relevant here) is vested with the responsibility for the management of all functions of the Department of Justice and may delegate those functions to officials of the Department as he deems appropriate. 28 U.S.C. 509, 510. In implementing his statutory responsibilities for the Act and the administration of the Department, the Attorney General is issuing these regulations for the internal management of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

This final rule creates a new subpart of title 28, Code of Federal Regulations (CFR), part 0, regarding the establishment, functions, and management of the Bureau of Alcohol, Tobacco, Firearms, and Explosives. This rule also makes minor technical amendments to other Department regulations relating to authority for processing petitions for remission or mitigation of forfeitures, compromise of claims, maintenance of reading rooms, program fraud civil remedies, and ethical standards. These changes align the Bureau of Alcohol, Tobacco, Firearms, and Explosives with other law enforcement components within the Department of Justice.

Transfer Authority in the Homeland Security Act of 2002

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002). Section 1111 of the Act establishes in the Department the "Bureau of Alcohol, Tobacco, Firearms, and Explosives," and generally transfers

most of the non-tax authorities, functions, personnel and assets of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury to the Department of Justice. This transfer is effective on January 24, 2003.

Under the Homeland Security Act of 2002, the Department of the Treasury retains authority over certain tax provisions relating to alcohol, tobacco and firearms, as well as the Federal Alcohol Administration Act. Those functions will be handled by the new Tax and Trade Bureau in the Department of the Treasury.

A. Part 0—Organization of the Department of Justice

The amendment to 28 CFR 0.1 adds the Bureau of Alcohol, Tobacco, Firearms, and Explosives to the list of bureaus within the Department of Justice.

This rule redesignates subpart W as subpart W-1, and creates a new subpart W for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, consistent with the subparts that delegate authority to other bureaus of the Department.

New 28 CFR 0.130 delegates to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("Director"), subject to the direction of the Attorney General and Deputy Attorney General, responsibilities with respect to the investigation and enforcement of federal firearms, explosives, and arson laws, as well as the provisions of title 18, United States Code, with respect to violations involving alcohol and tobacco. Paragraphs (a) through (c) reflect the authorities that were previously exercised by the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury and which were transferred in the Homeland Security Act of 2002, plus new authority enacted in the Safe Explosives Act, title XI, subtitle C, of the Homeland Security Act of 2002. Paragraph (d) reflects the management of new authority which may be delegated by the Attorney General in the future as authorized by section 1111(b)(3) of the Homeland Security Act of 2002.

Section 0.131 delegates to the Director specific functions previously performed by the Bureau of Alcohol, Tobacco and Firearms, including the operation of laboratories, the National Explosives Licensing Center, the National Firearms Licensing Center, the National Firearms Registration and Transfer Record, the Arson and Explosives National Repository, the National Tracing Center, and a new Explosives Training and Research Facility, as well as specific

functions performed by law enforcement bureaus of the Department of Justice.

Section 0.132 delegates to the Director authority to settle certain claims against the Bureau of Alcohol, Tobacco, Firearms, and Explosives and its personnel within certain applicable monetary limits.

Section 0.133 of this rule provides administrative continuity in the transfer of functions from the Department of the Treasury to the Department of Justice by adopting and carrying forward certain extant regulations specifically relating to the authorities transferred to the Department of Justice. In a separate rule, these regulations are being recodified in a new chapter II of 27 CFR.

There are other regulations issued by the Department of the Treasury, or the former Bureau of Alcohol, Tobacco and Firearms, that apply to both the authorities that were transferred to the Department of Justice and the authorities that were retained in the Department of the Treasury pursuant to the Homeland Security Act. For example, the regulations in 27 CFR part 70 contain general rules on procedure and administration. Many of these rules apply only to taxes collected by the Department of the Treasury. However, some of these rules also apply to administration of the National Firearms Act, which will be enforced by the Department of Justice. Paragraph (a)(2) continues the application of these regulations to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives until amended, or otherwise revised.

Accordingly, this section provides that, pending the issuance of new regulations or other changes in authority, all other regulations issued by the Department of the Treasury or the Bureau of Alcohol, Tobacco and Firearms prior to January 24, 2003, shall continue to apply to the operations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, to the extent that such regulations apply to the authorities or functions transferred to the Department of Justice pursuant to the Homeland Security Act of 2002 or the regulations in this part, unless the application of such regulations would be inconsistent with statutes or regulations applicable to the Department of Justice.

Similarly, paragraph (a)(3) continues the orders and other legal authorities related to the former Bureau of Alcohol, Tobacco and Firearms. Paragraph (a)(4) alters the effect of the reference to appropriate entities and officials of the Department of the Treasury before the transfer to refer to the corresponding