

which has been properly classified in the interest of national defense and foreign policy, and therefore is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1) and (k)(2). To the extent that information in a record pertaining to an individual does not relate to national defense or foreign policy, official Federal investigations, and/or law enforcement matters, the exemption does not apply. In addition, where compliance would not appear to interfere with or adversely affect the overall law or regulatory enforcement process, the applicable exemption may be waived by the Environment and Natural Resources Division.

(b) Only that information that relates to the investigation, prosecution or defense of actual or potential criminal or civil litigation, or which has been properly classified in the interest of national defense and foreign policy is exempted for the reasons set forth from the following subsections:

(1) Subsection (c)(3). Subsection (c)(3) requires an agency to provide an accounting of disclosures of records concerning an individual. To provide the subject of a criminal or civil matter or case under investigation with an accounting of disclosures of records would inform that individual (and others to whom the subject might disclose the records) of the existence, nature, or scope of that investigation and thereby seriously impede law enforcement efforts by permitting the record subject and others to avoid criminal penalties and civil remedies.

(2) Subsections (c)(4) (requiring an agency to inform individuals about any corrections made to a record that has been disclosed) and (g) (providing for civil remedies when an agency fails to comply with these provisions). These provisions are inapplicable to the extent that this system of records is exempted from subsection (d).

(3) Subsection (d). Subsection (d) requires an agency to allow individuals to gain access to a record about him or herself; to dispute the accuracy, relevance, timeliness or completeness of such records; and to have an opportunity to amend his or her record or seek judicial review. To the extent that information contained in this system has been properly classified, relates to the investigation and/or prosecution of grand jury, civil fraud, and other law enforcement matters, disclosure could compromise matters which should be kept secret in the interest of national security or foreign policy; compromise confidential investigations or proceedings; impede affirmative enforcement actions based upon alleged violations of regulations or

of civil or criminal laws; reveal the identity of confidential sources; and result in unwarranted invasions of the privacy of others. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4) Subsection (e)(1). Subsection (e)(1) requires an agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish the agency's purpose. In the course of criminal or civil investigations, cases, or other matters, the Environment and Natural Resources Division may obtain information concerning the actual or potential violation of laws which are not strictly within its statutory authority. In the interest of effective law enforcement, it is necessary to retain such information since it may establish patterns of criminal activity or avoidance of other civil obligations and provide leads for Federal and other law enforcement agencies.

(5) Subsection (e)(2). Subsection (e)(2) requires an agency to collect information to the greatest extent practicable from the subject individual when the information may result in adverse determinations about an individual's rights, benefits and privileges under Federal programs. To collect information from the subject of a criminal investigation or prosecution would present a serious impediment to law enforcement in that the subject (and others with whom the subject might be in contact) would be informed of the existence of the investigation and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(6) Subsection (e)(3). Subsection (e)(3) requires an agency to inform each individual whom it asks to supply information, on a form that can be retained by the individual, the authority which authorizes the solicitation, the principal purpose for the information, the routine uses of the information, and the effects on the individual of not providing the requested information. To comply with this requirement during the course of a criminal investigation or prosecution could jeopardize the investigation by disclosing the existence of a confidential investigation, revealing the identity of witnesses or confidential informants, or impeding the information gathering process.

(7) Subsection (e)(5). Subsection (e)(5) requires an agency to maintain records

with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual. In compiling information for criminal law enforcement purposes, the accuracy, completeness, timeliness and relevancy of the information obtained cannot always be immediately determined. As new details of an investigation come to light, seemingly irrelevant or untimely information may acquire new significance and the accuracy of such information can often only be determined in a court of law. Compliance with this requirement would therefore restrict the ability of government attorneys in exercising their judgment in developing information necessary for effective law enforcement.

(8) Subsection (e)(8). Subsection (e)(8) requires agencies to make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process. To serve notice would give persons sufficient warning to evade law enforcement efforts.

(9) Subsections (f) and (g). Subsection (f) requires an agency to establish procedures to allow an individual to have access to information about him or herself and to contest information kept by an agency about him or herself. Subsection (g) provides for civil remedies against agencies who fail to comply with the Privacy Act requirements. These provisions are inapplicable to the extent that this system is exempt from the access and amendment provisions of subsection (d).

\* \* \* \* \*

[FR Doc. 00-30607 Filed 11-30-00; 8:45 am]

BILLING CODE 4410-15-M

## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[AAG/A Order No. 208-2000]

#### Privacy Act of 1974; Implementation

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice is exempting a Privacy Act system of records from subsections (c)(3) and (4); (d)(1)(2)(3) and (4); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j) and (k). This system of records is maintained by the Office of Special Counsel—Waco (OSCW) and is entitled “CaseLink Document Database for Office of Special Counsel—Waco, JUSTICE/OSCW-001.”

The system of records may contain information which relates to official federal investigation. The exemptions are necessary to protect law enforcement and investigatory information and functions as described in the proposed rule and will be applied only to the investigatory information contained in this system.

**EFFECTIVE DATE:** December 1, 2000.

**FOR FURTHER INFORMATION CONTACT:**

Mary Cahill at 202-307-1823.

**SUPPLEMENTARY INFORMATION:** On September 5, 2000 (65 FR 53679) a proposed rule was published in the *Federal Register* with an invitation to comment. No comments were received.

*Regulatory Flexibility Act:* 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.

*Executive Order No. 12866:* The Attorney General has determined that this rule is not a significant regulatory action under Executive Order No. 12866, and accordingly, this rule has not been reviewed by the Office of Management and Budget.

**List of Subjects in 28 CFR Part 16**

Administrative Practices and Procedures, Courts, Freedom of Information Act, Privacy Act, and Government in Sunshine Act.

Dated: November 21, 2000.

**Stephen R. Colgate,**

*Assistant Attorney General for Administration.*

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, CFR part 16 is amended as follows:

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

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

2. 28 CFR Part 16 is amended by adding to Subpart E § 16.104 to read as follows:

**Subpart E—Exemption of Records Systems Under the Privacy Act**

**§ 16.104 Exemption of Office of Special Counsel—Waco System.**

(a) The following system of records is exempted from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5) and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k): CaseLink Document Database for Office

of Special Counsel—Waco, JUSTICE/OSCW-001. These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k).

(b) Only that portion of this system which consists of criminal or civil investigatory information is exempted for the reasons set forth from the following subsections:

(1) Subsection (c)(3). To provide the subject of a criminal or civil matter or case under investigation with an accounting of disclosures of records concerning him or her would inform that individual of the existence, nature, or scope of that investigation and thereby seriously impede law enforcement efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties and civil remedies.

(2) Subsection (c)(4). This subsection is inapplicable to the extent that an exemption is being claimed for subsection (d).

(3) Subsection (d)(1). Disclosure of investigatory information could interfere with the investigation, reveal the identity of confidential sources, and result in an unwarranted invasion of the privacy of others.

(4) Subsection (d)(2). Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

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

(6) Subsections (e)(1) and (5). It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete; but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide leads in criminal investigations.

(7) Subsection (e)(2). To collect information from the subject individual would serve notice that he or she is the subject of criminal investigative or law enforcement activity and thereby present a serious impediment to law enforcement.

(8) Subsection (e)(3). To inform individuals as required by this subsection would reveal the existence of an investigation and compromise law enforcement efforts.

(9) Subsection (e)(8). To serve notice would give persons sufficient warning to evade law enforcement efforts.

(10) Subsection (g). This subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

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**BILLING CODE 4410-EW-M**

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 4006 and 4007**

**RIN 1212-AA58**

**Premium Rates; Payment of Premiums**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes three amendments to the PBGC's premium regulations. One amendment allows plan administrators to pay a prorated premium for a short plan year rather than paying a full year's premium and requesting a refund. A second amendment simplifies and narrows the definition of "participant" for PBGC premium purposes. A third amendment simplifies the standard for claiming the variable-rate premium exemption for plans that are fully insured under section 412(i) of the Internal Revenue Code.

**DATES:** Effective January 1, 2001. The amendments made by this rule apply to plan years beginning after 2000.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, or Deborah C. Murphy, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4007 of the Employee Retirement Income Security Act of 1974 (ERISA) requires the payment of annual premiums to the PBGC for pension plans that Title IV of ERISA covers. ERISA section 4006 establishes the amount of the annual premium. For single-employer plans, there is a flat-rate premium of \$19 per participant and a variable-rate premium of \$9 per \$1,000 of unfunded vested benefits. For multiemployer plans, there is only a flat-rate premium of \$2.60 per participant.

Under the PBGC's premium regulations (29 CFR Parts 4006 and 4007), plan administrators count participants and calculate unfunded