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# Federal Register

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# Rules and Regulations

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## FARM CREDIT ADMINISTRATION

## 12 CFR Parts 609 and 620

**RIN 3052–AC02**

## Electronic Commerce; Disclosure to Shareholders

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule.

**SUMMARY:** The Farm Credit Administration (FCA or Agency) issues a final rule creating a new part on Electronic Commerce (E-commerce) and amending another part to specifically allow electronic disclosures. These changes reflect emerging business approaches to E-commerce. The final rule removes regulatory barriers to E-commerce and creates a flexible regulatory environment that facilitates the safe and sound use of new technologies by Farm Credit System (System) institutions and their customers.

**EFFECTIVE DATE:** This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish notice of the effective date in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Dale Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434,

or

Jane Virga, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

**SUPPLEMENTARY INFORMATION:**

### I. Objectives

Our objectives for the final rule are to:

- Remove regulatory barriers to E-commerce;
- Create a flexible regulatory framework that facilitates the safe and sound use of new technologies by System institutions and their customers; and
- Provide a brief outline of Federal laws and regulations that facilitate E-commerce.

The rule will help to achieve these objectives by:

- Creating new part 609 on E-commerce; and
- Amending part 620 on Disclosure to Shareholders to specifically allow electronic disclosures.

### II. Background

*A. Applicable Law*

A law entitled ''Electronic Signatures in Global and National Commerce Act'' (E–SIGN) (Pub. L. 106–229) became effective October 1, 2000. E–SIGN governs transactions relating to the conduct of business, consumer, or commercial affairs between two or more persons. It legitimatizes electronic contracts, signatures, and recordkeeping in many situations. E–SIGN makes it easier for System institutions to use E-commerce and potentially realize cost savings. FCA Bookletter BL–041, dated September 21, 2000, on Electronic Signatures in Global and National Commerce, which will be cancelled when this final rule becomes effective, reported E–SIGN's enactment and how its principal terms applied to the System. You can currently review this bookletter on our home page at *www.fca.gov.*

E–SIGN preempts (with some exceptions) provisions in most State or Federal statutes or regulations, including the Farm Credit Act of 1971, as amended (Act), and its implementing regulations, that require contracts or other records to be written, signed, or in nonelectronic form. With the parties' agreement, you can now engage in E-commerce in many situations. E–SIGN does not, however, allow electronic communications for a notice of default, acceleration, repossession, foreclosure, eviction, or the right to cure when an individual's primary residence secures the loan. E–SIGN also does not apply to writing or signature requirements under the Uniform Commercial Code, other than sections 1–107 and 1–206 and Articles 2 and 2A. E–SIGN preempts only those statutes and regulations that relate to business, consumer, or commercial transactions.

E–SIGN sets up different standards for E-commerce with businesses and with consumers. Although both businesses and consumers must agree to E-commerce, E–SIGN provides certain protections and compulsory procedures for consumer transactions. Under E–SIGN, ''consumer'' means an individual who obtains, through a transaction, products or services used primarily for personal, family, or household purposes. Under E–SIGN, some System loans qualify as consumer transactions, while others are business transactions. System institutions will need to distinguish between the two types of transactions to comply with E–SIGN.

E–SIGN also:

- Allows parties to a transaction to decide document integrity and signature authentication technologies.
- Requires electronically stored documents to accurately reflect the information in the original, whether in paper or electronic form, and be accessible to all people entitled to review the original in a form capable of accurate reproduction.
- Sets up special technological and business process standards for electronic promissory notes secured by real estate.

System institutions should read E–SIGN in its entirety to see how it applies and affects E-commerce. System institutions should consult legal counsel before engaging in E-commerce.

*B. FCA's Response to E–SIGN and System Institution Requests*

System institutions asked FCA for guidance on E-commerce. Because of these requests and the enactment of E–SIGN, we proposed a rule on E-commerce at part 609 and an amendment of part 620 to specifically allow electronic disclosures to shareholders. *See* 66 FR 53348, Oct. 22, 2001.

Proposed part 609 contains the following four subparts: (1) General Rules; (2) Interpretations and Definitions; (3) Standards for Boards and Management; and (4) General Requirements for Electronic Communications. We discuss those subparts and the regulation sections within them below in Section III.

Our proposed amendments to part 620 did not amend any of its substantive requirements. Amendments to part 620

removed references to traditional paper documents and their delivery and incorporated references to electronic documents and their delivery. We specified that, if all parties agree, they may use electronic communications. System institutions may provide electronic disclosures and notices, including annual and quarterly reports, annual meeting information statements, report of condition of the Federal Agricultural Mortgage Corporation, and notices of significant changes in a System institution's permanent capital ratio. We did not receive any comments on our proposed amendments to part 620. However, we did make a small technical change that is described in Section III below.

Finally, we remind System institutions that in adding new part 609 and amending part 620 we do not suggest that our other regulations do not allow E-commerce. E–SIGN preempts most regulations requiring paper documentation in business, consumer, or commercial transactions. FCA continues to have authority to require paper documentation in regulations that are primarily governmental. You should read all our regulations in light of what E–SIGN does and does not allow.

**III. Comments and FCA's Response in Final Rule**

*A. Comments*

We received comment letters from the United States Small Business Administration (SBA); the Farm Credit Council (Council) on behalf of its member System banks and associations; and AgCredit Financial, ACA (AgCredit), a System Agricultural Credit Association.

The SBA's comment letter stated that we did not comply with the Regulatory Flexibility Act (RFA) and requested that we repropose the rule. As discussed below, we believe the RFA does not apply to this rule because System institutions are not ''small entities'' as defined in the RFA and we certify to this below.

Generally, the Council and AgCredit supported the proposed rule. However, both comment letters expressed some concerns, ranging from questioning FCA's need to interpret E–SIGN to the language of part 609.

After carefully considering the comments received, we are adopting the proposed rule without substantive change.

*B. FCA's Response in Final Rule*

Below we discuss each section of our proposed rule, including comments we received on the preamble. We include any changes in our final rule.

1. Background for General Rules on E-commerce

Proposed § 609.905 states that FCA wants to create a flexible regulatory environment that facilitates E-commerce and allows System institutions and their customers to use new technologies. The section also states that System institutions may use E-commerce, but must establish good business practices that ensure safety and soundness while doing so. The Council and AgCredit stated we should move those provisions to the preamble and delete them from the regulation because they impose no further legal obligations.

FCA wants to facilitate E-commerce and other new technologies and innovations to enhance the efficient conduct of business and the delivery of sound, adequate, and constructive credit and closely related services to farmers, their cooperatives, and farm-related businesses. In addition to introducing the concept of E-commerce, this section sets a standard for System institutions engaging in E-commerce. We think no change is necessary and adopt the proposed section as final.

2. Compliance With E–SIGN

The Council and AgCredit had two comments on proposed § 609.910 and our preamble. That section and the preamble summarize pertinent provisions of E–SIGN.

First, they questioned the need to summarize E–SIGN and stated that System institutions do not need FCA's interpretation of E–SIGN to comply with its requirements. They also noted that we did not summarize other Federal laws that System institutions must comply with, such as the Truth in Lending Act and the Equal Credit Opportunity Act.

E–SIGN is important to E-commerce. Some System institutions have little exposure to E–SIGN or using E-commerce. System institutions need to know about E–SIGN, which we summarize in the regulation and the preamble, when they think about using or use E-commerce. Before issuing the proposed rule, many System institutions requested our guidance and we issued a bookletter on E–SIGN, BL–041. Other Federal laws noted by the commenters are not new, and we have provided supplemental guidance on them. We believe it useful to notify System institutions of applicable requirements in this area. Therefore, our summary of E–SIGN remains in the final rule.

Second, the commenters stated proposed regulation § 609.910(a) does not comply with E–SIGN because E–SIGN requires ''consent'' only in consumer transactions. Proposed § 609.910(a) states, in part, that all parties to a transaction must ''consent'' before using E-commerce. This statement accurately reflects the law. Section 101(b)(2) of E–SIGN provides that E–SIGN does not require any person to agree to use or accept E-commerce. Thus, E–SIGN recognizes that parties, freely interacting with one another, may or may not prefer alternatives to paper-based transactions. E–SIGN merely recognizes that under basic contract law the parties must agree.

We realize, nonetheless, that the term ''consent'' in this context may be confusing. The ''agreement'' needed to engage in E-commerce is different from the ''consent'' that E–SIGN's provisions require. Thus, in the final rule we are changing the term ''consent'' in § 609.910(a) and § 609.950(a) to ''agree'' or ''agreement'' as appropriate. Also in the final rule we are making the same change in § 620.2(d) for Disclosure to Shareholders. This conforms to E–SIGN's language and should remove any confusion between the requirement that parties to E-commerce agree to conduct business in that manner and the consumer consent provisions.

We have modified subsections (a) and (e) of § 609.910 to make clear E–SIGN's focus on business, consumer, or commercial transactions rather than governmental transactions. We made similar changes in §§ 609.920 and 609.950.

3. Compliance With Other Federal Regulations

Proposed § 609.915 states that System institutions must comply with the Federal Reserve Board (FRB) consumer protection regulations B (Equal Credit Opportunity), M (Consumer Leasing), and Z (Truth in Lending). The Council and AgCredit stated that FCA should delete § 609.915 because it duplicates the FRB regulations.[1]

We disagree with the suggestion to delete the section. Section 609.915 merely reminds System institutions to comply with the FRB regulations. Section 609.915 does not impose

[1] The FRB issued interim regulations containing guidance on the timing and delivery of electronic disclosures to ensure consumers an adequate opportunity to access and retain required information. *See* 66 FR 17779, Apr. 4, 2001; 66 FR 17329, Mar. 30, 2001; and 66 FR 17322, Mar. 30, 2001. These interim rules provide guidance for delivering disclosures electronically if a consumer consents under E–SIGN. The FRB adopted these rules as interim rules to allow for added public comment. Since publication of the FRB interim rules, the FRB lifted its October 1, 2001, mandatory compliance date to consider the comments received. *See* 66 FR 41439, Aug. 8, 2001.

additional legal requirements for System institutions. We intend this section to remind System institutions of the role of these regulations in E-commerce.

The FRB regulations identified by the commenters have long been in existence. FCA provides guidance on these regulations in Informational Memoranda to the System and in our Examination Manual, which you can access through our home page. For further information on any of these regulations, System institutions should feel free to consult our Informational Memoranda,[2] the Examination Manual, or the source documents for the FRB regulations.

We adopt the proposed rule section as final.

4. Preemption of State and Federal Law and Regulations

Proposed § 609.920(a) provides that E–SIGN ''supercedes'' existing laws and regulations, including the Act and its implementing regulations, that require paper copies and handwritten signatures. The Council and AgCredit asked that we note in the preamble and in § 609.920(a) that E–SIGN allows State law to ''preempt'' E–SIGN in those States that enact the Uniform Electronic Transactions Act (UETA), a uniform law developed by the American Law Institute and the National Conference of Commissioners on Uniform State Laws.

UETA preceded E–SIGN's enactment. UETA was intended to provide some uniformity, given the patchwork of differing legal protections, commercial standards, and levels of security that different States required for E-commerce. Adoption of UETA is voluntary. Some States have adopted it in its entirety, some have adopted variations, and some have not adopted it.

Congress enacted E–SIGN to respond to the need for uniform protections for E-commerce. E–SIGN resolves the problem of the States' various approaches to UETA by generally preempting State law and setting up a nationwide standard of acceptance.

E–SIGN preempts State laws as follows. If a State enacts an unamended version of UETA, that version rather than E–SIGN will govern with respect to State law. If a State changes UETA in any way, the divergent provisions supersede E–SIGN only if they are consistent with E–SIGN and do not ''require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification.''

The discussion in this preamble should provide the guidance requested. Further discussion of UETA and preemption in this regulation is beyond the scope of our regulation. System institutions should consult legal counsel to determine whether their States have enacted UETA in its entirety or a version of it and whether E–SIGN has been superseded.

Clearly E–SIGN is intended to preempt State law generally. However, we recognize that E–SIGN does not preempt UETA in States that have adopted it in its entirety. State law supersedes E–SIGN only if the State adopts a ''pure'' version of UETA or if the divergent provisions do not require or accord greater legal status or effect to the implementation or application of a specific technology or technical specification.

In the final rule we amend § 609.920(a) to state that E–SIGN ''preempts most'' statutes and regulations. E–SIGN does not, however, preempt those statutes and regulations that are primarily governmental and do not relate to business, consumer, or commercial transactions. This revised provision is a more accurate description of E–SIGN.

5. Definitions

Proposed § 609.925 contains five definitions. The Council and AgCredit stated that FCA's five definitions in § 609.925 could be confusing and suggested we adopt all the definitions found in E–SIGN.

We adopted two definitions, ''electronic'' and ''electronic signature'' from E–SIGN. However, with the definition of ''electronic signature'' we included an explanatory sentence. E–SIGN does not contain our other three definitions: ''electronic communication,'' ''electronic business,'' and ''electronic mail.''

We see no need to adopt all of E–SIGN's definitions. We included in the regulation only those definitions necessary to understand the new part 609 and the Farm Credit Act of 1971, as amended, and its implementing regulations. Including all of E–SIGN's definitions would be unnecessary as we did not include all of E–SIGN's terms. Additional definitions would be potentially confusing. Therefore, the definitions in our proposed rule become final without amendment. However, we are deleting ''to this part'' in the first sentence of this section and substituting ''to the Act and its implementing regulations.'' We intend the definitions to apply to the Farm Credit Act of 1971, as amended, and its implementing regulations, not just part 609.

6. Policies and Procedures

Proposed § 609.930 states FCA's support of E-commerce and identifies the benefits and challenges for System institutions. It requires System institutions to adopt policies and procedures for E-commerce and lists items to be addressed. The Council and AgCredit had three comments on proposed § 609.930.

First, the commenters asked that we delete from the regulation our statement that we support E-commerce and want to facilitate it. They stated such language has no regulatory effect and FCA should delete it or move it to the preamble.

As we stated previously, we believe E-commerce is important. We believe we must notify System institutions of our expectations and requirements in this area, as well include relevant background material on E–SIGN. Accordingly, we keep the language in the final rule section.

Second, the commenters identified an ambiguity in the proposed rule's preamble and proposed § 609.930. The preamble states that we have identified subjects that a System institution's policies and procedures ''should'' address. The regulation identifies subjects that the policies and procedures ''must'' address.

We agree with the observation that the language of the preamble and the regulation should be consistent. The language of the regulation correctly expressed our intentions. The policies and procedures ''must'' address the items listed in the regulation, as stated in our final regulation.

Third, the commenters stated that the list of items a System institution must address in its policies and procedures does not apply to a System bank that does not make retail loans and offered suggested language. FCA believes that the items listed in paragraphs (a) through (i) are basic requirements for a System institution engaging in E-commerce. However, as noted, the items specified may not be relevant to a System bank or association that does not make retail loans.

We are changing the final rule to reflect this possible limitation by inserting '', when applicable:'' after ''the policies and procedures must address.'' This change addresses the commenters' concern.

[2] Information Memoranda dated September 7, 2001 (Subject: Amendments to Federal Reserve Regulations B, M, and Z Regarding Electronic Delivery of Required Disclosures), and September 25, 2001 (Subject: Mandatory Compliance Date Lifted for Interim Rules Governing the Electronic Delivery of Certain Consumer Disclosures).

7. Business Planning

Proposed § 609.935(b) states, in part, that when applicable, business plans must contain an analysis of potential and existing customers that can use E-commerce. The Council and AgCredit stated that this requirement may be costly and of questionable value, noting that customers are not compelled to use E-commerce. They also asked that we move the business plan requirements for E-commerce to § 618.8440, which pertains to business planning.

We want System institutions to exercise good business judgment and assess costs and benefits before engaging in E-commerce. To address the commenters' concerns and to reflect our intent, we are deleting the language of the entire § 609.935 and substituting the following:

> When engaging in E-commerce, the business plan required under part 618, subpart J, must describe the E-commerce initiative, including intended objectives, business risks, security issues, relevant markets, and legal compliance.

We believe the language in final § 609.935 is in keeping with the general requirements and intent of part 618, subpart J. However, as E-commerce is relatively new, we do outline our expectations in some detail. The final regulation does not require System institutions to incur unreasonable costs in developing a business plan. Moreover, a thoughtful business plan should pay for itself by helping to avoid costly mistakes.

As to the commenters' concern on moving the requirements in § 609.935 to § 618.8440, we think the reference to part 618, subpart J, in the new language should eliminate any confusion. At this time, we believe System institutions will benefit from having all the new provisions on E-commerce, including business planning, in one part. Thus, the business planning requirements for E-commerce will remain in § 609.935.

8. Internal Systems and Controls

Proposed § 609.940(a) states that when applicable, internal systems and controls must provide reasonable assurances that System institutions will follow and achieve business plan objectives and policies and procedures requirements regarding E-commerce. The Council and AgCredit asked that we clarify our intent and regulatory interest in a System institution following and achieving business plan objectives.

We want internal systems and controls to provide reasonable assurances that System institutions will make a concerted effort to achieve business plan objectives and policies and procedures requirements. We do not expect that System institutions will routinely meet all business plan objectives. This language is consistent with prior guidance found in the Examination Manual. Therefore, we adopt the proposed section as final.

9. Records Retention

Proposed § 609.945 states records stored electronically must be accurate, accessible, and reproducible for later reference. The Council and AgCredit had three comments on this section.

First, the commenters recommended using E–SIGN's language on records retention. E–SIGN states that a record must be ''retrievable in perceivable form.'' The commenters stated that E–SIGN's language would avoid confusion over whether we require that a record be available in paper form.

We believe ''reproducible for later reference'' in § 609.945 is a reasonable interpretation of E–SIGN's language and easier for the public and our examiners to understand and implement. Therefore, we leave it in the final rule.

Second, the commenters asked whether a paper-based retention schedule would suffice for electronic records. Electronically stored documents must accurately reflect the information in the original, whether in paper or electronic form, and be accessible to all persons entitled to review the original in a form capable of accurate reproduction. System institutions must be able to produce, and FCA examiners must be able to review, a System institution's records, regardless of form, during an examination. For example, a System institution must have the necessary software and hardware to allow examiners to review an electronic record.

System institution records are retained according to retention schedules established by the institution. A retention schedule mandates the period of time that a record, regardless of form, must be maintained. We believe that System institutions have the discretion to dispose of any records not required for research, legal, audit, or examination purposes. In accordance with good business practices, records retention policies should be set forth in written procedures approved by an institution's board.

A retention schedule must be the same for the same type of record, regardless of form. Thus, a loan file in paper form and a similar loan file in electronic form must be maintained for the same time period. A retention schedule originally established for paper records would suffice for electronic records. We do not require paper records, subject to the exceptions of E–SIGN. However, as this section makes clear, we must be able to examine a System institution.

Finally, the commenters asked that we change the heading of this section from ''Records Retention'' to ''Record Retrieval.'' We believe that ''Records Retention'' covers a broader range of records issues than ''Record Retrieval.'' Also, the heading is consistent with E–SIGN's language. We adopt the proposed section heading as final.

10. Electronic Communications

Proposed § 609.950(c) states, in part, that System institutions must ensure that their communications with parties other than consumers demonstrate good business practices in the delivery of credit and closely related services and in obtaining goods and services. The Council and AgCredit stated that the section could be interpreted to mean that FCA will regulate how an institution electronically purchases goods and services.

This section is intended to focus System institutions' attention on the need to exercise good business judgment in this new environment. All facets of an institution's dealings, whether with a consumer or a party other than a consumer, must be designed to provide for the safety and soundness of the institution. We adopt the proposed section as final.

11. Preamble Question—E-mails to Customers and Additional Guidance

Our proposed rule asked if proposed part 609 adequately addressed E-commerce and electronic communications. The Council and AgCredit stated that FCA could interpret part 609 broadly to apply to System e-mails to customers that contains general or marketing information, as well as to e-mails containing consumer disclosures.

We do not intend part 609 to apply to System e-mails to customers that contain general or marketing information.

The Council and AgCredit requested that we provide guidance on: (1) When a permitted disclosure is deemed to have been received by a customer; (2) the lender's responsibility for redelivery; and (3) how a customer withdraws consent after having given it.

As the commenters noted, we did not address these issues in the proposed regulation. We intend to provide this type of guidance in an Informational Memorandum or similar communication. The E-commerce regulation provides broad guidance on

E-commerce issues. We have not included detailed direction for System institutions on any topic, including electronic disclosures, related to E-commerce. We have done this, in part, so that our regulation will not be unduly affected by changes in technology, business practices, or the variety of products and services offered. For background information on the delivery of electronic communications, System institutions can refer to the FRB regulations mentioned previously, as well as Informational Memoranda on our home page.

12. Preamble Question—Regulations Hindering Online Borrowering

The proposed rule asked if any of our regulations negatively affect the likelihood that a customer would choose to engage in online borrowing. The Council and AgCredit stated that § 613.3005 of this chapter limits System institutions financing the full credit needs of part-time farmers and ranchers. The commenters stated that surveys show that part-time farmers use the Internet the most to locate credit.

The commenters raised concern on the scope of financing of part-time farmers and ranchers. While we appreciate the feedback, this is not an issue we can address in this regulation.

13. Model Consumer Consent Form

The Council and AgCredit asked that we include a model consumer consent form in the final regulation. The commenters referenced the FRB's model consumer consent form included in the FRB's proposed 1999 regulations.

The FRB's model consumer consent form was published prior to E–SIGN's enactment. It does not comply with E–SIGN. E–SIGN does not establish model consumer consent disclosures or a model form. The FRB did not include a model consumer consent form in the interim rules on Regulation B, M, and Z published in March and April of 2001.

We do not believe FCA should publish a model consumer consent form because System institutions may need to revise consumer disclosure forms often to reflect changes in technology or business practices. Also, consumer consent disclosures will vary depending on the products or services a System institution offers. Thus, FCA will not include a model consumer consent form in the regulation.

14. Regulatory Flexibility Act

The SBA expressed the view that FCA must republish the proposed rule to comply with the RFA. The RFA requires an agency to conduct an analysis of the impact of its regulations on small entities and describe steps taken to minimize significant economic impact. The agency must publish the analysis with the rulemaking unless the head of the agency certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities.

The RFA does not require an agency to publish the certification with both the proposed rule and the final rule. FCA believes that publication of the following certification upon adoption of the final rule complies with the RFA.

Pursuant to § 605(b) of the RFA (5 U.S.C. 601 *et seq.*), the FCA certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets in excess of $5 billion and annual income in excess of $400 million. Therefore, Farm Credit System institutions are not ''small entities'' as defined in the RFA.

*C. Commenters' Support of FCA's E-Commerce Initiatives*

The Council and AgCredit provided the following positive responses to our questions in the preamble to the proposed rule. Their comments did not require action on our part in this final rule, but are valuable for our future rulemakings.

1. Preamble Question—Electronic Disclosures to Shareholders Benefit the System

The proposed rule asked if our proposed amendments at part 620 to specifically allow electronic disclosures to shareholders benefited the System. The Council and AgCredit stated that the provisions make it easier to share financial information with stockholders.

2. Preamble Question—Burden on Online Technologies

The proposed rule asked if FCA policies impose unreasonable burdens on an institution's online technologies. The Council and AgCredit stated that FCA's policies have been technologically neutral and encouraged FCA to continue.

## IV. Withdrawal of FCA Bookletter BL–041

When this final regulation becomes effective, we will withdraw FCA Bookletter BL–041 pertaining to E–SIGN.

**List of Subjects**

*12 CFR Part 609*

Agriculture, Banks, banking, Electronic commerce, Reporting and recordkeeping requirements, Rural areas.

*12 CFR Part 620*

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, we add new part 609 and amend part 620 of chapter VI, title 12 of the Code of Federal Regulations to read as follows:

1. Add new part 609 to subchapter B to read as follows:

## PART 609—ELECTRONIC COMMERCE

**Subpart A—General Rules**

Sec.
609.905 Background.
609.910 Compliance with the Electronic Signatures in Global and National Commerce Act (Public Law 106–229) (E–SIGN).
609.915 Compliance with Federal Reserve Board Regulations B, M, and Z.

**Subpart B—Interpretations and Definitions**

609.920 Interpretations.
609.925 Definitions.

**Subpart C—Standards for Boards and Management**

609.930 Policies and procedures.
609.935 Business planning.
609.940 Internal systems and controls.
609.945 Records retention.

**Subpart D—General Requirements for Electronic Communications**

609.950 Electronic communications.

**Authority:** Sec. 5.9 of the Farm Credit Act (12 U.S.C. 2243); 5 U.S.C. 301; Pub. L. 106–229 (114 Stat. 464).

### Subpart A—General Rules

#### § 609.905 Background.

The Farm Credit Administration (FCA) wants to create a flexible regulatory environment that facilitates electronic commerce (E-commerce) and allows Farm Credit System (System) institutions and their customers to use new technologies. System institutions may use E-commerce but must establish good business practices that ensure safety and soundness while doing so.

#### § 609.910 Compliance with the Electronic Signatures in Global and National Commerce Act (Public Law 106–229) (E–SIGN).

(a) *General.* E–SIGN makes it easier to conduct E-commerce. With some exceptions, E–SIGN permits the use and establishes the legal validity of electronic contracts, electronic signatures, and records maintained in electronic rather than paper form. It governs transactions relating to the conduct of business, consumer, or

commercial affairs between two or more persons. E-commerce is optional; all parties to a transaction must agree before it can be used.

(b) *Consumer transactions.* E–SIGN contains extensive consumer disclosure provisions that apply whenever another consumer protection law, such as the Equal Credit Opportunity Act, requires the disclosure of information to a consumer in writing. Consumer means an individual who obtains, through a transaction, products or services, including credit, used primarily for personal, family, or household purposes. You must follow E–SIGN's specific procedures to make the required consumer disclosures electronically. E–SIGN's special disclosure rules for consumer transactions do not apply to business transactions. Under E–SIGN, some System loans qualify as consumer transactions, while others are business transactions. You will need to distinguish between the two types of transactions to comply with E–SIGN.

(c) *Specific exceptions.* E–SIGN does not permit electronic notification for notices of default, acceleration, repossession, foreclosure, eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a person's primary residence. These notices require paper notification. The law also requires paper notification to cancel or terminate life insurance. Thus, System institutions cannot use electronic notification to deliver some notices that must be provided under part 614, subpart L of this chapter, Actions on Applications; Review of Credit Decisions, and part 614, subpart N of this chapter, Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal. In addition, E–SIGN does not apply to the writing or signature requirements imposed under the Uniform Commercial Code, other than sections 1–107 and 1–206 and Articles 2 and 2A.

(d) *Promissory notes.* E–SIGN establishes special technological and business process standards for electronic promissory notes secured by real estate. To treat an electronic version of such a promissory note as the equivalent of a paper promissory note, you must conform to E–SIGN's detailed requirements for transferable records. A transferable record is an electronic record that:

(1) Would be a note under Article 3 of the Uniform Commercial Code if the electronic record were in writing;

(2) The issuer of the electronic record has expressly agreed is a transferable record; and

(3) Relates to a loan secured by real property.

(e) *Effect on State and Federal law.* E–SIGN preempts most State and Federal statutes or regulations, including the Farm Credit Act of 1971, as amended (Act), and its implementing regulations, that require contracts or other business, consumer, or commercial records to be written, signed, or in non-electronic form. Under E–SIGN, an electronic record or signature generally satisfies any provision of the Act, or its implementing regulations that requires such records and signatures to be written, signed, or in paper form. Therefore, unless an exception applies or a necessary condition under E–SIGN has not been met, an electronic record or signature satisfies any applicable provision of the Act or its implementing regulations.

(f) *Document integrity and signature authentication.* Each System institution must verify the legitimacy of an E-commerce communication, transaction, or access request. Document integrity ensures that the same document is provided to all parties. Signature authentication proves the identities of all parties. The parties to the transaction may determine how to ensure document integrity and signature authentication.

(g) *Records retention.* Each System institution may maintain all records electronically even if originally they were paper records. The stored electronic record must accurately reflect the information in the original record. The electronic record must be accessible and capable of being reproduced by all persons entitled by law or regulations to review the original record.

#### § 609.915 Compliance with Federal Reserve Board Regulations B, M, and Z.

The regulations in this part require fair practices and meaningful disclosures for certain lending and leasing activities. System institutions must comply with Federal Reserve Board Regulations B (Equal Credit Opportunity), M (Consumer Leasing), and Z (Truth in Lending) (12 CFR parts 202, 213, and 226).

### Subpart B—Interpretations and Definitions

#### § 609.920 Interpretations.

(a) E–SIGN preempts most statutes and regulations, including the Act and its implementing regulations that require paper copies and handwritten signatures in business, consumer, or commercial transactions. E–SIGN requires that statutes and regulations be interpreted to allow E-commerce as long as the safeguards of E–SIGN are met and its exceptions recognized. Generally, an electronic record or signature satisfies any provision of the Act or its implementing regulations that require such records and signatures to be written, signed, or in paper form.

(b) System institutions may interpret the Act and its implementing regulations broadly to allow electronic transmissions, communications, records, and submissions, as provided by E–SIGN. This means that the terms address, copy, distribute, document, file, mail, notice, notify, record, provide, send, signature, sent, written, writing, and similar words generally should be interpreted to permit electronic transmissions, communications, records, and submissions in business, consumer, or commercial transactions.

#### § 609.925 Definitions.

We provide the following definitions that apply to the Act and its implementing regulations:

(a) *Electronic* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(b) *Electronic communication* means a message that can be transmitted electronically and displayed on equipment as visual text. An example is a message displayed on a personal computer monitor screen. This does not include audio- and voice-response telephone systems.

(c) *Electronic business (E-business) or electronic commerce (E-commerce)* means buying, selling, producing, or working in an electronic medium.

(d) *Electronic mail (E-mail)* means:

(1) To send or submit information electronically; or

(2) A communication received electronically.

(e) *Electronic signature* means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record. Electronic signature describes a category of electronic processes that can be substituted for a handwritten signature.

### Subpart C—Standards for Boards and Management

#### § 609.930 Policies and procedures.

The FCA supports E-commerce and wants to facilitate it and other new technologies and innovations to enhance the efficient conduct of business and the delivery of safe and sound credit and closely related services. Through E-commerce, System institutions can enhance customer service, access information, and provide

alternate communication systems. At the same time, E-commerce presents challenges and risks that your board must carefully consider in advance. Before engaging in E-commerce, you must weigh its business risks against its benefits. You must also adopt E-commerce policies and procedures to ensure your institution's safety and soundness and compliance with law and regulations. Among other concerns, the policies and procedures must address, when applicable:

(a) Security and integrity of System institution and borrower data;

(b) The privacy of your customers as well as visitors to your Web site;

(c) Notices to customers or visitors to your Web site when they link to an affiliate or third party Web site;

(d) Capability of vendor or application providers;

(e) Business resumption after disruption;

(f) Fraud and money laundering;

(g) Intrusion detection and management;

(h) Liability insurance; and

(i) Prompt reporting of known or suspected criminal violations associated with E-commerce to law enforcement authorities and FCA under part 617 of this chapter.

#### § 609.935 Business planning.

When engaging in E-commerce, the business plan required under part 618 of this chapter, subpart J, must describe the E-commerce initiative, including intended objectives, business risks, security issues, relevant markets, and legal compliance.

#### § 609.940 Internal systems and controls.

When applicable, internal systems and controls must provide reasonable assurances that System institutions will:

(a) Follow and achieve business plan objectives and policies and procedures requirements regarding E-commerce; and

(b) Prevent and detect material deficiencies on a timely basis.

#### § 609.945 Records retention.

Records stored electronically must be accurate, accessible, and reproducible for later reference.

### Subpart D—General Requirements for Electronic Communications

#### § 609.950 Electronic communications.

(a) *Agreement.* In accordance with E–SIGN, System institutions may communicate electronically in business, consumer, or commercial transactions. E-commerce transactions require the agreement of all parties when you do business.

(b) *Communications with consumers.* E–SIGN and Federal Reserve Board Regulations B, M, and Z (12 CFR parts 202, 213, and 226) outline specific disclosure requirements for communications with consumers.

(c) *Communications with parties other than consumers.* The consumer disclosure requirements of E–SIGN and of Federal Reserve Board Regulation B (12 CFR part 202) do not apply to your communications with parties other than consumers. (Federal Reserve Board Regulations M and Z (12 CFR parts 213 and 226) apply to consumers only.) Nonetheless, you must ensure that your communications, including those disclosures required under the Act and the regulations in this part, demonstrate good business practices in the delivery of credit and closely related services and in your obtaining goods and services.

## PART 620—DISCLOSURE TO SHAREHOLDERS

2. The authority citation for part 620 continues to read as follows:

**Authority:** Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa–11); secs. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

### Subpart A—General

3. Amend § 620.1 as follows:

a. Revise paragraph (o);

b. Redesignate existing paragraph (r) as new paragraph (s); and

c. Add a new paragraph (r).

#### § 620.1 Definitions.

* * * * *

(o) *Report* refers to the annual report, quarterly report, notice, or information statement, regardless of form, required by this part unless otherwise specified.

* * * * *

(r) Signed, when referring to paper form, means a manual signature, and, when referring to electronic form, means marked in a manner that authenticates each signer's identity.

4. Amend § 620.2 as follows:

a. Remove the first sentence and add three new sentences in its place in paragraph (a);

b. Revise paragraph (b) introductory text;

c. Remove the word ''filed'' and add in its place, the word ''required'' in paragraph (b)(3)(i);

d. Remove the words ''typed or'' from the second sentence in paragraph (b)(3)(ii); and

e. Redesignate existing paragraphs (d), (e), (f), (g), (h), and (i) as newly designated paragraphs (e), (f), (g), (h), (i), and (j) consecutively;

f. Add new paragraph (d); and

g. Remove the words ''mail or otherwise furnish'' and add in their place, the word ''provide'' in newly designated paragraph (i)(3).

#### § 620.2 Preparing and filing the reports.

* * * * *

(a) Copies of each report required by this section, including financial statements and related schedules, exhibits, and all other papers and documents that are a part of the report must be sent to the Chief Examiner, or to another office designated by the Chief Examiner. If sending paper copies, send three copies to Chief Examiner, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090. If providing electronic copies, send according to our instructions to you.

* * *

(b) At least one of the reports provided to the Farm Credit Administration shall be dated and manually signed on behalf of the institution by:

* * * * *

(d) Shareholders must agree to electronic disclosures of reports required by this part.

* * * * *

### Subpart B—Annual Report to Shareholders

#### § 620.4 [Amended]

5. Amend § 620.4 as follows:

a. Remove the word ''distributing'' and add in its place, the word ''providing'' in the heading; and

b. Remove the word ''distribute'' and add the word ''provide'' each place it appears in paragraphs (a), (b)(1), and (b)(2).

#### § 620.5 [Amended]

6. Amend § 620.5 as follows:

a. Remove the word ''distributed'' and add in its place, the word ''provided'' in paragraph (a)(3); and

b. Remove the word ''signed'' and add in its place, the words ''manually signed, or if in electronic form, signed in a manner that authenticates each signer's identity'' in paragraph (m)(2).

### Subpart C—Quarterly Report

7. Amend § 620.11 by revising the second sentence of paragraph (b)(6) to read as follows:

#### § 620.11 Content of quarterly report to shareholders.

* * * * *

(b) * * *

(6) * * * In addition, a statement from the persons who verify the

institution's financial statements shall be included as an exhibit, indicating whether or not the change is to an alternative principle which in their judgment is preferable under the circumstances, except that no such statement need be filed when the change is made in response to a standard adopted by the Financial Accounting Standards Board which requires such change.

* * * * *

## Subpart D—Notice to Shareholders

8. Revise § 620.15 to read as follows:

### § 620.15 Notice.

(a) Each Farm Credit bank and direct lender association shall prepare and provide the Farm Credit Administration and shareholders a notice, within 30 days following the month end that the institution initially determines that it is not in compliance with the minimum permanent capital standard prescribed under § 615.5205 of this chapter.

(b) An institution that has given notice to shareholders pursuant to paragraph (a) of this section or subsequent notice pursuant to this paragraph shall also prepare and provide the Farm Credit Administration and shareholders a notice within 45 days following the end of any subsequent quarter at which the institution's permanent capital ratio decreases by one-half of 1 percent or more from the level reported in the most recent notice provided to shareholders.

(c) Each institution required to prepare a notice under paragraphs (a) or (b) of this section shall provide the notice to shareholders or publish it in any publication with circulation wide enough to be reasonably assured that all of the institution's shareholders have access to the information in a timely manner.

### § 620.17 [Amended]

9. Amend § 620.17 by removing the words ''distribute'' and adding in its place, the word ''provide'' in paragraph (b)(4).

## Subpart E—Association Annual Meeting Information Statement

### § 620.20 [Amended]

10. Amend § 620.20 as follows:

a. Remove the word ''distributing'' and add in its place, the word ''providing'' in the heading; and

b. Remove the word ''distribute'' and add in its place, the word ''provide'' in paragraph (a).

11. Amend § 620.21 as follows:

a. Remove the words ''furnished a letter'' and add in their place, the words ''provided a notice'' in the first sentence of paragraph (c)(3);

b. Remove the words ''contained in the letter'' at the end of the first sentence in paragraph (c)(3);

c. Add the words ''paper mail or electronic'' before the word ''mail'' in each place it appears in paragraphs (d)(3)(i)(A), (d)(3)(i)(B), (d)(3)(ii)(A), and (d)(3)(ii)(B);

d. Revise paragraph (d)(5) to read as follows:

### § 620.21 Contents of the information statement and other information to be furnished in connection with the annual meeting.

* * * * *

(d) * * *

(5) For each nominee who is not an incumbent director, except a nominee from the floor, provide the information referred to in § 620.5(j) and (k) and paragraph (d)(4) of this section. If shareholders will vote by paper mail or electronic mail ballot upon conclusion of all sessions, each floor nominee must provide the information referred to in § 620.5(j) and (k) and paragraph (d)(4) of this section in paper or electronic form to the association within the time period prescribed by the association's bylaws. If the association's bylaws do not prescribe a time period, state that each floor nominee must provide the disclosure to the association within 5 business days of the nomination. The association shall ensure that the information is provided to the voting shareholders by delivering the ballots for the election of directors in the same format as the comparable information contained in the association's annual meeting information statement. If shareholders will not vote by paper mail or electronic mail ballot upon conclusion of all sessions, each floor nominee must provide the information referred to in § 620.5(j) and (k) and paragraph (d)(4) of this section in paper or electronic form at the first session at which voting is held.

* * * * *

### § 620.30 [Amended]

12. Amend § 620.30 by removing the words ''distribute or mail'' and adding in their place, the word ''provide'' in the second sentence.

## Subpart G—Annual Report of Condition of the Federal Agricultural Mortgage Corporation

13. Amend § 620.40 as follows:

a. Revise the heading and remove the words ''distribution of'' and add in their place, the words ''providing of the'' in the heading;

b. Remove the word ''distribute'' and add in its place, the word ''provide'' in paragraph (b);

c. Remove the words ''mail or otherwise furnish to the requestor a copy of'' and add in their place, the words ''provide the requester'' in paragraph (c); and

d. Revise paragraph (d):

### § 620.40 Content, timing, and providing of the Federal Agricultural Mortgage Corporation annual report of condition.

* * * * *

(d) The Corporation shall provide copies of the annual report of condition to the Farm Credit Administration's Office of Secondary Market Oversight within 120 days of its fiscal year-end. If providing paper copies, send three copies to Office of Secondary Market Oversight, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090. If providing electronic copies, send according to our instructions to you.

Dated: April 1, 2002.

**Kelly Mikel Williams,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 02–8212 Filed 4–5–02; 8:45 am]

BILLING CODE 6705–01–P

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## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR PART 191

**[T.D. 02–16]**

**RIN 1515–AD00**

## Drawback; Conforming Amendments

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations relating to drawback in order to conform with changes that were made to the drawback law by the Miscellaneous Trade and Technical Corrections Act of 1999. The amendments concern drawback on packaging material and drawback in connection with the substitution of finished petroleum derivatives.

Also, a minor clarification is made to the general manufacturing drawback rulings for piece goods and woven piece goods that appear in an appendix to the Customs drawback regulations in order to conform these general rulings with the regulations.

**EFFECTIVE DATE:** April 8, 2002.

**FOR FURTHER INFORMATION CONTACT:**

William G. Rosoff, Duty and Refund Determination Branch, (202–927–2077).

**SUPPLEMENTARY INFORMATION:**

**Background**

Drawback is a refund or remission, in whole or in part, of a Customs duty, internal revenue tax, or fee. There are a number of different kinds of drawback authorized under law. The statute providing for specific types of drawback is 19 U.S.C. 1313. Some specific types include drawback on manufactured articles, and on rejected or unused merchandise (19 U.S.C. 1313(a), (b), (c), or (j)), as well as drawback on packaging materials (19 U.S.C. 1313(q)), and in connection with the substitution of certain finished petroleum derivatives (19 U.S.C. 1313(p)). The implementing regulations for drawback are contained in part 191 of the Customs Regulations (19 CFR part 191).

The Miscellaneous Trade and Technical Corrections Act of 1999, Public Law 106–36, 113 Stat. 127 (June 25, 1999) (the MTTCA), amended a number of Customs laws, including two provisions of the drawback law. In this latter regard, section 2404 of the MTTCA amended the drawback provision dealing with packaging materials, 19 U.S.C. 1313(q). Also, sections 2419 and 2420 of the MTTCA amended the drawback provision dealing with the substitution of certain finished petroleum derivatives, 19 U.S.C. 1313(p).

*Packaging Material; Prior Law*

Under 19 U.S.C. 1313(q), drawback was previously payable on packaging material only when the packaging material was imported material that was used to package or repackage merchandise or articles that were exported or destroyed under Customs supervision and that were eligible for drawback under either the manufacturing, rejected or unused merchandise drawback provisions (19 U.S.C. 1313(a), (b), (c), or (j)). Drawback was payable on the imported packaging material under the particular drawback provision to which the packaged goods themselves were subject, either section 1313(a), (b), (c), or (j). The drawback was 99% of the duty that was paid on the imported packaging material.

Section 191.13, Customs Regulations (19 CFR 191.13), implemented the provision for drawback on packaging material under 19 U.S.C. 1313(q).

*Packaging Material; Amended Law*

As amended by section 2404 of the MTTCA, 19 U.S.C. 1313(q) is redesignated as 19 U.S.C. 1313(q)(1), and a new section 1313(q)(2) is added to provide for drawback as well on packaging material that is manufactured or produced in the United States and used to package or repackage articles that are exported or destroyed under the manufacturing drawback law, 19 U.S.C. 1313(a) or (b). Drawback is payable on the packaging material pursuant to the particular manufacturing drawback provision to which the packaged articles themselves are subject, either section 1313(a) or (b). The drawback is 99% of the duty paid on the imported material that was used in the manufacture or production of the packaging material.

Accordingly, § 191.13 is amended in conformance with the enhanced eligibility of packaging material for drawback under 19 U.S.C. 1313(q), as amended by section 2404 of the MTTCA.

*Substitution of Finished Petroleum Derivatives; Prior Law*

Under 19 U.S.C. 1313(p), which concerns the substitution of certain finished petroleum derivatives, drawback was payable upon the timely exportation of an article which was of the same kind and quality as a qualified article. A qualified article was either an imported, duty-paid article, or a manufactured article that would be eligible for drawback under 19 U.S.C. 1313(a) or (b), should the qualified article itself be exported. Moreover, the qualified article had to be described in headings 2707, 2708, 2710–2715, 2901, and 2902, or in headings 3901–3914 of the Harmonized Tariff Schedule of the United States (HTSUS). However, in the case of headings 3901 through 3914, the qualified articles were limited to liquids, pastes, powders, granules and flakes.

Also, for drawback to have accrued under section 1313(p), the exporter must have imported the qualified article or have manufactured it under section 1313(a) or (b); or have purchased or exchanged the qualified article, either directly or indirectly, from an importer, or from a refinery or facility which produced the article under section 1313(a) or (b). In any event, the qualified article must have been manufactured, imported, or acquired by the exporter in the aforementioned manner, in a quantity at least as great as the quantity of the exported article.

To be of the same kind and quality as the qualified article (solely for the purpose of section 1313(p)), the exported article had to fall within the same 8-digit HTSUS tariff classification as, or be commercially interchangeable with, the qualified article.

Furthermore, the manufacturer, producer, importer, exporter, and drawback claimant were all required to maintain their appropriate records as required by regulation in order for a right to drawback to arise under 19 U.S.C. 1313(p). If a right did arise, the claimant for drawback under section 1313(p) had to be the exporter of the exported article, or the refiner, producer, or importer of that article.

The drawback payable under section 1313(p) was 99% of the duty attributable to the qualified article when the qualified article was a manufactured article that would be eligible for drawback under 19 U.S.C. 1313(a) or (b), and 100% of the duty attributable to the qualified article when the qualified article was an imported, duty-paid article.

Subpart Q of the Customs Regulations (19 CFR subpart Q), consisting of §§ 191.171–191.176 (19 CFR 191.171–191.176), implemented the provisions providing for drawback in connection with the substitution of finished petroleum derivatives under 19 U.S.C. 1313(p).

*Substitution of Finished Petroleum Derivatives; Amended Law*

Sections 2419 and 2420 of the MTTCA have made a number of amendments to 19 U.S.C. 1313(p).

Section 2419 of the MTTCA revises the list of qualified articles which may serve as a basis for drawback under section 1313(p) by adding to this list articles that are described in HTSUS subheading 2909.19.14. This subheading covers methyl tertiary-butyl ether (MTBE), a fuel additive used in gasoline. The inclusion of MTBE in the list of articles eligible for drawback under § 191.172 of the Customs Regulations is intended to carry out the statutory requirement in the MTTCA.

Section 2420 of the MTTCA amends 19 U.S.C. 1313(p) primarily by allowing a party to transfer to the exporter or to an intermediate party another article in place of the qualified article provided that the transferred article is of the same kind and quality as the qualified article. As indicated above, under the prior law, the exporter, if not also the importer or refiner of the qualified article, must in fact have received the qualified article from the importer, refiner or an intermediate transferor, following which the exporter could then timely export a substituted article of the same kind and quality as the qualified article.

However, because the chain of commerce involved in petroleum transactions may frequently include a number of different commercial entities, such as importers, refiners, and various intermediaries, who store their products in common tanks and ship them

through pipelines carrying other petroleum products, it becomes impracticable or impossible under these circumstances for drawback claimants to trace and account for the specific products that are received and delivered from one entity to another. This situation unduly restricts the flexibility of claimants and associated parties in petroleum transactions.

Accordingly, as already noted, section 2420 of the MTTCA amends 19 U.S.C. 1313(p) by allowing an importer, refiner or producer of a qualified article to transfer to the exporter or to an intermediate party, in place of the qualified article, an article of the same kind and quality as the qualified article. Also, any intermediate party in the chain of commerce leading from the importer, refiner or producer to the exporter may transfer to the exporter or to another intermediate party an article of the same kind and quality as the article that it purchased or exchanged from the prior transferring party (*i.e.,* the refiner, producer, importer, or another intermediate transferor). Each transferred article, regardless of its origin (whether imported, manufactured, substituted, or any combination thereof) would then become the qualified article eligible for drawback for purposes of section 1313(p).

Under the foregoing circumstances, however, the importer, refiner, producer, or any intermediate transferor must certify on a certificate of delivery documenting the transfer (or on a certificate of manufacture and delivery, in the case of the manufacturer or producer of a qualified article under section 1313(a) or (b)) that it has not, and will not, designate on any such certificates issued a quantity greater than the amount of the article eligible for drawback. Each transferor must also agree to maintain appropriate records to establish this fact.

In addition, section 2420 amends 19 U.S.C. 1313(p) as follows: (1) Where drawback on an exported article is based on a qualified article that is imported, duty-paid, drawback is limited to that attributable to the qualified article under the unused merchandise drawback law, 19 U.S.C. 1313(j) (*i.e.*, 99%, as opposed to 100%, of the duty paid on the article); (2) the list of potential drawback claimants is broadened to include the refiner, producer or importer of the qualified article, in addition to the exporter, refiner, producer or importer of the exported article; and (3) the qualified articles defined by HTSUS subheadings 3901 through 3914 are expanded to include the articles in their primary forms as provided in Note 6 to chapter 39 of the HTSUS (*i.e.*, in addition to liquids, pastes, powders, granules, and flakes, this includes dispersions (emulsions and suspensions) and solutions, as well as blocks of irregular shape, lumps and similar bulk forms of the articles).

Subpart Q, Customs Regulations (§§ 191.171 through 191.176) is amended as necessary to implement the foregoing statutory changes to 19 U.S.C. 1313(p) enacted under sections 2419 and 2420 of the MTTCA.

*Appendix A to Part 191; General Manufacturing Drawback Rulings for Piece Goods and Woven Piece Goods*

In Appendix A to part 191, the general manufacturing drawback rulings for piece goods and woven piece goods, numbered ''X.'' and ''XIV.'', respectively, state under paragraph ''G.'' concerning ''Shrinkage, Gain, and Spoilage'' that unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, the records of the manufacturer or producer must show the yardage lost by shrinkage or gained by stretching during manufacture, and the quantity of remnants resulting and of spoilage incurred, if any. Hence, as indicated under paragraph ''G.'' in each of these general rulings, the described records do not need to be kept if the claim for drawback on the exported articles is to be determined on the ''appearing in'' basis.

It is noted that under § 191.23(b), Customs Regulations (19 CFR 191.23(b)), drawback is allowable on the ''appearing in'' method based only on the amount of imported or substituted merchandise that appears in (or is contained in) the exported articles. In this context, however, § 191.23(e)(2) requires that waste records (which would include records of shrinkage, gain and spoilage incurred in the processing of piece goods) must be kept under the ''appearing in'' basis if such records are required to establish the quantity of drawback-eligible merchandise or product that appears in the articles that are claimed for drawback.

Moreover, in the final rule document amending the drawback regulations that was published in the **Federal Register** (63 FR 10970) on March 5, 1998, as T.D. 98–16, the issue was raised as to what records under the ''appearing in'' basis were needed for waste and for shrinkage, gain, and spoilage in relation to general manufacturing drawback ruling ''X.'' concerning piece goods manufactured under 19 U.S.C. 1313(b). Specifically, it was stated that paragraphs ''F.'' as well as ''G.'' in this general ruling pertaining, respectively, to ''Waste'' and ''Shrinkage, Gain, and Spoilage'' seemed to be in conflict with the regulatory requirements for claiming drawback on the ''appearing in'' method. Customs, in response to this issue, agreed that both paragraphs ''F.'' and ''G.'' in the general ruling would be revised consistent with the regulatory provision (§ 191.23(e)(2)) that records for waste and for shrinkage, gain, and spoilage would need to be kept if they were necessary to establish the quantity of merchandise (eligible piece goods) that appeared in the exported articles (63 FR at 10998). However, T.D. 98–16 did not in fact make the corresponding changes to the actual text of this general ruling in appendix A to part 191.

Accordingly, paragraphs ''F.'' and ''G.'' of general manufacturing drawback ruling ''X.'' dealing with ''Waste'' and ''Shrinkage, Gain, and Spoilage'', respectively, for piece goods manufactured under 19 U.S.C. 1313(b) will now be revised consistent with § 191.23(e)(2). Also, inasmuch as the same principle applies to general manufacturing drawback ruling ''XIV.'' for woven piece goods manufactured under 19 U.S.C. 1313(a), as discussed above, paragraphs ''F.'' and ''G.'' of this general ruling will be revised as well.

**Executive Order 12866 and Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements and the Regulatory Flexibility Act**

Because the amendments to the drawback regulations in this final rule are intended merely to conform with statutory law, notice and public procedure are inapplicable and unnecessary pursuant to 5 U.S.C. 553(b)(B), and, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required. Because this document is not subject to the requirements of 5 U.S.C. 553, as noted, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor do the amendments result in a ''significant regulatory action'' under E.O. 12866.

**Paperwork Reduction Act**

The collection of information involved in this final rule has previously been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Number 1515–0213. This rule does not substantively change the existing approved information collection.

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

**List of Subjects in 19 CFR Part 191**

Claims, Commerce, Customs duties and inspection, Drawback, Exports, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

Part 191, Customs Regulations (19 CFR part 191), is amended as set forth below.

## PART 191—DRAWBACK

1. The general authority citation for part 191 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States), 1313, 1624.

* * * * *

2. Section 191.13 is amended by designating its existing text as paragraph (a), adding a heading to newly designated paragraph (a), and revising its first sentence, and by adding a new paragraph (b), to read as follows:

**§ 191.13 Packaging materials.**

(a) *Imported packaging material.* Drawback of duties is provided in § 313(q)(1) of the Act, as amended (19 U.S.C. 1313(q)(1)), on imported packaging material when used to package or repackage merchandise or articles exported or destroyed pursuant to § 313(a), (b), (c), or (j) of the Act, as amended (19 U.S.C. 1313(a), (b), (c), or (j)).* * *

(b) *Packaging material manufactured in United States from imported materials.* Drawback of duties is provided in § 313(q)(2) of the Act, as amended (19 U.S.C. 1313(q)(2)), on packaging material that is manufactured or produced in the United States from imported materials and used to package or repackage articles that are exported or destroyed under § 313(a) or (b) of the Act, as amended (19 U.S.C. 1313(a) or (b)). Drawback is payable on the packaging material under the particular manufacturing drawback provision to which the packaged articles themselves are subject, either 19 U.S.C. 1313(a) or (b), as applicable. The drawback will be based on the duty, tax, or fee that is paid on the imported merchandise used to manufacture or produce the packaging material. The packaging material and the imported merchandise used in its manufacture or production must be separately identified on the claim, and all other information and documents required for the particular drawback provision under which the claim is made must be provided for the packaging material as well as the imported merchandise used in its manufacture or production, for purposes of determining the applicable drawback payable.

3. Section 191.171 is amended by revising paragraph (a) to read as follows:

**§ 191.171 General; drawback allowance.**

(a) *General.* Section 313(p) of the Act, as amended (19 U.S.C. 1313(p)), provides for drawback on the basis of qualified articles which consist of either petroleum derivatives that are imported, duty-paid, and qualified for drawback under the unused merchandise drawback law (19 U.S.C. 1313(j)(1)), or petroleum derivatives that are manufactured or produced in the United States, and qualified for drawback under the manufacturing drawback law (19 U.S.C. 1313(a) or (b)).

* * * * *

4. Section 191.172 is amended by revising paragraph (a) to read as follows:

**§ 191.172 Definitions.**

* * * * *

(a) *Qualified article.* ''Qualified article'' means an article described in headings 2707, 2708, 2710 through 2715, 2901, 2902, 2909.19.14, or 3901 through 3914 of the Harmonized Tariff Schedule of the United States (HTSUS). In the case of an article described in headings 3901 through 3914, the definition covers the article in its primary forms as provided in Note 6 to chapter 39 of the HTSUS.

* * * * *

5. Section 191.173 is amended by revising paragraph (e) to read as follows:

**§ 191.173 Imported duty-paid derivatives (no manufacture).**

* * * * *

(e) *Amount of drawback.* The amount of drawback payable may not exceed the amount of drawback which would be attributable to the imported qualified article under 19 U.S.C. 1313(j)(1) which serves as the basis for drawback.

6. Section 191.175 is amended by revising the first sentence of paragraph (a); by redesignating the existing text of paragraph (b) as paragraph (b)(1), and adding a heading to newly redesignated paragraph (b)(1); by adding a new paragraph (b)(2); and by revising paragraph (c), to read as follows:

**§ 191.175 Drawback claimant; maintenance of records.**

(a) *Drawback claimant.* A drawback claimant under 19 U.S.C. 1313(p) must be the exporter of the exported article, or the refiner, producer, or importer of either the qualified article or the exported article. * * *

(b) *Certificate of manufacture and delivery or delivery.* (1) *General.* * * *

(2) *Article substituted for the qualified article.* (i) Subject to paragraph (b)(2)(iii) of this section, the manufacturer, producer, or importer of a qualified article may transfer to the exporter an article of the same kind and quality as the qualified article, as so certified, respectively, in a certificate of manufacture and delivery or a certificate of delivery, in a quantity not greater than the quantity of the qualified article.

(ii) Subject to paragraph (b)(2)(iii) of this section, any intermediate party in the chain of commerce leading to the exporter from the manufacturer, producer, or importer of a qualified article may also transfer to the exporter or to another intermediate party an article of the same kind and quality as the article purchased or exchanged from the prior transferor (whether the manufacturer, producer, importer, or another intermediate transferor), as so certified in a certificate of delivery, in a quantity not greater than the quantity of the article purchased or exchanged.

(iii) Under either paragraph (b)(2)(i) or (b)(2)(ii) of this section, the article transferred, regardless of its origin (imported, manufactured, substituted, or any combination thereof), so designated on a certificate of delivery or, in the case of the manufacturer or producer of a qualified article under 19 U.S.C. 1313(a) or (b), on a certificate of manufacture and delivery, will be the qualified article eligible for drawback for purposes of section 1313(p), provided that the following conditions are met:

(A) The party who issues the applicable certificate for the transferred article must expressly state on the certificate that the certificate is prepared pursuant to 19 U.S.C. 1313(p) (the article may not be designated for any other drawback purposes);

(B) The party must certify to the Commissioner of Customs on the certificate or an attachment that it has not, and will not, designate on that certificate and on any other such certificates issued a quantity of the article greater than the amount eligible for drawback; and

(C) The party must certify to the Commissioner of Customs on the applicable certificate or on an attachment that it will maintain appropriate records which establish that it has not designated on any such certificates issued a greater quantity than the amount eligible for drawback.

(c) *Maintenance of records.* The manufacturer, producer, importer, transferor, exporter and drawback

claimant of the qualified article and the exported article must all maintain their appropriate records required by this part.

7. In appendix A to part 191, general manufacturing drawback rulings ''X.'' and ''XIV.'', respectively, are amended by adding a sentence after the third sentence of paragraph ''F.'', and by adding a sentence at the end of paragraph ''G.'', to read as follows:

**Appendix to Part 191—General Manufacturing Drawback Rulings**

* * * * *

**X. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Piece Goods (T.D. 83–73)**

* * * * *

**F. Waste**

* * * If necessary to establish the quantity of merchandise (eligible piece goods) appearing in the exported articles, such waste records will also be kept. * * *

**G. Shrinkage, Gain, and Spoilage**

* * * If necessary to establish the quantity of merchandise (eligible piece goods) appearing in the exported articles, such records for shrinkage, gain and spoilage will also be kept.

* * * * *

**XIV. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) for Woven Piece Goods (T.D. 83–84)**

* * * * *

**F. Waste**

* * * If necessary to establish the quantity of merchandise (eligible piece goods) appearing in the exported articles, such waste records will also be kept. * * *

**G. Shrinkage, Gain, and Spoilage**

* * * If necessary to establish the quantity of merchandise (eligible piece goods) appearing in the exported articles, such records for shrinkage, gain, and spoilage will also be kept.

* * * * *

**Robert C. Bonner,**

*Commissioner of Customs.*

Approved: April 1, 2002.

**Timothy E. Skud,**

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 02–8217 Filed 4–5–02; 8:45 am]

**BILLING CODE 4820–02–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA 251–0326a; FRL–7160–8]**

## Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns oxides of nitrogen ($NO_X$) emissions from electric power boilers. We are approving the local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on June 7, 2002, without further notice, unless EPA receives adverse comments by May 8, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95812.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

**FOR FURTHER INFORMATION CONTACT:** Charnjit Bhullar, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 972–3960.

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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### I. The State's Submittal

*A. What Rule Did the State Submit?*

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

| Local agency | Rule # | Rule title | Adopted | Submitted |
|---|---|---|---|---|
| MBUAPCD | 431 | Emissions from Electric Power Boilers | 10/17/01 | 11/07/01 |

On February 22, 2002, this rule submittal was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

*B. Are There Other Versions of This Rule?*

MBUAPCD adopted a version of this rule on December 17, 1997, which EPA approved into the SIP on December 13, 1998. MBUAPCD adopted revisions to this rule on October 17, 2001, which were submitted to EPA for SIP approval on November 7, 2001.

*C. What Is the Purpose of the Submitted Rule?*

MBUAPCD Rule 431 provides limitations on emissions of nitrogen oxides ($NO_X$) and carbon monoxide (CO) during the combustion of natural gas or fuel oil by boilers providing steam for electric power generation. This revision is designed primarily to allow additional time for compliance with the 10 ppm $NO_X$ limit on Unit 7–1 at the Moss Landing Power Plant, for a period of seven months. The TSD has more information about this rule.

### II. EPA's Evaluation and Action

*A. How Is EPA Evaluating This Rule?*

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see

sections 182(a)(2)(A) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193).

Since MBUAPCD is in attainment for ozone, RACT requirements do not apply. Rule 431 is revised primarily to allow additional time for compliance with the 10 ppm $NO_X$ limit on Unit 7–1 for a period of seven months (from December 31, 2001 to July 31, 2002).

The rule has also been revised to remove obsolete provisions.

*B. Does This Rule Meet the Evaluation Criteria?*

Enforceability requirements have already been met in the previous approval of this Rule. We believe this rule is consistent with the relevant policy and guidance regarding enforceability, and SIP relaxations. The TSD has more information on our evaluation.

*C. Public Comment and Final Action.*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval and we therefore are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by May 8, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect, and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 7, 2002. This action will incorporate this rule into the federally enforceable SIP.

## III. Background Information

*A. Why Was This Rule Submitted?*

$NO_X$ helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control $NO_X$ emissions. Table 2 lists some of the national milestones leading to the submittal of this local agency $NO_X$ rule.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

| Date | Event |
|---|---|
| March 3, 1978 | EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305. |
| May 26, 1988 | EPA notified Governors that parts of their SIPs were 1988 inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act. |
| November 15, 1990. | Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. |
| May 15, 1991 | Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date. |

## IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves the state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 7, 2002.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 1, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(292) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(292) New and amended regulations for the following APCDs were submitted on November 7, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) Monterey Bay Air Pollution Control District.

(*1*) Rule 431, adopted on October 17, 2001.

* * * * *

[FR Doc. 02–8293 Filed 4–5–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[CA 210–0306a; FRL–7165–2]**

### Revisions to the California State Implementation Plan, South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern nitrogen oxides ($NO_X$) emissions from fuel burning equipment and from boilers, steam generators, process heaters, and from water heaters. We are approving local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on June 7, 2002 without further notice, unless EPA receives adverse comments by May 8, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions and TSDs at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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## I. The State's Submittal

### *A. What Rules Did the State Submit?*

Table 1 lists the rules we are approving with the date that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

| Local agency | Rule No. | Rule title | Adopted | Submitted |
|---|---|---|---|---|
| SCAQMD | 1146 | Emission of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters. | 11/17/00 | 05/08/01 |
| SCAQMD | 1146.2 | Emission of Oxides of Nitrogen from Large Water Heaters and Small Boilers. | 01/09/98 | 05/18/98 |

On July 20, 2001 and July 17, 1998, respectively, these submittals were found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

### *B. Are There Other Versions of These Rules?*

We approved a version of SCAQMD Rule 1146 into the SIP on September 6, 1995 (60 FR 46220). There are no previous versions of SCAQMD Rule 1146.2 in the SIP.

The SCAQMD also adopted revisions to the SIP-approved version of Rule 1146 on June 16, 2000, and CARB submitted them to us on February 8, 2001. While we can act on only the most recently submitted version, we have reviewed materials provided with the previous submittal.

*C. What Are the Changes or Purposes to the Submitted Rules?*

The changes to revised SCAQMD Rule 1146 are as follows:

- The $NO_X$ emission limit is lowered from 40 to 30 ppmv by phasing-in partially on January 1, 2002 and partially on July 1, 2002.
- Requirements for annual emission testing are added.
- A requirement for totalizing fuel flow meters for units burning both gaseous fuel and non-gaseous fuel is added.
- A one-time exemption for facilities that exceeded the 90,000 therms per year fuel usage threshold in 1996 was added.

The purpose for Rule 1146.2 is to regulate $NO_X$ and CO emissions from any natural-gas fired large commercial water heater, small industrial boiler, or process heater with a rated heat input capacity starting at 75,000 Btu per hour up to 2,000,000 Btu per hour.

**II. EPA's Evaluation and Action**

*A. How Is EPA Evaluating the Rules?*

Generally, SIP rules must be enforceable (see section 110(a) of the CAA), must require Reasonably Available Control Technology (RACT) for major sources of $NO_X$ in ozone nonattainment areas (see section 182(f) and must not relax existing requirements (see sections 110(1) and 193). The SCAQMD regulates an extreme ozone nonattainment area (see 40 CFR part 81). Such areas must fulfill RACT for all major sources of $NO_X$ pursuant to sections 107(d) and 182(f) of the CAA.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24,1987* ***Federal Register*** *Notice,* (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
- *State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990* (the ''$NO_X$ Supplement to the General Preamble''), U.S. EPA, 57 FR 55620 (November 25, 1992).
- *Cost-Effective Nitrogen Oxides ($NO_X$) Reasonably Available Control Technology (RACT),* U.S. EPA Office of Air Quality Planning and Standards (March 16, 1994).
- *State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown,* U.S. EPA, Office of Air Quality Planning and Standards (September 20, 1999).
- *Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters*, CARB (July 18, 1991).

*B. Do the Rules Meet the Evaluation Criteria?*

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the CAA, EPA is fully approving submitted SCAQMD Rules 1146 and 1146.2 because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by May 8, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 7, 2002. This will incorporate these rules into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

*D. EPA Recommendation To Further Improve the Rules*

The Rule 1146.2 TSD describes an additional rule revision that does not affect EPA's current action but is recommended for the next time the local agency modifies the rule.

**III. Background Information**

*A. Why Were these Rules Submitted?*

$NO_X$ helps produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit rules that control $NO_X$ emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

| Date | Event |
|---|---|
| March 3, 1978 | EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305. |
| May 26, 1988 | EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Clean Air Act. |
| November 15, 1990. | Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*. |
| May 15, 1991 | Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date. |

**IV. Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship

between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 7, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: March 8, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(255)(i)(F) and (284)(i)(B)(*2*) to read as follows:

**§ 52.220 Identification of plan.**

(c) * * *

(255) * * *

(i) * * *

(F) South Coast Air Quality Management District.

(*1*) Rule 1146.2, adopted on January 9, 1998.

* * * * *

(284) * * *

(i) * * *

(B) * * *

(2) Rule 1146, adopted on November 17, 2000.

* * * * *

[FR Doc. 02–8291 Filed 4–5–02; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA 259–0332c; FRL–7158–9]**

## Interim Final Determination That the State of California Has Corrected Deficiencies and Stay of Sanctions, South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final determination.

**SUMMARY:** Elsewhere in today's **Federal Register**, EPA has published a direct final rulemaking fully approving the State of California's submittal of a revision to the South Coast Air Quality Management District (SCAQMD) portion of the State Implementation Plan (SIP). We have also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on our direct final action, we will withdraw our direct final rule and will consider any comments received before taking final action on the State's submittal. Based on the proposed full approval, we are making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock began on August 25, 2000. This action will stay the imposition of the offset sanction and defer the imposition of the highway sanction. Although this action is effective upon publication, we will take comment. If no comments are received on our approval of the State's submittal and on our interim final determination, the direct final action published in today's **Federal Register** will also finalize our determination that the State has corrected the deficiencies that started the sanctions clock. If comments are received on our approval or on this interim final determination, we will publish a final rule taking into consideration any comments received.

**DATES:** This interim final determination is effective April 8, 2002. Comments must be received by May 8, 2002.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSD at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.
Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.
South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

## I. Background

On March 23, 1988, the State of California submitted a revision to Rule 444 in the SCAQMD portion of the SIP, which we disapproved in part on July 26, 2000 (65 FR 45912). Our disapproval action started an 18-month clock beginning on August 25, 2000 for the imposition of one sanction (followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP). The State subsequently submitted revised Rules 208 and 444 on January 22, 2002. We have taken direct final action on this submittal pursuant to our modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of today's **Federal Register**, we have issued a direct final full approval of the State of California's submittal of its SIP revision. In addition, in the Proposed Rules section of today's **Federal Register**, we have proposed full approval of the State's submittal. Based on the proposed full approval set forth in today's **Federal Register**, we believe that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, we are taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiencies. However, we are also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on our proposed full approval of the State's submittal, we determine that the State's submittal is not fully approvable and this final action was inappropriate, we will either propose or take final action finding that the State has not corrected the original disapproval deficiencies. As appropriate, we will also issue an interim final determination or a final determination that the deficiency has been corrected.

This action does not stop the sanctions clock that started for this area on August 25, 2000 (65 FR 45912). However, this action will stay the imposition of the offsets sanction and will defer the imposition of the highway sanction. If our direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanctions clock and will permanently lift any imposed, stayed or deferred sanctions. If we must withdraw the direct final action based on adverse comments and we subsequently determine that the State, in fact, did not correct the disapproval deficiencies, we will also determine that the State did not correct the deficiencies and the sanctions consequences described in the sanctions rule will apply. See 40 CFR 52.31.

## II. EPA Action

We are taking interim final action finding that the State has corrected the disapproval deficiencies that started the sanctions clock. Based on this action, imposition of the offset sanction will be stayed and imposition of the highway sanction will be deferred until our direct final action fully approving the State's submittal becomes effective or until we take action proposing or finally disapproving in whole or part the State submittal. If our direct final action fully approving the State submittal becomes effective, at that time any sanctions clocks will be permanently stopped and any imposed, stayed, or deferred sanctions will be permanently lifted.

Because we have preliminarily determined that the State has an approvable submittal, relief from sanctions should be provided as quickly as possible. Therefore, we are invoking the good cause exception to the 30-day notice requirement of the Administrative Procedure Act because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

## III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely stays and defers federal sanctions. Accordingly, the administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule only stays an imposed sanction and defers the imposition of another, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely stays a sanction and defers another one, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not contain technical standards, thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule) that notice and public procedure thereon are impracticable, unnecessary,

or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of April 8, 2002. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 1, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 02–8286 Filed 4–5–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA 259–0332a; FRL–7158–7]**

## Revisions to the California State Implementation Plan, South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns the emission of particulate matter (PM–10) from open fires. We are approving local rules that regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on June 7, 2002 without further notice, unless EPA receives adverse comments by May 8, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSD at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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### I. The State's Submittal

*A. What Rules Did the State Submit?*

Table 1 lists the rules we are approving with the date that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

| Local agency | Rule No. | Rule title | Adopted | Submitted |
|---|---|---|---|---|
| SCAQMD | 208 | Permit and Burn Authorization for Open Burning | 12/21/01 | 01/22/02 |
| SCAQMD | 444 | Open Fires | 12/21/01 | 01/22/02 |

On February 26, 2002, this submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

*B. Are There Other Versions of These Rules?*

We approved into the SIP on November 8, 1999 (64 FR 60687) a version of Rule 208, adopted on January 5, 1990. We approved into the SIP on July 26, 2000 (65 FR 45912) a version of Rule 444, adopted on October 2, 1987.

*C. What Is the Purpose of the Submitted Rule Revisions?*

The purpose of the submitted revised Rules 208 and 444 is to remedy the deficiencies cited in the limited approval of Rule 444 on July 26, 2000 (65 FR 45912).

### II. EPA's Evaluation and Action

*A. How Is EPA Evaluating the Rules?*

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). Section 189(b) of the CAA requires serious nonattainment areas with significant PM–10 sources to adopt best available control measures (BACM), including best available control technology (BACT). SCAQMD is a serious PM–10 nonattainment area and must meet the requirements of BACM/BACT. BACM/BACT is not required for source categories that are not significant (*de minimus*) and there are no major sources. See *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 59 FR 41998 (August 16, 1994).

The following guidance documents were used for reference:

• *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.

• *General Preamble Appendix C3—Prescribed Burning Control Measures* (57 FR 18072, April 28, 1992).

• *Prescribed Burning Background Document and Technical Information Document for Best Available Control Measures* (EPA–450/2–92–003).

• *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 57 FR 13498, 13540 (April 16, 1992).

• *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 59 FR 41998 (August 16, 1994).

• *PM–10 Guideline Document*, EPA–452/R–93–008.

*B. Do the Rules Meet the Evaluation Criteria?*

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling BACM/BACT. All of the deficiencies identified in our previous limited approval and limited disapproval action on Rule 444 have been adequately addressed as follows:

• (An overall approach should be used for approving burns based on an evaluation of the airshed's capacity/capability to disperse emissions on permissive-burn days so that cumulative PM–10 emissions from all burns and other PM–10 sources in the airshed will not cause or contribute to violations of the PM–10 National Ambient Air Quality Standards.) Alternatively, the District related the airshed's capacity/capability to disperse emissions to specific meteorological conditions in specific air basins. 444(c)(10 and 11). Open burning is prohibited, unless permissive-burn day or marginal-burn day requirements, related to meteorological conditions and to the California 1-hr ozone standard, are met. 444(c)(14). We have determined that this approach fulfills BACM requirements.

• (The rule should encourage burners to complete voluntary burning training and to use emission reduction techniques by offering incentives, such as priority permission to burn on a permissive-burn day.) The rule requires prioritizing authorization of burn requests based on the burner's demonstrated level of burning training and on measures identified in the smoke management plan to reduce emissions. 444(d)(7)(E). We have determined that these incentives fulfill BACM requirements.

Other revisions that improve Rule 444 are as follows:

• Thresholds were established for maximum daily burn acreage.

• The permissible window for burning was refined.

• Smoke management plans are required for projects larger than 10 acres.

• Many definitions were added.

• The rule applicability and prohibition on residential burning were clarified.

• Exemptions for fire suppression training, burning of Russian thistle, and ignition of pyrotechnics were clarified.

Exemptions were added to Rule 444 for fireworks, pyrotechnic displays, explosive detonations and fire effects. This includes special effects used for filming, video recordings, and theatrical productions, although fire effects are limited to 30 minutes and clean fuels. These source categories are *de minimus,* therefore section 110(l) of the CAA is not violated.

Rule 208 was revised to be consistent with Rule 444 as follows:

• Authority for the local fire protection agency to issue a burn permit, in addition to the Executive Officer, was added.

• The requirement to obtain burn authorization from the Executive Officer for each day of burning was added. The TSD has more information on our evaluation.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by May 8, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 7, 2002. This will incorporate these rules into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## III. Background Information

*Why Was This Rule Submitted?*

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

| Date | Event |
|---|---|
| March 3, 1978 | EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305. |
| July 1, 1987 | EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672. |
| November 15, 1990 | Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*. |
| November 15, 1990 | PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c). |

### IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 7, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 1, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (293) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(293) New and amended regulations for the following APCDs were submitted on January 22, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rules 208 and 444, adopted on December 21, 2001.

* * * * *

[FR Doc. 02–8287 Filed 4–5–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

**[KY 116; KY 119–200214(c); FRL–7166–5]**

### Approval and Promulgation of Air Quality Implementation Plans; Kentucky; Withdrawal of Direct Final Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On February 12, 2002 (67 FR 6411), EPA published a direct final approval of a revision to the Kentucky State Implementation Plan (SIP) which pertained to the Kentucky portion of the Cincinnati-Hamilton non-attainment area. The direct final action was published without prior proposal because EPA anticipated no adverse comment. EPA stated in the direct final rule that if EPA received adverse comment by March 14, 2002, EPA would publish a timely withdrawal in the **Federal Register**. EPA subsequently received adverse comments on the direct final rule. Therefore, EPA is withdrawing the direct final approval. EPA will address the comments in a subsequent final action based on the parallel proposal also published on February 12, 2002 (67 FR 6459). As stated in the parallel proposal, EPA will not institute a second comment period on this action.

**EFFECTIVE DATE:** The direct final rule published on February 12, 2002, is withdrawn as of April 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** Randy Terry at (404) 562–9032, or by electronic mail at *Terry.randy@epa.gov*.

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 21, 2002.

**Michael V. Peyton,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 02–7938 Filed 4–5–02; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 1

**[WT Docket No. 97–82; FCC 02–34]**

## Competitive Bidding Procedures

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission declines to adopt a total assets test as part of its determination of small business eligibility in the context of spectrum auctions deciding that the potential benefit from such a test does not justify the difficulty of its use. Instead, the Commission will continue to rely on the gross revenues test already employed. The Commission adopts exceptions to the controlling interest standard's fully diluted requirements for ''rights of first refusal'' and ''put'' options. The two exceptions are consistent with the Commission's underlying goal of assuring that the decision of whether and when to transfer a license won by a designated entity rests with those in control of the designated entity. In addition, the Commission clarifies that mutually exclusive contingent ownership interests are to be considered fully diluted only in the possible combinations in which those interests can be exercised by their holder(s). This clarification offers a common sense approach to evaluating ownership interests that could not possibly be given simultaneous or successive effect.

**DATES:** Effective May 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** Audrey Bashkin of the Auctions and Industry Analysis Division at (202) 418–0660.

**SUPPLEMENTARY INFORMATION:** This is a summary of an *Eighth Report and Order* in WT Docket No. 97–82, adopted on February 8, 2002 and released on February 13, 2002. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

### I. Introduction

1. In the *Eighth Report and Order,* the Commission addresses the proposals and tentative conclusions of the *Part 1 Fourth Further Notice of Proposed Rule Making,* 65 FR 52401 (August 29, 2000). In the *Part 1 Fourth Further Notice of Proposed Rule Making,* the Commission sought comment on whether to incorporate a total assets component into its ownership attribution rule for determining which entities are eligible for small business provisions in competitive bidding proceedings. The Commission also proposed three exceptions to the requirement in its competitive bidding attribution rule that certain ownership interests be counted on a ''fully diluted'' basis. For the reasons explained further, the Commission declines to adopt a total assets test as part of our determination of small business eligibility; however, the Commission adopts two of the proposed exceptions to the attribution rule and clarifies its rules regarding the third.

### II. Total Assets Test

*A. Background*

2. Historically, the Commission has defined small businesses according to a gross revenues test for purposes of ascertaining eligibility for a small business bidding credit. In the *Part 1 Third Report and Order,* 63 FR 770 (January 7, 1998), the Commission adopted a gross revenues test as its general standard for measuring the size of an entity for competitive bidding purposes, in part because such a standard provides ''an accurate, equitable, and easily ascertainable measure of business size.'' In conjunction with a gross revenues test, the Commission currently employs a total assets test to evaluate the eligibility of applicants to acquire broadband Personal Communications Services (PCS) C and F block licenses made available in ''closed'' (entrepreneur-only) bidding. In the *Part 1 Fourth Further Notice of Proposed Rule Making,* the Commission sought comment on whether the use of a total assets test, in conjunction with the gross revenues measure already employed, would enhance Commission determinations of small business status.

*B. Discussion*

3. The Commission declines to expand its definition of small business to include a total assets test for purposes of determining small business bidding credit eligibility. Commenters favoring the inclusion of a total assets test suggest that it could serve to prevent low-revenue but asset-rich businesses from taking advantage of small business programs. However, others argue that a total assets test might disqualify small entities by setting an asset limit that is too low or by attributing assets that are not readily available to these entities for auction purposes. The Commission's attribution rules already prevent many asset-rich applicants from taking advantage of the Commission's small business benefits, because, to the extent that their assets, or those of their controlling interests and affiliates, produce revenues, those revenues must be attributed to the applicant. Moreover, the Commission's experience in using a total assets test to determine C and F block entrepreneur eligibility indicates that the test adds complexity to business size determinations without producing a commensurate benefit. In broadband PCS Auctions No. 5, 10, 11, and 22, in which all C and F block bidders were required to meet a total assets test as well as a gross revenues test to establish entrepreneur eligibility, more than 95 percent of those bidders also met the more stringent gross revenues test required for small business bidding credit eligibility. Thus, in practice, having a total assets test for the C and F blocks has not made a significant difference in defining the qualified applicant population. At the same time, employing a total assets test carries administrative costs for the Commission and for applicants and raises difficult valuation issues. As the Commission observed in its decision not to establish a total assets test for Local Multipoint Distribution Service business size determinations, ''[a]ssets, being potentially fluid and subject to inconsistent valuation (e.g., intangibles) are generally much less ascertainable than gross revenues * * *.'' The Commission believes that the potential benefit provided by a total assets test does not outweigh the valuation difficulties and the administrative costs the test would impose. Moreover, the Commission is reluctant to impose an additional regulatory burden on auction applicants at a time when it is striving to streamline Commission processes. For these reasons, the Commission will

not implement a total assets test for small business eligibility determinations.

**III. Attribution Issues**

*A. Rights of First Refusal and Put Options*

i. Background

4. In the *Part 1 Fifth Report and Order,* 65 FR 52323 (August 29, 2000), the Commission adopted the controlling interest standard of § 1.2110 as its general attribution rule for all future auctions. For purposes of calculating equity held in an applicant or licensee, the controlling interest standard treats certain ownership agreements, such as warrants, stock options, convertible debentures, and agreements to merge, as already having been ''fully diluted,'' i.e., fully exercised. Under the broadband PCS attribution rule, the Commission established two exceptions to the fully diluted requirement, one for ''rights of first refusal'' and the other for ''put'' options. Under the exceptions, neither type of interest was attributed until its actual exercise. No similar exception was ever allowed for ''call'' options. The Commission explained in the context of the prior broadband PCS attribution rules that ''calls'' vest an impermissible degree of control in the applicant's (or licensee's) so-called noncontrolling investors, because ''calls'' can be used to force a designated entity to sell its ownership interests. In the *Part 1 Fourth Further Notice of Proposed Rule Making,* the Commission sought comment on whether to incorporate into its part 1 general competitive bidding rules exceptions to the fully diluted requirement for ''rights of first refusal'' and ''put'' options.

ii. Discussion

5. The Commission will adopt exceptions to the controlling interest standard's fully diluted requirements for ''rights of first refusal'' and ''put'' options. The two exceptions are consistent with the Commission's underlying goal of assuring that the decision of whether and when to transfer a license won by a designated entity rests with those in control of the designated entity. In deciding not to treat ''rights of first refusal'' as exercised when calculating ownership interests in the context of broadband PCS C and F block applications, the Commission reasoned that ''[r]ights of first refusal differ from other types of options because they cannot be exercised unless there is a proposed sale to a third party'' and that, even then, ''it will still be the designated entity's decision as to whether to sell the business.'' The Commission used the same reasoning for ''put'' options, explaining that ''[p]ut options held by the designated entity leave the ownership decision in the designated entity's control and do not force an unwanted sale upon the designated entity.'' The Commission believes that its earlier reasoning is generally applicable under its part 1 rules.

6. The Commission makes clear, however, that, while ''rights of first refusal'' and ''put'' options will not be factored in for purposes of determining *de jure* control, it will continue to look at whether these ownership interests in combination with other terms to an agreement deprive an otherwise qualified designated entity of *de facto* control of an applicant or licensee. As the Commission stated in the *Competitive Bidding Fifth Memorandum Opinion and Order* with regard to broadband PCS, it will look at the totality of circumstances in each particular case.

*B. Mutually Exclusive Contingent Ownership Interests*

i. Background

7. Under the Commission's previous broadband PCS attribution rule, an interpretation of the fully diluted requirement was applied to contingent ownership interests that were mutually exclusive by their terms. Under this interpretation, if an ownership interest by its terms was mutually exclusive of one or more other ownership interests, the various ownership interests were treated as having been fully exercised only in the possible combinations in which they could be exercised by their holder(s). In the *Part 1 Fourth Further Notice of Proposed Rule Making,* the Commission tentatively concluded that the policy underlying its part 1 attribution rule did not require it to consider all existing stock conversion rights as having been fully exercised simultaneously in a case where the various conversion rights are mutually exclusive by their terms. The Commission sought comment on adopting this interpretation as an exception to its part 1 general competitive bidding rules.

ii. Discussion

8. Rather than adopt an additional exception to the fully diluted requirement, the Commission clarifies that the interpretation that was applied in the broadband PCS context for contingent ownership interests that are mutually exclusive by their terms is generally applicable under its part 1 rules. This clarification offers a common sense approach to evaluating ownership interests that could not possibly be given simultaneous or successive effect. Under the clarification, ownership interests that by their terms are capable of being exercised simultaneously or successively will continue to be treated as if the rights thereunder had been fully exercised. Ownership interests that are mutually exclusive by their terms will be considered to be fully diluted only in the possible combinations in which they could be exercised by their holder(s). Thus, in calculating the equity held in an applicant or licensee, the Commission will consider the various combinations of stock options or conversion rights that could possibly be exercised by an investor. For each combination, the ownership interests will be considered to have been fully exercised, and each combination will be reviewed for its effect on control of the applicant or licensee. The Commission will consider one contingent ownership interest to be mutually exclusive of another only if contractual language specifies that both interests cannot be held simultaneously as present ownership interests.

**IV. Procedural Matters and Ordering Clauses**

9. As required by the Regulatory Flexibility Act, 5 U.S.C. 604, the Commission has prepared a Final Regulatory Flexibility Analysis.

10. Pursuant to sections 4(i), 5(b), 5(c)(1), 309(r), and 309(j) of the Communications Act of 1934, as amended, 47 USC 154(i), 155(b), 156(c)(1), 303(r), and 309(j), the *Eighth Report and Order* is hereby adopted, and § 1.2110 of the Commission's rules, 47 CFR 1.2110, is amended as set forth, and becomes effective May 8, 2002.

11. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of the *Eighth Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**V. Final Regulatory Flexibility Analysis**

12. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the notice section of the *Fourth Further Notice of Proposed Rule Making* in WT Docket No. 97–82. The Commission sought written public comment on the proposals in the *Fourth Further Notice of Proposed Rule Making,* including comment on the IRFA.

*A. Need for, and Objectives of, the Eighth Report and Order*

13. The *Eighth Report and Order* resolves the proposals and tentative conclusions of the *Fourth Further Notice of Proposed Rule Making* concerning application of the controlling interest standard in determining eligibility for small business provisions in all services governed by our part 1 rules. As stated in the *Fourth Further Notice of Proposed Rule Making,* the Commission's objective is to ensure that its small business provisions are available only to bona fide small businesses. Accordingly, the Commission sought comment in the *Fourth Further Notice of Proposed Rule Making* on whether to incorporate a total assets component into its ownership attribution rule for determining which entities are eligible for small business provisions in competitive bidding proceedings. In the *Eighth Report and Order,* the Commission declines to incorporate a total assets test into its determinations of small business eligibility, deciding that the potential benefit from such a test does not justify the difficulty of its use. Instead, the Commission will continue to rely on the gross revenues test already employed. The Commission, however, adopts two exceptions to its ownership attribution rule requiring that certain ownership agreements, such as warrants and stock options, be treated as already having been ''fully diluted'' (i.e., fully exercised) for purposes of determining small business eligibility in the competitive bidding context. The Commission determines that these two exceptions—for ''rights of first refusal'' and ''put'' options—are consistent with its goal that the competitive bidding attribution rules ensure that control of an applicant is held by eligible entities while allowing investment in the applicant by entities that do not meet the size restrictions in Commission rules. The Commission also decides to clarify its part 1 rules regarding application of the fully diluted requirement to contingent ownership interests that are mutually exclusive by their terms. Under this clarification, if an ownership interest by its terms is mutually exclusive of one or more other ownership interests, the various ownership interests are treated as having been fully exercised only in the possible combinations in which they could be exercised by their holder(s). The Commission determines that this clarification offers a common sense approach to evaluating ownership interests that could not possibly be given simultaneous or successive effect.

*B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

14. No comments directly addressed the IRFA; however, all four comments addressed a single small business issue—whether the Commission should incorporate a total assets component into its ownership attribution rule for determining which entities are eligible for small business provisions in competitive bidding proceedings. Commenters favoring the inclusion of a total assets test suggest that it could serve to prevent low-revenue but asset-rich businesses from taking advantage of small business programs. However, others argue that a total assets test might disqualify small entities by setting an asset limit that is too low or by attributing assets that are not readily available to these entities for auction purposes. While the Commission believes that both arguments have merit, it also believes that its attribution rules effectively prevent most asset-rich applicants from taking advantage of its small business benefits. The Commission's attribution rules already prevent many asset-rich applicants from taking advantage of its small business benefits, because, to the extent that their assets, or those of their controlling interests and affiliates, produce revenues, those revenues must be attributed to the applicant. Moreover, the Commission's experience in using a total assets test to determine C and F block entrepreneur eligibility indicates that the test adds complexity to business size determinations without producing a commensurate benefit. In broadband PCS Auctions No. 5, 10, 11, and 22, in which all C and F block bidders were required to meet a total assets test as well as a gross revenues test to establish entrepreneur eligibility, more than 95 percent of those bidders also met the more stringent gross revenues test required for small business bidding credit eligibility. Thus, in practice, having a total assets test for the C and F blocks has not made a significant difference in defining the qualified applicant population. At the same time, employing a total assets test carries administrative costs for the Commission and for applicants and raises difficult valuation issues. The Commission believes that the potential benefit provided by a total assets test does not outweigh the valuation difficulties and the administrative costs the test would impose. Moreover, the Commission is reluctant to impose an additional regulatory burden on spectrum auction applicants at a time when it is striving to deregulate and streamline Commission processes. For these reasons, the Commission will not implement a total assets test for small business eligibility determinations.

*C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

15. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small organization,'' ''small business,'' and ''small governmental jurisdiction.'' The term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. According to SBA reporting data, there were 4.44 million small business firms nationwide in 1992. A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 81,600 (91 percent) are small entities.

16. The amendments to § 1.2110 adopted in the *Eighth Report and Order* will apply to all entities that apply to participate in Commission auctions, including small entities. The number of entities that may apply to participate in future Commission auctions is unknown. The number of small businesses that have participated in prior auctions has varied. In all of our auctions held to date except for the auctions for broadcast licenses, 1,513 out of a total of 1,881 qualified bidders have been small businesses as that term has been defined under rules adopted

by the Commission for specific services. Given these statistics, the Commission expects that, in the future, a large percentage of participants in our auctions program generally will continue to be small businesses; although, there may not be a large percentage in every auction.

*D. Description of Reporting, Recordkeeping, and Other Compliance Requirements*

17. The rule changes established in the *Eighth Report and Order* do not alter reporting, recordkeeping, or other compliance requirements.

*E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

18. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (i) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule or any part thereof for small entities. In the *Eighth Report and Order,* the Commission considers the following issues, all of which concern how best to apply the Commission's ownership attribution rule in order to determine which entities are eligible for small business provisions in competitive bidding proceedings.

19. *Total assets test.* The Commission generally employs a gross revenues test to measure the size of an entity for competitive bidding purposes. In the *Eighth Report and Order,* the Commission declines to add a total assets component to the existing gross revenues test in order to determine small business eligibility. While some commenters contend that the addition of a total assets test might help prevent low-revenue but asset-rich businesses from taking advantage of small business programs, others argue that including a total assets test might disqualify small entities by setting an asset limit that is too low or by attributing assets that are not readily available to these entities for auction purposes. In addition to a gross revenues test, the Commission currently employs a total assets test to evaluate the eligibility of applicants to acquire broadband Personal Communications Services (PCS) C and F block licenses made available in ''closed'' (entrepreneur-only) bidding. The Commission's experience in using a total assets test for C and F block entrepreneur eligibility determinations suggests that the potential benefit derived from a total assets test is insufficient to justify the difficulty involved in its implementation. In broadband PCS Auctions No. 5, 10, 11, and 22, in which all C and F block bidders were required to meet a total assets test as well as a gross revenues test to establish entrepreneur eligibility, more than 95 percent of those bidders also met the more stringent gross revenues test required for small business bidding credit eligibility. Thus, in practice, having a total assets test for the C and F blocks has not made a significant difference in defining the qualified applicant population. At the same time, employing a total assets test carries administrative costs for the Commission and for applicants and raises difficult valuation issues. The Commission believes that the potential benefit provided by a total assets test does not outweigh the valuation difficulties and the administrative costs the test would impose.

20. *Attribution exceptions for ''rights of first refusal'' and ''put'' options.* The Commission adopts exceptions to the controlling interest standard's fully diluted requirements for ''rights of first refusal'' and ''put'' options. The two exceptions are consistent with the Commission's underlying goal of assuring that the decision of whether and when to transfer a license won by a designated entity rests with those in control of the designated entity. Adoption of these exceptions should help the Commission realize its goal of widening the opportunities for small businesses in the spectrum auction program.

21. *Attribution clarification for mutually exclusive contingent ownership interests.* The Commission clarifies that the interpretation that was applied in the broadband PCS context for contingent ownership agreements that are mutually exclusive by their terms is generally applicable under its part 1 rules. Under the clarification, ownership interests that by their terms are capable of being exercised simultaneously or successively will continue to be treated as if the rights thereunder had been fully exercised. Ownership interests that are mutually exclusive by their terms will be considered to be fully diluted only in the possible combinations in which they could be exercised by their holder(s). Applying this clarification provides a common sense approach to evaluating ownership interests that could not possibly be given simultaneous or successive effect and should further help the Commission realize its goal of widening the opportunities for small businesses in the spectrum auction program.

*F. Report to Congress*

22. The Commission will send a copy of the *Eighth Report and Order,* including this FRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the *Eighth Report and Order,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 1**

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary*

**Rule Changes**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

## PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

2. Section 1.2110 is amended by revising paragraph (c)(2)(ii)(A), the text of paragraph (c)(5)(v) preceding the examples, and example 1 to paragraph (c)(5)(v) and by adding a note to paragraph (c)(5)(v) following the examples to read as follows:

**§ 1.2110 Designated entities.**

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(A) *Fully diluted requirement.* (*1*) Except as set forth in paragraph (c)(2)(ii)(A)(*2*) of this section, ownership interests shall be calculated on a fully diluted basis; all agreements such as warrants, stock options and convertible debentures will generally be treated as if the rights thereunder already have been fully exercised.

(*2*) Rights of first refusal and put options shall not be calculated on a fully diluted basis for purposes of determining *de jure* control; however, rights of first refusal and put options shall be calculated on a fully diluted

basis if such ownership interests, in combination with other terms to an agreement, deprive an otherwise qualified applicant or licensee of *de facto* control.

**Note to Paragraph (c)(2)(ii)(A):** Mutually exclusive contingent ownership interests, i.e., one or more ownership interests that, by their terms, are mutually exclusive of one or more other ownership interests, shall be calculated as having been fully exercised only in the possible combinations in which they can be exercised by their holder(s). A contingent ownership interest is mutually exclusive of another only if contractual language specifies that both interests cannot be held simultaneously as present ownership interests.

* * * * *

(5) * * *

(v) Affiliation arising under stock options, convertible debentures, and agreements to merge. Except as set forth in paragraph (c)(2)(ii)(A)(*2*) of this section, stock options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are generally treated as though the rights held thereunder had been exercised. However, an affiliate cannot use such options and debentures to appear to terminate its control over another concern before it actually does so.

**Example 1 to paragraph (c)(5)(v)**. If company B holds an option to purchase a controlling interest in company A, who holds an attributable interest in a PCS application, the situation is treated as though company B had exercised its rights and had become owner of a controlling interest in company A. The gross revenues of company B must be taken into account in determining the size of the applicant.

* * * * *

**Note to Paragraph (c)(5)(v):** Mutually exclusive contingent ownership interests, i.e., one or more ownership interests that, by their terms, are mutually exclusive of one or more other ownership interests, shall be calculated as having been fully exercised only in the possible combinations in which they can be exercised by their holder(s). A contingent ownership interest is mutually exclusive of another only if contractual language specifies that both interests cannot be held simultaneously as present ownership interests.

* * * * *

[FR Doc. 02–7793 Filed 4–5–02; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 02–690; MM Docket No. 97–178; RM–8329, RM–8739, RM–10099]**

### Radio Broadcasting Services; West Hurley, Rosendale and Rhinebeck, NY, and North Canaan and Sharon, CT

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule, petition for reconsideration, denied.

**SUMMARY:** This document denies a Petition for Reconsideration filed by Sacred Heart University, Inc. directed to the *Report and Order* in this proceeding. *See* 66 FR 39454, published July 31, 2001. Specifically, that action allotted Channel 273A* to Rhinebeck, New York, and reserved this channel for noncommercial educational use. With this action, the proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 418–2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 97–178, adopted March 6, 2002, and released March 8,2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals 11, CY–A257, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals ll, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 02–8396 Filed 4–5–02; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 02–693; MM Docket No. 99–28, RM–9438]**

### Radio Broadcasting Services; Olathe, Colorado.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission grants a petition for rule making filed by Mountain West Broadcasting to allot Channel 270C2 to Olathe, Colorado, as a second local transmission service. *See* 64 FR 7846 (February 17, 1999). Channel 270C2 can be allotted to Olathe at reference coordinates 38–36–18 NL and 107–58–54 WL without a site restriction in compliance with the Commission's technical requirements for spacing and city grade coverage. The Commission dismissed the counterproposal filed by the licensee of Station KAVD(FM), Limon, CO, at its request in compliance with Section 1.420(j) of the Commission's Rules.

**DATES:** Effective May 6, 2002.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 99–28 adopted March 13, 2002 and released March 22, 2002. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel 270C2 at Olathe.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 02–8397 Filed 4–5–02; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 02–687; MM Docket No. 01–120, RM–10126]**

### Radio Broadcasting Services; Lincoln and Sherman, IL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission grants a petition for rule making filed by Saga Communications, Inc., licensee of Station WMHX(FM), Lincoln, Illinois, and reallots Channel 230B1 from Lincoln to Sherman, Illinois, and modifies the license of Station WMHX to reflect the change of community. Channel 230B1 can be allotted at petitioner's requested site 13 kilometers (8.1 miles) north of the community. Coordinates for Channel 230B1 at Sherman are 40–00–09 NL and 89–39–35 WL. Opposing comments were filed by P&M Communications and Long Nine, Inc.

**DATES:** Effective May 6, 2002.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01–120 adopted March 13, 2002 and released March 22, 2002. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Lincoln, Channel 230B1 and adding Sherman, Channel 230B1.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 02–8398 Filed 4–5–02; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 74 and 90

**[ET Docket No. 02–16; FCC 02–27]**

### WRC Frequency Bands Below 28000 kHz

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; clarification.

**SUMMARY:** This document prevents the licensing of Public Safety; Industrial/Business Pool, excluding Travelers' Information Stations (TIS); and remote pick up stations in the AM Expanded Band during the pendency of ET Docket No. 02–16. We take this action to permit the orderly and effective resolution of the issue of mobiles services (excluding TIS) operating in the AM Expanded Band. This action will have minimal impact because very few such applications are received from those eligible to operate in this band and because alternative land mobile spectrum is available for their use.

**DATES:** Effective April 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** Tom Mooring, Office of Engineering and Technology, (202) 418–2450.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order*, ET Docket No. 02–16, FCC 02–27, adopted January 30, 2002, and released February 7, 2002. The full text of this Commission decision is available on the Commission's Internet site at *www.fcc.gov.* It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, Qualex International, (202) 863–2893, Room CY–B402, 445 12th Street, SW, Washington, DC 20554.

**Summary of the Order**

1. In 1983, the Commission began a process to improve and revitalize the AM broadcast service that included the expansion of its available frequencies to include the band 1605–1705 kHz (''AM Expanded Band''). At that time, the primary fixed, land mobile, maritime mobile, aeronautical radionavigation, and radiolocation allocations were removed from the band 1605–1705 kHz. As licensees have recently begun service using the AM Expanded Band, we are finding that several issues affecting this spectrum need to be addressed.

2. When the land mobile allocation was removed from the band 1605–1705 kHz in 1983, frequencies within this band were inadvertently not removed from Parts 74 and 90 of our Rules. Accordingly, in the associated Notice of Proposed Rule Making in ET Docket No. 02–16, we proposed to remove these frequencies from Parts 74 and 90 of our Rules.

3. To prevent the licensing of Public Safety, Industrial/Business Pool, and remote pickup stations in the AM Expanded Band during the pendency of this proceeding, such applications will no longer be granted. We will no longer accept applications for new licenses or modifications or renewals of existing licenses for frequencies within the band 1605–1705 kHz as of the date of **Federal Register** Publications of this Order. Any such applications received on or after that date will be returned as unacceptable for filing. Pending applications will be dismissed, unless they are modified to specify alternative frequencies. We take this action to permit the orderly and effective resolution of the issue of mobile services (excluding TIS) operating in the AM Expanded Band. We anticipate this action will have minimal impact because very few such applications are received from Public Safety, Industrial/Business Pool, and remote pickup eligibles to operate in this band and because alternative land mobile spectrum is available.

**Ordering Clause**

4. Public Safety, Industrial/Business Pool, and remote pickup applications for frequencies within the band 1605–1705 kHz shall not be granted. The Commission shall not accept said applications for new licenses or modifications or renewals of existing licenses for frequencies within the band 1605–1705 kHz as of the April 8, 2002 of this Order. Any such applications received on or after that date shall be returned as unacceptable for filing. Pending applications shall be dismissed, unless they are modified to specify alternative frequencies.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 02–7726 Filed 4–5–02; 8:45 am]

BILLING CODE 6712–01–P

# Proposed Rules

Federal Register
Vol. 67, No. 67
Monday, April 8, 2002

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.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

**[Docket No. PRM–50–75]**

### Nuclear Energy Institute; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemakings; Notice of receipt.

**SUMMARY:** The Commission requests public comment on a petition for rulemaking filed February 6, 2002, by the Nuclear Energy Institute (NEI) (PRM–50–75). The petition requests amendment of the NRC's Emergency Core Cooling System (ECCS) regulations to allow the use of an alternative maximum pipe break size for the largest pipe in the reactor coolant system in ECCS evaluation models for Light-Water Nuclear Power Reactors. The regulations currently specify the use of a double-ended rupture of the largest pipe in the reactor coolant system in ECCS models. NEI states that the proposed change is necessary to improve consistency within the existing regulations and will provide increased plant safety through the use of more realistic technical specifications in surveillance testing. The petitioner estimates regulatory improvements could be expedited by up to two years.

**DATES:** Submit comments by June 24, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For a copy of the petition, write to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001.

You may also provide comments via the NRC's interactive rulemaking Web site at *http://ruleforum.llnl.gov*. This site allows you to upload comments as files in any format, if your Web browser supports the function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher, (301) 415–5905 (*e-mail:cag@nrc.gov*).

Documents related to this petition, including comments received, may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room), *www.nrc.gov*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4029, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001 or e-mail: *MTL@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

#### The Petitioner

The petitioner, the Nuclear Energy Institute (NEI), is an umbrella organization for the nuclear energy industry. The NEI is responsible for coordinating its members' efforts in matters involving generic policy issues and the regulatory aspects of generic operational and technical issues affecting the nuclear power industry. NEI members include all entities in the United States licensed by the NRC to construct or operate nuclear power plants, other nuclear industry organizations, as well as major architectural and engineering firms and nuclear steam supply system vendors.

#### Background

The petitioner states that 10 CFR 50.46, *Acceptance Criteria for Emergency Core Cooling Systems (ECCS) for Light-Water Nuclear Power Reactors*, Appendix A to 10 CFR part 50, *General Design Criteria (GDC) for Nuclear Power Plants*, and Appendix K to 10 CFR part 50, *ECCS Evaluation Models*, currently require that assumption of a double-ended break of the largest pipe in the reactor coolant system be considered in the evaluation models for evaluation of the ECCS acceptance criteria and be used to determine ECCS performance requirements. NEI reports that Appendix K, promulgated in the early 1970s, specified the required and acceptable features of ECCS evaluation models. The petitioner believes these models were developed with conservative assumptions and notes that the models were required to address areas where data was lacking or uncertainties were large or unquantifiable.

NEI further reports that in 1987, the Commission amended 10 CFR part 50, GDC 4 of Appendix A, *Environmental and dynamic effects design bases* to exclude the dynamic effects of postulated ruptures in the reactor coolant system primary piping and other high energy line piping by the use of leak-before-break (LBB) technology. This relaxation of methodology was justified, the petitioner claims, because the probability of a pipe break in the largest diameter pipe was extremely low for the conditions for which the piping was designed. The petitioner notes that this amendment also allowed for the removal of pipe whip restraints and jet impingement devices.

According to the petitioner, the Commission acknowledged that the 1987 GDC 4 amendment introduced an inconsistency into the design basis by retaining the large postulated pipe ruptures for containment design, emergency core cooling, and environmental qualification, but allowing an exclusion for the dynamic effects of large postulated pipe ruptures for piping less than or equal to the largest pipe in the reactor coolant system. NEI points out that the Commission stated at that time its intention to address these inconsistencies through a long-term evaluation.

The petitioner contends that improvements in probabilistic fracture mechanics (PFM) have resulted in NRC approval of a more safety-focused

approach for implementing ASME Section XI In-service Inspection requirements, significantly improving worker and public safety. NEI proposes these improved methodologies as the basis for eliminating the inconsistencies introduced in the 1987 amendment. NEI believes insights from these new analyses will provide the basis for further regulatory improvements through the expanded use of PFM and LBB concepts to the large-break loss-of-coolant pipe-break size definition.

The petitioner concludes that the proposed changes would focus design and operational procedures, resources, and practices on the more likely, safety-significant events. NEI argues that the suggested amendments would ultimately result in additional improvements in the protection of public health and safety and restore consistency to a central element of the regulatory system.

**Proposed Action**

The petitioner proposes to amend 10 CFR 50.46 and Appendices A and K to 10 CFR part 50 to change the acceptance criteria for analysis of emergency core cooling systems for light-water nuclear power reactors. NEI wishes to add to the explanation and definition of a loss-of-coolant accident (LOCA) that must be addressed in the evaluation model, an option to the current break size, now defined as ''a break equivalent in size to the double-ended rupture of the largest pipe in the reactor system.'' NEI proposes adding an optional break size that is ''up to and including an alternate maximum break size that is approved by the Director of the Office of Nuclear Reactor Regulation (NRR).'' The petitioner recommends that this option also be included in Appendix K detailing the features of ECCS Evaluation models, including consideration of the effects of longitudinal splits in the largest pipes, with the split area equal to the cross-sectional area of the largest pipe, or equal to an alternate maximum break area that is approved by the Director of NRR.

**Rationale**

NEI offers the following rationale in support of its petition:

- The operating experience gained from 2500 reactor years of very high safety performance and increases in technical knowledge;
- The Commission's commitment to risk-informed regulation; and
- A range of expected benefits.

*Operating Experience and Increased Technical Knowledge*

NEI explains that the petition provides a means for streamlining the regulatory process and improving licensee and NRC focus on matters that have greater safety significance. The petitioner claims that U.S. nuclear power plants have a very high safety performance record and that the insights from probabilistic risk assessments (PRAs) from more that 2500 reactor years of operating experience and from increased technical knowledge, have produced evidence that some systems and design bases events that originally were considered highly important to safety have significantly less importance than were originally thought, and that some systems or events that were not originally considered important to safety are now considered important.

The petitioner states that the large break LOCA is a central element in the design and licensing bases for light water reactors, and that advances in analytic techniques (PFM , LBB, and PRA) demonstrate that a large break LOCA as currently defined is an extremely unlikely event, presenting negligible risk to public health and safety. NEI contends that the changes requested will provide added impetus and direction in the development and approval of the large break LOCA implementation applications, with resulting safety and resource benefits from risk-informing the large break LOCA criterion in the Commission's regulations.

The petitioner states that substantial design, licensing, operational activities and resources are expended in addressing this one extremely unlikely event, the instantaneous double-ended break of the largest pipe. The petitioner believes that it is appropriate to provide an option for a licensee to revise its design and licensing bases to better focus on the more probable equipment failures and events that have greater safety significance.

The petitioner asserts that this petition is a natural extension of current leak-before-break (LBB) methodologies, approved by the NRC in 1987; NEI notes that the LBB acceptance criteria have remained very limiting, and retain conservative margins on leak rate, flaw size, and loads.

*Risk-Informed Regulation*

The petitioner cites the 1995 NRC Policy Statement (60 FR 42622; August 16, 1995) formalizing the Commission's commitment to a risk-informed approach to regulation through an expanded use of probabilistic risk assessment (PRA) to reduce regulatory conservatisms: ''The use of PRA technology should be increased in all regulatory matters to the extent supported by the state of the art in PRA methods and data, and in a manner that complements the NRC's deterministic approach and supports the NRC's traditional defense-in-depth philosophy.''

The petitioner also cites NRC Regulatory Guide 1.174, *An Approach for Using Probabilistic Risk Assessment in Risk-informed Decisions on Plant-Specific Changes to the Current Licensing Basis* to the extent that the guide provides metrics on what constitutes an acceptable change. NEI notes that the technical basis for the petition is the insights and information provided in the area of LBB, PFM, and licensee specific PRAs. NEI expects licensee and generic owners' groups' submittals on large break LOCA applications to be based on these technical insights and information as well as application-specific analyses.

The petitioner assures that the industry, in concert with this petition, will continue to develop the technical work to support the use of alternate-maximum LOCA break size for safety analysis of reactor designs. The petitioner further states industry will start work on the development of specific applications that will be based on the new pipe-break sizes to form the basis of industry and regulatory implementation guidelines.

NEI explains that, if approved, this petition will allow operator and support personnel to focus on safety-significant matters resulting in improved plant reliability, specifically: improved service life, since equipment will not be required to meet unnecessarily harsh testing conditions, such as rapid cold starts and loading sequences reliabilities; reduced wear and tear on safety-significant equipment; and improved training effectiveness, as operations and plant support staff will be focused on the more probable events and will no longer need to focus on compliance with technical specification limits based on margins required for large break LOCAs such as ultimate heat sink temperatures.

**Expected Benefits**

The petitioner lists the following benefits attained through the approval and implementation of the petition:

- Increased plant safety from more realistic technical specification surveillance testing and related requirements, such as diesel generator (DG) start times and ultimate heat sink temperature limits,

- Consistency in analytical assumptions,
- Peaking factor increases,
- Power upratings, and
- Relaxation of post-LOCA sump boron requirements to maintain core subcriticality with all rods out, and requirements for the related potential for sump dilution that could lead to recriticality.

**Scope**

The petitioner points out that the petition retains the LOCA as a design basis event, but redefines the maximum break-size that may be used in a design basis evaluation. If a licensee adopts the alternate break-size, the existing large break LOCA analysis will be retained as a historical document, and the plant-specific PRA will continue to include LOCAs of all sizes, including a rupture of the large primary system piping. Moreover, the petitioner continues, a licensee will still retain capability to mitigate the extremely unlikely break of the largest pipe in the reactor system, since most of the major equipment is also needed to mitigate other design basis events. NEI states that the major components of the current ECCS, such as the head pumps (high, intermediate, and low) will be retained.

NEI warns, however, that the system capability and associated requirements and acceptance criteria of these components may be revised, based on the revised maximum LOCA break size, or other design basis accidents, whichever is more limiting. The petitioner states that if the NRC grants the proposed petition, licensees wishing to apply to use the alternative break-size criteria will amend the applicable safety analyses associated with licensee or owners' group applications. The amended analyses will be the basis for the application-specific LOCA-related safety analysis assumptions, including control rod insertion following a LOCA and associated post-LOCA sump boron requirements to maintain core subcriticality, containment sump debris generation, and the ultimate heat sink heat removal requirements.

The petitioner explains that plants requesting approval for use of an alternate maximum break size model will determine the alternate maximum break size by estimating the appropriate initiating event frequencies for LOCA events and the contribution to overall risk of equivalent break sizes greater than or equal to the alternate maximum break size. The petitioner also states that evaluation of the alternate maximum break size will include consideration of defense-in-depth, safety margins, and performance monitoring. The petitioner states that the risk significance of the changes will be assessed, and such changes will be subject to the change control provisions of 10 CFR 50.59 and may result in a license amendment, if required, in accordance with 10 CFR 50.90.

Finally, the petitioner notes that the proposed amendment may result in changes to containment analyses, including the calculation of peak containment accident pressure, subcompartment pressure transients, containment support system requirements, or the environmental qualification temperature profile from a LOCA. NEI adds that environmental qualification temperature profiles shall continue to consider other design basis breaks in addition to the LOCAs. The petitioner assures that it is not the intent of this rulemaking petition to be the basis for changing containment structural integrity.

**Conclusion**

The petitioner asserts the proposed request is consistent with and supports the NRC Strategic and Performance Goals, and the Commission's policy on PRA and risk-informed, performance-based regulation. NEI contends that approval of the petition will improve nuclear safety because a major regulation will be updated to reflect industry experience and improvements in PRAs and engineering knowledge. The petitioner concludes that this petition will result in plant design, operations, activities, and associated regulatory oversight that will be more focused on events that are more probable and of higher safety significance, while reducing unnecessary regulatory burden.

Dated at Rockville, Maryland, this 2nd day of April, 2002.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 02–8386 Filed 4–5–02; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 25

**[Docket No. NM213; Notice No. 25–02–05–SC]**

## Special Conditions: Airbus Industrie, Model A340–500 and –600 Series Airplanes; Interaction of Systems and Structure; Electronic Flight Control System, Longitudinal Stability and Low Energy Awareness; and Use of High Incidence Protection and Alpha-floor Systems

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for the Airbus Industrie Model A340–500 and –600 series airplanes. These airplanes will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes associated with the systems that affect the structural performance of the airplane; the electronic flight control system (EFCS); and the use of high incidence protection and alpha-floor systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Comments must be received on or before May 8, 2002.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM213, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM213. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, FAA, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2797; facsimile (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal for special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

**Background**

On November 14, 1996, Airbus Industrie applied for an amendment to U.S. type certificate (TC) A43NM to include the new Models A340–500 and –600. These models are derivatives of the A340–300 airplane that is approved under the same TC.

The Model A340–500 fuselage is a 6-frame stretch of the Model A340–300 and is powered by 4 Rolls Royce Trent 553 engines, each rated at 53,000 pounds of thrust. The airplane has interior seating arrangements for up to 375 passengers, with a maximum takeoff weight (MTOW) of 820,000 pounds. The Model A340–500 is intended for long-range operations and has additional fuel capacity over that of the Model A340–600.

The Model A340–600 fuselage is a 20-frame stretch of the Model A340–300 and is powered by 4 Rolls Royce Trent 556 engines, each rated at 56,000 pounds of thrust. The airplane has interior seating arrangements for up to 440 passengers, with a MTOW of 804,500 pounds.

**Type Certification Basis**

Under the provisions of 14 CFR 21.101, Airbus Industrie must show that the Model A340–500 and –600 airplanes meet the applicable provisions of the regulations incorporated by reference in TC A43NM or the applicable regulations in effect on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC A43NM are 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–63, and Amendments 25–64, 25–65, 25–66, and 25–77, with certain exceptions that are not relevant to these proposed special conditions.

In addition, if the regulations incorporated by reference do not provide adequate standards with respect to the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Model A340–500 and –600 airplanes must be shown to comply with Amendments 25–1 through 25–91, and with certain FAA-allowed reversions for specific part 25 regulations to the part 25 amendment levels of the original type certification basis.

Airbus has also chosen to comply with part 25 as amended by Amendments 25–92, –93, –94, –95, –97, –98, and –104. In addition, Airbus has elected to redefine the reference stall speed as the 1-g stall speed as proposed in Notice No. 95–17 (61 FR 1260, January 18, 1996).

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Airbus Industrie Model A340–500 and –600 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Industrie Model A340–500 and –600 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

**Novel or Unusual Design Features**

The Airbus Model A340–500 and A340–600 airplanes will incorporate the following novel or unusual design features.

*1. Interaction of Systems and Structure*

The Model A340–500 and –600 airplanes will have systems that affect the structural performance of the airplane, either directly or as a result of a failure or malfunction. These novel or unusual design features are systems that can serve to alleviate loads in the airframe and, when in a failure state, can create loads in the airframe. The current regulations do not adequately account for the effects of these systems and their failures on structural performance. The proposed special conditions provide the criteria to be used in assessing the effects of these systems on structures.

*2. Electronic Flight Control System: Longitudinal Stability and Low Energy Awareness*

The EFCS of the Model A340–500 and –600, as with its predecessors, will result in the airplanes having neutral static longitudinal stability. This condition, when combined with the 3 automatic trim feature of the EFCS, could result in insufficient feedback cues to the pilot of speed excursions below normal operating speeds. The longitudinal flight control laws provide neutral static stability within the normal flight envelope; therefore, the proposed novel or unusual design features for these new airplane model designs will make them unable to show compliance with the static longitudinal stability requirements of §§ 25.171, 25.173, and 25.175.

The unique features of the Model A340–500 and –600 airplanes could cause an unsafe condition if the airspeed becomes too slow near the ground and results in the airplane stalling. The flightcrew would be unaware of the flight condition and would not be able to intervene and recover before stall. The French Direction Generale De L'Aviation Civile (DGAC) took action for this condition by introducing a special condition for predecessor airplanes with the same design features that required adequate

awareness of the flightcrew to unsafe low speed conditions. This awareness may be provided by an appropriate warning in the cockpit to allow for recovery. There was no corresponding special condition developed by the FAA. This proposed special condition will provide for an appropriate warning in the cockpit of the A340–500 and –600 airplanes to allow for recovery.

Subsequent to certification of the predecessor Model A330 and A340 airplanes and in establishing the certification requirements for the A340–500 and –600, the French DGAC decided to combine two special conditions from the A330 into a new special condition titled ''Static Longitudinal Stability and Low Energy Awareness.'' Since the FAA did not take action on the introduction of the low energy awareness requirement during the A330 and A340 certification, this proposed special condition for the Model A340–500 and –600 airplane certification will harmonize to the French DGAC special condition for static longitudinal stability and low energy awareness. The purpose of the new proposed low energy awareness special condition item 2(a)(2) is to provide awareness to the pilot of a low speed (or low energy state) of flight when the flight control laws provide neutral static longitudinal stability significantly below the normal operating speeds, and offer no cues to the pilot through the side stick controller. The proposed special condition item 2(a)(1) addresses the fact that the airplane has neutral stability and does not meet regulatory requirements for positive dynamic and static longitudinal stability (§§ 25.171, 25.173, and 25.175, and 25.181(a)).

*3. High Incidence Protection and Alpha-floor Systems*

The Model A340–500 and –600 airplanes will have a novel or unusual feature to accommodate the unique features of the high incidence protection and the alpha-floor systems. The high incidence protection system replaces the stall warning system during normal operating conditions by prohibiting the airplane from stalling. The high incidence protection system limits the angle of attack at which the airplane can be flown during normal low speed operation, impacts the longitudinal airplane handling characteristics, and can not be over-ridden by the crew. The existing regulations do not provide adequate criteria to address this proposed system.

The function of the alpha-floor system is to automatically increase the thrust on the operating engines under unusual circumstances where the airplane pitches to a predetermined high angle of attack or bank angle. The regulations do not provide adequate criteria to address this proposed system.

**Discussion**

*1. Interaction of Systems and Structure*

The Model A340–500 and –600 will have systems that affect the structural performance of the airplane, either directly or as a result of failure or malfunction. These proposed special conditions provide the criteria to be used in assessing the effects of these systems on structures. The applicant, Airbus Industrie, acknowledges that advancements in technology led to the development of these novel and unusual design features. These criteria are now in the regulatory process and will become a new regulation, § 25.302, ''Interaction of systems and structures,'' and a new appendix to part 25. Until the rule is adopted, it is necessary to apply these proposed special conditions. Airbus accepts and embraces these special conditions and has every intent of complying with them as they are presented here.

The criteria defined herein are similar to those previously applied by special conditions to other fly-by-wire airplanes, including the Airbus A340, in Special Conditions No. 25–ANM–69, Docket No. NM–75, published in the **Federal Register** on April 15, 1993, (58 FR 19553), item 4. Since the issuance of the Airbus A340 special condition item 4, advancements in technology have occurred leading to the proposed § 25.302, which will address the interaction of systems and structures, and to a revised version of the original special condition item 4. The FAA proposes that this new special condition apply to the Airbus A340–500 and –600 airplanes, in lieu of the original special condition.

*2. Electronic Flight Control System: Longitudinal Stability and Low Energy Awareness*

The following special conditions are proposed in lieu of compliance with §§ 25.171, 25.173, 25.175, and 25.181(a), and in lieu of the previously issued Special Conditions No. 25–ANM–69, Docket No. NM–75, published in the **Federal Register** on April 15, 1993 (58 FR 19553), item 11(b), ''Flight Characteristics—Longitudinal Stability.''

Static longitudinal stability on conventional airplanes means that a pull force on the controller in the pitch axis (airplane nose up) will result in a reduction in speed relative to the trim speed for straight flight, and a push force (airplane nose down) will result in higher than trim speed. This required characteristic of the flight control system, as specified in §§ 25.171, 25.173, and 25.175, is intended to provide the pilot with a predictable, tactile feeling for increased pitch forces on the controller and to maintain trim speed during straight flight.

The Model A340–500 and –600 EFCS with fly-by-wire technology has unique and novel design features, relative to those envisioned by current regulations, for controlling the airplane pitch attitude and flight path. Movement of the elevator surfaces in conjunction with movement of the cockpit controllers, is accomplished by ''electrical flight control laws'' contained in the flight control computer. The pitch control law (C*) utilizes feedback from normal load factor and pitch rate to provide a load factor (g) demand such that displacement of the controller results in a constant g maneuver where a pull force (nose up) is positive g, and a push force (nose down) is negative g. The net result of the C* law, with the integration of the automatic pitch trim function on the horizontal stabilizer, is that the pilot can command a rate of climb or descent with displacement of the controller and release the controller to its neutral position. The airplane rate of climb or descent will remain until a new command to the controller is given by the pilot. Furthermore, a stick-free (controller remains in the neutral position) deceleration/acceleration away from ''trim'' will result in constant 1 g straight flight with no stick forces (neutral static stability). As a result of this neutral stability, the Model A340–500 and –600 does not meet the part 25 requirements for static longitudinal stability as described above.

In addition, past experience on airplanes with EFCS providing neutral longitudinal stability shows that there is insufficient feedback cue of excursion below operational speeds. Pitch limit protection systems of this design protect the airplane against stall but are not sufficient to prevent potentially hazardous low speed excursions because they intervene far below normal operational speeds. Until intervention, there are no stability cues since the airplane remains trimmed. Additionally, the pitching moment due to thrust variation is reduced by the flight control laws. Recovery from a low speed excursion may become hazardous when the low speed situation is associated with a low altitude and with the engines at idle. These low energy situations (low speed and low engine thrust) must be

avoided and therefore, the pilots must be given adequate cues when approaching such situations. An acceptable method of compliance to this requirement may be provided by an appropriate warning with the following characteristics:

(a) Warning must be unique, unambiguous and unmistakable.

(b) Warning must be active at appropriate altitudes and in appropriate configurations.

(c) Warning must be sufficiently timely to allow pilot intervention, without recourse to any aircraft automatic protection system.

(d) Warning must not be triggered during normal operations, including operation in moderate turbulence for recommended maneuvers at recommended speeds.

(e) Warning must not be cancelable by the pilot other than by achieving a higher energy state.

(f) Various warnings must have an adequate hierarchy so that the pilot will not be confused and lead to take inappropriate recovery action in the event that multiple warnings occur.

*3. High Incidence Protection and Alpha-floor Systems*

An initial review of the Airbus Model A330 and A340 special condition item 12(b), issued in Special Conditions No. 25–ANM–69, Docket No. NM–75, published in the **Federal Register** on April 15, 1993 (58 FR 19553), compared with the corresponding French DGAC special condition finds that the FAA special condition item 12(b) did not adequately address the high incidence protection and alpha-floor systems, and the automatic trim feature on the A330 and A340 and on the Model A340–500 and –600 airplanes. Furthermore, the requirements for the 1-g stall speeds, which are now an equivalent safety finding (ESF), were embedded in the same special conditions (No. 25–ANM–69), item 12(b), addressing high incidence protection limits. Current FAA procedures do not allow combining a special conditions and an ESF in the manner previously done for the Model A330 and A340 series airplanes. Therefore, this special condition addresses the high incidence protection and alpha-floor systems, while the requirements for the 1-g stall will be addressed separately as an ESF. The Model A330 and A340 airplanes, special condition item 12(b), therefore does not apply to the Model A340–500 and –600 certification program.

The proposed special condition parallels that of the French DGAC for the A340–500 and –600 in presenting amendments to the appropriate regulations to accommodate the unique features of the high incidence protection systems and the alpha-floor system. The high incidence protection systems replaces the stall warning system during normal operating conditions by prohibiting the airplane from stalling.

**Applicability**

As discussed above, these special conditions are applicable to the Model A340–500 and –600 airplanes. Should Airbus Industrie apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

**Conclusion**

This action affects only certain novel or unusual design features on the Model A340–500 and –600 airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

**The Proposed Special Conditions**

Accordingly, the FAA proposes the following special conditions as part of the type certification basis for Airbus Industrie Model A340–500 and –600 series airplanes.

*1. Interaction of System and Structures*

The following special conditions are proposed in lieu of the compliance with previously issued Special Conditions No. 25–ANM–69 (Docket No. NM–75), published in the **Federal Register** on April 15, 1993 (58 FR 19553) item 4, ''Interaction of Systems and Structure.''

(a) *General.* For airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of subparts C and D of part 25. The following criteria must be used for showing compliance with these special conditions for airplanes equipped with flight control systems, autopilots, stability augmentation systems, load alleviation systems, flutter control systems, and fuel management systems. If these special conditions are used for other systems, it may be necessary to adapt the criteria to the specific system.

(1) The criteria defined herein only address the direct structural consequences of the system responses and performances and cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. These criteria may in some instances duplicate standards already established for this evaluation. These criteria are only applicable to structures whose failure could prevent continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or stability requirements when operating in the system degraded or inoperative mode are not provided in these special conditions.

(2) Depending upon the specific characteristics of the airplane, additional studies that go beyond the criteria provided in these special conditions may be required in order to demonstrate the capability of the airplane to meet other realistic conditions such as alternative gust or maneuver descriptions for an airplane equipped with a load alleviation system.

(3) The following definitions are applicable to these special conditions.

*Structural performance:* Capability of the airplane to meet the structural requirements of part 25.

*Flight limitations:* Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

*Operational limitations:* Limitations, including flight limitations that can be applied to the airplane operating conditions before dispatch (e.g., fuel, payload, and Master Minimum Equipment List limitations).

*Probabilistic terms:* The probabilistic terms (probable, improbable, extremely improbable) used in these special conditions are the same as those used in § 25.1309.

*Failure condition:* The term failure condition is the same as that used in § 25.1309; however, these special conditions apply only to system failure conditions that affect the structural performance of the airplane (e.g., system failure conditions that induce loads, lower flutter margins, or change the response of the airplane to inputs such as gusts or pilot actions).

(b) *Effects of Systems on Structures.* The following criteria will be used in determining the influence of a system and its failure conditions on the airplane structure.

(1) System fully operative. With the system fully operative, the following apply:

(i) Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in subpart C, taking into account any special behavior of such a system or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(ii) The airplane must meet the strength requirements of part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

(iii) The airplane must meet the aeroelastic stability requirements of § 25.629.

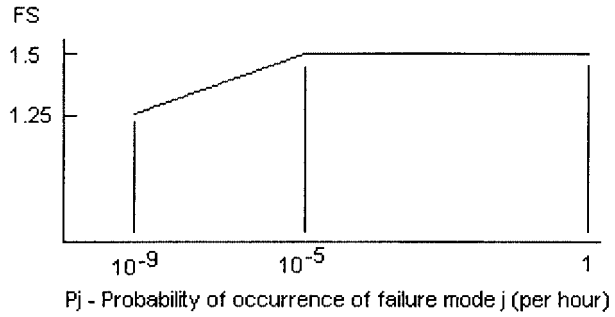
(2) *System in the failure condition.* For any system failure condition not shown to be extremely improbable, the following apply:

(i) At the time of occurrence. Starting from 1-g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(A) For static strength substantiation, these loads multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure are ultimate loads to be considered for design. The factor of safety (FS) is defined in Figure 1.

Figure 1

Factor of safety at the time of occurrence




(B) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in subparagraph (b)(1)(i).

(C) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speed increases beyond Vc/Mc, freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(D) Failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

(ii) *For the continuation of the flight.* For the airplane in the system failed state and considering any appropriate reconfiguration and flight limitations, the following apply:

(A) The loads derived from the following conditions at speeds up to Vc, or the speed limitation prescribed for the remainder of the flight, must be determined:

(*1*) The limit symmetrical maneuvering conditions specified in § 25.331 and in § 25.345.

(*2*) The limit gust and turbulence conditions specified in § 25.341 and in § 25.345.

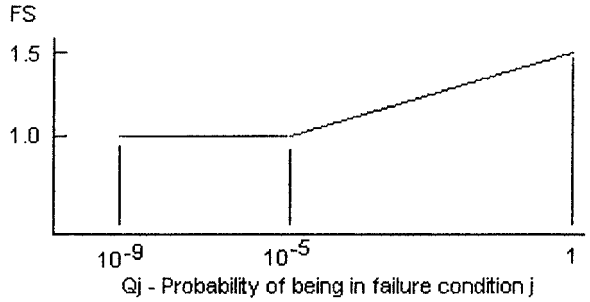
(*3*) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in § 25.367 and § 25.427(b) and (c).

(*4*) The limit yaw maneuvering conditions specified in § 25.351.

(*5*) The limit ground loading conditions specified in § 25.473 and § 25.491.

(B) For static strength substantiation, each part of the structure must be able to withstand the loads defined in subparagraph (ii)(A), multiplied by a factor of safety depending on the probability of being in this failure state.The factor of safety is defined in Figure 2.

Figure 2
Factor of safety for continuation of flight




$Q_j = (T_j)(P_j)$ where:
$T_j$ = Average time spent in failure condition j (in hours).
$P_j$ = Probability of occurrence of failure mode j (per hour).

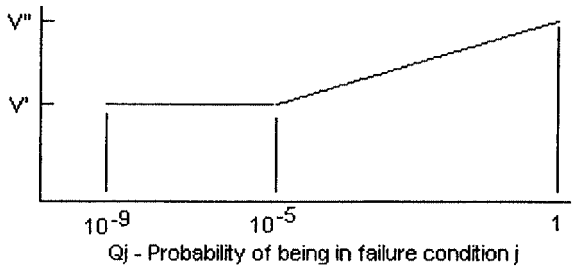
**Note to paragraph (B):** If $P_j$ is greater than $10^{-3}$ per flight hour, then a 1.5 factor of safety must be applied to all limit load conditions specified in subpart C.

(C) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in subparagraph (2)(ii)(B).

(D) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(E) Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter clearance speeds $V^I$ and $V^{II}$ may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3
Clearance speed




$V^I$ = Clearance speed as defined by § 25.629(b)(2).
$V^{II}$ = Clearance speed as defined by § 25.629(b)(1).
$Q_j = (T_j)(P_j)$ where:
$T_j$ = Average time spent in failure condition j (in hours).
$P_j$ = Probability of occurrence of failure mode j (per hour).

**Note to paragraph (E):** If $P_j$ is greater than $10^{-3}$ per flight hour, then the flutter clearance speed must not be less than $V^{II}$.

(F) Freedom from aeroelastic instability must also be shown up to $V^I$ in Figure 3 above for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(iii) Consideration of certain failure conditions may be required by other sections of part 25, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than $10^{-9}$, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(3) Warning considerations. For system failure detection and warning, the following apply:

(i) The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the reliability of the remaining system. The flightcrew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems, to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal warning systems and where service history shows that inspections will provide an adequate level of safety.

(ii) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flightcrew. For example, failure conditions that result in a factor of safety between the airplane strength and the loads of subpart C below 1.25, or flutter margins below $V^{II}$, must be signaled to the crew during flight.

(4) Dispatch with known failure conditions. If the airplane is to be dispatched in a known system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of these special conditions must be met for the dispatched

condition and for subsequent failures. Flight limitations and expected operational limitations may be taken into account in establishing Qj as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figures 2 and 3. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system failure rate is greater than $10^{-3}$ per hour.

*2. Electronic Flight Control System: Longitudinal Stability and Low Energy Awareness*

(a) The following special conditions are proposed in lieu of compliance with 14 CFR §§ 25.171, 25.173, 25.175, and 25.181(a), and in lieu of the previously issued Special Conditions No. 25–ANM–69 (Docket No. NM–75), published in the **Federal Register** on April 15, 1993 (58 FR 19553) item 11(b) ''Flight Characteristics—Longitudinal Stability.''

(1) The airplane must be shown to have suitable dynamic and static longitudinal stability in any condition normally encountered in service, including the effects of atmospheric disturbance.

(2) The airplane must provide adequate awareness to the pilot of a low energy state when flight control laws provide neutral longitudinal stability significantly below the normal operating speeds.

*3. High Incidence Protection and Alpha-floor Systems*

(a) The following special conditions are proposed in lieu of compliance with certain 14 CFR sections (listed below), and in lieu of compliance with previously issued Special Conditions No. 25–ANM–69 (Docket No. NM–75) published in the **Federal Register** on April 15, 1993 (58 FR 19553) item 12(b), ''Flight Envelope Protection, Angle-of-Attack Limiting.''

(1) The following definitions are applicable to these special conditions.

*High Incidence Protection System.* A system that operates directly and automatically on the airplane's flying controls to limit the maximum incidence that can be attained to a value below that at which an aerodynamic stall would occur.

*Alpha-floor System.* A system that automatically increases thrust on the operating engines when incidence increases through a particular value.

*Alpha-limit.* The maximum steady incidence at which the airplane stabilizes with the High Incidence Protection System operating and the longitudinal control held on its aft stop.

*$V_{min}$.* The minimum steady flight speed, for the airplane configuration under consideration and with the High Incidence Protection System operating, is the final stabilized Calibrated Airspeed obtained when the airplane is decelerated at an entry rate not exceeding 1 knot per second until the longitudinal pilot controller is on its stop.

*$V_{min}1g$.* $V_{min}$ corrected to 1g conditions. It is the minimum Calibrated Airspeed at which the airplane can develop a lift force normal to the flight path and equal to its weight when at an angle of attack not greater than that determined for $V_{min}$.

(2) *Capability and Reliability of the High Incidence Protection System:* In lieu of compliance with previously issued Special Conditions No. 25–ANM–69, this special condition requires that acceptable capability and reliability of the High Incidence Protection System must be established by flight test, simulation, and analysis as appropriate. The capability and reliability required are as follows:

(i) It shall not be possible during pilot induced maneuvers to encounter a stall and handling characteristics shall be acceptable, as required by Section 5 of this special condition.

(ii) The airplane shall be protected against stalling due to the effects of windshears and gusts at low speeds as required by Section 6 of this special condition.

(iii) The ability of the High Incidence Protection System to accommodate any reduction in stalling incidence resulting from residual ice must be verified.

(iv) The reliability of the system and the effects of failures must be acceptable in accordance with § 25.1309, and the associated policy.

(3) *Minimum Steady Flight Speed and Reference Stall Speed.* In lieu of § 25.103 the following special conditions is proposed:

(i) $V_{min}$. The minimum steady flight speed, for the airplane configuration under consideration and with the High Incidence Protection System operating, is the final stabilized Calibrated Airspeed obtained when the airplane is decelerated at an entry rate not exceeding 1 knot per second until the longitudinal control is on its stop.

(ii) The Minimum Steady Flight Speed, $V_{min}$, must be determined with:

(A) The High Incidence Protection System operating normally.

(B) Idle thrust and Alpha-floor System inhibited.

(C) All combinations of flap settings and landing gear positions.

(D) The weight used when $V_{SR}$ is being used as a factor to determine compliance with a required performance standard.

(E) The most unfavorable center of gravity allowable, and

(F) The airplane trimmed for straight flight at a speed achievable by the automatic trim system.

(iii) $V_{min}1$ g. $V_{min}$ corrected to 1 g conditions. It is the minimum calibrated airspeed at which the airplane can develop a lift force normal to the flight path and equal to its weight when at an angle of attack not greater than that determined for $V_{min}$. $V_{min}1g$ is defined as follows:

$$V_{min}1g = \frac{V_{min}}{\sqrt{n_{ZW}}}$$

Where:

$n_{ZW}$ = load factor normal to the flight path at $V_{min}$

(iv) The Reference Stall Speed, $V_{SR}$, is a calibrated airspeed defined by the applicant. $V_{SR}$ may not be less than a 1-g stall speed. $V_{SR}$ is expressed as:

$$V_{SR} \geq \frac{V_{CL_{MAX}}}{\sqrt{n_{ZW}}}$$

Where:

$V_{CL_{MAX}}$ = Calibrated airspeed obtained when the load factor-corrected lift coefficient

$$\left(\frac{n_{ZW}W}{qS}\right)$$

is first a maximum during the maneuver prescribed in paragraph (v)(H) of this section.

$n_{ZW}$ = Load factor normal to the flight path at $V_{CL_{MAX}}$

W = Airplane gross weight;

S = Aerodynamic reference wing area; and

q = Dynamic pressure.

**Note:** Unless Angle of Attack (AOA) protection system (stall warning and stall identification) production tolerances are acceptably small, so as to produce insignificant changes in performance determinations, the flight test settings for stall warning and stall identification should be set at the low AOA tolerance limit; high AOA tolerance limits should be used for characteristics evaluations.

(v) $V_{SR}$ must be determined with the following conditions:

(A) Engines idling, or, if that resultant thrust causes an appreciable decrease in stall speed, not more than zero thrust at the stall speed.

(B) The airplane in other respects (such as flaps and landing gear) in the condition existing in the test or performance standard in which $V_{SR}$ is being used.

(C) The weight used when $V_{SR}$ is being used as a factor to determine compliance with a required performance standard.

(D) The Center of gravity position that results in the highest value of reference stall speed.

(E) The airplane trimmed for straight flight at a speed achievable by the automatic trim system, but not less than 1.13 $V_{SR}$ and not greater than 1.3 $V_{SR}$.

(F) The Alpha-floor system inhibited.

(G) The High Incidence Protection System adjusted to a high enough incidence to allow full development of the 1g stall.

(H) Starting from the stabilized trim condition, apply the longitudinal control to decelerate the airplane so that the speed reduction does not exceed one knot per second.

(vi) The flight characteristics at the AOA for $C_{LMAX}$ must be suitable in the traditional sense at FWD and AFT CG in straight and turning flight at IDLE power. Although for a normal production EFCS and steady full aft stick this AOA for $C_{LMAX}$ cannot be achieved, the AOA can be obtained momentarily under dynamic circumstances and deliberately in a steady state sense with some EFCS failure conditions.

*(4) Stall Warning*

(i) Normal Operation. If the conditions of Paragraph 2 are satisfied, equivalent safety to the intent of § 25.207, Stall Warning, shall be considered to have been met without provision of an additional, unique warning device.

(ii) Failure Cases. Following failures of the High Incidence Protection System, not shown to be extremely improbable, such that the capability of the system no longer satisfies items (i), (ii), and (iii) of Paragraph 2, stall warning must be provided in accordance with §§ 25.207(a), (b) and (f).

*(5) Handling Characteristics at High Incidence*

(i) *High Incidence Handling Demonstrations.* Replace the existing § 25.201 with the following:

(A) Maneuvers to the limit of the longitudinal control, in the nose up direction, must be demonstrated in straight flight and in 30 degree banked turns with:

(*1*) The high incidence protection system operating normally.

(*2*) Initial power condition of:

(*i*) Power off

(*ii*) The power necessary to maintain level flight at 1.5 $V_{SR1}$, where $V_{SR1}$ is the stall speed with the flaps in the approach position, the landing gear retracted, and the maximum landing weight. The flap position to be used to determine this power setting is that position in which the stall speed, $V_{SR1}$, does not exceed 110 percent of the stall speed, $V_{SR0}$, with the flaps in the most extended landing position.

(*3*) Alpha-floor system operating normally unless more severe conditions are achieved with alpha-floor inhibited.

(*4*) Flaps, landing gear and deceleration devices in any likely combination of positions.

(*5*) Representative weights within the range for which certification is requested, and

(*6*) The airplane trimmed for straight flight at a speed achievable by the automatic trim system.

(B) The following procedures must be used to show compliance with § 25.203 as amended by this item (5)(ii) of this special condition.

(*1*) Starting at a speed sufficiently above the minimum steady flight speed to ensure that a steady rate of speed reduction can be established, apply the longitudinal control so that the speed reduction does not exceed one knot per second until the control reaches the stop.

(*2*) The longitudinal control must be maintained at the stop until the airplane has reached a stabilized flight condition and must then be recovered by normal recovery techniques.

(*3*) The requirements for turning flight maneuver demonstrations must also be met with accelerated rates of entry to the incidence limit, up to the maximum rate achievable.

(ii) *Characteristics in High Incidence Maneuvers.* Replace the existing § 25.203 with the following:

(A) Throughout maneuvers with a rate of deceleration of not more than 1 knot per second, both in straight flight and in 30 degree banked turns, the airplane's characteristics shall be as follows:

(*1*) There shall not be any abnormal airplane nose-up pitching.

(*2*) There shall not be any uncommanded nose-down pitching, which would be indicative of stall. However, reasonable attitude changes associated with stabilizing the incidence at alpha limit as the longitudinal control reaches the stop would be acceptable. Any reduction of pitch attitude associated with stabilizing the incidence at the alpha limit should be achieved smoothly and at a low pitch rate, such that it is not likely to be mistaken for natural stall identification.

(*3*) There shall not be any uncommanded lateral or directional motion, and the pilot must retain good lateral and directional control, by conventional use of the cockpit controllers, throughout the maneuver.

(*4*) The airplane must not exhibit severe buffeting of a magnitude and severity that would act as a deterrent to completing the maneuver specified in § 25.201(a), as amended by this special condition.

(B) In maneuvers with increased rates of deceleration, some degradation of characteristics is acceptable, associated with a transient excursion beyond the stabilized Alpha-limit. However, the airplane must not exhibit dangerous characteristics or characteristics that would deter the pilot from holding the longitudinal controller on the stop for a period of time appropriate to the maneuvers.

(C) It must always be possible to reduce incidence by conventional use of the controller.

(D) The rate at which the airplane can be maneuvered from trim speeds associated with scheduled operating speeds such as $V_2$ and $V_{ref}$ up to Alpha-limit shall not be unduly damped or significantly slower than can be achieved on conventionally controlled transport airplanes.

*(6) Atmospheric Disturbances*

Operation of the High Incidence Protection System and the Alpha-floor System must not adversely effect aircraft control during expected levels of atmospheric disturbances, nor impede the application of recovery procedures in case of windshear. Simulator tests and analysis may be used to evaluate such conditions, but must be validated by limited flight testing to confirm handling qualities at critical loading conditions.

*(7) Alpha Floor*

The Alpha-floor setting must be such that the aircraft can be flown at normal landing operational speed and maneuvered up to bank angles consistent with the flight phase (including the maneuver capabilities specified in § 25.143(g)) of the 1-g stall Equivalent Safety Finding without triggering Alpha-floor. In addition, there must be no Alpha-floor triggering unless appropriate when the airplane is flown in usual operational maneuvers and in turbulence.

*(8) Change § 25.145 as follows:*

(i) It must be possible, at any point between the trim speed prescribed in item 3(ii)(F) of this special condition and $V_{min}$, to pitch the nose downward so

that the acceleration to this selected trim speed is prompt with:

(ii) The airplane trimmed at the trim speed prescribed in item 3(ii)(F) of this special condition.

(A) The landing gear extended;

(B) The wing flaps retracted and extended; and

(C) Power off and at maximum continuous power on the engines.

*(9) Change § 25.145(b)(6), as follows:*

With power off, flaps extended and the airplane trimmed at 1.3 $V_{SR1}$, obtain and maintain airspeeds between $V_{min}$ and either $1.6V_{SR1}$ or $V_{FE}$, whichever is lower.

*(10) Change § 25.1323(c), as follows:*

(A) $V_{MO}$ to $V_{min}$ with the flaps retracted; and

(B) $V_{min}$ to $V_{FE}$ with flaps in the landing position.

Issued in Renton, Washington, on March 21, 2002.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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**BILLING CODE 4910–13–U**

## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR Parts 141 and 142

**RIN 1515–AC94**

## Single Entry for Unassembled or Disassembled Entities Imported on Multiple Conveyances

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Customs Regulations to allow an importer of record, under certain conditions, to submit a single entry to cover multiple portions of a single entity which, due to its size or nature, arrives in the United States on separate conveyances. The proposed amendments would implement statutory changes made to the merchandise entry laws by the Tariff Suspension and Trade Act of 2000.

**DATE:** Comments must be received on or before June 7, 2002.

**ADDRESSES:** Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:**

For operational matters: Tom Heffernan, Office of Field Operations, (202) 927–0360.

For classification matters: Patricia Fitzpatrick, Office of Field Operations, (202) 927–1106.

For legal matters: Larry L. Burton, Office of Regulations and Rulings, (202) 927–1287.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 1460 of Public Law 106–476, popularly known as the Tariff Suspension and Trade Act of 2000, amended section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) by adding a new subsection (j) in order to provide for the treatment of certain multiple shipments of merchandise as a single entry.

The amended law, 19 U.S.C. 1484(j), is concerned with two issues. First, section 1484(j)(1) addresses a problem long encountered by the importing community in entering merchandise whose size or nature necessitates shipment in an unassembled or disassembled condition on more than one conveyance. Second, section 1484(j)(2) offers relief to importers whose shipments, which they intended to be carried on a single conveyance, are divided at the initiative of the carrier. As to both these matters, the legislation is silent as to the affected modes of transportation, thus indicating that the new law is to apply to merchandise shipped by air, land or sea.

Customs determined to proceed first with proposed regulations relating only to shipments which are divided by carriers (19 U.S.C. 1484(j)(2)); these are referred to as ''split shipments.'' Separate proposals were undertaken because Customs had already begun a project to amend the regulations to provide for one entry for such split shipments prior to the present statutory amendments.

The proposed rule regarding split shipments (RIN 1515–AC91) was published in the **Federal Register** (66 FR 57688) for public comment on November 16, 2001.

Customs now proposes regulations concerning a single entry for shipments of unassembled or disassembled merchandise that arrive on more than one conveyance (19 U.S.C. 1484(j)(1)). It is noted that where the proposed regulatory text in this document affects the same sections in the Customs Regulations that the document regarding split shipments affected, this document includes the proposed regulatory text changes in those sections that were previously published for split shipments, as appropriately modified consistent with the present proposal. Accordingly, this document should be read in conjunction with that proposal. It is particularly noted that the other proposal contains in proposed § 141.57 the major requirements for split shipments. Comments with respect to the proposed amendments for split shipments should be submitted in connection with the **Federal Register** notice for split shipments, cited above. Only comments concerning the proposed amendments for single entities that are shipped unassembled or disassembled on multiple conveyances should be submitted in connection with this document.

An application to file a single entry covering an unassembled or disassembled entity as described in this proposed rulemaking must be made by the importer of record, either by appropriately annotating a CF 3461, a CF 3461 ALT, or electronic equivalent, or by submitting a letter to Customs. The required application must be made no later than 5 working days in advance of the arrival of the first conveyance. Justification for the need for more than one conveyance must be provided in the application, which must include an affirmative statement that the entity cannot, due to its size or nature, be accommodated on one conveyance. A copy of the relevant invoice or purchase order, or its electronic equivalent, must accompany the application, along with the proposed appropriate single tariff number under the Harmonized Tariff Schedule of the United States (HTSUS). The port director will notify the applicant of the approval or denial of the application within 3 working days of the receipt of the application.

*Unassembled or Disassembled Entity Defined*

For the purposes of this proposal, an unassembled or disassembled entity consists of merchandise which is not capable of being transported on a single conveyance, but which is purchased and invoiced as a single classifiable entity. By necessity, due to its size or nature, the entity is placed on multiple conveyances which arrive in the United States at the same port at different times. The subject arriving portions are consigned to the same person in the United States.

The Customs Regulations ordinarily require, with certain exceptions not here relevant, that all merchandise arriving on one conveyance and consigned to one consignee be included on one entry (*see* § 141.51, Customs Regulations (19 CFR 141.51)). There is no provision currently in the Customs Regulations authorizing the filing of a single entry to cover multiple portions of a single

entity arriving in the United States at different times on separate conveyances.

Specifically, the proposed regulations would permit the filing of a single entry to cover the importation by separate conveyances of portions of a large unassembled or disassembled entity provided that: (1) The subject shipment is not capable of being transported on a single conveyance, but is purchased, invoiced and classified under a single provision of the Harmonized Tariff Schedule of the United States (HTSUS) as a single entity; (2) the arriving portions of the shipment are consigned to the same person in the United States; and (3) the portions covered under the entry arrive directly from abroad at the same port of importation in the United States within 10 calendar days of the date of the portion that arrives first.

*Entry or Release of Merchandise*

Where a single entry is accepted for multiple portions of an entity which has arrived at different times, the legislation leaves open the question of whether the various portions may be released as they arrive, or whether their release must be delayed until the entire entity has been imported. Customs has determined to provide either option to importers of unassembled or disassembled entities whose portions arrive at different times. Under either option, the proposed regulations require the importer to file Customs Form (CF) 3461 or CF 3461 alternate (CF 3461 ALT), or electronic equivalent, which will cover the entity named on the invoice. In addition, the manifest accompanying each conveyance will be supplemented by a packing list specifying the contents of the particular load.

In the event that each portion of the unassembled or disassembled entity is to be released upon its arrival, and prior to the arrival of the entire shipment, the procedure for releasing merchandise under a special permit for immediate delivery will be used for this purpose, as more fully outlined below. As each portion arrives, the importer must submit a copy of the originally executed CF 3461/3461 ALT, annotated to reflect which portion of the entire invoiced entity is arriving at that time (*e.g.,* third of six portions).

*Special Permit for Immediate Delivery*

Customs law typically contemplates that merchandise will be imported before it is entered. This raises a potential obstacle to allowing an entry covering an entity to be filed and accepted when only a portion of the unassembled or disassembled entity has thus far arrived. It also presents the difficult question of whether a rate of duty, set at the time of the release of the first portion, may apply to goods not yet imported into the United States. The proposed resolution of these latter two issues lies in requiring the unassembled or disassembled entity to be released under a special permit for immediate delivery. Section 142.21(a)–(g), Customs Regulations (19 CFR 142.21(a)–(g)), describes the circumstances and lists the types of merchandise that are currently eligible to be released under a special permit for immediate delivery. The proposed regulations would differ by not allowing the inclusion of quota class merchandise. In addition, § 142.22(a), Customs Regulations (19 CFR 142.22(a)), permits the submission of a pro forma rather than a commercial invoice. The proposed regulations would require the submission of a commercial invoice only.

Due to the fact that merchandise released under the special permit procedures set forth in § 142.21 is not considered to be entered until the entry/entry summary is filed, all of the portions comprising the entire unassembled or disassembled entity will be imported by the time the entry/entry summary is filed. The rate of duty applied to the merchandise will be the rate in effect for all goods released under the immediate delivery procedures, that is, the rate in effect when the entry/entry summary is filed.

It is proposed to create another category of immediate delivery releases by amending § 142.21 to add a new paragraph (h), in order to provide for the filing of a special permit for immediate delivery when the importer ships an entity on different conveyances due to its size or nature and elects to have each portion separately released as it arrives.

*Filing of Entry Summary*

Regarding the filing of the entry summary, the importer has two options if he waits until all portions of the entity have arrived. He can make entry of the entity when all portions arrive. If he does this, he must file the entry summary within 10 working days of the time of entry (*see* § 142.12(b), Customs Regulations (19 CFR 142.12(b))). In the alternative, he may have the entity released under a special permit for immediate delivery after all portions arrive, provided the entity is eligible for the special permit. If he chooses this option, the entry summary, which would serve as both the entry and entry summary, must be filed within 10 working days after the first portion of the entity has been authorized for release under the special permit (*see* § 142.23, Customs Regulations (19 CFR 142.23)).

Under proposed § 142.21(h), in the case of the arriving portions of a large entity released incrementally under the immediate delivery procedures, the entry summary, which would serve as both the entry and the entry summary, must be filed within 10 working days from the date of the first released portion. However, the entry/entry summary for the entity cannot be filed before the last portion of the entity which is to be included on the entry has arrived.

At the time of filing of the entry summary, estimated duties, taxes and fees would be required to be attached. If the entry summary is filed electronically, the estimated duties, taxes and fees would be required to be scheduled at that time for payment pursuant to the Automated Clearinghouse requirements (see § 24.25 of this chapter).

*Tariff Classification*

While 19 U.S.C. 1484(j) addresses the entry of merchandise, the legislation is silent as to classification under the HTSUS. It is therefore proposed that for Customs classification purposes the separate portions of the subject entity placed on one entry be classified as if they had been imported together. Since the legislation restricts the inclusion on one entry to merchandise purchased and invoiced as a single entity, any spare parts accompanying a portion of the entity must be entered separately.

*Failure To Arrive Within the 10 Day Period*

The importer of record would be responsible for verifying whether all portions of the entity have arrived within the specified 10 calendar day period. In instances in which all portions have not arrived, the importer of record would be required to file separate entries, or applications for special permit for immediate delivery, as well as separate entry summaries, for the portions of the unassembled or disassembled entity that arrive on different conveyances. Each entry and/or entry summary would reflect the quantities, values, classifications and rates of duty, as appropriate, of the various components conveyed in each shipment, and not the value, classification and rate of duty of the ordered single entity. An importer of portions released incrementally would be required to recall the filed CF 3461/3461ALT application for special permit for immediate delivery and to substitute separate entries, or applications for special permit for immediate delivery, in its place.

*Exclusions From Procedure Under 19 U.S.C. 1484(j)(1)*

Quota and/or visa class merchandise will not be eligible for treatment under the provisions of 19 U.S.C. 1484(j)(1) and this regulation.

Customs also proposes to reserve the right for the port director to deny use of the incremental release procedure under proposed § 142.21(h) as circumstances warrant, such as in the case where a particular shipment has been selected for examination.

In order to implement 19 U.S.C. 1484(j) insofar as it enables Customs to accept a single entry for separately arriving portions of a single large entity, as described, it is proposed to add a new § 141.58 to the Customs Regulations (19 CFR 141.58). Also, in addition to proposed § 142.21(h), as noted, minor conforming changes would be made to §§ 141.51 and 142.12(b) of the Customs Regulations (19 CFR 141.51, 142.12(b)).

**Comments**

Before adopting the proposed amendments that provide for a single entry for portions of an entity that arrive at different times, consideration will be given to any written comments that are timely submitted to Customs in this regard. Comments concerning the language in this package concerning split shipments should be submitted in connection with the previously published notice dealing with such shipments (*see* 66 FR 57688). Customs particularly requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

**Regulatory Flexibility Act and Executive Order 12866**

The proposed rule is intended to implement the amendment to 19 U.S.C. 1484 by the Tariff Suspension and Trade Act of 2000. The proposed rule, if adopted, will engender cost savings by reducing paperwork for importers, and by reducing the number of entries required for separate shipments of unassembled or disassembled entities. Hence, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor does the proposed rule result in a ''significant regulatory action'' under E.O. 12866.

**Paperwork Reduction Act**

The collections of information encompassed within this proposed rule have already been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515–0065 (Requirement to make entry unless specifically exempt; Requirement to file entry summary form); 1515–0167 (Statement processing and Automated Clearinghouse); 1515–0214 (General recordkeeping and record production requirements); and 1515–0001 (Transportation manifest; cargo declaration). This rule does not propose any substantive changes to the existing approved information collections. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

**List of Subjects**

*19 CFR Part 141*

Customs duties and inspection, Entry of merchandise, Release of merchandise, Reporting and recordkeeping requirements.

*19 CFR Part 142*

Computer technology, Customs duties and inspection, Entry of merchandise, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

It is proposed to amend parts 141 and 142, Customs Regulations (19 CFR parts 141 and 142), as set forth below.

## PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for part 141 would continue to read as follows:

**Authority:** 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

2. It is proposed to revise § 141.51 to read as follows:

**§ 141.51 Quantity usually required to be in one entry.**

All merchandise arriving on one conveyance and consigned to one consignee must be included on one entry, except as provided in § 141.52. In addition, a shipment of merchandise that arrives by separate conveyances at the same port of importation in multiple portions, either as a shipment split by the carrier or as components of a large unassembled or disassembled entity, may be processed under a single entry, as prescribed, respectively, in §§ 141.57 and 141.58 of this part.

3. It is proposed to amend subpart D of part 141 by adding a new § 141.58, to read as follows:

**§ 141.58 Single entry for separately arriving portions of large unassembled or disassembled entities.**

(a) *At election of importer of record.* At the election of the importer of record, a large unassembled or disassembled entity arriving on multiple conveyances as contemplated under section 484(j)(1), Tariff Act of 1930 (19 U.S.C. 1484(j)(1)), may be processed as a single entry, as prescribed under the procedures set forth in this section.

(b) *Unassembled or disassembled entities covered.* An unassembled or disassembled entity for purposes of this section is a large entity which:

(1) Cannot, due to its size or nature, be accommodated on a single conveyance, and is thus imported in an unassembled or disassembled condition;

(2) Is ordered, invoiced and is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS), as a single entity and is consigned to one person in the United States;

(3) Is imported on more than one conveyance; and

(4) Involves the first portion and all succeeding portions arriving directly at the same United States port of importation within 10 calendar days of the date of the first portion.

(c) *Application by importer.* An application to file a single entry covering an entity described in paragraph (b) of this section must be made by the importer of record, either by appropriately annotating a CF 3461, CF 3461 ALT, or electronic equivalent, or by submitting a letter to Customs. The required application must be made no later than 5 working days in advance of the arrival of the first conveyance. Justification for the need for more than one conveyance must be provided in the application, which must include an affirmative statement that the entity cannot, due to its size or nature, be accommodated on one conveyance. A copy of the relevant invoice or purchase order, or electronic equivalent, must accompany the application, along with the proposed appropriate single tariff number under the HTSUS. The port director will notify the applicant of the

approval or denial of the application within 3 working days of the receipt of the application.

(d) *Entry or special permit for immediate delivery.* In order to make a single entry for portions of an entity covered under this section that arrive at different times, an importer of record must follow the procedure prescribed in paragraph (d)(1) or (d)(2) of this section, as applicable.

(1) *Entry or special permit after arrival of all portions.* An importer may file an entry at such time as all portions of the entity have arrived. In the alternative, the importer may file a special permit for immediate delivery after arrival of all portions of the entity provided that it is eligible for such a permit under § 142.21(a)—(d), (f) and (i) of this chapter (*see* § 142.21(e) of this chapter).

(2) *Special permit for immediate delivery after arrival of first portion.* As provided in § 142.21(h) of this chapter, an importer of record may file an application for a special permit for immediate delivery after the arrival of the first portion of the entity covered by paragraph (b) of this section, and its remaining portions may be released incrementally pursuant to the requirements set forth in paragraph (e) of this section.

(e) *Release.* To secure release of an entity after arrival of all portions under paragraph (d)(1) of this section, a Customs Form (CF) 3461 or CF 3461 alternate (CF 3461 ALT), as appropriate, or electronic equivalent, must be filed with Customs. To secure the separate release upon arrival of each portion of a shipment under paragraph (d)(2) of this section, a CF 3461 or CF 3461 ALT, as appropriate, or electronic equivalent, must be filed with Customs after arrival of the first portion. As each successive portion arrives, the importer must submit a copy of the originally submitted CF 3461/CF 3461 ALT, annotated to specifically identify that particular portion. The CF 3461/CF 3461 ALT must indicate the order of the arriving portion in relation to the entire shipment as reflected on the invoice (for example, third of six portions). The release of each portion upon arrival as permitted under this paragraph may be restricted due to Customs need to examine the merchandise in accordance with paragraph (f) of this section. In addition, the importer of record must present to Customs either on paper or through an authorized electronic equivalent, specific and detailed information supplementing the CF 3461 or 3461 ALT, relating to the merchandise on each conveyance which reflects exact information for that portion of the ordered entity (for example, detailed packing lists).

(f) *Examination.* Examination of any or all portions of the entity may be required. Customs reserves the right to deny incremental release (defined in § 142.21(g) of this chapter) should such an examination of the merchandise be necessary. The denial of incremental release does not preclude the use of the procedures specified in paragraph (d)(1) of this section.

(g) *Entry summary.* (1) For merchandise entered under paragraph (d)(1) of this section, an entry summary must be filed within 10 working days from the time of entry (see § 142.12(b) of this chapter). For merchandise released under a special permit for immediate delivery, the entry summary, which serves as both the entry and entry summary, must be filed within 10 working days after the first portion of the entity is authorized for release under the special permit (*see* § 142.23 of this chapter).

(2) For merchandise released under a special permit for immediate delivery pursuant to paragraph (d)(2) of this section, the entry summary, which serves as both the entry and the entry summary, must be filed within 10 working days from the date of the first release of a portion of the unassembled or disassembled entity. However, the entry/entry summary for the entity cannot be filed before the last portion of the entity which is to be included on the entry has arrived.

(3) *Duty payment.* At the time the entry summary is filed under paragraphs (g)(1) and (g)(2) of this section, estimated duties, taxes and fees must be attached. If the entry summary is filed electronically, the estimated duties, taxes and fees must be scheduled for payment at such time pursuant to the Automated Clearinghouse procedures (*see* § 24.25 of this chapter).

(h) *Classification.* Except as provided in paragraph (j) of this section, for purposes of section 484(j)(1), Tariff Act of 1930 (19 U.S.C. 1484(j)(1)), the merchandise comprising the separate portions of an entity covered by paragraph (b) of this section included on one entry will be classified as though imported together. Any spare parts accompanying a portion of an entity must be classified and entered separately.

(i) *Separate entry and entry summary required.* When all portions of an entity do not arrive within 10 calendar days of the arrival of the first portion, a separate entry and entry summary must be filed for each portion that has already arrived, and for each portion that subsequently will arrive on separate conveyances. The merchandise included on each separate entry shall be classified in its condition as imported. Each entry would reflect the quantities, values, classifications and rates of duty, as appropriate, of the various components conveyed in each shipment, and not the value or classification of the ordered single entity.

(j) *Exclusions.* Merchandise subject to quota and/or visa requirements is entirely excluded from the procedures set forth in this section. Also, Customs reserves the right for the port director to deny use of the incremental release procedure and only release the shipment in its entirety as circumstances warrant, such as in the case where a particular shipment has been selected for examination.

## PART 142—ENTRY PROCESS

1. The general authority for part 142 would continue to read as follows:

**Authority:** 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to amend § 142.21 by removing the second sentence in paragraph (e)(1) and adding in its place three new sentences, by removing the second sentence in paragraph (e)(2) and adding in its place three new sentences, by redesignating paragraph (g) as paragraph (i) and adding two new paragraphs (g) and (h), and by revising newly redesignated paragraph (i) to read as follows:

### § 142. 21 Merchandise eligible for special permit for immediate delivery.

* * * * *

(e) *Quota-class merchandise.* (1) *Tariff rate quotas.* * * * However, merchandise subject to a tariff-rate quota may not be incrementally released under a special permit for immediate delivery as provided in paragraphs (g) and (h) of this section. Nor is such merchandise eligible for release under a special permit pursuant to § 141.58(d)(1) of this chapter. Where a special permit is authorized, an entry summary will be properly presented pursuant to § 132.1 of this chapter within the time specified in § 142.23, or within the quota period, whichever expires first. * * *

(2) *Absolute quotas.* * * * However, merchandise subject to an absolute quota under this paragraph may not be incrementally released under a special permit for immediate delivery as provided in paragraphs (g) and (h) of this section. Nor is such merchandise eligible for release under a special permit pursuant to § 141.58(d)(1) of this chapter. Where a special permit is authorized, a proper entry summary must be presented for merchandise so

released within the time specified in § 142.23, or within the quota period, whichever expires first. * * *

* * * * *

(g) *Split shipments.* Merchandise subject to § 141.57(d)(2) of this chapter, which is purchased and invoiced as a single shipment, but which is shipped by the carrier in separate portions to the same port of arrival due to the carrier's inability to accommodate the merchandise on a single conveyance, may be released incrementally under a special permit.

(h) *Entities shipped unassembled or disassembled on multiple conveyances.* Merchandise subject to § 141.58(d)(2) of this chapter, which is purchased, invoiced, and classified as a single entity under the Harmonized Tariff Schedule of the United States (HTSUS), and which is shipped in separate portions because its size or nature prevents accommodating the entity on a single conveyance, may be released incrementally under a special permit.

(i) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), (c), (d), (e), (f), (g), and (h) of this section provided a bond on Customs Form 301 containing the bond conditions set forth in § 113.62 of this chapter is on file.

3. It is proposed to amend § 142.22 by removing the first sentence of paragraph (a) and adding in its place the following two sentences to read as follows:

**§ 142.22 Application for special permit for immediate delivery.**

(a) *Form.* An application for a special permit for immediate delivery will be made on Customs Form 3461, supported by the documentation provided for in § 142.3. A commercial invoice will not be required, except for merchandise released under the provisions of 19 U.S.C. 1484(j). * * *

* * * * *

4. It is proposed to amend § 142.23 by adding a sentence to read as follows:

**§ 142.23 Time limit for filing documentation after release.**

* * * The time for filing entry summary documentation may be extended as set forth in § 141.58(g)(1) and (g)(2) of this chapter, under the authority of § 141.58(b)(4) of this chapter.

Approved: April 1, 2002.

**Robert C. Bonner,**

*Commissioner of Customs.*

**Timothy E. Skud,**

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 02–8218 Filed 4–5–02; 8:45 am]

**BILLING CODE 4820–02–P**

## DEPARTMENT OF LABOR

### Employment Standards Administration; Wage and Hour Division

### 29 CFR Part 552

**RIN 1215–AA82**

### Application of the Fair Labor Standards Act to Domestic Service

**AGENCY:** Wage and Hour Division, Employment Standards Administration, Labor.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Department of Labor is withdrawing an earlier proposed rule, published in the **Federal Register** on January 19, 2001 (66 FR 5481), pertaining to the Fair Labor Standards Act (FLSA) exemption for individuals who provide companionship services. For the reasons discussed below, the Department has decided to terminate this rulemaking proceeding.

**DATES:** This withdrawal is made on April 18, 2002.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Brennan, Deputy Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, D.C. 20210; telephone (202) 693–0745. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** The Department is withdrawing the proposed rule pertaining to the FLSA exemption for individuals who provide companionship services, and terminating the rulemaking proceeding. The proposed rule, published on January 19, 2001 (66 FR 5481), proposed revisions to the regulations defining and interpreting the minimum wage and overtime exemption under section 13(a)(15) of the FLSA for employees in domestic service employment who provide ''companionship services'' to individuals unable to care for themselves because of age or infirmity. The Department proposed to amend the regulations to make the companionship exemption inapplicable if the worker was employed by someone other than a member of the family in whose home he or she worked. The Department also proposed to modify the scope of the permissible duties of a companion. In the proposed rule, the Department had concluded that there would be little economic impact on affected entities if such workers were not exempt from the FLSA's minimum wage and overtime pay requirements. However, numerous commenters on the proposed rule, including multiple government agencies such as the Small Business Administration and the Department of Health and Human Services, seriously called into question the Department's conclusion that there would be little economic impact. Based on its review of the rulemaking record as a whole, the Department has decided to withdraw the proposed rule and terminate the rulemaking action.

**Document Preparation**

This document was prepared under the direction and control of Tammy D. McCutchen, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

Signed at Washington, DC, on this 29th day of March, 2002.

**Tammy D. McCutchen,**

*Administrator, Wage and Hour Division.*

[FR Doc. 02–8382 Filed 4–5–02; 8:45 am]

**BILLING CODE 4510–27–M**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

**[PAC AREA–02–001]**

**RIN 2115–AG33**

### Protection of Naval Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking; correction.

**SUMMARY:** This document corrects a notice of proposed rulemaking published in the **Federal Register** on March 20, 2002, concerning a proposed final rule for the Pacific Area Naval Vessel Protection Zone. That document contained an inaccurate regulation identifier number (RIN). The correct RIN appears in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** LT P. Springer, PACAREA (pm), Coast Guard Island, Alameda (510) 437–2951.

**SUPPLEMENTARY INFORMATION:**

## PART 165—[CORRECTED]

### Correction

The heading of the notice of proposed rulemaking (NPRM) published March 20, 2002, on page 12940 of the **Federal Register**, contained an incorrect regulation identifier number, 2115–AG23. The correct RIN is 2115–AG33. To advise the public of this error, we are publishing this notice of correction.

### Correction of Publication

Accordingly, the Protection of Naval Vessels NPRM published March 20, 2002, FR Doc. 02–6766, [docket number PAC AREA–02–001], is corrected as follows: On page 12940, in the heading, ''RIN 2115–AG23'' is corrected to read ''RIN 2115–AG33''.

Dated: April 3, 2002.

**S.G. Venckus,**

*Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

[FR Doc. 02–8439 Filed 4–5–02; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[CA 251—0326b; FRL–7160–9]**

### Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns oxides of nitrogen ($NO_X$) emissions from electric power boilers. We are proposing to approve the local rule to regulate these emission sources under the Clean Air Act as amended in 1990.

**DATES:** Any comments on this proposal must arrive by May 8, 2002.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95812.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

**FOR FURTHER INFORMATION CONTACT:** Charnjit Bhullar, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 972–3960.

**SUPPLEMENTARY INFORMATION:** This proposal addresses local rule, MBUAPCD 431. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Anyone interested in commenting should do so at this time, we do not plan to open a second comment period. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 1, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 02–8294 Filed 4–5–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[CA 210–0306b; FRL–7165–3]**

### Revisions to the California State Implementation Plan, South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern nitrogen oxide ($NO_X$) emissions from fuel burning equipment and from boilers, steam generators, process heaters, and from water heaters. We are proposing to approve local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by May 8, 2002.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSDs at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

**SUPPLEMENTARY INFORMATION:** This proposal addresses the approval of local SCAQMD Rules 1146 and 1146.2. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 8, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 02–8292 Filed 4–5–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[CA 259–0332b; FRL–7158–8]**

### Revisions to the California State Implementation Plan, South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the South Coast Air Quality

Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns particulate matter (PM–10) emissions from open fires. We are proposing to approve local rules that regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by May 8, 2002.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted rule revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSD at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

**SUPPLEMENTARY INFORMATION:** This proposal addresses the approval of the local SCAQMD Rules 208 and 444. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 1, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 02–8288 Filed 4–5–02; 8:45 am]

**BILLING CODE 6560–50–P**

## CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

### 40 CFR Part 1603

### Rules Implementing the Government in the Sunshine Act

**AGENCY:** Chemical Safety and Hazard Investigation Board.

**ACTION:** Proposed rule.

**SUMMARY:** The Chemical Safety and Hazard Investigation Board proposes new regulations establishing the agency's procedures for implementing the Government in the Sunshine Act.

**DATES:** Submit comments on or before May 8, 2002.

**ADDRESSES:** Address all comments concerning this proposed rule to Christopher Kirkpatrick, Chemical Safety and Hazard Investigation Board, 2175 K Street, NW, Suite 400, Washington, DC 20037.

**FOR FURTHER INFORMATION CONTACT:** Christopher Kirkpatrick, (202) 261–7600.

**SUPPLEMENTARY INFORMATION:** The Chemical Safety and Hazard Investigation Board (''CSB'' or ''Board''), as an agency headed by a collegial body composed of five members appointed by the President with the advice and consent of the Senate, is subject to the Government in the Sunshine Act (''Sunshine Act'' or ''Act''), 5 U.S.C. 552b. The Sunshine Act establishes standards for publicizing and permitting access to agency meetings, and for closing meetings to the public under certain conditions. The Act requires agencies to promulgate regulations to implement the statute's requirements.

This proposed rule is designed to implement the requirements of the Sunshine Act. This proposed rule mirrors the Sunshine Act regulations of many other agencies, most specifically, those of the National Transportation Safety Board (49 CFR part 804) and the Defense Nuclear Facilities Safety Board (10 CFR part 1704).

### Regulatory Flexibility Act

The Board, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this proposed regulation and certifies that it will not have a significant economic impact on a substantial number of small entities.

### Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48.

### List of Subjects in 40 CFR Part 1603

Sunshine Act.

For the reasons set forth in the preamble, the Chemical Safety and Hazard Investigation Board proposes to add a new 40 CFR part 1603 to read as follows:

## PART 1603—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

1603.1 Applicability.
1603.2 Policy.
1603.3 Definitions.
1603.4 Open meetings requirement.
1603.5 Assurance of compliance.
1603.6 Business requiring a meeting.
1603.7 Grounds on which meetings may be closed or information may be withheld.
1603.8 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.
1603.9 Procedures for public announcement of meetings.
1603.10 Changes following public announcement.
1603.11 Transcripts, recordings, or minutes of closed meetings.
1603.12 Availability of transcripts, recordings, and minutes, and applicable fees.
1603.13 Report to Congress.
1603.14 Severability.

**Authority:** 5 U.S.C. 552b; 42 U.S.C. 7412(r)(6)(N).

#### § 1603.1 Applicability.

(a) This part implements the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b. These procedures apply to meetings, as defined in this part, of the Members of the Chemical Safety and Hazard Investigation Board (''CSB'' or ''Board'').

(b) This part does not affect the procedures by which CSB records are made available to the public, which continue to be governed by part 1601 of this chapter pursuant to the Freedom of Information Act, 5 U.S.C. 552, except that the exemptions set forth in § 1603.7 shall govern in the case of any requests made for the transcripts, recordings, and minutes described in § 1603.11.

#### § 1603.2 Policy.

It is the policy of the CSB to provide the public with the fullest practicable information regarding the decisionmaking processes of the Board, while protecting the rights of individuals and the ability of the Board to discharge its statutory functions and responsibilities. The public is invited to

attend but not to participate in open meetings. For any open meeting, the Board, by majority vote, may decide to allow for a public comment period immediately following the close of that meeting.

**§ 1603.3 Definitions.**

As used in this part:

(a) *Days* means calendar days, except where noted otherwise.

(b) *General Counsel* means the Board's principal legal officer, or a CSB attorney serving as Acting General Counsel.

(c) *Meeting* means the deliberations of at least a quorum of Members where such deliberations determine or result in the joint conduct or disposition of official CSB business, and includes conference telephone calls or other exchanges otherwise coming within the definition. A meeting does not include:

(1) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the Members individually by telephone.

(2) Action by at least a quorum of Members to:

(i) Open or to close a meeting or to release or to withhold information pursuant to § 1603.7;

(ii) Set an agenda for a proposed meeting(s);

(iii) Call a meeting on less than seven days' notice as permitted by § 1603.9(b); or

(iv) Change the subject matter or the determination to open or to close a publicly announced meeting under § 1603.10(b).

(3) A session attended by at least a quorum of Members for the purpose of having the Board's staff or expert consultants to the Board brief or otherwise provide information to the Board concerning any matters within the purview of the Board under its authorizing statute, provided that the Board does not engage in deliberations that determine or result in the joint conduct or disposition of official CSB business on such matters.

(4) A session attended by at least a quorum of Members for the purpose of having the Environmental Protection Agency or Occupational Safety and Health Administration (including contractors of those agencies) or other persons or organizations brief or otherwise provide information to the Board concerning any matters within the purview of the Board under its authorizing statute, provided that the Board does not engage in deliberations that determine or result in the joint conduct or disposition of official CSB business on such matters.

(5) A gathering of Members for the purpose of holding informal preliminary discussions or exchange of views which do not effectively predetermine official action.

(d) *Member* means an individual duly appointed and confirmed to the collegial body known as the Board.

(e) *Reporter* means a CSB employee designated by the General Counsel, under section 1603.5(c), to attend and prepare a written summary of all briefings described in paragraphs (c)(3) and (c)(4) of this section and all informal preliminary discussions described in paragraph (c)(5) of this section.

(f) *Sunshine Act* means the Government in the Sunshine Act, 5 U.S.C. 552b.

**§ 1603.4 Open meetings requirement.**

Any meetings of the Board, as defined in § 1603.3, shall be conducted in accordance with this part. Except as provided in § 1603.7, the Board's meetings, or portions thereof, shall be open to public observation.

**§ 1603.5 Assurance of compliance.**

(a) The General Counsel or another attorney designated by the General Counsel will attend and monitor all briefings described in § 1603.3(c)(3) and (c)(4) and all informal preliminary discussions described in § 1603.3(c)(5), to assure that those gatherings do not proceed to the point of becoming deliberations and meetings for Sunshine Act purposes.

(b) The General Counsel or the designated attorney will inform the Board Members if developing discussions at a briefing or gathering should be deferred until a notice of an open or closed meeting can be published in the **Federal Register**, and a meeting conducted pursuant to the Sunshine Act and this part.

(c) For each briefing described in § 1603.3(c)(3) or (c)(4) and each informal preliminary discussion described in § 1603.3(c)(5), the General Counsel is hereby authorized to designate a CSB employee, other than the attorney referred to in paragraph (a) of this section, to serve as a reporter. An employee may be designated as reporter for a single briefing or informal discussion or for a series of briefings or discussions. The reporter shall attend and prepare a written summary of each briefing(s) or informal discussion(s) for which he/she has been designated. The reporter must prepare the summary of a particular briefing or informal discussion within five business days after the date of that briefing or discussion. The reporter must then submit the summary to the General Counsel or the designated attorney who attended the briefing or informal discussion that is the subject of the summary for review and approval as a fair and accurate summary of that briefing or discussion. The written summaries of briefings and informal discussions shall be maintained in the Office of General Counsel.

**§ 1603.6 Business requiring a meeting.**

The Board may, by majority vote of its Members, determine that particular items or classes of Board business cannot be accomplished by notation voting, but must instead be decided by a recorded vote at a meeting, as defined in § 1603.3(c).

**§ 1603.7 Grounds on which meetings may be closed or information may be withheld.**

Except in a case where the Board finds that the public interest requires otherwise, a meeting may be closed and information pertinent to such meeting otherwise required by §§ 1603.8, 1603.9, and 1603.10 to be disclosed to the public may be withheld if the Board properly determines that such meeting or portion thereof or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and

(2) Are, in fact, properly classified pursuant to such Executive Order. In making the determination that this exemption applies, the Board shall rely upon the classification assigned to a document by the Environmental Protection Agency, Occupational Safety and Health Administration, or other originating agency;

(b) Relate solely to the internal personnel rules and practices of the CSB;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the CSB, except that this paragraph (h) shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action or is not required by law to make such disclosure on its own initiative prior to taking final action on such proposal;

(i) Specifically concern the Board's issuance of a subpoena, or the CSB's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the CSB of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing; or

(j) Disclose other information for which the Government in the Sunshine Act provides an exemption to the open meeting requirements of that Act.

**§ 1603.8 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.**

(a) A meeting shall not be closed, or information pertaining thereto withheld, unless a majority of all Members votes to take such action. A majority of the Board may act by taking a single vote with respect to any action under § 1603.7. A single vote is permitted with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular subject matters and is scheduled to be held no more than thirty days after the initial meeting in such series. Each Member's vote under this paragraph shall be recorded and proxies are not permitted.

(b) Any person whose interest may be directly affected if a portion of a meeting is open may request the Board to close that portion on any of the grounds referred to in § 1603.7 (e) through (g). Requests, with reasons in support thereof, should be submitted in writing, no later than two days before the meeting in question, to the General Counsel, Chemical Safety and Hazard Investigation Board, 2175 K Street, NW., Suite 400, Washington, DC 20037. On motion of any Member, the Board shall determine by recorded vote whether to grant the request.

(c) Within one working day of any vote taken pursuant to this section, the CSB shall make available a written copy of such vote reflecting the vote of each Member on the question and, if a portion of a meeting is to be closed to the public, a full written explanation of its action closing the meeting and a list of all persons expected to attend and their affiliation.

(d) Before every closed meeting, the General Counsel of the CSB shall publicly certify that, in his/her opinion, the meeting may be closed to the public and shall state each relevant exemption provision. If the General Counsel invokes the exemption for classified or sensitive unclassified information under § 1603.7(a), he/she shall rely upon the classification or designation assigned to the document containing such information by the Environmental Protection Agency, Occupational Safety and Health Administration, or other originating agency. A copy of such certification, together with a statement setting forth the time and place of the meeting and the persons present, shall be retained by the Board as part of the transcript, recording, or minutes required by § 1603.11.

**§ 1603.9 Procedures for public announcement of meetings.**

(a) For each meeting, the CSB shall make public announcement, at least one week before the meeting, of:

(1) The time of the meeting;

(2) The place of the meeting;

(3) The subject matter of the meeting;

(4) Whether the meeting is to be open or closed; and

(5) The name and business telephone number of the official designated by the CSB to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if:

(1) A majority of all Members determines by recorded vote that CSB business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time.

(c) Immediately following each public announcement required by this section, or by § 1603.10, the CSB shall submit a notice of public announcement for publication in the **Federal Register**.

**§ 1603.10 Changes following public announcement.**

(a) The time or place of a meeting may be changed following the public announcement only if the CSB publicly announces such change at the earliest practicable time. Members need not approve such change.

(b) A meeting may be cancelled, or the subject matter of a meeting or the determination of the Board to open or to close a meeting, or a portion thereof, to the public may be changed following public announcement only if:

(1) A majority of all Members determines by recorded vote that CSB business so requires and that no earlier announcement of the cancellation or change was possible; and

(2) The CSB publicly announces such cancellation or change and the vote of each Member thereon at the earliest practicable time.

(c) The deletion of any subject matter announced for a meeting is not a change requiring the approval of the Board under paragraph (b) of this section.

**§ 1603.11 Transcripts, recordings, or minutes of closed meetings.**

(a) Along with the General Counsel's certification referred to in § 1603.8(d), the CSB shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or a portion thereof, closed to the public. The CSB may maintain a set of minutes in lieu of such transcript or recording for meetings closed pursuant to § 1603.7(i). Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. All documents considered in connection with any actions shall be identified in such minutes.

(b) The CSB shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or a portion thereof, closed to the public for at least two years after such meeting, or until one year after the conclusion of any CSB proceeding with respect to which the meeting, or a portion thereof, was held, whichever occurs later.

**§ 1603.12 Availability of transcripts, recordings, and minutes, and applicable fees.**

The CSB shall make promptly available to the public the transcript, electronic recording, or minutes of the discussion of any item on the agenda or of any testimony received at a meeting, except for such item, or items, of discussion or testimony as determined by the CSB to contain matters which may be withheld under the exemptive provisions of § 1603.7. Copies of the nonexempt portions of the transcript or minutes, or transcription of such recordings disclosing the identity of each speaker, shall be furnished to any person at the actual cost of transcription or duplication. Requests for transcripts, recordings, or minutes shall be made in writing to the General Counsel of the CSB, 2175 K Street, NW, Suite 400, Washington, DC 20037.

**§ 1603.13 Report to Congress.**

The CSB General Counsel shall annually report to the Congress regarding the Board's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Board pursuant to the Government in the Sunshine Act, including any cost assessed against the Board in such litigation (whether or not paid by the Board).

**§ 1603.14 Severability.**

If any provision of this part or the application of such provision to any person or circumstances, is held invalid, the remainder of this part or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Dated: April 3, 2002.

**Christopher W. Warner,**

*General Counsel.*

[FR Doc. 02–8437 Filed 4–5–02; 8:45 am]

BILLING CODE 6350–01–U

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 73, 74, 80, 90 and 97

**[ET Docket No. 02–16; FCC 02–27]**

## WRC Frequency Bands Below 28000 kHz

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend our rules in order to implement domestically various allocation decisions from International Telecommunication Union (''ITU'') World Radiocommunication Conferences concerning the frequency bands below 28000 kilohertz (''kHz''). The most significant of these proposals is to reallocate high frequency (''HF'') spectrum from the fixed and mobile services to the broadcasting service. We also propose to make various minor amendments to our U.S. Table of Frequency Allocations (''U.S. Table'') and to several of our service rules. In sum, the proposed actions would update our Rules for frequency bands below 28000 kHz so that they better comport with international regulations, would update various rule parts to effectuate the allocation changes, and would otherwise clean-up rules that have not recently been reviewed.

**DATES:** Comments are due on or before May 8, 2002 and reply comments are due on or before June 7, 2002. Written comments by the public on the proposed information collections are due on or before May 8, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before June 7, 2002.

**ADDRESSES:** All filings must be sent to the Commission's Acting Secretary, Bill Caton, Office of the Secretary, Federal Communications Commission, 415 12th Street, SW, TW-A325, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith Boley Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to *jbherman@fcc.gov,* and to Jeanette Thornton, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *JThornto@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Tom Mooring, Office of Engineering and Technology, at (202) 418–2450 or *tmooring@fcc.gov.* For additional information concerning the information collection(s) contained in this document, contact Judith Boley Herman at 202–418–0214 or *jbherman@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making and Order (''NPRM and Order''), ET Docket 02–16, FCC 02–27, adopted January 30, 2002, and released February 7, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's duplication contractor, Qualex International (202) 863–2893, Room CY-B402, 445 12th Street, SW, Washington, DC 20554.

This NPRM and Order contains a proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

*Paperwork Reduction Act:* This NPRM and Order contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this NPRM and Order, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM and Order; OMB notification of action is due on or before June 7, 2002. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Control Number:* 3060–XXXX.

*Title:* Part 73 Subpart F International Broadcast Stations.

*Form No.:* FCC 309, FCC 310, FCC 311.

*Type of Review:* New Collection.

*Respondents:* Businesses and not-for-profit entities.

*Number of Respondents:* 24.

*Estimated Time Per Response:* 0.5 hours—10 hours.

*Frequency of Response:* On occasion filing requirements, annual recordkeeping requirement.

*Total Annual Burden:* 684 hours.

*Total Annual Costs:* $42,970.

*Needs and Uses:* Information collected pursuant to the rules sent forth in 47 CFR Part 73, Subpart F used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations, and to determine if interference or adverse propagation conditions exists that may impact the operation of such stations.

**Summary of the Notice of Proposed Rulemaking**

1. This NPRM and Order proposes to amend Parts 2, 73, 74, 80, 90, and 97 of our Rules in order to implement domestically various allocation decisions from ITU World Radiocommunication Conferences concerning the frequency bands below 28000 kHz. The most significant of these proposals is to reallocate HF spectrum from the fixed and mobile services to the broadcasting service. The long-range propagation characteristics of HF frequencies enable audio programs to be received directly by the general public in countries far from the country of origin, and thus HF broadcasting (''HFBC'') is also known as international broadcasting. Specifically, we propose to make an additional 1540 kilohertz of spectrum available exclusively for use by international broadcast stations, with 850 kilohertz immediately available and the remainder available after a transition period that ends on April 1, 2007. Until the completion of the transition period, fixed and mobile stations in that spectrum would be allowed to continue to operate on a primary basis; after that date, these stations would be allowed to continue to operate on the condition that harmful interference is not caused to the broadcasting service. This action would significantly increase the amount of spectrum available to international broadcasters on a worldwide basis, thus facilitating the provision of information and entertainment to people throughout the world. In addition, we propose to update our Rules for international broadcast stations (Part 73, Subpart F) in order to add the new frequency bands and to otherwise conform to international regulations.

2. We also propose to make various minor amendments to our U.S. Table and to several of our service rules. In particular, we propose to clarify the status of services operating in the AM Expanded Band (1605–1705 kHz). To prevent the licensing of Industrial/Business Pool stations (which no longer have an allocation in the AM Expanded Band) during the pendency of this proceeding, we will no longer accept applications for new licenses or modifications or renewals of existing licenses for frequencies in the band 1605–1705 kHz and applicants with such pending applications will be given the opportunity to specify other frequencies. We also propose to permit stations in the Industrial/Business Pool and radiolocation service that are assigned frequencies in the band 1605–1705 kHz to continue to operate until the end of their current license term on a non-interference basis (''NIB'') to AM radio stations and travelers'' information stations (''TIS''), without an opportunity for renewal. In addition, we propose to permit remote pickup broadcast stations to continue operations in the band 26100–26175 kHz, to remove outdated regulations in the aeronautical fixed and amateur radio services, and to make six new frequencies available for forest product licensees in limited geographic areas of the country.

*International Broadcast Stations*

3. At the 1979 World Administrative Radio Conference (''WARC–79''), the following bands were allocated to the broadcasting service on an exclusive basis throughout the world: 9775–9900 kHz, 11650–11700 kHz, 11975–12050 kHz, 13600–13800 kHz, 15450–15600 kHz, 17550–17700 kHz, and 21750–21850 kHz. The WARC–79 HFBC bands became effective provisionally in 1999. Therefore, we propose to delete the fixed service from the WARC–79 HFBC bands, thereby making this spectrum available exclusively to the broadcasting service, and to add these bands to the rules for international broadcast stations. This action would provide international broadcasters with an additional 850 kilohertz of spectrum. We anticipate that this action would permit significantly more HFBC stations to operate in bands allocated exclusively to the broadcasting service, thereby reducing the need to coordinate with fixed stations. Regarding incumbent operations, the National Telecommunications and Information Administration (''NTIA'') has informed us that, consistent with international footnote S5.147, Federal agencies would continue to operate fixed stations in three of the WARC–79 HFBC bands (9775–9900 kHz, 11650–11700 kHz, and 11975–12050 kHz) and that these fixed stations will operate on the condition that harmful interference is not caused to the broadcasting service.

4. At the 1992 World Administrative Radio Conference (''WARC–92''), the following bands were allocated to the broadcasting service on a primary (and ultimately exclusive) basis throughout the world: 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 13570–13600 kHz, 13800–13870 kHz, 15600–15800 kHz, 17480–17550 kHz, and 18900–19020 kHz. Exclusive broadcasting use of the WARC–92 HFBC bands is to become effective on April 1, 2007. However, until the transition period has concluded, we anticipate that fixed and mobile use will continue to be the main use of these bands in the United States. Therefore, in derogation of the ITU Radio Regulations, we propose to maintain the existing direct Table allocations to the fixed and mobile services in the WARC–92 HFBC bands at this time in order to highlight the main use of these bands. We propose this action at the request of NTIA. Accordingly, we propose to allocate this 690 kilohertz of spectrum to the broadcasting service on a shared primary basis with existing fixed and mobile services and to add these bands to Part 73, Subpart F of our Rules. We anticipate that this action would ultimately permit most international broadcast stations to operate in bands allocated exclusively to the broadcast stations to operate in bands allocated exclusively to the broadcasting service. As a consequence of maintaining direct Table allocations for the fixed and mobile services, we propose to adopt a new United States footnote in lieu of international footnotes S5.136, S5.143, S5.146, and S5.151.

5. We also propose to cease issuing licenses for new non-Federal Government stations in the fixed and mobile services in the WARC–92 HFBC bands on April 1, 2007, consistent with the proposed allocation changes for these services. We anticipate that these requirements can be met in other HF bands allocated to the fixed and mobile services. With regard to non-Federal Government fixed and mobile licenses granted in the WARC–92 HFBC bands prior to the adoption of a Report and Order in this proceeding, we instruct the Wireless Telecommunications Bureau to add an informational note on these licenses that the authorization may be conditioned as a result of action taken in this proceeding.

6. We anticipate that the WARC–92 HFBC bands will be more heavily used by international broadcast stations after April 1, 2007 because HFBC stations

will no longer need to protect fixed and mobile operations and because some HFBC stations now operating in other bands will move to these frequencies. Thus, fixed and mobile licensees may wish to consider moving to other bands prior to April 1, 2007, especially if their current license expires prior to that time, because of the expected difficulty of co-channel sharing between high-powered, directional international broadcast stations and stations operating in other services. In this regard, we observe that equipment used by licensees in the fixed service below 25000 kHz is required to be ''capable of transmitting and receiving on any frequency in the bands assigned to the particular operation and capable of immediate change among the frequencies,'' i.e., the equipment is tunable. It is our experience that maritime mobile equipment in this frequency range is also tunable. Given that there are other HF bands allocated to the fixed and mobile services and that existing equipment is tunable to these frequencies, we tentatively find that fixed and mobile assignments now using the WARC–92 HFBC bands could continue operations using other HF spectrum after the April 1, 2007 effective date for exclusive HFBC use. We request comment on the ease and feasibility of retuning fixed and mobile operations out of the WARC–92 HFBC bands. Specifically, are there significant costs or hardships associated with fixed and mobile licensees retuning to frequencies outside of the WARC–92 HFBC bands and if so, what actions could mitigate such impact? Finally, as a consequence of the upcoming reallocation, we propose to add informational notes to Part 80 (the maritime service rules) stating that radioprinter use of the bands 5900–5950 kHz and 7300–7350 kHz and Alaska private-fixed station use of the frequency 11601.5 kHz will be on the condition that harmful interference is not caused to HF broadcasting. We request comment on these proposals and assumptions.

7. In order to bring the Commission's Rules for international broadcast stations into conformance with current international provisions, we propose to make the following amendments to Part 73, Subpart F. First, we propose to amend § 73.756(c) by revising the frequency tolerance of 0.0015 percent of the assigned frequency to the current ITU standard of 10 hertz. We request comment on the number of HFBC stations currently operating that meet the more stringent standard. Further, we request comment on whether it is feasible to modify existing transmitters to meet this standard. If so, what costs are involved? Additionally, we request that commenters address the effects that grandfathering existing stations at their current frequency tolerance would have on this service. Second, we propose to revise various HFBC definitions in § 73.701 of our Rules to reflect international requirements as specified in the WRC–97 Final Acts. In particular, we observe that internationally the number of seasonal schedules per year has been reduced from four to two. Third, we propose to delete the band 25600–25670 kHz from the list of frequencies available to HFBC stations in Part 73 of our Rules. This band is not currently used by HFBC stations and this proposal would conform our Rules to the ITU's Table of Frequency Allocations and thus, protect radio astronomy observations in this frequency range. Fourth, we propose to clarify how the band 7100–7300 kHz may be used by international broadcast stations. Fifth, we propose to replace the map depicting geographical zones or areas of reception (''target zone map'') in § 73.703 with the current ITU target zone map. Sixth, we propose to modify the last sentence of § 73.766 to change the highest modulating frequency from 5 kilohertz to 4.5 kilohertz to reflect a long-standing international provision. We believe that our HFBC licensees have already made this technical change. The adoption of these proposals would make our rules easier to use and would avoid the confusion that could result from different Commission and international requirements for international broadcast operations. We request comment on all of the above proposals.

*AM Expanded Band*

8. We observe that, when the land mobile allocation was deleted from the band 1605–1705 kHz in 1983, frequencies within this band were inadvertently not removed from parts 74 and 90 of our Rules. Specifically, the frequencies 1606 kHz, 1622 kHz, and 1646 kHz are listed in § 74.402(a)(1); the frequency 1630 kHz is listed in § 90.20(c)(3); the frequencies 1614 kHz, 1628 kHz, 1652 kHz, 1676 kHz, and 1700 kHz are listed in § 90.35(b)(3), and the band 1605–1705 kHz is listed in § 90.263. We note that approximately 25 AM radio stations are operating in the Expanded Band, that a total of 67 AM radio stations are anticipated to be operating in this spectrum within the next 18 months, and that over 275 Federal and 568 non-Federal Government low power (10 watts) TIS currently operate on AM channels between these high-powered AM radio stations. In particular, we note that Federal Government TIS stations operating on the frequency 1610 kHz have primary status. Therefore, we tentatively find that there is no spectrum available for any other use. Accordingly, we propose to remove these frequencies from parts 74 and 90 of our rules.

9. To prevent the licensing of Public Safety, Industrial/Business Pool, and remote pickup stations in the AM Expanded Band during the pendency of this proceeding, such applications will no longer be granted. We will no longer accept applications for new licenses or modifications or renewals of existing licenses for frequencies within the band 1605–1705 kHz as of the effective date of this (''NPRM and Order''). Any such applications received on or after that date will be returned as unacceptable for filing. Pending applications will be dismissed, unless they are modified to specify alternative frequencies. We take this action to permit the orderly and effective resolution of the issue of mobile services (excluding TIS) operating in the AM Expanded Band. We anticipate this action will have minimal impact because very few such applications are received from Public Safety, Industrial/Business Pool, and remote pickup eligibles to operate in this band and because alternative land mobile spectrum is available.

10. The band 1605–1705 kHz also is allocated to the radiolocation service on a secondary basis for use by both Federal and non-Federal Government licensees. This allocation is codified in footnote US238. While our rules have long recommended that radiolocation stations operating in the band 1605–1705 kHz be relocated to the band 1900–2000 kHz, two non-Federal Government radiolocation licensees continue to operate in this spectrum. Therefore, in order to better protect the technical integrity of the AM Expanded Band, we propose to delete the radiolocation service from the band 1605–1705 kHz in both the Federal and non-Federal Government Table of Frequency Allocations. Consistent with this action, we also propose to remove the band 1605–1705 kHz from the Radiolocation Service Frequency Table in § 90.103 of our Rules and to delete unneeded assignment limitations. Finally, we have had discussions with NTIA concerning the Federal Government's radiolocation assignments in the sub-band 1615–1705 kHz. NTIA has agreed to relocate all of these assignments within one year of the adoption date of the Report and Order in this proceeding. During this one-year transition period, we propose to permit

these Federal Government radiolocation stations to continue to operate on the condition that harmful interference is not caused to AM or TIS reception. In addition, NTIA has agreed to relocate out of the AM Expanded Band all Federal Government stations currently operating in this spectrum without an allocation.

11. While there are no Public Safety or remote pickup licensees currently operating in the AM Expanded Band, four Industrial/Business Pool and two radiolocation licensees operate in this spectrum. We propose to permit these currently licensed stations to continue to operate until the end of their current license term on a NIB basis to AM radio and TIS stations, without an opportunity for renewal. Additionally, if we determine that any of these stations in the Industrial/Business Pool or radiolocation service is causing harmful interference to either an AM radio or TIS station, we propose to require that the station immediately cease transmission. Commission staff will work with affected licensees to help them find suitable alternative channels if the licensee desires. We propose that no fee be charged to licensees of affected stations that apply for modification for alternative channels before the end of their license term.

12. We propose to add an informational note to various Part 80 fixed service frequencies to reflect their secondary allocation status. We request comment on all of the above AM Expanded Band proposals.

*Continued Use of the Frequencies 26110 kHz, 26130 kHz, 26150 kHz, and 26170 kHz by Broadcast Auxiliary Remote Pickup Stations*

13. The band 26100–26175 kHz was reallocated from the land mobile service to the maritime mobile service in 1983. At that time, four land mobile frequencies within the reallocated band were not removed from Part 74 of our Rules. Thus, § 74.402(a) of our Rules continues to state that the following frequencies may be assigned for use by remote broadcast stations and broadcast network entities: 26110 kHz, 26130 kHz, 26150 kHz, and 26170 kHz. We tentatively find that remote pickup stations can share these frequencies with coast stations because of the intermittent nature of their use and because of light coast station demand for these and adjacent frequencies. Nonetheless, if coast station licensees later require use of these four frequencies, we propose to require that remote pickup stations not cause harmful interference to the reception of these coast station transmissions. We request comment on this proposal.

*Maritime Services*

14. The band 285–325 kHz is Federal/non-Federal Government shared spectrum that is allocated to the maritime radionavigation service on a primary basis, limited to radiobeacons. This band is also being used by Federal agencies for the provision of differential global positioning system (''DGPS'') information. NTIA currently authorizes this function through footnote G121 of its Manual, but this footnote has not previously been coordinated with the Commission. We believe that because the band 285–325 kHz is shared spectrum, footnote G121 should be reclassified as a United States footnote.

15. The frequency 500 kHz is the international distress and calling frequency for Morse radiotelegraphy in the mobile service. A narrower 10 kilohertz guard band requirement (495–505 kHz) became effective in February 1999, when the Global Maritime Distress and Safety System (''GMDSS'') became fully implemented. Recently, we proposed to remove 500 kHz as a distress and safety frequency from our maritime rules because it is not currently in use. Thus, it is planned that at the 2003 World Radiocommunication Conference, Member States will consider whether non-GMDSS requirements should be maintained in the ITU Radio Regulations. However, at this time, we need only to update our rules by renumbering three international footnotes. Accordingly, we propose to renumber international footnotes 472, 472A, and 474 as S5.82, S5.83, and S5.84, respectively.

16. The U.S. Coast Guard currently operates several NAVTEX stations on the frequency 518 kHz. The 1997 World Radiocommunication Conference (''WRC–97'') adopted two requirements concerning NAVTEX operations. First, international footnote S5.131 requires that the frequency 4209.5 kHz be used exclusively for the transmission by coast stations of meteorological and navigational warnings and urgent information to ships by means of narrow-band direct-printing techniques. In its comments to another proceeding, the U.S. Coast Guard states that 4209.5 kHz is an internationally-recognized and used NAVTEX frequency, and that it plans to operate 4 MHz NAVTEX on a trial basis as a means of improving maritime safety broadcast service to mariners, and covering gaps in coverage of similar information broadcast on the International NAVTEX frequency 518 kHz. The U.S. Coast Guard also states that the international use for safety purposes and propagation characteristics of this frequency obviates its use for any other purpose. Accordingly, we propose to adopt international footnote S5.131 domestically.

17. Second, international footnote S5.79A states that when establishing stations in the NAVTEX service on the frequencies 490 kHz, 518 kHz, and 4209.5 kHz, administrations are strongly recommended to coordinate the operating characteristics in accordance with the procedures of the International Maritime Organization. NAVTEX service is currently provided only by the Federal Government. NTIA requests that we adopt international footnote S5.79A domestically, and accordingly, we propose to do so.

18. In the bands 4000–4063 kHz and 8100–8195 kHz, we propose to remove the fixed service allocation because the transition period for reallocating this spectrum exclusively to the maritime mobile service has passed. We request comment on all of the maritime proposals.

*Aeronautical Fixed Service*

19. The aeronautical fixed service is a radiocommunication service between specified fixed points provided primarily for the safety of air navigation and for the regular, efficient and economical operation of air transport.

20. In Region 2, the band 160–190 kHz is allocated exclusively to the fixed service on a primary basis. Prior to the 1995 World Radiocommunication Conference (''WRC–95''), the band 160–190 kHz was allocated on a primary basis to the aeronautical fixed service, which is a subset of the fixed service, in Region 2 polar areas. At WRC–95, this limitation on the use of the fixed allocation in Region 2 polar areas was eliminated, and thus internationally the band is now available for all fixed uses. The band 160–190 kHz is currently unused by the aeronautical fixed service, and accordingly we propose to delete the limitation to aeronautical fixed use from our Rules. We request comment on this proposal.

21. In the United States, the band 21850–21924 kHz is shared spectrum that is allocated to the fixed service on a primary basis. At WRC–95, fixed use of most of this band (21870–21924 kHz) was limited to the provision of services related to aircraft flight safety through the adoption of international footnote S5.155B. The Federal Aviation Administration (''FAA'') has indicated that it does not intend to implement an aircraft flight safety system in this band. Thus, there is no apparent support on a domestic level for the adoption of this

international limitation. However, we invite comment on whether S5.155B should be adopted domestically.

*Amateur Service*

22. Amateur radio plays an important role in disaster-relief when normal communications systems are overloaded, damaged or disrupted because a disaster has occurred or is likely to occur. We note that WARC–79 adopted Resolution No. 640, entitled ''Relating to the International Use of Radiocommunications, in the Event of Natural Disasters, in Frequency Bands Allocated to the Amateur Service.'' The Resolution invited administrations to provide for the needs of international disaster communications and for the needs of emergency communications within their national regulations using certain amateur bands, which were listed in international footnote 510 (later renumbered as S5.120). In response, the Commission added international footnote 510 to the non-Federal Government Table of Frequency Allocations and § 97.401(b) to the rules for the amateur radio service, both of which referenced Resolution No. 640. At WRC–97, Resolution 640 was eliminated, and at the 2000 World Radiocommunication Conference (''WRC–2000''), international footnote S5.120 was eliminated. Accordingly, we propose to delete international footnote S5.120 and § 97.401(b) from our Rules. We observe that, under § 97.111(a)(1) and 97.101(c) of our Rules, U.S. amateur radio stations can continue to communicate with foreign stations in disaster areas.

*Frequencies Available for Forest Products Licensees*

23. The band 27540–28000 kHz is Federal Government exclusive spectrum that is allocated to the fixed and mobile services, except that limited non-Federal Government use is permitted by forest product licensees in certain geographic areas on six channels. This limited use is authorized in footnote US298. We propose to make editorial revisions to footnote US298 to conform with terminology now used in Part 90 of our Rules and to add these frequencies to the Industrial/Business Radio Pool Frequency Table in § 90.35, with an appropriate note describing the limited use that is permitted.

We request comment on this proposal.

*Ministerial Conforming Amendments*

24. We also propose to take the following non-substantive actions in this proceeding, which would correct and update our Table of Frequency Allocations. The effect of these actions would be to remove confusing and unnecessary material from our Rules and to reflect the WRC–2000 Final Acts with regard to the International Table of Frequency Allocations within our Rules. First, we would remove international footnote S5.60 from the bands 70–90 kHz and 110–130 kHz because this footnote is a limitation on an allocation that was never made domestically. Second, we would remove superfluous international footnote S5.80 from the band 415–435 kHz because the limitation in that footnote does not apply to this band. Third, we would delete the secondary direct Table allocation for the space research service in the band 19990–19995 kHz because this allocation is also contained in footnote G106, which was recently added to the band 19990–20010 kHz. Fourth, we would delete pre-1991 frequencies listed for ship and coast station operations from footnote US82. Fifth, we would make various editorial changes to other U.S. footnotes to conform to previous decisions and to update the material in the text. Sixth, we would add an informational note to § 90.35 stating that the use of five frequencies is on a secondary basis to stations in the maritime mobile service. Seventh, we would update various rule part cross references in the U.S. Table. In particular, we would delete approximately 50 cross references to the International Fixed Public Radiocommunication Services (''IFPRS'') because specific frequencies or bands are not listed in Part 23, which is the purpose of having a cross reference to a rule part. Eighth, we would update the text of 18 international country footnotes that do not apply to Region 2.

*Initial Regulatory Flexibility Analysis*

25. As required by the Regulatory Flexibility Act (''RFA'') [1] the Commission has prepared this Initial Regulatory Flexibility Analysis (''IRFA'') of the possible significant economic impact on small entities by the policies and rules proposed in this NPRM and Order. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM and Order. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[2] In addition, the NPRM and Order and IRFA (or summaries thereof) will be published in the **Federal Register**.[3]

*Need for, and Objectives of, the Proposed Rules*

26. The NPRM and Order proposes to implement domestically various allocation changes that have been made at recent World Radiocommunication Conferences. In particular, we propose to reallocate 1540 kilohertz of spectrum from the fixed and mobile services to the broadcasting service. We also propose to make consequential changes to various service rules. These proposals would update our Rules for bands below 28000 kHz so that they better comport with international regulations. In addition, we propose to clarify the status of services in the AM Expanded Band (1605–1705 kHz).

*Legal Basis*

27. The proposed actions are authorized under sections 1, 4, 301, 302(a), 303, 307, 309, 316, 332, 334, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 301, 302(a), 303, 307, 309, 316, 332, 334, and 336.

*Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

28. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [5] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[6] A ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et.seq.,* has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (''CWAAA''). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'').

[2] *See* 5 U.S.C. 603(a).

[3] *Id.*

[4] 5 U.S.C. 603(b)(3).

[5] 5 U.S.C. 601(6).

[6] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

operation; and (3) meets any additional criteria established by the Small Business Administration (''SBA'').[7]

*Fixed Service.* There are 162 fixed assignments authorized under § 90.266 for long distance communications,[8] 17 Alaska private-fixed assignments,[9] and 5 aeronautical fixed station assignments [10] that operate in the bands proposed for reallocation. The Commission has not yet defined a small business with respect to these fixed services. For purposes of this IRFA, we will use the SBA's definition applicable to radiotelephone (wireless) companies—i.e., an entity with no more than 1,500 persons.[11] We believe that most of the § 90.266 licensees are telephone, gas, and power companies that are not small businesses. We estimate that most of these fixed service licensees would not qualify as small entities under the SBA definition for radiotelephone (wireless) companies; therefore, less than 184 small entities would be impacted by the proposed reallocation.

*Maritime Service.* The Commission has not adopted a definition of small entity specific to coast stations in the maritime service.[12] We will use the SBA's definition applicable to radiotelephone (wireless) companies, i.e., an entity employing no more than 1,500 persons.[13] There are 4 public and 4 private coast station licensees that operate in the bands proposed for reallocation, and we estimate that almost all of them qualify as small under the SBA definition.

*International Broadcast Stations.* The SBA defines a radio broadcasting station that has $5 million or less in annual receipts as a small business.[14] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[15] Included in this industry are commercial, religious, educational, and other radio stations.[16] The transmissions of international broadcast stations are intended to be received directly by the general public in foreign countries.[17] There are 24 international broadcast licensees, and we estimate that almost all of them qualify as small under the SBA definition.

*Private Land Mobile Radio Services.* The Commission has not adopted a definition of small entity specific to private land mobile radio services.[18] We will use the SBA's definition applicable to radiotelephone (wireless) companies, i.e., an entity employing no more than 1,500 persons.[19] There are 4 Industrial/Business Pool licensees and 2 radiolocation licensees in the AM Expanded Band, and we believe that none of them qualify as small under the SBA definition.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

29. We propose no new reporting or recordkeeping requirements on small entities; however, we do propose three compliance requirements that may have a significant economic burden on small entities. First, if fixed or coast station licensees determine that they can not operate in the WARC–92 HFBC bands without causing harmful interference to international broadcast stations, we propose that these licensees move to other fixed or mobile frequencies. Those fixed and coast station licensees that move to other assigned frequencies would have to pay a license modification fee if they do not request such frequencies during renewal. We note that 162 of the 205 assignments in these bands operate on a non-interference, unprotected basis internationally and that our proposed rules do not change their status.[20] In contrast, the status of the remaining 43 assignments would be affected by the proposed reallocation, that is, these primary and protected assignments would be downgraded to non-interference, unprotected status. These 43 assignments can be more specifically classified as 21 coast station, 17 Alaska private-fixed, and 5 aeronautical fixed assignments. We believe that all of the affected stations use equipment that can be tuned to other HF bands allocated to the fixed or mobile services and that there is sufficient allocated spectrum available for this purpose. Accordingly, we believe that any relocation costs would be *de minimus;* however, out of an abundance of caution we are seeking comment in this IRFA as to actual costs of this move. Second, we propose to adopt a stricter frequency control tolerance for international broadcast stations. This requirement may cause some of our licensees to have to modify their equipment. We request comment on our analysis.

30. The band 1605–1705 kHz was reallocated from the land mobile service to the broadcasting service in 1983. However, there are four Industrial/Business Pool licensees in the AM Expanded Band. In addition, there are two radiolocation licensees operating in the AM Expanded Band on a secondary basis. In the NPRM and Order, we propose to permit these currently licensed stations to continue to operate until the end of their current license term on a non-interference basis to AM radio and TIS stations, without an opportunity for renewal.

*Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

31. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[21]

32. As stated in number (1) above, one alternative that we are considering is whether or not to allow small entities operating international broadcast stations a longer time to transition from outdated equipment. This transition would be necessary in instances in which equipment cannot maintain the stringent tolerance required by the proposed rule. We request that commenters address the effects of grandfathering existing international broadcast stations at their current frequency tolerance. See paragraph 18 of the NPRM and Order. In addition, we request comment on alternatives that could further minimize the impact of the proposed frequency tolerance on small entities.

33. With regard to small entities operating in the AM Expanded Band,

[7] 15 U.S.C. 632.

[8] 47 CFR 90.266.

[9] 47 CFR Part 80, Subpart O—Alaska Fixed Stations.

[10] 47 CFR 87.275, 87.277, 87.279.

[11] 13 CFR 121.201, NAICS codes 513321, 513322, 513330.

[12] The service is defined in Part 80 of the Commission's Rules, 47 CFR Part 80.

[13] 13 CFR 121.201, NAICS codes 513321, 513322, and 513330.

[14] 13 CFR 121.201, NAICS codes 513111 and 513112.

[15] 1992 Census, Series UC92–S–1, at Appendix A–9.

[16] *Id.*

[17] *See* 47 CFR 73.701.

[18] The service is defined in Part 90 of the Commission's Rules, 47 CFR Part 90.

[19] 13 CFR 121.201, NAICS codes 513321, 513322, and 513330.

[20] *See* 47 CFR 2.102(h) of the Commission's Rules for the special provisions regarding the use of spectrum allocated to the fixed and land mobile services below 25 MHz by non-Federal Government stations.

[21] 5 U.S.C. 603(c).

Commission staff will work with affected licensees to help them find suitable alternative channels if the licensee desires. No fee will be charged to licensees of affected stations that apply for modification for alternative channels before the end of their license term.

*Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

34. None.

**Ordering Clauses**

35. Pursuant to sections 1, 4, 301, 302(a), 303, 307, 309, 316, 332, 334, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 301, 302(a), 303, 307, 309, 316, 332, 334, and 336, the NOTICE OF PROPOSED RULE MAKING AND ORDER is hereby ADOPTED.

36. The Public Safety, Industrial/Business Pool, and remote pickup applications for frequencies within the band 1605–1705 kHz shall not be granted. The Commission shall not accept said applications for new licenses or modifications or renewals of existing licenses for frequencies within the band 1605–1705 kHz as of the [effective date of this NPRM and Order]. Any such applications received on or after that date shall be returned as unacceptable for filing. Pending applications shall be dismissed, unless they are modified to specify alternative frequencies.

37. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this NOTICE OF PROPOSED RULE MAKING AND ORDER, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects**

*47 CFR Part 2*

Radio, telecommunications.

*47 CFR Part 73*

Communications equipment, radio, reporting and recordkeeping.

*47 CFR Part 74*

Radio.

*47 CFR Part 80*

Alaska, radio.

*47 CFR Part 90*

Business and industry, radio.

*47 CFR Part 97*

Radio, volunteers.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

**Rules Change**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Parts 2, 73, 74, 80, 90, and 97 as follows:

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Revise pages 1 through 21.

b. In the list of International Footnotes, under I. New ''S'' Numbering Scheme, revise footnotes S5.55, S5.58, S5.59, S5.65, S5.67, S5.75, S5.77, S5.93, S5.96, S5.98, S5.99, S5.107, S5.112, S5.114, S5.117, S5.152, S5.154, and S5.155A; and remove footnotes S5.81, S5.120, and S5.124.

c. In the list of International Footnotes, under II. Old Numbering Scheme, remove footnotes 459, 471, 472, 472A, 474, and 480.

d. In the list of United States (US) Footnotes, revise footnotes US18, US25, US82, US104, US225, US231, US281, US282, US283, US298, US321, and US340; remove footnotes US235, US236, and US238; and add footnotes USwww, USxxx, USyyy and USzzz.

The additions and revisions read as follows:

**§ 2.106 Table of Frequency Allocations.**

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0-130 kHz (VLF/LF) Page 1

| International Table | | | United States Table | | FCC Rule Part(s) |
|---|---|---|---|---|---|
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| Below 9<br>(Not Allocated)<br>S5.53 S5.54 | | | Below 9<br>(Not Allocated)<br>S5.53 S5.54 | | |
| 9-14<br>RADIONAVIGATION | | | 9-14<br>RADIONAVIGATION US18<br>US294 | | |
| 14-19.95<br>FIXED<br>MARITIME MOBILE S5.57<br>S5.55 S5.56 | | | 14-19.95<br>FIXED<br>MARITIME MOBILE S5.57<br>US294 | 14-19.95<br>Fixed<br>US294 | |
| 19.95-20.05<br>STANDARD FREQUENCY AND TIME SIGNAL (20 kHz) | | | 19.95-20.05<br>STANDARD FREQUENCY AND TIME SIGNAL (20 kHz)<br>US294 | | |
| 20.05-70<br>FIXED<br>MARITIME MOBILE S5.57 | | | 20.05-59<br>FIXED<br>MARITIME MOBILE S5.57<br>US294 | 20.05-59<br>FIXED<br>US294 | |
| | | | 59-61<br>STANDARD FREQUENCY AND TIME SIGNAL (60 kHz)<br>US294 | | |
| S5.56 S5.58 | | | 61-70<br>FIXED<br>MARITIME MOBILE S5.57<br>US294 | 61-70<br>FIXED<br>US294 | |
| 70-72<br>RADIONAVIGATION S5.60<br>S5.56 | 70-90<br>FIXED<br>MARITIME MOBILE S5.57<br>MARITIME<br>RADIONAVIGATION S5.60<br>Radiolocation | 70-72<br>RADIONAVIGATION S5.60<br>Fixed<br>Maritime mobile S5.57<br>S5.59 | 70-90<br>FIXED<br>MARITIME MOBILE S5.57<br>Radiolocation | 70-90<br>FIXED<br>Radiolocation | Private Land Mobile (90) |
| 72-84<br>FIXED<br>MARITIME MOBILE S5.57<br>RADIONAVIGATION S5.60<br>S5.56 | | 72-84<br>FIXED<br>MARITIME MOBILE S5.57<br>RADIONAVIGATION S5.60 | | | |

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|---|---|---|---|---|---|
| 84-86<br>RADIONAVIGATION S5.60 | | 84-86<br>RADIONAVIGATION S5.60<br>Fixed<br>Maritime mobile S5.57<br>S5.59 | | | |
| 86-90<br>FIXED<br>MARITIME MOBILE S5.57<br>RADIONAVIGATION<br>S5.56 | S5.61 | 86-90<br>FIXED<br>MARITIME MOBILE S5.57<br>RADIONAVIGATION S5.60 | US294 | US294 | |
| 90-110<br>RADIONAVIGATION S5.62<br>Fixed<br>S5.64 | | | 90-110<br>RADIONAVIGATION S5.62 US18<br>US104 US294 | | Aviation (87)<br>Private Land Mobile (90) |
| 110-112<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION<br>S5.64 | 110-130<br>FIXED<br>MARITIME MOBILE<br>MARITIME<br>RADIONAVIGATION S5.60<br>Radiolocation | 110-112<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION 5.60<br>S5.64 | 110-130<br>FIXED<br>MARITIME MOBILE<br>Radiolocation | | Maritime (80)<br>Private Land Mobile (90) |
| 112-115<br>RADIONAVIGATION S5.60 | | 112-117.6<br>RADIONAVIGATION S5.60<br>Fixed<br>Maritime mobile | | | |
| 115-117.6<br>RADIONAVIGATION S5.60<br>Fixed<br>Maritime mobile<br>S5.64 S5.66 | | S5.64 S5.65 | | | |
| 117.6-126<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION S5.60<br>S5.64 | | 117.6-126<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION S5.60<br>S5.64 | | | |
| 126-129<br>RADIONAVIGATION S5.60 | | 126-129<br>RADIONAVIGATION S5.60<br>Fixed<br>Maritime mobile<br>S5.64 S5.65 | | | |
| See next page for 129-130 kHz | S5.61 S5.64 | See next page for 129-130 kHz | S5.64 US294 | | |

130-505 kHz (LF/MF) Page 3

| International Table | | | United States Table | | FCC Rule Part(s) |
|---|---|---|---|---|---|
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| 129-130<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION S5.60<br><br>S5.64 | See previous page for 110-130 kHz | 129-130<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION S5.60<br><br>S5.64 | See previous page for 110-130 kHz | | See previous page for 110-130 kHz |
| 130-148.5<br>FIXED<br>MARITIME MOBILE<br><br>S5.64 S5.67 | 130-160<br>FIXED<br>MARITIME MOBILE<br><br>S5.64 | 130-160<br>FIXED<br>MARITIME MOBILE<br>RADIONAVIGATION<br><br>S5.64 | 130-160<br>FIXED<br>MARITIME MOBILE<br><br>S5.64 US294 | | Maritime (80) |
| 148.5-255<br>BROADCASTING | 160-190<br>FIXED | 160-190<br>FIXED<br>Aeronautical radionavigation | 160-190<br>FIXED<br>MARITIME MOBILE<br><br>US294 | 160-190<br>FIXED<br><br>US294 | |
| | 190-200<br>AERONAUTICAL RADIONAVIGATION | | 190-200<br>AERONAUTICAL RADIONAVIGATION US18<br><br>US226 US294 | | Aviation (87) |
| S5.68 S5.69 S5.70 | 200-275<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile | 200-285<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile | 200-275<br>AERONAUTICAL RADIONAVIGATION US18<br>Aeronautical mobile<br><br>US294 | | |
| 255-283.5<br>BROADCASTING<br>AERONAUTICAL RADIONAVIGATION<br><br>S5.70 S5.71 | 275-285<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile<br>Maritime radionavigation (radiobeacons) | | 275-285<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile<br>Maritime radionavigation (radiobeacons)<br><br>US18 US294 | | |
| 283.5-315<br>AERONAUTICAL RADIONAVIGATION<br>MARITIME RADIONAVIGATION (radiobeacons) S5.73<br><br>S5.72 S5.74 | 285-315<br>AERONAUTICAL RADIONAVIGATION<br>MARITIME RADIONAVIGATION (radiobeacons) S5.73 | | 285-325<br>MARITIME RADIONAVIGATION (radiobeacons) S5.73<br>Aeronautical radionavigation (radiobeacons) | | |

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|---|---|---|---|---|---|
| 315-325<br>AERONAUTICAL RADIONAVIGATION<br>Maritime radionavigation (radiobeacons) S5.73<br>S5.72 S5.75 | 315-325<br>MARITIME RADIONAVIGATION (radiobeacons) S5.73<br>Aeronautical radionavigation | 315-325<br>AERONAUTICAL RADIONAVIGATION<br>MARITIME RADIONAVIGATION (radiobeacons) S5.73 | US18 US294 USzzz | | |
| 325-405<br>AERONAUTICAL RADIONAVIGATION<br>S5.72 | 325-335<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile<br>Maritime radionavigation (radiobeacons) | 325-405<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile | 325-335<br>AERONAUTICAL RADIONAVIGATION (radiobeacons)<br>Aeronautical mobile<br>Maritime radionavigation (radiobeacons)<br>US18 US294 | | Aviation (87) |
| | 335-405<br>AERONAUTICAL RADIONAVIGATION<br>Aeronautical mobile | | 335-405<br>AERONAUTICAL RADIONAVIGATION (radiobeacons)<br>US18<br>Aeronautical mobile<br>US294 | | |
| 405-415<br>RADIONAVIGATION S5.76<br>S5.72 | 405-415<br>RADIONAVIGATION S5.76<br>Aeronautical mobile | | 405-415<br>RADIONAVIGATION S5.76 US18<br>Aeronautical mobile<br>US294 | | Maritime (80)<br>Aviation (87) |
| 415-435<br>MARITIME MOBILE S5.79<br>AERONAUTICAL RADIONAVIGATION<br>S5.72 | 415-495<br>MARITIME MOBILE S5.79 S5.79A<br>Aeronautical radionavigation S5.80 | | 415-435<br>MARITIME MOBILE S5.79<br>AERONAUTICAL RADIONAVIGATION<br>US294 | | |
| 435-495<br>MARITIME MOBILE S5.79 S5.79A<br>Aeronautical radionavigation<br>S5.72 S5.82 | S5.77 S5.78 S5.82 | | 435-495<br>MARITIME MOBILE S5.79 S5.79A<br>Aeronautical radionavigation<br>S5.82 US231 US294 | 435-495<br>MARITIME MOBILE S5.79 S5.79A<br>S5.82 US231 US294 | Maritime (80) |
| 495-505<br>MOBILE (distress and calling)<br>S5.83 | | | 495-505<br>MOBILE (distress and calling)<br>S5.83 | | Maritime (80)<br>Aviation (87) |

505-2107 kHz (MF) Page 5

| International Table | | | United States Table | | FCC Rule Part(s) |
|---|---|---|---|---|---|
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| 505-526.5<br>MARITIME MOBILE S5.79<br>S5.79A S5.84<br>AERONAUTICAL<br>RADIONAVIGATION | 505-510<br>MARITIME MOBILE S5.79 | 505-526.5<br>MARITIME MOBILE S5.79<br>S5.79A S5.84<br>AERONAUTICAL<br>RADIONAVIGATION<br>Aeronautical mobile<br>Land mobile | 505-510<br>MARITIME MOBILE S5.79 | | Maritime (80) |
| | 510-525<br>MOBILE S5.79A S5.84<br>AERONAUTICAL<br>RADIONAVIGATION | | 510-525<br>MARITIME MOBILE (ships only) S5.79A S5.84<br>AERONAUTICAL RADIONAVIGATION (radiobeacons)<br>US18<br>US14 US225 | | Maritime (80)<br>Aviation (87) |
| S5.72 | 525-535<br>BROADCASTING S5.86<br>AERONAUTICAL<br>RADIONAVIGATION | | 525-535<br>AERONAUTICAL RADIONAVIGATION (radiobeacons)<br>US18<br>MOBILE US221<br>US239 | | Aviation (87)<br>Private Land Mobile (90) |
| 526.5-1606.5<br>BROADCASTING | | 526.5-535<br>BROADCASTING<br>Mobile<br>S5.88 | | | |
| | 535-1605<br>BROADCASTING | 535-1606.5<br>BROADCASTING | 535-1605<br>US321 | 535-1605<br>BROADCASTING<br>US321 NG128 | Radio Broadcast (AM) (73)<br>Alaska Fixed (80)<br>Private Land Mobile (90) |
| S5.87 S5.87A | 1605-1625<br>BROADCASTING S5.89 | | 1605-1615<br>MOBILE US221<br>US321 | 1605-1705<br>BROADCASTING S5.89 | |
| 1606.5-1625<br>FIXED<br>MARITIME MOBILE S5.90<br>LAND MOBILE<br>S5.92 | S5.90 | 1606.5-1800<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>RADIONAVIGATION | 1615-1705<br>US299 US321 USwww | US299 US321 USwww<br>NG128 | |
| 1625-1635<br>RADIOLOCATION<br>S5.93 | 1625-1705<br>FIXED<br>MOBILE<br>BROADCASTING S5.89<br>Radiolocation | | | | |
| 1635-1800<br>FIXED<br>MARITIME MOBILE S5.90<br>LAND MOBILE | S5.90 | | | | |

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|---|---|---|---|---|---|
| S5.92 S5.96 | 1705-1800<br>FIXED<br>MOBILE<br>RADIOLOCATION<br>AERONAUTICAL RADIONAVIGATION | S5.91 | 1705-1800<br>FIXED<br>MOBILE<br>RADIOLOCATION<br><br>US240 | | Maritime (80)<br>Private Land Mobile (90) |
| 1800-1810<br>RADIOLOCATION<br><br>S5.93 | 1800-1850<br>AMATEUR | 1800-2000<br>AMATEUR<br>FIXED<br>MOBILE except aeronautical mobile<br>RADIONAVIGATION<br>Radiolocation | 1800-1900 | 1800-1900<br>AMATEUR | Amateur (97) |
| 1810-1850<br>AMATEUR<br><br>S5.98 S5.99 S5.100 S5.101 | | | | | |
| 1850-2000<br>FIXED<br>MOBILE except aeronautical mobile<br><br>S5.92 S5.96 S5.103 | 1850-2000<br>AMATEUR<br>FIXED<br>MOBILE except aeronautical mobile<br>RADIOLOCATION<br>RADIONAVIGATION<br><br>S5.102 | S5.97 | 1900-2000<br>RADIOLOCATION<br><br>US290 | | Private Land Mobile (90)<br>Amateur (97) |
| 2000-2025<br>FIXED<br>MOBILE except aeronautical mobile (R)<br><br>S5.92 S5.103 | 2000-2065<br>FIXED<br>MOBILE | | 2000-2065<br>FIXED<br>MOBILE | 2000-2065<br>MARITIME MOBILE NG19 | Maritime (80) |
| 2025-2045<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>Meteorological aids S5.104<br><br>S5.92 S5.103 | | | | | |
| 2045-2160<br>FIXED<br>MARITIME MOBILE<br>LAND MOBILE | | | US340 | US340 | |
| | 2065-2107<br>MARITIME MOBILE S5.105<br><br>S5.106 | | 2065-2107<br>MARITIME MOBILE S5.105<br><br>US296 US340 | | |
| S5.92 | See next page for 2107-2170 kHz | | See next page for 2107-2170 kHz | | See next page |

2107-3230 kHz (MF/HF) Page 7

| International Table | | | United States Table | | FCC Rule Part(s) |
|---|---|---|---|---|---|
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| See previous page for 2045-2160 kHz | 2107-2170<br>FIXED<br>MOBILE | | 2107-2170<br>FIXED<br>MOBILE | 2107-2170<br>FIXED<br>LAND MOBILE<br>MARITIME MOBILE NG19 | Maritime (80)<br>Private Land Mobile (90) |
| 2160-2170<br>RADIOLOCATION<br>S5.93 S5.107 | | | US340 | US340 | |
| 2170-2173.5<br>MARITIME MOBILE | | | 2170-2173.5<br>MARITIME MOBILE<br>(telephony)<br>US340 | 2170-2173.5<br>MARITIME MOBILE<br>US340 | Maritime (80) |
| 2173.5-2190.5<br>MOBILE (distress and calling)<br>S5.108 S5.109 S5.110 S5.111 | | | 2173.5-2190.5<br>MOBILE (distress and calling)<br>S5.108 S5.109 S5.110 S5.111 US279 US340 | | Maritime (80)<br>Aviation (87) |
| 2190.5-2194<br>MARITIME MOBILE | | | 2190.5-2194<br>MARITIME MOBILE<br>(telephony)<br>US340 | 2190.5-2194<br>MARITIME MOBILE<br>US340 | Maritime (80) |
| 2194-2300<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>S5.92 S5.103 S5.112 | 2194-2300<br>FIXED<br>MOBILE<br>S5.112 | | 2194-2495<br>FIXED<br>MOBILE | 2194-2495<br>FIXED<br>LAND MOBILE<br>MARITIME MOBILE NG19 | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 2300-2498<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>BROADCASTING S5.113<br>S5.103 | 2300-2495<br>FIXED<br>MOBILE<br>BROADCASTING S5.113 | | US340 | US340 | |
| 2498-2501<br>STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz) | 2495-2501<br>STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz) | | 2495-2501<br>STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz)<br>US340 | | |

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|---|---|---|---|---|
| 2501-2502<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research | | 2501-2502<br>STANDARD FREQUENCY AND TIME SIGNAL<br>US340 G106 | 2501-2502<br>STANDARD FREQUENCY AND TIME SIGNAL<br>US340 | |
| 2502-2625<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>S5.92 S5.103 S5.114 | 2502-2505<br>STANDARD FREQUENCY AND TIME SIGNAL | 2502-2505<br>STANDARD FREQUENCY AND TIME SIGNAL<br>US340 | | |
| 2625-2650<br>MARITIME MOBILE<br>MARITIME RADIONAVIGATION<br>S5.92 | 2505-2850<br>FIXED<br>MOBILE | 2505-2850<br>FIXED<br>MOBILE | 2505-2850<br>FIXED<br>LAND MOBILE<br>MARITIME MOBILE | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 2650-2850<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>S5.92 S5.103 | | US285 US340 | US285 US340 | |
| 2850-3025<br>AERONAUTICAL MOBILE (R)<br>S5.111 S5.115 | | 2850-3025<br>AERONAUTICAL MOBILE (R)<br>S5.111 S5.115 US283 US340 | | Aviation (87) |
| 3025-3155<br>AERONAUTICAL MOBILE (OR) | | 3025-3155<br>AERONAUTICAL MOBILE (OR)<br>US340 | | |
| 3155-3200<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>S5.116 S5.117 | | 3155-3230<br>FIXED<br>MOBILE except aeronautical mobile (R) | | Maritime (80)<br>Private Land Mobile (90) |
| 3200-3230<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>BROADCASTING S5.113<br>S5.116 | | US340 | | |

3230-5060 kHz (HF) Page 9

| International Table | | | United States Table | | FCC Rule Part(s) |
|---|---|---|---|---|---|
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| 3230-3400<br>FIXED<br>MOBILE except aeronautical mobile<br>BROADCASTING S5.113<br><br>S5.116 S5.118 | | | 3230-3400<br>FIXED<br>MOBILE except aeronautical mobile<br>Radiolocation<br><br>US340 | | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 3400-3500<br>AERONAUTICAL MOBILE (R) | | | 3400-3500<br>AERONAUTICAL MOBILE (R)<br><br>US283 US340 | | Aviation (87) |
| 3500-3800<br>AMATEUR<br>FIXED<br>MOBILE except aeronautical mobile<br><br>S5.92 | 3500-3750<br>AMATEUR<br><br>S5.119 | 3500-3900<br>AMATEUR<br>FIXED<br>MOBILE | 3500-4000 | 3500-4000<br>AMATEUR | Amateur (97) |
| 3800-3900<br>FIXED<br>AERONAUTICAL MOBILE (OR)<br>LAND MOBILE | 3750-4000<br>AMATEUR<br>FIXED<br>MOBILE except aeronautical mobile (R) | | | | |
| 3900-3950<br>AERONAUTICAL MOBILE (OR)<br><br>S5.123 | | 3900-3950<br>AERONAUTICAL MOBILE<br>BROADCASTING | | | |
| 3950-4000<br>FIXED<br>BROADCASTING | | 3950-4000<br>FIXED<br>BROADCASTING | | | |
| | S5.122 S5.125 | S5.126 | US340 | US340 | |
| 4000-4063<br>FIXED<br>MARITIME MOBILE S5.127<br><br>S5.126 | | | 4000-4063<br>MARITIME MOBILE<br><br>US340 | | Maritime (80) |
| 4063-4438<br>MARITIME MOBILE S5.79A S5.109 S5.110 S5.130 S5.131 S5.132<br><br>S5.128 S5.129 | | | 4063-4438<br>MARITIME MOBILE S5.79A S5.109 S5.110 S5.130 S5.131 S5.132 US82<br><br>US296 US340 | | Maritime (80)<br>Aviation (87) |

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| 4438-4650<br>FIXED<br>MOBILE except aeronautical mobile (R) | | 4438-4650<br>FIXED<br>MOBILE except aeronautical mobile | 4438-4650<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>US340 | | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 4650-4700<br>AERONAUTICAL MOBILE (R) | | | 4650-4700<br>AERONAUTICAL MOBILE (R)<br>US282 US283 US340 | | Aviation (87) |
| 4700-4750<br>AERONAUTICAL MOBILE (OR) | | | 4700-4750<br>AERONAUTICAL MOBILE (OR)<br>US340 | | |
| 4750-4850<br>FIXED<br>AERONAUTICAL MOBILE (OR)<br>LAND MOBILE<br>BROADCASTING S5.113 | 4750-4850<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>BROADCASTING S5.113 | 4750-4850<br>FIXED<br>BROADCASTING S5.113<br>Land mobile | 4750-4850<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>US340 | | Maritime (80) |
| 4850-4995<br>FIXED<br>LAND MOBILE<br>BROADCASTING S5.113 | | | 4850-4995<br>FIXED<br>MOBILE<br>US340 | 4850-4995<br>FIXED<br>US340 | Aviation (87) |
| 4995-5003<br>STANDARD FREQUENCY AND TIME SIGNAL (5000 kHz) | | | 4995-5003<br>STANDARD FREQUENCY AND TIME SIGNAL (5000 kHz)<br>US340 | | |
| 5003-5005<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research | | | 5003-5005<br>STANDARD FREQUENCY AND TIME SIGNAL<br>US340 G106 | 5003-5005<br>STANDARD FREQUENCY AND TIME SIGNAL<br>US340 | |
| 5005-5060<br>FIXED<br>BROADCASTING S5.113 | | | 5005-5060<br>FIXED<br>US340 | | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |

| 5060-9040 kHz (HF) | | | | | Page 11 |
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| International Table | | | United States Table | | FCC Rule Part(s) |
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| 5060-5250<br>FIXED<br>Mobile except aeronautical mobile<br>S5.133 | | | 5060-5450<br>FIXED<br>Mobile except aeronautical mobile | | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 5250-5450<br>FIXED<br>MOBILE except aeronautical mobile | | | US212 US340 | | |
| 5450-5480<br>FIXED<br>AERONAUTICAL MOBILE (OR)<br>LAND MOBILE | 5450-5480<br>AERONAUTICAL MOBILE (R) | 5450-5480<br>FIXED<br>AERONAUTICAL MOBILE (OR)<br>LAND MOBILE | 5450-5680<br>AERONAUTICAL MOBILE (R) | | Aviation (87) |
| 5480-5680<br>AERONAUTICAL MOBILE (R)<br>S5.111 S5.115 | | | S5.111 S5.115 US283 US340 | | |
| 5680-5730<br>AERONAUTICAL MOBILE (OR)<br>S5.111 S5.115 | | | 5680-5730<br>AERONAUTICAL MOBILE (OR)<br>S5.111 S5.115 US340 | | |
| 5730-5900<br>FIXED<br>LAND MOBILE | 5730-5900<br>FIXED<br>MOBILE except aeronautical mobile (R) | 5730-5900<br>FIXED<br>Mobile except aeronautical mobile (R) | 5730-5900<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>US340 | | Maritime (80)<br>Aviation (87) |
| 5900-5950<br>BROADCASTING S5.134<br>S5.136 | | | 5900-5950<br>BROADCASTING<br>FIXED<br>MOBILE except aeronautical mobile (R)<br>US340 USyyy | | Radio Broadcast (HF) (73)<br>Maritime (80)<br>Aviation (87) |
| 5950-6200<br>BROADCASTING | | | 5950-6200<br>BROADCASTING<br>US340 | | Radio Broadcast (HF) (73) |
| 6200-6525<br>MARITIME MOBILE S5.109 S5.110 S5.130 S5.132<br>S5.137 | | | 6200-6525<br>MARITIME MOBILE S5.109 S5.110 S5.130 S5.132 US82<br>US296 US340 | | Maritime (80) |
| 6525-6685<br>AERONAUTICAL MOBILE (R) | | | 6525-6685<br>AERONAUTICAL MOBILE (R)<br>US283 US340 | | Aviation (87) |

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| 6685-6765<br>AERONAUTICAL MOBILE (OR)<br><br>S5.138 | | | 6685-6765<br>AERONAUTICAL MOBILE (OR)<br>US340<br><br>S5.138 US340 | | |
| 6765-7000<br>FIXED<br>Land mobile S5.139 | | | 6765-7000<br>FIXED<br>Mobile | | ISM Equipment (18) |
| 7000-7100<br>AMATEUR<br>AMATEUR-SATELLITE<br><br>S5.140 S5.141 | | | 7000-7100<br><br><br>US340 | 7000-7100<br>AMATEUR<br>AMATEUR-SATELLITE<br>US340 | Amateur (97) |
| 7100-7300<br>BROADCASTING | 7100-7300<br>AMATEUR<br><br>S5.142 | 7100-7300<br>BROADCASTING | 7100-7300<br><br><br>US340 | 7100-7300<br>AMATEUR<br>S5.142 US340 | |
| 7300-7350<br>BROADCASTING S5.134<br><br><br>S5.143 | | | 7300-7350<br>BROADCASTING<br>FIXED<br>Mobile<br><br>US340 USyyy | | Radio Broadcast (HF) (73)<br>Maritime (80)<br>Private Land Mobile (90) |
| 7350-8100<br>FIXED<br>Land mobile<br><br>S5.144 | | | 7350-8100<br>FIXED<br>Mobile<br><br>US340 | | Maritime (80)<br>Aviation (87)<br>Private Land Mobile (90) |
| 8100-8195<br>FIXED<br>MARITIME MOBILE | | | 8100-8195<br>MARITIME MOBILE<br><br>US340 | | Maritime (80) |
| 8195-8815<br>MARITIME MOBILE S5.109 S5.110 S5.132 S5.145<br><br>S5.111 | | | 8195-8815<br>MARITIME MOBILE S5.109 S5.110 S5.132 S5.145 US82<br><br>S5.111 US296 US340 | | Maritime (80)<br>Aviation (87) |
| 8815-8965<br>AERONAUTICAL MOBILE (R) | | | 8815-8965<br>AERONAUTICAL MOBILE (R)<br><br>US340 | | Aviation (87) |
| 8965-9040<br>AERONAUTICAL MOBILE (OR) | | | 8965-9040<br>AERONAUTICAL MOBILE (OR)<br><br>US340 | | |

| 9040-13410 kHz (HF) | | | | | Page 13 |
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| 9040-9400<br>FIXED | | | 9040-9400<br>FIXED<br><br>US340 | | Maritime (80) |
| 9400-9500<br>BROADCASTING S5.134<br><br>S5.146 | | | 9400-9500<br>BROADCASTING<br>FIXED<br><br>US340 USyyy | | Radio Broadcast (HF) (73)<br>Maritime (80) |
| 9500-9900<br>BROADCASTING<br><br>S5.147 | | | 9500-9900<br>BROADCASTING<br><br>S5.147 US340 USxxx | | Radio Broadcast (HF) (73) |
| 9900-9995<br>FIXED | | | 9900-9995<br>FIXED<br><br>US340 | | |
| 9995-10003<br>STANDARD FREQUENCY AND TIME SIGNAL (10000 kHz)<br><br>S5.111 | | | 9995-10003<br>STANDARD FREQUENCY AND TIME SIGNAL (10000 kHz)<br><br>S5.111 US340 | | |
| 10003-10005<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research<br><br>S5.111 | | | 10003-10005<br>STANDARD FREQUENCY AND TIME SIGNAL<br><br>S5.111 US340 G106 | 10003-10005<br>STANDARD FREQUENCY AND TIME SIGNAL<br><br>S5.111 US340 | |
| 10005-10100<br>AERONAUTICAL MOBILE (R)<br><br>S5.111 | | | 10005-10100<br>AERONAUTICAL MOBILE (R)<br><br>S5.111 US283 US340 | | Aviation (87) |
| 10100-10150<br>FIXED<br>Amateur | | | 10100-10150<br><br><br>US247 US340 | 10100-10150<br>AMATEUR<br><br>US247 US340 | Amateur (97) |
| 10150-11175<br>FIXED<br>Mobile except aeronautical mobile (R) | | | 10150-11175<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 | | |
| 11175-11275<br>AERONAUTICAL MOBILE (OR) | | | 11175-11275<br>AERONAUTICAL MOBILE (OR)<br><br>US340 | | |

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| 11275-11400<br>AERONAUTICAL MOBILE (R) | 11275-11400<br>AERONAUTICAL MOBILE (R)<br>US283 US340 | | Aviation (87) |
| 11400-11600<br>FIXED | 11400-11600<br>FIXED<br>US340 | | |
| 11600-11650<br>BROADCASTING S5.134<br>S5.146 | 11600-11650<br>BROADCASTING<br>FIXED<br>US340 USyyy | | Radio Broadcast (HF) (73) |
| 11650-12050<br>BROADCASTING<br>S5.147 | 11650-12050<br>BROADCASTING<br>US340 USxxx | | |
| 12050-12100<br>BROADCASTING S5.134<br>S5.146 | 12050-12100<br>BROADCASTING<br>FIXED<br>US340 USyyy | | |
| 12100-12230<br>FIXED | 12100-12230<br>FIXED<br>US340 | | |
| 12230-13200<br>MARITIME MOBILE S5.109 S5.110 S5.132 S5.145 | 12230-13200<br>MARITIME MOBILE S5.109 S5.110 S5.132 S5.145 US82<br>US296 US340 | | Maritime (80) |
| 13200-13260<br>AERONAUTICAL MOBILE (OR) | 13200-13260<br>AERONAUTICAL MOBILE (OR)<br>US340 | | |
| 13260-13360<br>AERONAUTICAL MOBILE (R) | 13260-13360<br>AERONAUTICAL MOBILE (R)<br>US283 US340 | | Aviation (87) |
| 13360-13410<br>FIXED<br>RADIO ASTRONOMY<br>S5.149 | 13360-13410<br>RADIO ASTRONOMY<br>S5.149 G115 | 13360-13410<br>RADIO ASTRONOMY<br>S5.149 | |

13410-17900 kHz (HF) Page 15

| International Table | | | United States Table | | FCC Rule Part(s) |
|---|---|---|---|---|---|
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| 13410-13570<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>S5.150 | | | 13410-13570<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>S5.150 US340 | 13410-13570<br>FIXED<br><br><br>S5.150 US340 | ISM Equipment (18) |
| 13570-13600<br>BROADCASTING S5.134<br><br><br>S5.151 | | | 13570-13600<br>BROADCASTING<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 USyyy | 13570-13600<br>BROADCASTING<br>FIXED<br><br><br>US340 USyyy | Radio Broadcast (HF) (73) |
| 13600-13800<br>BROADCASTING | | | 13600-13800<br>BROADCASTING<br><br>US340 | | |
| 13800-13870<br>BROADCASTING S5.134<br><br><br>S5.151 | | | 13800-13870<br>BROADCASTING<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 USyyy | 13800-13870<br>BROADCASTING<br>FIXED<br><br><br>US340 USyyy | |
| 13870-14000<br>FIXED<br>Mobile except aeronautical mobile (R) | | | 13870-14000<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 | 13870-14000<br>FIXED<br><br><br>US340 | |
| 14000-14250<br>AMATEUR<br>AMATEUR-SATELLITE | | | 14000-14350 | 14000-14250<br>AMATEUR<br>AMATEUR-SATELLITE<br><br>US340 | Amateur (97) |
| 14250-14350<br>AMATEUR<br><br>S5.152 | | | <br><br><br><br>US340 | 14250-14350<br>AMATEUR<br><br>US340 | |
| 14350-14990<br>FIXED<br>Mobile except aeronautical mobile (R) | | | 14350-14990<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 | 14350-14990<br>FIXED<br><br><br>US340 | |

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| 14990-15005<br>STANDARD FREQUENCY AND TIME SIGNAL (15000 kHz)<br><br>S5.111 | 14990-15005<br>STANDARD FREQUENCY AND TIME SIGNAL (15000 kHz)<br><br>S5.111 US340 | | |
| 15005-15010<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research | 15005-15010<br>STANDARD FREQUENCY AND TIME SIGNAL<br><br>US340 G106 | 15005-15010<br>STANDARD FREQUENCY AND TIME SIGNAL<br><br>US340 | |
| 15010-15100<br>AERONAUTICAL MOBILE (OR) | 15010-15100<br>AERONAUTICAL MOBILE (OR)<br><br>US340 | | |
| 15100-15600<br>BROADCASTING | 15100-15600<br>BROADCASTING<br><br>US340 | | Radio Broadcast (HF) (73) |
| 15600-15800<br>BROADCASTING S5.134<br><br>S5.146 | 15600-15800<br>BROADCASTING<br>FIXED<br><br>US340 USyyy | | |
| 15800-16360<br>FIXED<br><br>S5.153 | 15800-16360<br>FIXED<br><br>US340 | | |
| 16360-17410<br>MARITIME MOBILE S5.109 S5.110 S5.132 S5.145 | 16360-17410<br>MARITIME MOBILE S5.109 S5.110 S5.132 S5.145 US82<br><br>US296 US340 | | Maritime (80) |
| 17410-17480<br>FIXED | 17410-17480<br>FIXED<br><br>US340 | | |
| 17480-17550<br>BROADCASTING S5.134<br><br>S5.146 | 17480-17550<br>BROADCASTING<br>FIXED<br><br>US340 USyyy | | Radio Broadcast (HF) (73)<br>Aviation (87) |
| 17550-17900<br>BROADCASTING | 17550-17900<br>BROADCASTING<br><br>US340 | | Radio Broadcast (HF) (73) |

| International Table | | | United States Table | | FCC Rule Part(s) |
|---|---|---|---|---|---|
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| 17900-17970<br>AERONAUTICAL MOBILE (R) | | | 17900-17970<br>AERONAUTICAL MOBILE (R)<br>US283 US340 | | Aviation (87) |
| 17970-18030<br>AERONAUTICAL MOBILE (OR) | | | 17970-18030<br>AERONAUTICAL MOBILE (OR)<br>US340 | | |
| 18030-18052<br>FIXED | | | 18030-18068<br>FIXED | | Maritime (80) |
| 18052-18068<br>FIXED<br>Space research | | | US340 | | |
| 18068-18168<br>AMATEUR<br>AMATEUR-SATELLITE<br>S5.154 | | | 18068-18168<br>US340 | 18068-18168<br>AMATEUR<br>AMATEUR-SATELLITE<br>US340 | Amateur (97) |
| 18168-18780<br>FIXED<br>Mobile except aeronautical mobile | | | 18168-18780<br>FIXED<br>Mobile<br>US340 | | Maritime (80) |
| 18780-18900<br>MARITIME MOBILE | | | 18780-18900<br>MARITIME MOBILE US82<br>US296 US340 | | |
| 18900-19020<br>BROADCASTING S5.134<br>S5.146 | | | 18900-19020<br>BROADCASTING<br>FIXED<br>US340 USyyy | | Radio Broadcast (HF) (73) |
| 19020-19680<br>FIXED | | | 19020-19680<br>FIXED<br>US340 | | |
| 19680-19800<br>MARITIME MOBILE S5.132 | | | 19680-19800<br>MARITIME MOBILE S5.132<br>US340 | | Maritime (80) |
| 19800-19990<br>FIXED | | | 19800-19990<br>FIXED<br>US340 | | |

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| 19990-19995<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research<br>S5.111<br>19995-20010<br>STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz)<br>S5.111 | 19990-20010<br>STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz)<br>S5.111 US340 G106 | 19990-20010<br>STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz)<br>S5.111 US340 | |
| 20010-21000<br>FIXED<br>Mobile | 20010-21000<br>FIXED<br>Mobile<br>US340 | 20010-21000<br>FIXED<br>US340 | |
| 21000-21450<br>AMATEUR<br>AMATEUR-SATELLITE | 21000-21450<br>US340 | 21000-21450<br>AMATEUR<br>AMATEUR-SATELLITE<br>US340 | Amateur (97) |
| 21450-21850<br>BROADCASTING | 21450-21850<br>BROADCASTING<br>US340 | | Radio Broadcast (HF) (73) |
| 21850-21870<br>FIXED S5.155A<br>S5.155<br>21870-21924<br>FIXED S5.155B | 21850-21924<br>FIXED<br>US340 | | Aviation (87) |
| 21924-22000<br>AERONAUTICAL MOBILE (R) | 21924-22000<br>AERONAUTICAL MOBILE (R)<br>US340 | | |
| 22000-22855<br>MARITIME MOBILE S5.132<br>S5.156 | 22000-22855<br>MARITIME MOBILE S5.132 US82<br>US296 US340 | | Maritime (80) |

| 22855-26175 kHz (HF) | | | | | Page 19 |
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| International Table | | | United States Table | | FCC Rule Part(s) |
| Region 1 | Region 2 | Region 3 | Federal Government | Non-Federal Government | |
| 22855-23000<br>FIXED<br><br>S5.156 | | | 22855-23000<br>FIXED<br><br>US340 | | |
| 23000-23200<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>S5.156 | | | 23000-23200<br>FIXED<br>Mobile except aeronautical mobile (R)<br><br>US340 | 23000-23200<br>FIXED<br><br><br>US340 | |
| 23200-23350<br>FIXED S5.156A<br>AERONAUTICAL MOBILE (OR) | | | 23200-23350<br>AERONAUTICAL MOBILE (OR)<br><br>US340 | | |
| 23350-24000<br>FIXED<br>MOBILE except aeronautical mobile S5.157 | | | 23350-24890<br>FIXED<br>MOBILE except aeronautical mobile<br><br>US340 | 23350-24890<br>FIXED<br><br><br>US340 | |
| 24000-24890<br>FIXED<br>LAND MOBILE | | | | | |
| 24890-24990<br>AMATEUR<br>AMATEUR-SATELLITE | | | 24890-24990<br><br><br><br>US340 | 24890-24990<br>AMATEUR<br>AMATEUR-SATELLITE<br><br>US340 | Amateur (97) |
| 24990-25005<br>STANDARD FREQUENCY AND TIME SIGNAL (25000 kHz) | | | 24990-25005<br>STANDARD FREQUENCY AND TIME SIGNAL (25000 kHz)<br><br>US340 | | |
| 25005-25010<br>STANDARD FREQUENCY AND TIME SIGNAL<br>Space research | | | 25005-25010<br>STANDARD FREQUENCY AND TIME SIGNAL<br><br>US340 G106 | 25005-25010<br>STANDARD FREQUENCY AND TIME SIGNAL<br><br>US340 | |
| 25010-25070<br>FIXED<br>MOBILE except aeronautical mobile | | | 25010-25070<br><br><br><br>US340 | 25010-25070<br>LAND MOBILE<br><br>US340 NG112 | Private Land Mobile (90) |

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| 25070-25210<br>MARITIME MOBILE | 25070-25210<br>MARITIME MOBILE US82<br><br>US281 US296 US340 | 25070-25210<br>MARITIME MOBILE US82<br><br>US281 US296 US340<br>NG112 | Maritime (80)<br>Private Land Mobile (90) |
| 25210-25550<br>FIXED<br>MOBILE except aeronautical mobile | 25210-25330<br><br>US340 | 25210-25330<br>LAND MOBILE<br>US340 | Private Land Mobile (90) |
| | 25330-25550<br>FIXED<br>MOBILE except aeronautical mobile<br>US340 | 25330-25550<br><br>US340 | |
| 25550-25670<br>RADIO ASTRONOMY<br>S5.149 | 25550-25670<br>RADIO ASTRONOMY US74<br>S5.149 | | |
| 25670-26100<br>BROADCASTING | 25670-26100<br>BROADCASTING<br>US25 US340 | | Radio Broadcast (HF) (73)<br>Remote Pickup (74D) |
| 26100-26175<br>MARITIME MOBILE S5.132 | 26100-26175<br>MARITIME MOBILE S5.132<br>US25 US340 | | Remote Pickup (74D)<br>Maritime (80) |

| 25175-28000 kHz (HF) | | | | | Page 21 |
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| 26175-27500<br>FIXED<br>MOBILE except aeronautical mobile | | | 26175-26480<br><br>US340 | 26175-26480<br>LAND MOBILE<br>US340 | Remote Pickup (74D) |
| | | | 26480-26950<br>FIXED<br>MOBILE except aeronautical mobile<br>US10 US340 | 26480-26950<br><br>US10 US340 | |
| | | | 26950-27410 | 26950-26960<br>FIXED<br>S5.150 US340 | ISM Equipment (18) |
| | | | | 26960-27230<br>MOBILE except aeronautical mobile<br>S5.150 US340 | ISM Equipment (18)<br>Personal Radio (95) |
| | | | | 27230-27410<br>FIXED<br>MOBILE except aeronautical mobile<br>S5.150 US340 | ISM Equipment (18)<br>Private Land Mobile (90)<br>Personal Radio (95) |
| S5.150 | | | 27410-27540<br><br>US340 | 27410-27540<br>FIXED<br>LAND MOBILE<br>US340 | Private Land Mobile (90) |
| 27500-28000<br>METEOROLOGICAL AIDS<br>FIXED<br>MOBILE | | | 27540-28000<br>FIXED<br>MOBILE<br>US298 US340 | 27540-28000<br><br>US298 US340 | |

BILLING CODE 6712-01-C

**International Footnotes**

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S5.55 *Additional allocation:* in Armenia, Azerbaijan, Bulgaria, Georgia, Kyrgyzstan, the Russian Federation, Tajikistan and Turkmenistan, the band 14–17 kHz is also allocated to the radionavigation service on a primary basis.

* * * * *

S5.58 *Additional allocation:* in Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgyzstan, the Russian Federation, Tajikistan and Turkmenistan, the band 67–70 kHz is also allocated to the radionavigation service on a primary basis.

S5.59 *Different category of service:* in Bangladesh and Pakistan, the allocation of the bands 70–72 kHz and 84–86 kHz to the fixed and maritime mobile services is on a primary basis (see No. S5.33).

* * * * *

S5.65 *Different category of service:* in Bangladesh, the allocation of the bands 112–117.6 kHz and 126–129 kHz to the fixed and maritime mobile services is on a primary basis (see No. S5.33).

* * * * *

S5.67 *Additional allocation:* in Azerbaijan, Bulgaria, Mongolia, Kyrgyzstan, Romania and Turkmenistan, the band 130–148.5 kHz is also allocated to the radionavigation service on a secondary basis. Within and between these countries this service shall have an equal right to operate.

* * * * *

S5.75 *Different category of service:* in Armenia, Azerbaijan, Belarus, Georgia, Moldova, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and the Black Sea areas of Bulgaria and Romania, the allocation of the band 315–325 kHz to the maritime radionavigation service is on a primary basis under the condition that in the Baltic Sea area, the assignment of frequencies in this band to new stations in the maritime or aeronautical radionavigation services shall be subject to prior consultation between the administrations concerned.

* * * * *

S5.77 *Different category of service:* in Australia, China, the French Overseas Territories of Region 3, India, Indonesia (until 1 January 2005), Iran (Islamic Republic of), Japan, Pakistan, Papua New Guinea and Sri Lanka, the allocation of the band 415–495 kHz to the aeronautical radionavigation service is on a primary basis. Administrations in these countries shall take all practical steps necessary to ensure that aeronautical radionavigation stations in the band 435–495 kHz do not cause interference to reception by coast stations of ship stations transmitting on frequencies designated for ship stations on a worldwide basis (see No. S52.39).

* * * * *

S5.93 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Georgia, Hungary, Kazakstan, Latvia, Lithuania, Moldova, Mongolia, Nigeria, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the Russian Federation, Tajikistan, Chad, Turkmenistan and Ukraine, the bands 1625–1635 kHz, 1800–1810 kHz and 2160–2170 kHz and, in Bulgaria, the bands 1625–1635 kHz and 1800–1810 kHz, are also allocated to the fixed and land mobile services on a primary basis, subject to agreement obtained under No. S9.21.

* * * * *

S5.96 In Germany, Armenia, Austria, Azerbaijan, Belarus, Denmark, Estonia, Finland, Georgia, Hungary, Ireland, Israel, Jordan, Kazakstan, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Norway, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the United Kingdom, the Russian Federation, Sweden, Switzerland, Tajikistan, Turkmenistan and Ukraine, administrations may allocate up to 200 kHz to their amateur service in the bands 1715–1800 kHz and 1850–2000 kHz. However, when allocating the bands within this range to their amateur service, administrations shall, after prior consultation with administrations of neighbouring countries, take such steps as may be necessary to prevent harmful interference from their amateur service to the fixed and mobile services of other countries. The mean power of any amateur station shall not exceed 10 W.

* * * * *

S5.98 *Alternative allocation:* in Angola, Armenia, Azerbaijan, Belarus, Belgium, Bulgaria, Cameroon, the Congo, Denmark, Egypt, Eritrea, Spain, Ethiopia, Georgia, Greece, Italy, Kazakstan, Lebanon, Lithuania, Moldova, the Netherlands, Syria, Kyrgyzstan, the Russian Federation, Somalia, Tajikistan, Tunisia, Turkmenistan, Turkey and Ukraine, the band 1810–1830 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

S5.99 *Additional allocation:* in Saudi Arabia, Austria, Bosnia and Herzegovina, Iraq, Libya, Uzbekistan, Slovakia, the Czech Rep., Romania, Slovenia, Chad, Togo and Yugoslavia, the band 1810–1830 kHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

* * * * *

S5.107 *Additional allocation:* in Saudi Arabia, Botswana, Eritrea, Ethiopia, Iraq, Lesotho, Libya, Somalia and Swaziland, the band 2160–2170 kHz is also allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis. The mean power of stations in these services shall not exceed 50 W.

* * * * *

S5.112 *Alternative allocation:* in Bosnia and Herzegovina, Cyprus, Denmark, Greece, Iceland, Malta, Sri Lanka and Yugoslavia, the band 2194–2300 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

* * * * *

S5.114 *Alternative allocation:* in Bosnia and Herzegovina, Cyprus, Denmark, Greece, Iraq, Malta, and Yugoslavia, the band 2502–2625 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

* * * * *

S5.117 *Alternative allocation:* in Bosnia and Herzegovina, Cyprus, Côte d'Ivoire, Denmark, Egypt, Greece, Iceland, Liberia, Malta, Sri Lanka, Togo and Yugoslavia, the band 3155–3200 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

* * * * *

S5.152 *Additional allocation:* in Armenia, Azerbaijan, China, Côte d'Ivoire, Georgia, Iran (Islamic Republic of), Kazakstan, Moldova, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 14250–14350 kHz is also allocated to the fixed service on a primary basis. Stations of the fixed service shall not use a radiated power exceeding 24 dBW.

* * * * *

S5.154 *Additional allocation:* in Armenia, Azerbaijan, Georgia, Kazakstan, Moldova, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the band 18068–18168 kHz is also allocated to the fixed service on a primary basis for use within their boundaries, with a peak envelope power not exceeding 1 kW.

* * * * *

S5.155A In Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Kazakstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, the Czech Rep., the Russian Federation, Tajikistan, Turkmenistan and Ukraine, the use of the band 21850–21870 kHz by the fixed

service is limited to provision of services related to aircraft flight safety.

* * * * *

**United States (US) Footnotes**

* * * * *

US18 Navigation aids in the U.S. and its insular areas in the bands 9–14 kHz, 90–110 kHz, 190–415 kHz, 510–535 kHz, and 2700–2900 MHz are normally operated by the Federal Government. However, authorizations may be made by the FCC for non-Federal Government operations in these bands subject to the conclusion of appropriate arrangements between the FCC and the Federal agencies concerned and upon special showing of need for service which the Federal Government is not yet prepared to render.

* * * * *

US25 The use of frequencies in the band 25850–26175 kHz may be authorized to non-Federal Government remote pickup broadcast base and mobile stations on the condition that harmful interference is not caused to the reception of either international broadcast stations transmitting in the band 25850–26100 kHz or coast stations transmitting in the band 26100–26175 kHz.

* * * * *

US82 The assignable frequencies in the bands 4146–4152 kHz, 6224–6233 kHz, 8294–8300 kHz, 12353–12368 kHz, 16528–16549 kHz, 18825–18846 kHz, 22159–22180 kHz, and 25100–25121 kHz may be authorized on a shared non-priority basis to Federal and non-Federal Government ship and coast stations (SSB telephony, with peak envelope power not to exceed 1 kW).

* * * * *

US104 The LORAN Radionavigation System has priority in the band 90–110 kHz in the United States and its insular areas. Radiolocation land stations making use of LORAN type equipment may be authorized to both Federal and non-Federal Government licensees on a secondary basis for offshore radiolocation activities only at specific locations and subject to such technical and operational conditions (e.g., power, emission, pulse rate and phase code, hours of operation), including on-the-air testing, as may be required on a case-by-case basis to ensure protection of the LORAN radionavigation system from harmful interference and to ensure mutual compatibility among radiolocation operators. Such authorizations to stations in the radiolocation service are further subject to showing of need for service which is not currently provided and which the Federal Government is not yet prepared to render by way of the radionavigation service.

* * * * *

US225 In addition to its present Federal Government use, the band 510–525 kHz is available to Federal and non-Federal Government aeronautical radionavigation stations inland of the Territorial Base Line as coordinated with the military services. In addition, the frequency 510 kHz is available for non-Federal Government ship-helicopter operations when beyond 100 nautical miles from shore and required for aeronautical radionavigation.

* * * * *

US231 When an assignment cannot be obtained in the bands between 200 kHz and 525 kHz, which are allocated to aeronautical radionavigation, assignments may be made to aeronautical radiobeacons in the maritime mobile band 435–490 kHz, on a secondary basis, subject to the coordination and agreement of those agencies having assignments within the maritime mobile band which may be affected. Assignments to Federal Government aeronautical radionavigation radiobeacons in the band 435–490 kHz shall not be a bar to any required changes to the maritime mobile radio service and shall be limited to non-voice emissions.

* * * * *

US281 In the band 25070–25210 kHz, non-Federal Government stations in the Industrial/Business Pool shall not cause harmful interference to, and must accept interference from, stations in the maritime mobile service operating in accordance with the International Table of Frequency Allocations.

US282 In the band 4650–4700 kHz, frequencies may be authorized for non-Federal Government communication with helicopters in support of off-shore drilling operations on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

US283 In the bands 2850–3025 kHz, 3400–3500 kHz, 4650–4700 kHz, 5450–5680 kHz, 6525–6685 kHz, 10005–10100 kHz, 11275–11400 kHz, 13260–13360 kHz, and 17900–17970 kHz, frequencies may be authorized for non-Federal Government flight test purposes on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

* * * * *

US298 Channels 27555, 27615, 27635, 27655, 27765, and 27860 kHz are available for use by forest product licensees on a secondary basis to Federal Government operations including experimental stations. Non-Federal Government operations on these channels will not exceed 150 watts output power and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

* * * * *

US321 The band 535–1705 kHz is also allocated to the non-Federal Government mobile service on a secondary basis for the distribution of public service information from Travelers' Information Stations operating in accordance with the provisions of 47 C.F.R. § 90.242 on 10 kilohertz spaced channels from 540 kHz to 1700 kHz.

* * * * *

US340 The band 2–30 MHz is available on a non-interference basis to Federal and non-Federal Government maritime and aeronautical stations for the purposes of measuring the quality of reception on radio channels. See 47 CFR § 87.149 for the list of protected frequencies and bands within this frequency range. Actual communications shall be limited to those frequencies specifically allocated to the maritime mobile and aeronautical mobile services.

* * * * *

USwww On the condition that harmful interference is not caused to the reception of AM broadcast stations or to travelers' information stations, Federal Government stations in the band 1615–1705 kHz may continue operations until [one year from the adoption date of the Report and Order].

USxxx On the condition that harmful interference is not caused to the broadcasting service, frequencies in the bands 9775–9900 kHz, 11650–11700 kHz, and 11975–12050 kHz may be used by Federal Government stations in the fixed service communicating within the United States and its insular areas that are authorized as of [adoption date of the Report and Order]. Each such station shall be limited to a total radiated power of 24 dBW.

USyyy On April 1, 2007, the bands 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 13570–13600 kHz, 13800–13870 kHz, 15600–15800 kHz, 17480–17550 kHz, and 18900–19020 kHz shall be allocated exclusively to the broadcasting service. On or after April 1, 2007, frequencies in these bands may be used by stations in the fixed and mobile services, communicating only within the United States and its insular areas, on the condition that harmful

interference is not caused to the broadcasting service. When using frequencies in the fixed and mobile services, licensees shall be limited to the minimum power required and shall take account of the seasonal use of frequencies by the broadcasting service published in accordance with Article S12 of the ITU *Radio Regulations.*

USzzz Consistent with US18, stations may be authorized on a primary basis in the band 285–325 kHz for the specific purpose of transmitting differential global positioning system information.

* * * * *

## PART 73—RADIO BROADCAST SERVICES

3. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

4. Section 73.701 is amended by removing and reserving paragraph (j) and revising paragraphs (a), (e), (g), (h), (i), and (l) to read as follows:

### § 73.701 Definitions.

* * * * *

(a) *International broadcast stations.* A broadcasting station employing frequencies allocated to the broadcasting service between 5900 and 26100 kHz, the transmissions of which are intended to be received directly by the general public in foreign countries. (A station may be authorized more than one transmitter.) There are both Federal and non-Federal Government international broadcast stations; only the latter are licensed by the Commission and are subject to the rules of this subpart.

* * * * *

(e) *Coordinated Universal Time (UTC).* Time scale, based on the second (SI), as defined in Recommendation ITU-R TF.460–5. UTC is equivalent to mean solar time at the prime median (0° longitude), formerly expressed as GMT.

* * * * *

(g) *Day.* Any twenty-four hour period beginning 0100 UTC and ending 0100 UTC.

(h) *Schedule A.* That portion of any year commencing at 0100 UTC on the last Sunday in March and ending at 0100 UTC on the last Sunday in October.

(i) *Schedule B.* That portion of any year commencing at 0100 UTC on the last Sunday in October and ending at 0100 UTC on the last Sunday in March.

(j) [Reserved]

* * * * *

(l) *Reference month.* That month of a season which is used for determining predicted propagation characteristics for the season. The reference month for Schedule A is July and the reference month for Schedule B is December.

* * * * *

5. Section 73.702 is amended by redesignating paragraph (f)(3) as (f)(4) and adding new paragraph (f)(3) and revising paragraphs (f) introductory text, (f)(1) and the first and second sentences in paragraph (f)(2) to read as follows:

### § 73.702 Assignment and use of frequencies.

* * * * *

(f) Assigned frequencies shall be within the following bands, which are allocated on an exclusive basis to the broadcasting service:

(1) 5950–6200 kHz, 9500–9900 kHz, 11650–12050 kHz, 13600–13800 kHz, 15100–15600 kHz, 17550–17900 kHz, 21450–21850 kHz, and 25670–26100 kHz.

(2) In addition, the band 7100–7300 kHz is allocated on an exclusive basis to the broadcasting service in International Telecommunication Union (ITU) Regions 1 and 3 as defined in 47 CFR 2.104(b) of this chapter. Assignments in the band 7100–7300 kHz shall be limited to international broadcast stations located in ITU Region 3 insular areas (as defined in 47 CFR 2.105(a), note 4) of this chapter that transmit to zones and areas of reception in ITU Region 1 or 3. * * *

(3) In addition, frequencies within the following bands are assignable to the broadcasting service on an exclusive basis after April 1, 2007:

(i) 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11600–11650 kHz, 12050–12100 kHz, 13570–13600 kHz, 13800–13870 kHz, 15600–15800 kHz, 17480–17550 kHz, and 18900–19020 kHz (WARC–92 HFBC bands).

(ii) Use of the WARC–92 HFBC bands shall be limited to single sideband emissions with the characteristics specified in Appendix S11 of the ITU *Radio Regulations* or to any other spectrum-efficient modulation technique recommended by the ITU Radiocommunication Sector. Double sideband modulation may continue to be used on a non-interference basis.

* * * * *

6. Section 73.703 is amended by revising the map to read as follows:

### § 73.703 Geographical zones and areas of reception.

* * * * *

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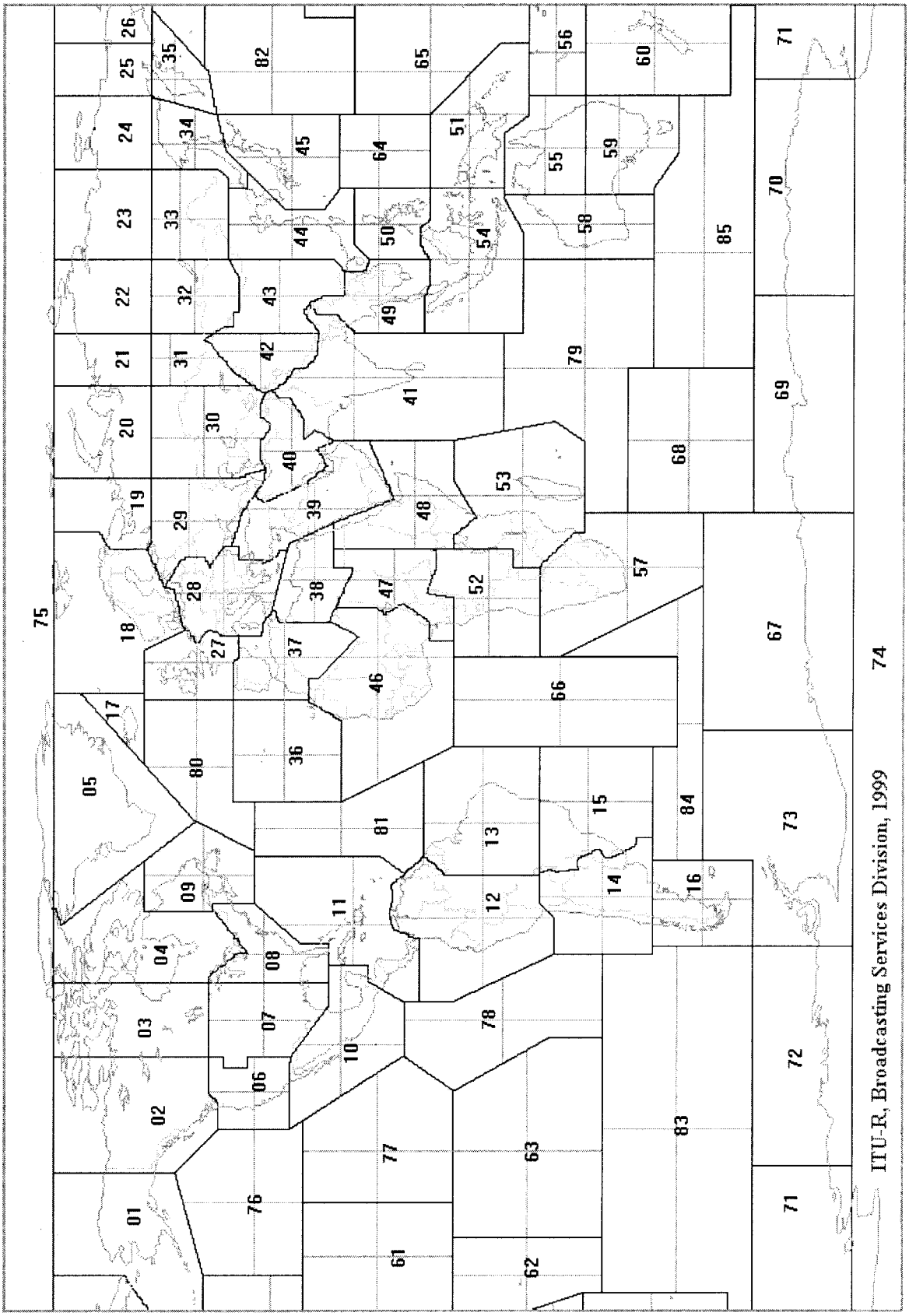


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7. Section 73.756 is amended by revising paragraph (c) to read as follows:

**§ 73.756 Transmission system requirements.**

* * * * *

(c) *Frequency tolerance.* The transmitter shall maintain the operating frequency within 10 Hz of the assigned frequency.

8. Section 73.766 is amended by revising the last sentence of the section to read as follows:

**§ 73.766 Modulation and bandwidth.**

* * * The highest modulating frequency shall not exceed 4.5 kHz.

## PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCASTING AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

9. The authority citation for part 74 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 307, 336(f), 336(h) and 554.

10. Section 74.402 paragraph (a)(1) and footnote 1 are removed and reserved.

## PART 80—STATIONS IN THE MARITIME SERVICES

11. The authority citation for part 80 continues to read as follows:

**Authority:** Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

12. Section 80.373 amend table in paragraph (d)(1) by adding footnote 1 for entries 5700–5950 and 7300–8100 and the table in paragraph (i) by adding footnote 3 for entries 1619.0, 1622.0, 1643.0, 1646.0, 1649.0, 1652.0 and 1705.0 to read as follows:

**§ 80.373 Private communications frequencies.**

* * * * *

(d) * * *

(1) * * *

FREQUENCY BANDS (KHZ)

| | | | | |
|---|---|---|---|---|
| * | * | * | * | * |
| 5730–5950 [1] | | | | |
| 7300–8100 [1] | | | | |
| * | * | * | * | * |

[1] After April 1, 2007, use of the sub-bands 5900–5950 kHz and 7300–7350 kHz shall be on the condition that harmful interference is not caused to HF broadcasting.

* * * * *

(i) * * *

PRIVATE COMMUNICATIONS IN ALASKA CARRIER FREQUENCIES (KHZ)

| | | | | |
|---|---|---|---|---|
| 1619.0 [3] | | | | |
| 1622.0 [3] | | | | |
| 1643.0 [3] | | | | |
| 1646.0 [3] | | | | |
| 1649.0 [3] | | | | |
| 1652.0 [3] | | | | |
| 1705.0 [3] | | | | |
| * | * | * | * | * |

[3] Use of these frequencies is on a secondary basis to Region 2 broadcasting.

* * * * *

13. Section 80.387 amend the table in paragraph (b) by adding new footnote 4 for entries 1643.0, 1646.0, 1649.0, 1652.0, 1657.0, 1660.0, 1705.0 and adding footnote 5 for entry 11601.5 to read as follows:

**§ 80.387 Frequencies for Alaska fixed stations.**

(b) * * *

CARRIER FREQUENCIES (KHZ)

| | | | | |
|---|---|---|---|---|
| 1643.0 [4] | | | | |
| 1646.0 [4] | | | | |
| 1649.0 [4] | | | | |
| 1652.0 [4] | | | | |
| 1657.0 [4] | | | | |
| 1660.0 [1 4] | | | | |
| 1705.04 [4] | | | | |
| * | * | * | * | * |
| 11601.5 [2 5] | | | | |
| * | * | * | * | * |

[1] Use of 1660.0 kHz must be coordinated to protect radiolocation on adjacent channels.

[2] Peal envelope power must not exceed 1 kW for radiotelephony. Teleprinter use is authorized.

* * * * *

[4] Use of these frequencies is on a secondary basis to Region 2 broadcasting.

[5] After April 1, 2007, use of the frequency 11601.5 kHz shall be on the condition that harmful interference is not caused to HF broadcasting.

* * * * *

## PART 90—PRIVATE LAND MOBILE RADIO SERVICES

14. The authority citation for part 90 continues to read as follows:

**Authority:** Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

15. Section 90.35 amend the table in paragraph (b)(3) under kilohertz by removing the entries 1614 kHz, 1628 kHz, 1652 kHz, 1676 kHz, and 1700 kHz and under Megahertz by revising the entries for 25.12 MHz, 25.14 MHz, 25.16 MHz, 25.18 MHz, and 25.20 MHz and adding the entries for 27.555 MHz, 27.615 MHz, 27.635 MHz, 27.655 MHz, 27.765 MHz, and 27.86 MHz and removing and reserving paragraph (c)(2) and removing paragraph (c)(4) and revising paragraph (c)(82) to read as follows:

**§ 90.35 Industrial/Business Pool.**

* * * * *

(b) * * *

(3) * * *

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE

| Frequency or band | Class of station(s) | Limitations | Coordinator |
|---|---|---|---|
| * | * | * | * |
| **Megahertz** | | | |
| 25.12 | .....do | 9 | IP |
| 25.14 | .....do | 3, 4, 9 | IP |
| 25.16 | .....do | 9 | IP |
| 25.18 | .....do | 3, 4, 9 | IP |
| 25.20 | .....do | 9 | IP |
| * | * | * | * |
| 27.555 | Base or mobile | 82 | |
| 27.615 | .....do | 82 | |
| 27.635 | .....do | 82 | |
| 27.655 | .....do | 82 | |

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

| Frequency or band | Class of station(s) | Limitations | Coordinator |
|---|---|---|---|
| 27.765 | .....do | 82 | |
| 27.86 | .....do | 82 | |
| 29.71 | .....do. | | |
| * * * * * * * | | | |

(c) * * *

* * * * *

(2) [Reserved]

* * * * *

(82) The frequency may be assigned only to entities meeting the definition of a forest product licensee (see § 90.7). Operations are on a secondary basis to Federal Government operations including experimental stations, will not exceed 150 watts output power, and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

* * * * *

17. Section 90.103 amend the table in paragraph (b) under kilohertz by removing the entry for 1605–1715, and adding in its place the entry for 1705–1715, and removing and reserving paragraphs (c)(28) and (29) and revising paragraph (c)(4) to read as follows:

**§ 90.103 Radiolocation Service.**

* * * * *

RADIOLOCATION SERVICE FREQUENCY TABLE

| Frequency or band | Class of station | Limitation |
|---|---|---|
| **Kilohertz** | | |
| 1705 to 1715 | .....do | 4, 5, 6 |
| * * * * * * * | | |

* * * * *

(c) * * *

(4) The non-Federal Government radiolocation service in this band is on a secondary basis to stations in the aeronautical radionavigation service operating on 1708 kHz.

* * * * *

(28) [Reserved]

(29) [Reserved]

* * * * *

18. Section 90.263 is amended by revising the third sentence to read as follows:

**§ 90.263 Substitution of frequencies below 25 MHz.**

* * * In such cases, a substitute frequency, if found to be available, may be assigned from the following bands: 1705–1750 kHz, 2107–2170 kHz, 2194–2495 kHz, 2506–2850 kHz, 3155–3400 kHz, or 4438–4650 kHz. * * *

## PART 97—AMATEUR RADIO SERVICE

19. The authority citation for Part 97 continues to read as follows:

**Authority:** 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

20. Section 97.401 is amended by removing paragraph (b) and by redesignating paragraphs (c) and (d) as (b) and (c).

[FR Doc. 02–7727 Filed 4–5–02; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 02–688; MM Docket No. 02–62; RM–10397]**

### Radio Broadcasting Services; De Funiak Springs and Valparaiso, FL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed on behalf of Root Communications License Company, L.P., licensee of Station WMXZ(FM), Channel 276C2, De Funiak Springs, Florida, requesting the reallotment of Channel 276C2 from De Funiak Springs to Valparaiso, Florida, and modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. The coordinates for requested Channel 276C3 at Valparaiso, Florida, are 30–30–53 NL and 86–13–12 WL.

Petitioner's reallotment proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 276C2 at Valparaiso, Florida, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

**DATES:** Comments must be filed on or before May 13, 2002, and reply comments on or before May 28, 2002.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Howard M. Lieberman, Esq., and Elizabeth A. Hammond, Esq., Arter and Hadden, LLP; 1801 K Street, NW., Third Floor, L Street Entrance; Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 02–62, adopted March 13, 2002, and released March 22, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC, 20554. This document may also be purchased from the

Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1.The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. §§ 154, 303, 334, and 336.

**§ 73.202 [Amended]**

1. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Valparaiso, Channel 276C2 and removing De Funiak Springs, Channel 276C2.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 02–8399 Filed 4–5–02; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 92

**RIN 1018–AH88**

## Procedures for Establishing Spring/Summer Subsistence Harvest Regulations for Migratory Birds in Alaska

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service or we) proposes regulations establishing procedures for implementing a spring/summer migratory bird subsistence harvest in Alaska. The 1916 Convention for the Protection of Migratory Birds Between the United States and Great Britain (for Canada) established a closed season for the taking of migratory birds between March 10 and September 1. Residents of northern Alaska and Canada traditionally harvested migratory birds for nutritional purposes during the spring and summer months. The governments of Canada, Mexico, and the United States recently amended the 1916 Convention and the subsequent 1936 Mexico Convention for the Protection of Migratory Birds and Game Mammals. The amended treaties provide for the legal subsistence harvest of migratory birds and their eggs in Alaska and Canada during the closed season. The proposed regulations would establish procedures for implementing that change and for incorporating subsistence management into the continental migratory bird management program.

**DATES:** We will accept written comments until May 24, 2002.

**ADDRESSES:** Address comments to Regional Director, Alaska Region, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503, Attention: Bob Stevens, Stop 201. Electronic comments may be addressed to *FW7__MB__Counsel@fws.gov.*

**FOR FURTHER INFORMATION CONTACT:** Bob Stevens, 907/786–3499 or Bill Ostrand, 907/786–3849, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Stop 201, Anchorage, Alaska 99503.

**SUPPLEMENTARY INFORMATION:**

**What Events Led to This Action?**

By the beginning of the twentieth century, this nation began to witness the depletion of many species of migratory birds. Commercial or ''market'' hunting took a significant toll as restaurant owners paid top dollar for wild birds and the millinery industry demanded large numbers of feathers for hats. Individual States did not establish regulations or other management programs to adequately protect the migratory bird resources.

In 1916, the United States and Great Britain (on behalf of Canada) signed the Convention for the Protection of Migratory Birds in Canada and the United States. The treaty prohibited market hunting and specified a closed season on taking migratory game birds between March 10 and September 1 of each year. In 1936, the United States and Mexico signed the Convention for the Protection of Migratory Birds and Game Mammals. The Mexico treaty prohibited the taking of wild ducks between March 10 and September 1. Neither treaty, however, took into account and allowed for the traditional harvest of migratory birds by northern indigenous people during the spring and summer months. This harvest, which had occurred for centuries, was necessary to the subsistence lifestyle of the northern people and thus continued despite the closed season.

The Canada treaty and the Mexico treaty, as well as the other migratory bird treaties with Japan (1972) and Russia (1976), have been implemented in the United States through the Migratory Bird Treaty Act (MBTA). The courts have construed the MBTA as prohibiting the Federal government from permitting any harvest of migratory birds that is inconsistent with the terms of any of the migratory bird treaties. The restrictive terms of the Canada and Mexico treaties thus prevented the Federal government from permitting the traditional subsistence harvest of migratory birds during spring and summer in Alaska. To remedy this situation the United States therefore negotiated Protocols amending both the Canada and Mexico treaties to allow for spring/summer subsistence harvest of migratory birds by indigenous inhabitants of identified subsistence zones in Alaska. The U. S. Senate approved the amendments to both treaties in 1997.

**What Will the Amended Treaty Accomplish?**

The major goals of the amended treaty with Canada are to allow for traditional subsistence harvest and to improve conservation of migratory birds by allowing effective regulation of this harvest. The amended treaty with Canada allows permanent residents of villages within subsistence harvest areas, regardless of race, to continue harvesting migratory birds in the spring and summer as they have done for thousands of years. It states that lands north and west of the Alaska Range and within the Alaska Peninsula, Kodiak Archipelago, and the Aleutian Islands generally qualify as subsistence harvest areas. Treaty language provides for further refinement of this determination by management bodies.

The amendments, however, are not intended to cause significant increases in the take of migratory birds relative to their continental population sizes. Therefore, the Canada treaty places limitations on who is eligible to harvest and where they can harvest migratory birds. Anchorage, the Matanuska-Susitna and Fairbanks North Star

Boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, and Southeast Alaska generally do not qualify as subsistence harvest areas. Limited exceptions may be made so that some individual communities within these excluded areas could qualify for designation as subsistence harvest areas for specific purposes. For example, future regulations could allow some villages in Southeast Alaska to collect gull eggs.

The amended treaty with Canada calls for creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. Management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They will develop recommendations for, among other things: seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection. The management bodies will involve village councils to the maximum extent possible in all aspects of management.

Relevant recommendations developed by the management bodies will be submitted to the Service and to the Flyway Councils. Restrictions in harvest levels for the purpose of conservation will be shared equitably by users in Alaska and users in other States, taking into account nutritional needs of subsistence users in Alaska. The treaty amendments are not intended to create a preference in favor of any group of users in the United States or to modify any preference that may exist.

**What Has the Service Accomplished Since Ratification of the Amended Treaty?**

In 1998, we began a public involvement process to determine how to structure management bodies in order to provide the most effective and efficient involvement for subsistence users. We began by publishing a notice in the **Federal Register** stating that we intended to establish management bodies to implement the spring and summer subsistence harvest (63 FR 49707, Sept. 17, 1998). Public forums attended by the Service, the Alaska Department of Fish and Game, and the Native Migratory Bird Working Group were held to provide information regarding the amended treaties and to listen to the needs of subsistence users. The Native Migratory Bird Working Group was a consortium of Alaska Natives formed by the Rural Alaska Community Action Program to represent Alaska Native subsistence hunters of migratory birds during the treaty negotiations. We held forums in Nome, Kotzebue, Fort Yukon, Allakaket, Naknek, Bethel, Dillingham, Barrow, and Copper Center. We led additional briefings and discussions at the annual meeting of the Association of Village Council Presidents in Hooper Bay and for the Central Council of Tlingit & Haida Indian Tribes in Juneau. Staff members from Alaska national wildlife refuges conducted public meetings in the villages within their refuge areas and discussed the amended treaties at those meetings.

On July 1, 1999, we published in the **Federal Register** (64 FR 35674) a notice of availability of an options document, entitled ''Forming management bodies to implement legal spring and summer migratory bird subsistence hunting in Alaska.'' This document describes four possible models for establishing management bodies and was released to the public for review and comment. We mailed copies of the document to approximately 1,350 individuals and organizations, including all tribal councils and municipal governments in Alaska, Native regional corporations and their associated nonprofit organizations, the Alaska Department of Fish and Game, Federal land management agencies, representatives of the four Flyway Councils, conservation and other affected organizations, and interested businesses and individuals. We distributed an additional 600 copies at public meetings held in Alaska to discuss the four models. We also made the document available on the Fish and Wildlife Service web page.

During the public comment period, we received 60 written comments addressing the formation of management bodies. Of those 60 comments, 26 were from tribal governments, 20 from individuals, 10 from non-government organizations, 2 from the Federal Government, 1 from the State of Alaska, and 1 from the Native Migratory Bird Working Group. In addition to the 60 written comments, 9 of the 10 Federal Subsistence Regional Advisory Councils passed resolutions regarding the four models presented.

On March 28, 2000, we published in the **Federal Register** (65 FR 16405) the Notice of Decision, ''Establishment of Management Bodies in Alaska To Develop Recommendations Related to the Spring/Summer Subsistence Harvest of Migratory Birds.'' This notice described the way in which management bodies would be established and organized.

Based on the wide range of views expressed on the options document, the decision incorporated key aspects of two of the models. The decision established one statewide management body consisting of one Federal member, one State member, and 7–12 Alaska Native members, with each component serving as equals. Decisions and recommendations of the Council will be by consensus wherever possible; however, if a vote becomes necessary, each component, Federal, State, and Native, will have one vote. This body will set a framework for annual regulations for spring and summer subsistence harvest of migratory birds. Seven regional bodies, consisting of local subsistence users working within the framework, will forward their recommendations to the statewide management body. That body will act on those recommendations and forward its recommendations to the Service and to the Flyway Councils.

In April 2000, we met with the Alaska Department of Fish and Game and the Native Migratory Bird Working Group to discuss bylaws for the statewide management body. At that meeting, we decided to name the statewide management body the ''Alaska Migratory Bird Co-management Council.'' On October 30, 2000, the Co-management Council convened for the first time and began preparation for the development of recommendations for regulations to be implemented in spring of 2003. The proposed regulations in this document will: (1) Provide the authority for the Co-management Council to operate; (2) establish the procedures by which the Co-management Council will conduct its business; (3) provide authority to the Co-management Council to make recommendations regarding applicability and scope of subsistence harvest and who is eligible to participate in subsistence harvest; (4) give the Co-management Council the authority to setup a process by which migratory birds can be used and possessed under subsistence harvest regulations; (5) define Regional management areas; (6) describe the relationship the rule has to the process for developing national hunting regulations for migratory birds; and (7) allow for future development of regulations pertaining to methods and means of harvest traditionally used for subsistence purposes. At future meetings, the Co-management Council will continue to develop recommendations on harvest and methods and means of harvest as necessary to protect the migratory bird resource.

**Public Comments Solicited**

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the address indicated under the caption **ADDRESSES.** Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: 1018–AH88 and your name and return address'' in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at the address indicated under the caption **ADDRESSES.** Finally, you may hand-deliver comments to the address indicated under the caption **ADDRESSES.** Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would also withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

You may inspect comments received on the proposed regulations during normal business hours at the Service's office in Anchorage, Alaska. We will consider, but possibly may not respond in detail to, each comment. We will summarize all comments received during the comment period and respond to them after the closing date in any final rules.

Because we conducted an extensive public involvement process prior to publishing the March 28, 2000, notice (65 FR 16405), we are soliciting comments on this proposed rule for only 30 days. We want to proceed with the development of seasonal regulations opening a legal subsistence harvest as soon as possible.

**Statutory Authority**

We derive our authority to issue these proposed regulations from the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 *et seq.*), which implements the 1916 Convention, as amended, between the United States and Great Britain (for Canada) for the protection of migratory birds.

Specifically, these regulations are issued pursuant to 16 U.S.C. § 712(1), which authorizes the Secretary of the Interior to ''issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.''

*Regulatory Planning and Review*

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.* The Office of Management and Budget (OMB) has determined that this document is not a significant rule subject to OMB review under E.O. 12866.

a. This proposed rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. This proposed rule is administrative, technical, and procedural in nature, establishing the procedures for implementing spring and summer harvest of migratory birds as provided for in the amended Convention with Canada. The proposed rule does not provide for new or additional hunting opportunities and therefore will have minimal economic or environmental impact.

This proposed rule benefits those participants who engage in the subsistence harvest of migratory birds in Alaska in two identifiable ways: first, participants receive the consumptive value of the birds harvested and second, participants get the cultural benefit associated with the maintenance of a subsistence economy and way of life. The Fish and Wildlife Service can estimate the consumptive value for birds harvested under this rule but does not have a dollar value for the cultural benefit of maintaining a subsistence economy and way of life.

The economic value derived from the consumption of the harvested migratory birds has been estimated using the results of a paper by Robert J. Wolfe titled ''Subsistence Food Harvests in Rural Alaska, and Food Safety Issues,'' August 13, 1996. Wolfe estimated the per capita consumption of birds harvested for subsistence to be approximately 24.4 pounds. When multiplied by approximately 70,000 people depending on subsistence harvests, this amounts to over 1.7 million pounds of birds. The economic value for the equivalent nutrition, if purchased at local stores, would be nearly $6 million. This is the estimated economic benefit of the consumptive part of this rulemaking for participants in subsistence hunting.

The cultural benefits of maintaining a subsistence economy and way of life can be of considerable value to the participants. This makes the $6 million estimate for the consumptive value of this rule an underestimate of the total benefit. However, we do not believe the total benefit would make this rule significant under the Executive Order.

b. This proposed rule will not create inconsistencies with other agencies' actions. We are the Federal agency responsible for management of migratory birds, coordinating with the Alaska Department of Fish and Game on management programs within the State of Alaska. The State of Alaska is a member of the Alaska Migratory Bird Co-management Council.

c. This proposed rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The proposed rule does not affect entitlement programs.

d. This proposed rule will not raise novel legal or policy issues. The subsistence harvest regulations will go

through the same National regulatory process as the existing migratory bird hunting regulations in 50 CFR part 20.

*Regulatory Flexibility Act*

The Department of the Interior certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. The proposed rule legalizes a pre-existing subsistence activity, and the resources harvested will be consumed by the harvesters or persons within their local community.

*Small Business Regulatory Enforcement Fairness Act*

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, as discussed in the Regulatory Planning and Review section above.

a. This proposed rule does not have an annual effect on the economy of $100 million or more. It will legalize and regulate a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns.

The commodities being regulated under this rule are migratory birds. This rulemaking deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska would qualify as small businesses. The Fish and Wildlife Service has no reason to believe that this rule will lead to a disproportionate distribution of benefits.

b. This proposed rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This proposed rule does not deal with traded commodities and, therefore, does not have an impact on prices for consumers.

c. This proposed rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This proposed rule deals with the harvesting of wildlife for personal consumption. It does not regulate the marketplace in any way to generate effects on the economy or the ability of businesses to compete.

*Unfunded Mandates Reform Act*

We have determined and certify pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this proposed rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities. A statement containing the information required by this Act is therefore not necessary.

Participation on regional management bodies and the Co-management Council will require travel expenses for some Alaska Native organizations and local governments. In addition they will assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In the Notice of Decision, 65 FR 16405, March 28, 2000, we identified 12 partner organizations to be responsible for administering the regional programs. When possible, we will make annual grant agreements available to the partner organizations to help offset their expenses. The Alaska Department of Fish and Game will incur expenses for travel to the Co-management Council meetings and to meetings of the regional management bodies. In addition, the State will be required to provide technical staff support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year.

*Paperwork Reduction Act*

This proposed rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain no information collection requirements. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*Federalism Effects*

As discussed in the Regulatory Planning and Review and Unfunded Mandates Reform Act sections above, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 13132. We are working with the State of Alaska on development of these regulations.

*Civil Justice Reform—Executive Order 12988*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of section 3 of the Order.

*Takings Implication Assessment*

This proposed rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. Therefore, in accordance with Executive Order 12630, this proposed rule does not have significant takings implications.

*Government-to-Government Relations With Native American Tribal Governments*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951), and Executive Order 13175, 65 FR 67249 (November 6, 2000), concerning consultation and coordination with Indian Tribal Governments, we have consulted with Alaska tribes, evaluated the proposed rule for possible effects on them and have determined that there are no significant effects. This proposed rule establishes procedures by which the individual tribes in Alaska will be able to become significantly involved in the annual regulatory process for spring and summer subsistence harvesting of migratory birds and their eggs. The proposed rule will legalize the subsistence harvest for tribal members, as well as for other indigenous inhabitants.

*Endangered Species Act Consideration*

Prior to issuance of annual spring and summer subsistence regulations, we will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that harvesting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy their critical habitats, and that it is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change recommendations for annual regulations.

*National Environmental Policy Act Consideration*

We determined that establishing the procedures for future development of subsistence harvest regulations does not require an environmental assessment because the impacts to the environment

are negligible. We therefore filed a categorical exclusion dated April 30, 1999. Copies of the categorical exclusion are available at the address shown in the section of this document entitled, **ADDRESSES.** An environmental assessment will be prepared for the annual subsistence take regulations due to be published later as a proposed rule in the fall of 2001.

*Energy Supply, Distribution or Use (Executive Order 13211)*

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only allows for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest, it is not a significant regulatory action under Executive Order 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is a not significant energy action and no Statement of Energy Effects is required.

**List of Subjects in 50 CFR Part 92**

Hunting, Reporting and recordkeeping requirements, Subsistence, Treaties, Wildlife.

For the reasons identified in the preamble, the U.S. Fish and Wildlife Service proposes to amend Subchapter G of Chapter 1, Title 50 of the Code of Federal Regulations, by adding part 92 to read as follows:

## PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

### Subpart A—General Provisions

Sec.

92.1 Purpose of regulations.
92.2 Authority.
92.3 Applicability and scope.
92.4 Definitions.
92.5 Who is eligible to participate?
92.6 Use and possession of migratory birds.
92.7–92.9 [Reserved]

### Subpart B—Program Structure

92.10 Alaska Migratory Bird Co-management Council.
92.11 Regional management areas.
92.12 Relationship to the process for developing national hunting regulations for migratory game birds.
92.13–92.19 [Reserved]

### Subpart C—Methods and Means

92.20–92.29 [Reserved]

### Subpart D—Annual Regulations Governing Subsistence Harvest

92.30 General overview of regulations.
92.31–92.39 [Reserved]

**Authority:** 16 U.S.C. 703–712.

### Subpart A—General Provisions

#### § 92.1 Purpose of regulations.

The regulations in this part implement the Alaska migratory bird subsistence program as provided for in Article II(4)(b) of the 1916 Convention for the Protection of Migratory Birds in Canada and the United States (the ''Canada Treaty''), as amended.

#### § 92.2 Authority.

The Secretary of the Interior issues these regulations under the authority granted to the Secretary by the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703–712.

#### § 92.3 Applicability and scope.

(a) *In general.* The regulations in this part apply to all eligible persons harvesting migratory birds and their eggs for subsistence purposes in Alaska between the dates of March 10 and September 1. The provisions in this part do not replace or alter the regulations set forth in part 20 of this chapter, which relate to the hunting of migratory game birds and crows during the regular open season between September 1 through March 10. The provisions set forth in this part implement the exception to the closed season, which authorizes the taking of migratory birds in Alaska for subsistence purposes between March 10 and September 1.

(b) *Land ownership.* This part does not alter the legal authorities of Federal and State land managing agencies or the legal rights of private land owners to close their respective lands to the taking of migratory birds.

(c) *Federal public lands.* The provisions of this part are in addition to, and do not supersede, any other provision of law or regulation pertaining to national wildlife refuges or other Federally managed lands.

(d) *Migratory bird permits.* The provisions of this part do not alter the terms of any permit or other authorization issued pursuant to part 21 of this chapter.

(e) *State laws for the protection of migratory birds.* No statute or regulation of the State of Alaska relieves a person from the restrictions, conditions, and requirements contained in this part. Nothing in this part, however, prevents the State of Alaska from making and enforcing laws or regulations that are consistent with the regulations in this part, the conventions between the United States and any foreign country for the protection of migratory birds, and the Migratory Bird Treaty Act, and that give further protection to migratory birds.

#### § 92.4 Definitions.

The following definitions apply to all regulations contained in this part:

*Alaska Native* means a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlaktla (sic) Indian Community) Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group, as defined in the Alaska Native Claims Settlement Act in 43 U.S.C. 1602(b)).

*Co-management Council* means the Alaska Migratory Bird Co-management Council consisting of Alaska Native, Federal, and State of Alaska representatives as equals.

*Eligible person* means an individual within the State of Alaska who qualifies to harvest migratory birds and their eggs for subsistence purposes.

*Excluded areas* are defined in § 92.5.

*Flyway Council* means the Atlantic, Mississippi, Central, or Pacific Flyway Council.

*Immediate family* means spouse, children, parents, grandparents, and siblings.

*Included areas* are defined in § 92.5.

*Indigenous inhabitant* means a permanent resident of a village within a subsistence harvest area, regardless of race.

*Migratory bird*, for the purposes of this part, means the same as defined in § 10.12 of this chapter. Species are listed in § 10.13 of this chapter.

*Native* means the same as ''Alaska Native'' as defined in this section.

*Non-wasteful taking* means making a reasonable effort to retrieve all birds killed or wounded, and retaining such birds in possession between the place where taken and the hunter's permanent or temporary place of residence, or to the location where the birds will be consumed for food.

*Partner organization or regional partner* means a regional or local organization, or a local or tribal government that has entered into a formal agreement with the U.S. Fish and Wildlife Service for the purpose of coordinating the regional programs necessary to involve subsistence hunters

in the regulatory process described in this part.

*Service Regulations Committee* means the Migratory Bird Regulations Committee of the Fish and Wildlife Service.

*State* means State of Alaska.

*Subsistence* means the customary and traditional harvest and use of migratory birds and their eggs by eligible indigenous inhabitants for their own nutritional and other essential needs.

*Subsistence harvest areas* encompass customary and traditional hunting areas of villages in Alaska that qualify for a spring or summer subsistence harvest of migratory birds under this part.

*Village* is defined as a permanent settlement with one or more year-round residents.

### § 92.5 Who is eligible to participate?

If you are a permanent resident of a village within a subsistence harvest area, you will be eligible to harvest migratory birds and their eggs for subsistence purposes in the spring and summer.

(a) *Included areas.* Village areas located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, or in areas north and west of the Alaska Range are subsistence harvest areas, except that villages within these areas not meeting the criteria for a subsistence harvest area as identified in paragraph (c) of this section will be excluded from the spring and summer subsistence harvest. Any person may request the Co-management Council to recommend that an otherwise included area be excluded by submitting a petition stating how the area does not meet the criteria identified in paragraph (c) of this section. The Co-management Council will consider each petition and will submit to the Fish and Wildlife Service any recommendations to exclude areas from the spring and summer subsistence harvest. The Fish and Wildlife Service will publish any approved recommendations to exclude in subpart D of this part.

(b) *Excluded areas.* Village areas located in Anchorage, the Matanuska-Susitna or Fairbanks North Star Boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, or Southeast Alaska generally do not qualify for a spring or summer harvest. Communities located within one of these areas may petition the Co-management Council through their designated regional management body for designation as a subsistence harvest area. The petition must state how the community meets the criteria identified in paragraph (c) of this section. The Co-management Council will consider each petition and will submit to the Fish and Wildlife Service any recommendations to designate a community as a subsistence harvest area. The Fish and Wildlife Service will publish any approved recommendations to designate a community as a subsistence area in subpart D of this part.

(c) *Criteria for determining designation as a subsistence harvest area.* A community may be included in the spring/summer harvest regulations if the preponderance of evidence shows that the community demonstrates:

(1) A pattern of use recurring in the spring and summer of each year prior to 1916, excluding interruptions by circumstances beyond the user's control;

(2) The consistent harvest and use of migratory birds on or near the user's permanent residence;

(3) A use pattern which includes the handing down of knowledge of hunting skills and values from generation to generation;

(4) A use pattern in which migratory birds are shared or distributed among others within a definable community of persons; a community for purposes of subsistence uses may include specific villages or towns, with a historical pattern of subsistence use; and

(5) A use pattern which includes reliance for subsistence purposes upon migratory birds or their eggs, and which meets nutritional and other essential needs including, but not limited to, cultural, social and economic elements of the subsistence way of life.

(d) *Participation by residents in excluded areas.* In cases where it is appropriate to assist indigenous inhabitants in meeting their nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, residents of excluded areas may participate in the customary spring and summer subsistence harvest in a village's subsistence harvest area. Eligibility for participation will be developed and recommended by the Co-management Council and adopted or amended by regulation published in subpart D of this part.

### § 92.6 Use and possession of migratory birds.

Harvest and possession of migratory birds must be done using non-wasteful taking. You may not take birds for purposes other than human consumption. You may not sell, offer for sale, purchase or offer to purchase migratory birds, their parts, or their eggs taken under this part. Non-edible by-products of migratory birds taken for food may be used for other purposes only by individuals qualified to possess those birds. You may possess migratory birds, their parts, and their eggs, taken under this part, only if you are an eligible participant as determined in § 92.5.

### §§ 92.7–92.9 [Reserved]

## Subpart B—Program Structure.

### § 92.10 Alaska Migratory Bird Co-management Council.

(a) *Establishment.* The U.S. Fish and Wildlife Service hereby establishes, as mandated by the Protocol amending the Canada Treaty, a statewide management body to be known as the Alaska Migratory Bird Co-management Council.

(b) *Membership.* The Co-management Council must include Alaska Native, Federal, and State of Alaska representatives, as equals.

(1) The Federal and State governments will each seat one representative. The Federal representative will be appointed by the Alaska Regional Director of the U.S. Fish and Wildlife Service, and the State representative will be appointed by the Commissioner of the Alaska Department of Fish and Game. Regional partner organizations will seat one representative from each of the seven regions identified in § 92.11(a), except that a region having more than one partner organization may send a representative from each partner organization for a maximum of 12 regional representatives.

(2) The Federal and State representatives and the collective Native representatives will each have one vote, for a total of three votes for the entire council.

(c) *Roles and responsibilities.* The Co-management Council is authorized to:

(1) Hold public meetings for the purpose of conducting business related to spring and summer subsistence harvest of migratory birds;

(2) Develop recommendations for regulations governing the spring and summer subsistence harvest of migratory birds and their eggs;

(3) Develop recommendations for, among other things, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection;

(4) Develop procedures and criteria by which areas and communities can be determined to be eligible or ineligible for a spring/summer subsistence harvest;

(5) Provide guidelines to the regional management bodies each year for formulation of annual regulations;

(6) Consolidate regional recommendations and resolve interregional differences in order to prepare statewide recommendations;

(7) Establish committees to gather or review data, develop plans for Co-management Council actions, and coordinate programs with regional management bodies;

(8) Send Alaska Native Co-management Council representatives to meetings of the Pacific Flyway Council and to meetings of the other Flyway Councils as needed, and to meetings of the Service Regulations Committee;

(9) Elect officers; and

(10) Conduct other business as the Council may determine is necessary to accomplish its purpose.

(d) *Meetings.* The Co-management Council will:

(1) Hold meetings at least twice annually;

(2) Conduct meetings in accordance with bylaws approved by the Co-management Council;

(3) Provide opportunity at each meeting for public comment;

(4) Establish the dates, times, and locations of meetings; and

(5) Maintain a written record of all meetings.

(e) *Staff support.* Administrative support for the Co-management Council will be provided by the U.S. Fish and Wildlife Service and will include, but not be limited to:

(1) Making arrangements for the meeting rooms and associated logistics related to Co-management Council meetings;

(2) Preparing public notices announcing Co-management Council meetings;

(3) Maintaining records of discussions and actions taken by the Co-management Council;

(4) Coordinating with the Alaska Department of Fish and Game to provide technical information needed by the Co-management Council for its deliberations;

(5) Preparing documents and gathering information needed by the Co-management Council for its meetings; and

(6) Preparing the annual subpart D regulations package recommended by the Co-management Council for submission to the flyway councils and the Service Regulations Committee.

### § 92.11 Regional management areas.

(a) *Regions identified.* The Alaska Regional Director of the U.S. Fish and Wildlife Service hereby establishes seven geographic regions based on common subsistence resource use patterns. You may obtain maps delineating the boundaries of the seven regions from the U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503. The regions are identified as follows:

(1) Southeast, Gulf of Alaska and Cook Inlet;
(2) Aleutian/Pribilof Islands and Kodiak Archipelago;
(3) Bristol Bay;
(4) Yukon-Kuskokwim Delta;
(5) Bering Straits;
(6) Northwest Arctic and Arctic Slope; and
(7) Interior.

(b) *Regional partnerships.* The Fish and Wildlife Service will establish partner agreements with at least one partner organization in each of the seven regions. The partner organization identified must be willing and able to coordinate the regional program on behalf of the subsistence hunters within that region. A regional partner will:

(1) Organize or identify one or more management bodies within the region in which it is located.

(2) Determine how the management body for the region should be organized and the manner in which it should function and determine its size, who serves on it, the length of terms, methods of involving subsistence users, and other related matters.

(3) Coordinate regional meetings and the solicitation of proposals.

(4) Ensure appointment of a person to represent the region by serving on the Co-management Council. If a region consists of more than one partner organization, each partner organization may appoint a member to sit on the Co-management Council.

(5) Keep the residents of villages within the region informed of issues related to the subsistence harvest of migratory birds.

(6) Work cooperatively with the U.S. Fish and Wildlife Service and the Alaska Department of Fish and Game to gather harvest data, numbers of subsistence users, and other management data and traditional knowledge for the benefit of the management bodies.

(c) *Regional management bodies.* (1) Regional management bodies must provide a forum for the collection and expression of opinions and recommendations regarding spring and summer subsistence harvesting of migratory birds. They must develop requests and recommendations from the region to be presented to the Co-management Council for deliberation. They must provide for public participation in the meetings at which recommendations and requests are formulated.

(2) Requests and recommendations to the Co-management Council may involve seasons and bag limits, methods and means, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, habitat protection, and other concerns related to migratory bird subsistence programs.

(3) Regional management bodies may be established specifically for the purpose of carrying out the responsibilities identified in this part, or they may be existing entities that can add these responsibilities to their existing duties.

### § 92.12 Relationship to the process for developing national hunting regulations for migratory game birds.

(a) *Flyway councils.* (1) Proposed annual regulations recommended by the Co-management Council will be submitted to all flyway councils for review and comment. The flyway councils may forward comments to the Service Regulations Committee for consideration before proposed regulations are issued in final.

(2) Alaska Native representatives may be appointed by the Co-management Council to attend meetings of one or more of the four flyway councils to discuss recommended regulations or other proposed management actions.

(b) *Service Regulations Committee.* Proposed annual regulations recommended by the Co-management Council will be submitted to the Service Regulations Committee to be incorporated into the recommendations for national migratory bird hunting regulations (found in part 20 of this chapter) and published in this part 92. The Council's recommendations must be submitted prior to the Committee's last regular meeting of the calendar year in order to be approved for spring/summer harvest beginning March 11 of the following calendar year. Proposed spring/summer subsistence regulations for Alaska may be published in the **Federal Register** with either the proposed rule for the early-season or the proposed rule for the late-season national regulations. After comments are incorporated from the proposed rules, the spring/summer regulations for Alaska will then be published in the **Federal Register** with either the early-season final rule or late-season final rule, for the national regulations.

### §§ 92.13–92.19 [Reserved]

## Subpart C—Methods and Means

### §§ 92.20–92.29 [Reserved]

## Subpart D—Annual Regulations Governing Subsistence Harvest

### § 92.30 General overview of regulations.

(a) The taking, possession, transportation, and other uses of migratory birds are generally prohibited unless specifically authorized by

regulation developed in accordance with the Migratory Bird Treaty Act. Therefore, harvesting migratory birds is prohibited unless regulations are established ensuring the protection of the various populations of migratory birds. Migratory bird population levels, production, and habitat conditions vary annually. These conditions differ within Alaska and throughout North America. Therefore, the regulations governing migratory bird hunting may include annual adjustments to keep harvests within acceptable levels.

(b) The development of the regulations in this part 92, like the development of the national regulations in part 20 of this chapter, involves annual data gathering programs to determine migratory bird population status and trends, evaluate habitat conditions, determine harvests, and consider other factors having an impact on the anticipated size of annual populations.

(c) The Service proposes national hunting regulations in the **Federal Register** in the spring for the regulatory year beginning September 1. Following consideration of additional biological information and public comment, the Service publishes supplemental proposals throughout the summer. These are also open to public comment. Public hearings are held for the purpose of providing additional opportunity for public participation in the rulemaking process.

(d) Sections 92.31 through 92.39, provide for the annual harvest of migratory birds and their eggs during spring and summer for subsistence users in Alaska.

**§§ 92.31—92.39 [Reserved]**

Dated: March 18, 2002.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 02–8384 Filed 4–5–02; 8:45 am]

BILLING CODE 4310–55–P

# Notices

Federal Register
Vol. 67, No. 67
Monday, April 8, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

### Notice of Request for Extension and Revision of a Currently Approved Information Collection

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) intention to request an extension and revision for a currently approved information collection process based on re-estimates in support of various Export Services.

**DATES:** Comments on this notice must be received by June 7, 2002 to be assured of consideration.

*Requests for Comments*: Send comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to, and copies of Export Service registration forms, surveys and qualification criteria may be obtained from: Dan Berman, Director, Ag Export Services Division, Commodity and Marketing Programs, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Stop 1052, Washington, DC 20250–1052. All written comments received will be available for public inspection at the above address during business hours from 8:00 a.m. to 5:00 p.m. Phone (202) 720–6343, Fax: (202) 690–0193.

**SUPPLEMENTARY INFORMATION:**

*Title:* Export Services.

OMB Number 0551–0031 (List of Commodities by Firm Available for Exporting—U.S. Supplier List) and Number 0551–0024 (Buyer Alert Program). These will be combined into OMB number 0551–0031 if this request is approved.

*Expiration Date of Approval:* May 31, 2002.

*Type of Request:* Extension and revision of a currently approved information collection, with change to combine 0551–0031 and 0551–0024.

*Abstract:* The major objective of Exporter Services is to expand U.S. agricultural exports by helping U.S. companies to sell their products outside the United States. These services are offered to both new and experienced exporters. Companies wanting to export can participate in the following programs: ''The Buyer Alert'' service is a proven way for U.S. companies to inform foreign buyers about their products; ''Trade Leads'' provide U.S. exporters with sales opportunities generated by overseas offices of FAS and contains information about the buyer, products they are seeking, and general terms of the purchase; the ''U.S. Suppliers' List'' service is an on-line searchable database of over 5,000 U.S. exporters and their products, used by FAS to help facilitate connecting potential buyers with U.S. suppliers; and the ''Foreign Buyer List'' service is available to U.S. companies to learn about 20,000 buyers in more than 25 countries who specialize in the import and distribution of U.S. products in their country. Each year a certain number of Trade Shows are selected in the best prospective markets to host a U.S.A. pavilion where U.S. companies can promote their products to buyers. The latest technology makes it possible to integrate an on-line virtual trade show with these export services. The Exporter Assistance section of the FAS web site http://www.fas.usda.gov/, a one-stop-shop for either the experienced or novice exporter offers information about exporting and easy access to register for these services. Customer service surveys and evaluations are anticipated in order to improve the effectiveness of these services. The information is necessary to manage, plan, and evaluate the effectiveness of these services, which are intended to help U.S. companies to market and sell their products in overseas markets. Authority for these activities falls under 7 U.S.C. 1761 and is voluntary for U.S. companies to participate. A small fee is charged for some of the services. Estimate of Burden: The burden to U.S. exporters is estimated to average 0.25 hours per response.

*Respondents:* U.S. agricultural exporters of food, farm, and forest products.

*Estimated Number of Respondents:* 7500 per annum.

*Estimated Number of Responses per Respondent:* 4 per annum.

*Estimated Total Annual Burden of Respondents:* 7,500 hours per annum.

Copies of this information collection can be obtained from Kimberly A. Chisley, the Agency Information Collection Coordinator, at (202) 720–2568.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, D.C. on April 2, 2002.

**A. Ellen Terpstra,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 02–8428 Filed 4–5–02; 8:45 am]

**BILLING CODE 3410–10–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Wolf Creek Ditch Special Use Permit, Okanogan and Wenatchee National Forests, Okanogan County, WA

**AGENCY:** Forest Service, USDA.

**ACTION:** Cancellation notice.

**SUMMARY:** On August 20, 1999, a Notice of Intent (NOI) to prepare an environmental impact statement for the Wolf Creek Ditch Special Use Permit, was published in the **Federal Register** (64 FR 45502). This project was originally planned as an EIS because of potential significant impacts to the Lake-Chelan Sawtooth Wilderness, an

inventoried Roadless area and fish listed under the Endangered Species Act. The proponent has changed the design of the proposed project such that an environmental impact statement is not anticipated. The 1999 NOI is hereby rescinded.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Molesworth, Project Team Leader, Methow Valley Ranger District, 24 West Chewuch Road, Winthrop, Washington 98862, telephone 509–996–4010.

Dated: March 25, 2002.

**Sonny J. O'Neal,**

*Forest Supervisor.*

[FR Doc. 02–8380 Filed 4–5–02; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Siskiyou County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Siskiyou County Resource Advisory Committee (RAC) will meet on April 15, 2002, in Yreka, California. The purpose of the meeting is to discuss the following topics: Klamath overhead rate amount, Government disbursal and administration of funds process, Schedule workshop with successful applicants to discuss administrative processes, Approve proposals, Conflict of interest that develops after proposal is awarded, How to contract private lands projects with a view to liability, Develop feedback tool to applicants, and How to handle proxy votes.

**DATES:** The meetings will be held April 15, 2002 from 3 p.m. to 8 p.m.

**ADDRESSES:** The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

**FOR FURTHER INFORMATION CONTACT:** Heidi Perry, Meeting Coordinator, USDA, Klamath National Forest, 1312 Fairlane Road, Yreka, California, 96097, (530) 841–4468; EMAIL *hperry@fs.fed.us.*

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: April 1, 2002.

**Jeffrey Stone,**

*Acting Forest Supervisor.*

[FR Doc. 02–8379 Filed 4–5–02; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

### Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Wisconsin

**AGENCY:** Natural Resources Conservation Service (NRCS) in Wisconsin, U.S. Department of Agriculture.

**ACTION:** Notice of availability of a proposed change in section IV of the FOTG of the NRCS in Wisconsin for review and comment.

**SUMMARY:** It is the intention of NRCS in Wisconsin to issue a revised conservation practice standard in Section IV of the FOTG. The revised standard is Nutrient Management (Code 590). This practice may be used in conservation systems that treat highly erodible land, land where nutrients are applied for agricultural purposes, and to develop land application strategies for manure generated by animal feeding operations.

**DATES:** Comments will be received for a 30-day period commencing with this date of publication.

**ADDRESSES:** Inquire in writing to Patrick Murphy, State Resource Conservationist, Natural Resources Conservation Service (NRCS), 6515 Watts Road, Suite 200 Madison, WI 53719–2726. Copies of this standard will be made available upon written request. You may submit electronic requests and comments to *pat.murphy@wi.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Patrick Murphy, 608–276–8732.

**SUPPLEMENTARY INFORMATION:** Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Wisconsin will receive comments relative to the proposed change. Following that period, a determination will be made by the NRCS in Wisconsin regarding disposition of those comments and a final determination of change will be made.

Dated: March 29, 2002.

**Patricia S. Leavenworth,**

*State Conservationist, Madison, Wisconsin.*

[FR Doc. 02–8370 Filed 4–5–02; 8:45 am]

**BILLING CODE 3410–16–P**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Municipal Interest Rates for the Second Quarter of 2002

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of municipal interest rates on advances from insured electric loans for the second quarter of 2002.

**SUMMARY:** The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the second calendar quarter of 2002.

**DATES:** These interest rates are effective for interest rate terms that commence during the period beginning April 1, 2002, and ending June 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Gail P. Salgado, Management Analyst, Office of the Assistant Administrator, Electric Program, Rural Utilities Service, U.S. Department of Agriculture, Room 4023–S, Stop 1560, 1400 Independence Avenue, SW, Washington, DC 20250–1560. Telephone: 202–205–3660. FAX: 202–690–0717. E-mail: *GSalgado@rus.usda.gov.*

**SUPPLEMENTARY INFORMATION:** The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the second calendar quarter of 2002 for municipal rate electric loans. RUS regulations at § 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to § 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the fourth Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in § 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of ''Municipal Market Data—General Obligation Yields'' or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 2002 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based on the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under § 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.000 percent.

In accordance with § 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the second calendar quarter of 2002.

| Interest rate term ends in (year) | RUS rate (0.000 percent) |
|---|---|
| 2023 or later | 5.000 |
| 2022 | 5.000 |
| 2021 | 5.000 |
| 2020 | 5.000 |
| 2019 | 4.875 |
| 2018 | 4.875 |
| 2017 | 4.875 |
| 2016 | 4.750 |
| 2015 | 4.625 |
| 2014 | 4.500 |
| 2013 | 4.375 |
| 2012 | 4.250 |
| 2011 | 4.125 |
| 2010 | 4.000 |
| 2009 | 3.875 |
| 2008 | 3.625 |
| 2007 | 3.500 |
| 2006 | 3.000 |
| 2005 | 2.625 |
| 2004 | 2.125 |
| 2003 | 1.625 |

Dated: March 6, 2002.

**Hilda Gay Legg,**

*Administrator, Rural Utilities Service.*

[FR Doc. 02–8429 Filed 4–5–02; 8:45 am]

**BILLING CODE 3410–15–P**

## ARCTIC RESEARCH COMMISSION

### Sunshine Act Meeting: Arctic Research Commission

March 12, 2002.

Notice is hereby given that the U.S. Arctic Research Commission will hold its 64th Meeting in Cordova, AK on April 15, 2002. The Business Session open to the public will convene at 8:15 a.m. Monday, April 15, in the Agenda items include:

(1) Call to order and approval of the Agenda.
(2) Approval of the Minutes of the 63rd Meeting.
(3) Reports from Congressional Liaisons.
(4) Agency Reports.

The focus of the Meeting will be reports and updates on programs and research projects affecting the U.S. Arctic. Presentations include a review of the research needs for civil infrastructure in Alaska.

The Business Session will begin at 8:15 a.m. Monday, April 15. An Executive Session will follow adjournment of the Business Session.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters must inform the Commission in advance of those needs.

**CONTACT PERSON FOR MORE INFORMATION:** Dr. Garrett W. Brass, Executive Director, Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

**Garrett W. Brass,**

*Executive Director.*

[FR Doc. 02–8477 Filed 4–3–02; 4:48 pm]

**BILLING CODE 7555–01–M**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Nebraska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on April 10, 2002, at the Holiday Inn, 3221 S. 72nd Street, Omaha, Nebraska 68124. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 3, 2002.

**Ivy L. Davis,**

*Chief, Regional Programs Coordination Unit.*

[FR Doc. 02–8465 Filed 4–4–02; 10:35 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–533–810]**

### Stainless Steel Bar From India; Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**ACTION:** Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review: Stainless Steel Bar from India.

**SUMMARY:** The Department of Commerce is extending the time limit for the preliminary results of the new shipper review of the antidumping duty order on stainless steel bar from India. The period of review is February 1, 2001, through July 31, 2001.

**DATES:** April 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** Cole Kyle, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–1503.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations refer to 19 CFR Part 351, April 2001.

**Background**

On October 23, 2001, the Department published a notice of initiation of a new shipper review of the antidumping duty order on stainless steel bar from India, covering the period February 1, 2001 through July 31, 2001 (66 FR 53585). The preliminary results for the antidumping duty new shipper review of stainless steel bar from India are currently due no later than April 15, 2002.

**Statutory Time Limits**

Section 751(a)(2)(B) of the Act requires the Department to issue the preliminary results of a review of a new exporter or producer within 180 days after the date on which the review is initiated and a final determination within 90 days after the date the preliminary determination is issued.

However, section 751(a)(2)(B)(iv) allows the Department to extend the 180–day period to 300 days and the 90–day period to 150 days, if we determine the case is extraordinarily complicated.

**Extension of Time Limit for Preliminary Results**

There is a pending request from the petitioners that the Department initiate a sales below cost investigation in this proceeding. Due to the complexity of cost issues and the potential need to request full cost of production information from the respondent, we find that this case is extraordinarily complicated and the preliminary results cannot be completed within the time limit currently mandated by section 751 (a)(2)(B) (i.e., April 15, 2002). Therefore, in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(h)(2), the Department is extending the time limit for completion of the preliminary results by 120 days (i.e., until August 13, 2002).

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: April 2, 2002.

**Richard Moreland,**

*Deputy Assistant Secretary for AD/CVD Enforcement I.*

[FR Doc. 02–8443 Filed 4–5–02; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–535–001]**

### Cotton Shop Towels from Pakistan: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Preliminary Results of Countervailing Duty Administrative Review.

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on certain cotton shop towels from Pakistan for the period January 1, 2000, through December 31, 2000. For information on the net subsidy for the reviewed companies, please see the ''Preliminary Results of Review'' section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service (Customs) to assess countervailing duties as detailed in the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice). In accordance with 19 CFR 351.213(d)(1), the Department is also rescinding this review with regard to Aqil Textile Industries (Aqil), Bita Textile Corporation (Bita), Jawad Brothers, Pakistan Textile Corporation (Pvt.)(Pakistan Textile), Salimah International (Salimah), Shaheen Textiles, Nisar (Textiles) Corporation (Nisar), Khaksar Impex (Pvt.) Ltd. (Khaksar), Saasoah Textile Corporation (Saasoah), and Shaheen International.

**EFFECTIVE DATE:** April 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** Gayle Longest at (202) 482–3338, AD/CVD Enforcement Office VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 9, 1984, the Department published in the Federal Register the countervailing duty order on certain cotton shop towels from Pakistan (49 FR 8974). On March 5, 2001, the Department published a notice of ''Opportunity to Request an Administrative Review'' of this countervailing duty order (66 FR 13283). We received a timely request for review from Aqil, Bita, Fine Fabrico (Fabrico), Iftikhar Corporation (Iftikhar), Ishaq Towel Factory (Ishaq), Jawad Brothers, Jawwad Industries, Mehtabi Towel Mills Ltd. (Mehtabi), Pakistan Textile, Quality Linen Supply Corp. (Quality), R.I. Weaving (R.I.), Salimah, Shaheen, Shahi Textiles (Shahi), Silver Textile Factory (Silver), Sultex Industries, United Towel Exporters (United), Universal Linen (Universal), Nisar, Khaksar, Saasoh, Faisalabed Cotton Product (Pvt) Ltd. (Faislabed), Shaheen International, and Ranjha Linen (Ranjha). On April 30, 2001, the Department published a notice of initiation of administrative review of the countervailing duty on cotton shop towels from Pakistan, covering the period January 1, 2000 through December 31, 2000 (66 FR 21310).

On November 7, 2001, we extended the period for completion of the preliminary results pursuant to section 751(a)(3) of the Tariff Act of 1930, as amended (the Act). *See Certain Cotton Shop Towels From Pakistan: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 66 FR 56276 (November 7, 2001).

On September 17, 2001, we received a request to withdraw from the administrative review from Aqil, Bita, Jawad Brothers, Pakistan Textile, Salimah, Shaheen Textiles, Nisar, Khaksar, Saasoah, and Shaheen International. The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review, the Secretary will rescind the review. Although the request for recession was made after the 90 day deadline, in accordance with 19 CFR 351.213(d)(1), the Secretary may extend this time limit if the Secretary decides it is reasonable to do so. Each of the aforementioned parties was the only party to make a request for its administrative review. Moreover, we have received no other comments by any other parties regarding these requests for withdrawal from the administrative review. Therefore, we are rescinding this review of the countervailing duty order on cotton shop towels for these companies covering the period January 1, 2000, through December 31, 2000.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The companies subject to this review are the companies listed above, with the exception of Aqil, Bita, Jawad Brothers, Pakistan Textile, Salimah, Shaheen Textiles, Nisar, Khaksar, Saasoah, Shaheen International. This review covers seven programs.

**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (2001).

**Scope of Review**

The merchandise subject to this review is cotton shop towels. The product covered in this review is provided for under item number 6307.10.20 of the *Harmonized Tariff Schedule of the United States* (HTSUS). The HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

**Attribution of Subsidies**

Section 351.525 of the Department's regulations states that the Department will attribute subsidies received by two or more corporations to the products produced by those corporations where cross–ownership exists. According to section 351.525(b)(6)(vi) of the Department's regulations, cross–ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. In this review, we found that several of the respondent firms belonged to family–owned company–groups (*i.e.*, the same family owns companies A, B, and C). All of these family companies produce and export the subject merchandise. Moreover, in most cases these firms share the same physical facilities, administrative services, and marketing services.

On the basis of the above facts, combined with the fact that these family–owned and controlled companies all produce the subject merchandise, we preliminarily determine that loans under the export financing scheme and the sales tax rebates, programs previously found countervailable by the Department, are attributable to the total sales of exports to the United States of that group of family–related firms and to the total export sales of that group of family–owned firms, respectively. This conforms with section 351.525(b)(6)(ii) of the Department's regulations, which explicitly states that if two (or more) corporations with cross–ownership produce the subject merchandise, the Secretary will attribute the subsidies received by either or both corporations to the products produced by both corporations.

We preliminarily determine that cross–ownership exists between the following family related companies: (1) Mehtabi/Quality/Fabrico/Ranjha/Ifitkhar/Faislamabad and (2) United/R.I./Universal/Ishaq. Therefore, we have calculated one rate for each of these family–owned corporate groups and have applied that rate to each of the member companies. This finding is consistent with our cross–ownership determination in the administrative review of this order covering the period January 1, 1999 through December 31, 1999. *See Cotton Shop Towels From Pakistan: Preliminary Results and Partial Recission of Countervailing Duty Administrative Review* 66 FR 18444 (April 9, 2001) (*1999 Shop Towels Preliminary*) and *Cotton Shop Towels From Pakistan: Final Results of Countervailing Duty Administrative Review*, 66 FR 42514 (August 13, 2001) (*1999 Shop Towels Final*).

**Use of Facts Available**

Two of the respondents, Jawwad Industries and Sultex responded to the Department's initial questionnaire but failed to respond to the supplemental questionnaire with respect to the Sales Tax Rebate Program. Jawwad Industries also did not respond to the Department's initial questionnaire and supplemental questionnaire with respect to short–term loans received under the Export Financing Scheme (EFS). Sections 776(a)(2)(A) and 776(a)(2)(B) of the Act provide for the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. These two respondents failed to provide information explicitly requested by the Department; therefore, we must resort to the facts otherwise available. Because Jawwad Industries and Sultex did not respond to the supplemental questionnaire, sections 782(d) and (e) of the Act are not applicable.

Section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that a party has failed to cooperate to the best of its ability. In applying the facts otherwise available, the Department has determined that an adverse inference is warranted pursuant to 776(b) of the Act because the Department has determined that these respondents failed to cooperate to the best of their ability. In this review, the Department requested additional information in a supplemental questionnaire from all producers/exporters covered by this administrative review. However, Jawwad Industries and Sultex did not respond to the supplemental questionnaire.

The Department finds that by not providing the necessary responses to the supplemental questionnaire issued by the Department, Jawwad Industries and Sultex have failed to cooperate to the best of their ability. Neither company cited any reason for their failure to respond. Therefore, in selecting facts available, the Department determines that an adverse inference is warranted.

Section 776(b) of the Act indicates that, when employing an adverse inference, the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping duty investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review; or (4) any other information placed on the record. *See* also 19 CFR section 351.308(c). As discussed further below, as adverse facts available, we are applying the highest calculated rate for the Sales Tax Rebate Program and the EFS program. Therefore, we preliminarily determine the *ad valorem* rate for Jawwad Industries and Sultex for the Sales Tax Rebate Program to be 1.72 percent *ad valorem*. We also preliminarily determine the *ad valorem* rate for Jawwad Industries for the EFS program to be 1.11 percent *ad valorem*.

These two respondents did not provide the Department with any information to calculate a subsidy rate for the Sales Tax Rebate Program. Under the Sales Tax Rebate program, the Central Bureau of Revenue provides a rebate of sales taxes on domestic inputs, in this case cotton yarn, used in the production of exported products. *See Cotton Shop Towels From Pakistan; Preliminary Results of Countervailing Duty Administrative Reviews*, 61 FR 50273, 50275 (September 25 1996) (*1996 Shop Towels*) and *Cotton Shop Towels From Pakistan; Final Results of Countervailing Duty Administrative Reviews*, 62 FR 24082, 24084 (May 2, 1997) (*1997 Shop Towels*).

Jawwad Industries and Sultex did not provide the amount of sales tax rebate that they received during the period of review (POR) under this program, however both did acknowledge that they received a sales tax rebate in their initial response. Therefore, we had to use facts available to determine the benefit provided to the respondent under this program. In applying the facts otherwise available, the Department has determined that an adverse inference is warranted pursuant to section 776(b) of the Act because the Department determined these respondents failed to cooperate to the best of their ability. As adverse facts available, we used the highest subsidy rate calculated for this program in these preliminary results of administrative review which is 1.72 percent *ad valorem*.

In addition, Jawwad Industries acknowledged in the initial questionnaire response that it received short–term financing under the EFS program, however, it did not provide any information regarding EFS loans received or outstanding during the POR. The Export Finance Scheme, which is administered by the State Bank of Pakistan, grants short–term loans at below–market interest rates to exporters.

The Department found this program countervailable in the investigation (*see Cotton Shop Towels from Pakistan: Final Affirmative Countervailing Duty Determination*, 49 FR 1408, 1410 (January 11, 1984)) and in all subsequent reviews. Therefore, we had to use facts available to determine the benefit provided to Jawwad Industries under this program. In applying the facts otherwise available, the Department has determined that an adverse inference is warranted pursuant to section section 776(b) of the Act because the Department has determined that this respondent failed to cooperate to the best of its ability. As adverse facts available, we used the highest subsidy rate calculated for this program in these preliminary results of administrative review which is 1.11 percent *ad valorem*.

The rates do not constitute secondary information and the corroboration requirement of section 776(c) of the Act is not applicable.

**Analysis of Programs**

I. Programs Preliminarily Determined to Confer Subsidies

A. Export Finance Scheme

The Export Finance Scheme (EFS), which is administered by the State Bank of Pakistan, grants short–term loans at below–market interest rates to exporters. The EFS has two parts. Under Part I, exporters may obtain financing on irrevocable letters of credit or firm export orders. Under Part II, exporters may obtain financing in the form of a credit line based upon the value of the previous year's eligible exports. The Department found this program countervailable in the investigation (*see Cotton Shop Towels from Pakistan: Final Affirmative Countervailing Duty Determination*, 49 FR 1408, 1410 (January 11, 1984)) and in all subsequent reviews. There has been no new information or evidence of changed circumstances in this review to warrant reconsideration of this program's countervailability.

During the current review period, cotton shop towel exporters made interest payments on loans obtained under the EFS. The interest rates ranged between 7 percent and 8 percent. Loan terms require payment within a maximum of 180 days. As our benchmark, we used the national average commercial rate for short–term credit which was reported by the Government of Pakistan (GOP). This rate was 13 percent during the period of review (POR). We used a national average interest rate because we could not calculate company–specific benchmark rates because none of the respondents received short–term loans from commercial sources during the POR.

To calculate the benefit, we took the difference between the actual interest paid and the interest that would have been paid at the rates charged on comparable commercial loans. (*See 1999 Shop Towels Preliminary*, 66 FR at 18445). We then divided the benefit derived from the EFS loans by the respective companies' export sales values. Jawwad Industries did not provide information regarding its short–term loans. Therefore, pursuant to sections 776(a)(2)(A) and 776(b) of the Act, we are using as facts available the highest rate calculated for this program in these preliminary results. On this basis, we preliminarily determine the net subsidy from this program during the period of review to be the following:

| Company | Ad Valorem Rate |
|---|---|
| Mehtabi | 0.15 % |
| Quality | 0.15 % |
| Fabrico | 0.15 % |
| Ranjha | 0.15 % |
| Ifitkhar | 0.15% |
| Faislamabad | 0.15% |
| Shahi | 0.00% |
| United | 1.11% |
| R.I. | 1.11% |
| Univeral | 1.11% |
| Ishaq | 1.11% |
| Jawwad | 1.11% |
| Silver | 0.00% |
| Sultex | 0.00% |

Shahi, Silver, and Sultex did not use this program during the period of review.

B. Sales Tax Program

The Central Bureau of Revenue administers the rebate of sales taxes on both domestic and imported inputs used in exported products. The sales tax rebate is on the f.o.b. value of the total exports. In the investigation and subsequent reviews, we found this program countervailable because the GOP failed to establish the requisite linkage and comparison between taxes paid and rebates provided. *See Preliminary Results of Countervailing Duty Administrative Review: Cotton Shop Towels from Pakistan*, 58 32104, 32105 (June 8, 1993) and *Final Results of Countervailing Duty Administrative Review: Cotton Shop Towels from Pakistan*, 58 FR 48038 (September 14, 1993), and *1999 Shop Towels Preliminary*, 66 FR at 18445. In this review, the GOP did not provide new information to establish the required linkage between the rebates given and the indirect tax incurred.

To calculate the benefit for the sales tax rebate program, we divided the amount of sales tax rebated to each exporter/manufacturer by their total exports during the 2000 review period. Two companies, Jawwad Industries and Sultex, did not provide information regarding their sales tax rebate. Therefore, pursuant to sections 776(a)(2)(A) and 776(b) of the Act, we are using as facts available the highest rate calculated for this program in these preliminary results. On this basis, we preliminarily determine the benefit from the sales tax rebate to be the following:

| Company | Ad Valorem Rate |
|---|---|
| Mehtabi | 1.72% |
| Quality | 1.72% |
| Fabrico | 1.72% |
| Ranjha | 1.72% |
| Ifitkhar | 1.72% |
| Faislamabad | 1.72% |
| Shahi | 0.53% |
| United | 0.00% |
| R.I. | 0.00% |
| Univeral | 0.00% |
| Ishaq | 0.00% |
| Jawwad Industries | 1.72% |
| Silver | 0.05% |
| Sultex | 1.72% |

C. Customs Duty Rebate Program

The Central Bureau of Revenue administers this program and provides a customs duty rebate on imported inputs used in exported products. The customs duty rebate applicable to cotton shop towels during the review period was 1.70 percent *ad valorem* on all exports of this merchandise. All rebates are calculated on the f.o.b. value of the total exports. In the investigation and subsequent reviews, we found these programs countervailable because the GOP failed to establish the requisite linkage and comparison between the duties paid and the rebates provided. In this review, the GOP did not provide new information to establish the required linkage between the rebates given and the indirect tax incurred. Therefore, we preliminarily determine that the GOP provides the custom duty rebates without regard to specific duties incurred in the production of shop towels and that the full amount of these rebates are countervailable because these rebates are contingent upon export performance. *See Preliminary Results of Countervailing Duty Administrative Review: Cotton Shop Towels from Pakistan*, 58 FR at 32105 (June 8, 1993), and *Final Results of Countervailing Duty Administrative Review: Cotton Shop Towels from Pakistan*, 58 FR at 48038 (September 14, 1993), and *1999 Shop Towels*, 66 FR at 18446.

For the customs duty rebate program, the cash rebates are earned on a sale–by–sale basis, and a firm can precisely calculate the amount of rebate it will receive for each export sale at the moment the sale is made. Because the amount of these rebates is known at the time of export, we calculate the benefit from this rebate program on an ''as–earned'' basis for all exporters.

For the customs duty rebate program, we used the rate applicable to cotton shop towels as shown in *The Gazette of Pakistan* the official GOP publication of standard duty drawback notification (SRO–172(I)/99 dated March 1999), which was 1.70 percent *ad valorem* during the POR. Therefore, the benefit for the customs duty rebate during the 2000 review period for exporters of shop towels is the following:

| Company | Ad Valorem Rate |
|---|---|
| All companies | 1.70% |

II. Program Preliminarily Determined Not to Confer A Benefit

A.Income Tax Reductions on Export Income

Section 80CC of the Income Tax Ordinance, 1979, as amended by Finance Act, 1999, requires commercial banks to withhold income tax on all foreign exchange proceeds earned by exporters. The amount withheld becomes the company's final tax liability irrespective of whether the company is profitable. This tax is paid by the exporters in lieu of yearly corporate income taxes. For shop towel exporters, the tax rate was 0.50 percent of total export earnings through June 30, 2000. As of July 1, 2000, this tax rate increased to 0.75 percent of total export earnings. This program was found countervailable in *1997 Shop Towels*, (62 FR at 24084) and *1999 Shop Towels Preliminary*, 66 FR at 18446. As noted above, the shop towel exporters pay this ''export'' tax instead of paying yearly corporate income taxes. Under the Department's standard tax methodology, the benefit from the Income Tax Reduction Program would be the difference in the amount of income taxes the company would have paid absent this program. This amount would be the difference in income taxes the company would have paid under Pakistan's corporate tax law and the actual amount of taxes the company paid under the Income Tax Reduction Program. To determine whether the respondents benefitted from this program, we first calculated the income tax which would have been paid using the corporate tax rate of 35 percent which is levied on a company's net profit. We then compared what the company would have paid in income taxes to the actual amount of taxes which they paid under this program. Using this methodology, we determined that the actual amount of taxes paid under this program was higher than the amount the respondents would have paid in income taxes. Thus, the companies did not receive a reduction in income taxes under this program during the POR. Therefore, we preliminarily determine that this program did not confer a benefit during the POR.

III. Programs Preliminarily Determined To Be Not Used

A. Rebate of Excise Duty
B. Export Credit Insurance
C. Import Duty Rebates

**Preliminary Results of Review**

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 2000, through December 31, 2000, we preliminarily determine the net subsidy to be the following:

| Company | Ad Valorem Rate |
|---|---|
| Mehtabi | 3.57% |
| Quality | 3.57% |
| Fabrico | 3.57% |
| Ranjha | 3.57% |
| Ifitkhar | 3.57% |
| Faislamabad | 3.57% |
| Shahi | 2.23% |
| United | 2.81% |
| R.I. | 2.81% |
| Univeral | 2.81% |
| Ishaq | 2.81% |
| Jawwad Industries | 4.53% |
| Silver | 1.75% |
| Sultex | 3.42% |

If the final results of this review remain the same as these preliminary results, the Department intends to instruct Customs to assess countervailing duties at the rates listed above, as a percentage of the f.o.b. invoice price on shipments from the above companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country–wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non–reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously determined. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal–Mogul Corporation and The Torrington Company v. United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F. Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non–reviewed companies covered by this order are those established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. These rates shall apply to all non–reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 2000, through December 31, 2000, the assessment rates applicable to all non–reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

**Public Comment**

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department.

Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty–seven days after the date of publication of these preliminary results.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case, or rebuttal brief or at a hearing.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 USC 1675(a)(1) and 19 USC 1677f(i)(1)).

Dated: April 1, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02–8444 Filed 4–5–02; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–475–819]**

### Certain Pasta From Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of preliminary results and partial rescission of countervailing duty administrative review.

**SUMMARY:** The Department of Commerce is conducting an administrative review of the countervailing duty order on certain pasta from Italy for the period January 1, 2000, through December 31, 2000. We preliminarily find that certain producers/exporters have received countervailable subsidies during the period of review. If the final results remain the same as these preliminary results, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the ''Preliminary Results of Review'' section of this notice.

Because its request for review was withdrawn, we are rescinding this review for company N. Puglisi & F. Industria Paste Alimentari S.p.A.

Interested parties are invited to comment on these preliminary results (*see* the ''Public Comment'' section of this notice).

**EFFECTIVE DATE:** April 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** Craig Matney, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1778.

**SUPPLEMENTARY INFORMATION:**

#### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''URAA'') effective January 1, 1995 (''the Act''). Unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (April 2001).

#### Case History

The Department published the countervailing duty order on certain pasta from Italy on July 24, 1996 (*Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy,* 61 FR 38544). On July 2, 2001, the Department published a notice of ''Opportunity to Request Administrative Review'' of this countervailing duty order for calendar year 2000 (*Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation,* 66 FR 34910). We received review requests for five producers/exporters of Italian pasta. We initiated our review on August 20, 2001 (*Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 66 FR 43570).

This administrative review of the order covers the following producers/exporters of the subject merchandise: F.lli De Cecco di Filippo Fara S. Martino S.p.A. (''De Cecco''), Delverde S.p.A. (''Delverde''), Italian American Pasta Company, S.r.L. (''IAPC''), and Labor S.r.L. (''Labor'') and 26 programs.

On October 19, 2001, we issued countervailing duty questionnaires to the Commission of the European Union (''EC''), the Government of Italy (''GOI''), and the producers/exporters of the subject merchandise. We received responses to our questionnaires in November and December 2001, and issued supplemental questionnaires in February 2002. Responses to the supplemental questionnaires were received in February and March 2002.

#### Partial Rescission

As noted above, N. Puglisi & F. Industria Paste Alimentari S.p.A. (''Puglisi''), one of the respondents, withdrew its request for review on November 2, 2001. Because this request for withdrawal was timely filed, we are rescinding this review with respect to this company (*see* 19 CFR 351.213(d)(1)). We will instruct the U.S. Customs Service to liquidate any entries from Puglisi during the POR and to assess countervailing duties at the rate that was applied at the time of entry.

#### Scope of the Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo di Certificazione, Bioagricoop S.c.r.l., QC&I International Services, Ecocert Italia, the Conzorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.L.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States*

(''*HTSUS*''). Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

**Scope Rulings**

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the countervailing duty order. (*See* August 25, 1997 memorandum from Edward Easton to Richard Moreland, which is on file in CRU in Room B–099 of the main Commerce building.)

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the countervailing duty order. (*See* July 30, 1998 letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., which is on file in the CRU.)

(3) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the countervailing duty order. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the countervailing duty order. (*See* May 24, 1999 memorandum from John Brinkmann to Richard Moreland, which is on file in the CRU.)

**Period of Review**

The period of review (''POR'') for which we are measuring subsidies is from January 1, 2000, through December 31, 2000.

**Attribution of Subsidies**

*De Cecco:* De Cecco has responded on behalf of two members of the De Cecco Group: F.lli De Cecco di Filippo Fara San Martino S.p.A. (''Pastificio'') and Molino e Pastificio F.lli De Cecco S.p.A. (''Pescara''). Pastificio and Pescara manufacture pasta for sale in Italy and the United States. Pastifico and Pescara are directly or indirectly 100 percent-owned by members of the De Cecco family. Effective January 1, 1999, Molino F.lli De Cecco di Filippo S.p.A. (''Molino'') a third member of the De Cecco Group on whose behalf De Cecco responded in the fourth administrative review, was merged with Pastifico and ceased to be a separate entity. The Department will continue to consider countervailable any benefits received by Molino in past administrative reviews and allocated over a period that extends into or beyond the current POR. In accordance with section 351.525(b)(6)(i) and (ii) of the regulations, we are attributing subsidies received by Pastificio and Pescara to the combined sales of both.

*Delverde:* Consistent with section 351.525(b)(6)(ii) of the regulations and the most recent administrative review of this order, we have continued to treat the two affiliated companies, Delverde and Tamma, as separate respondents (*see, Certain Pasta from Italy: Final Results of Fourth Administrative Review,* 66 FR 64214, December 12, 2001 (''*Fourth Review—Final Results*''). Thus, subsidies received by Delverde have been assigned solely to that company. Tamma is not being reviewed, and no subsidies received by Tamma have been attributed to Delverde.

*Labor:* Labor has responded on behalf of itself and Pastificio Balzano s.r.l. (''Balzano''), which was established by Labor on March 31, 2000. During the POR, Balzano had no sales, assets, employees, or operational activities, and received no benefits from the GOI. Labor had no other affiliates during the POR.

*IAPC:* IAPC has no affiliated companies located in Italy, and has therefore responded only on its own behalf.

**Subsidies Valuation Information**

*Benchmarks for Long-term Loans and Discount Rates:* In accordance with section 351.505(a)(1) and 351.524(d)(3) of the regulations, we have used the amount the company actually paid on a comparable commercial loan as the benchmark/discount rate, when the company had a commercial loan in the same year as the government loan or grant. However, there were several instances where a company did not take out any loans which could be used as benchmarks/discount rates in the years in which the government grants or loans under review were received. In these instances, consistent with section 351.505(a)(3)(ii) of the regulations, we used a national average interest rate for a comparable commercial loan. Specifically, for years prior to 1995, we used the Bank of Italy reference rate, adjusted upward to reflect the mark-up an Italian commercial bank would charge a corporate customer, as the benchmark interest rate for long-term loans and as the discount rate. For subsidies received in 1995 and later, we used the Italian Bankers' Association (''ABI'') interest rate, increased by the average spread charged by banks on loans to commercial customers plus an amount for bank charges.

*Allocation Period:* In the *Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') from Italy,* 61 FR 30288, June 14, 1996, (''*Pasta Investigation*''), the Department used as the allocation period for non-recurring subsidies the average useful life (''AUL'') of renewable physical assets in the food-processing industry as recorded in the Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (''the IRS tables''), *i.e.,* 12 years. However, the U.S. Court of International Trade (''CIT'') ruled against this allocation methodology for non-recurring subsidies (*see British Steel plc* v. *United States,* 879 F.Supp. 1254, 1289 (CIT 1995) (''*British Steel I*'')). In accordance with the CIT's remand order, the Department determined that the most reasonable method of deriving the allocation period for non-recurring subsidies was a company-specific AUL of renewable physical assets. This remand determination was affirmed by the CIT on June 4, 1996 (*see British Steel plc* v. *United States,* 929 F.Supp. 426, 439 (CIT 1996) (''*British Steel II*'')).

Consistent with the ruling in *British Steel II,* we developed company-specific AULs in the first and second administrative reviews of this order (*see Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review,* 63 FR 43905, 43906, August 17, 1998 (''*First Review—Final Results*'') and *Certain Pasta from Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489, 44490–91, August 16, 1999 (''*Second Review—Final Results*''). We used these company-specific AULs to allocate any non-recurring subsidies that were not countervailed in the investigation. However, for non-recurring subsidies which had already been countervailed in the investigation, the Department used the original allocation period, *i.e.,* 12 years, because it was deemed neither reasonable nor practicable to reallocate those subsidies over a different time period. This methodology was consistent with our approach in *Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review,* 62 FR 16549 (April 7, 1997).

The third review of this order was subject to section 351.524(d)(2) of the regulations. Under this regulation, the

Department will use the AUL in the IRS tables as the allocation period, unless a party can show that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry. If a party can show that either of these time periods differs from the AUL in the IRS tables by one year or more, the Department will use the company-specific AUL or the country-wide AUL for the industry as the allocation period. In *Certain Pasta from Italy: Final Results of Third Administrative Review,* 66 FR 11269, February 23, 2001 (''*Third Review—Final Results*''), all subsidies received in the POR were assigned a 12-year allocation period, consistent with the IRS tables.

In the current review, no respondent has contested the 12-year AUL in the IRS tables. Therefore, we are assigning a 12-year allocation period to non-recurring subsidies received in the POR, as well as any non-recurring subsidies received in prior years by companies that were not included in previous reviews.

**Change in Ownership**

In 1991, Delverde purchased a pasta factory from an unaffiliated party. The previous owner of the purchased factory had received non-recurring countervailable subsidies prior to the transfer of ownership. In *Third Review—Final Results,* the Department applied the methodology it developed to comply with the Court of Appeals for the Federal Circuit's decision in *Delverde* v. *United States,* 202 F.3rd 1360, 1369 (Fed. Cir. 2000), to Delverde's purchase of the pasta factory. We determined that the post-sale entity was, for all intents and purposes, the same ''person'' as the pre-sale entity. Consequently, all the elements of a subsidy are established with regard to the post-sale Delverde and it continues to benefit in full from all of the subsidies that were provided to the previous owner prior to the sale of the pasta factory.

No new information has been submitted in this review to warrant reconsideration of our determination regarding the countervailability of these subsidies. Therefore, we have included these subsidies in the countervailing duty rate calculated for Delverde.

**Analysis of Programs**

*I. Programs Preliminarily Determined to Confer Subsidies*

1. Law 64/86 Industrial Development Grants

Law 64/86 provided assistance to promote development in the Mezzogiorno (the south of Italy). Grants were awarded to companies constructing new plants or expanding or modernizing existing plants. Pasta companies were eligible for grants to expand existing plants but not to establish new plants because the market for pasta was deemed to be close to saturated. Grants were made only after a private credit institution chosen by the applicant made a positive assessment of the project. (Loans were also provided under Law 64/86; *see* below.) In 1992, the Italian Parliament abrogated Law 64/86 and replaced it with Law 488/92 (*see* below). This decision became effective in 1993. However, companies whose projects had been approved prior to 1993 were authorized to continue receiving grants under Law 64/86 after 1993.

De Cecco and Delverde received grants under Law 64/86 which conferred a benefit during the POR.

In *Pasta Investigation,* the Department determined that these grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

In *Pasta Investigation,* the Department treated the industrial development grants as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. Also, consistent with our treatment of these grants in the *Third Review—Final Results,* for companies which previously have been investigated or reviewed, we have continued to expense or allocate grants disbursed prior to 1998 (the POR in the third review) according to the practice in place at the time of the investigation or review. (*See Countervailing Duties* (Proposed Rules), 54 FR 23366, 23384 (19 CFR 355.49(a)(3)) (May 31, 1989).) For grants disbursed in 1998, 1999 and this POR, 2000, we have followed the methodology described in section 351.524(b)(2) of our new countervailing duty regulations, which directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization. Where the total amount authorized is less than 0.5 percent of the recipient's sales in the year of authorization, the benefit is countervailed in full (*i.e.,* ''expensed'') in the year of receipt. We have also applied the methodology described in section 351.524(b)(2) of the regulations to grants approved prior to 1998 for companies that were not previously investigated or reviewed.

We used the grant methodology described in section 351.524(d) of the regulations to calculate the countervailable subsidy from those grants that were allocated over time. We divided the benefit received by each company in the POR by its total sales, or total pasta sales, as appropriate, in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 64/86 industrial development grants to be 0.82 percent ad valorem for De Cecco and 1.23 percent ad valorem for Delverde.

2. Law 488/92 Industrial Development Grants

In 1986, the European Union (''EU'') initiated an investigation of the GOI's regional subsidy practices. As a result of this investigation, the GOI changed the regions eligible for regional subsidies to include depressed areas in central and northern Italy in addition to the Mezzogiorno. After this change, the areas eligible for regional subsidies are the same as those classified as Objective 1, Objective 2, and Objective 5(b) areas by the EU (*see* ''European Social Fund'' section below). The new policy was given legislative form in Law 488/92 under which Italian companies in the eligible sectors (manufacturing, mining, and certain business services) may apply for industrial development grants. (Loans are not provided under Law 488/92.)

Law 488/92 grants are made only after a preliminary examination by a bank authorized by the Ministry of Industry. On the basis of the findings of this preliminary examination, the Ministry of Industry ranks the companies applying for grants. The ranking is based on indicators such as the amount of capital the company will contribute from its own funds, the number of jobs created, regional priorities, etc. Grants are then made based on this ranking.

De Cecco and Delverde received grants under Law 488/92 which conferred a benefit during the POR.

Industrial development grants under Law 488/92 were found countervailable in *Second Review—Final Results.* The grants are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. Also, these grants were found to be regionally specific within the meaning of section

771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

In *Second Review—Final Results*, the Department treated industrial development grants under Law 488/92 as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. We expensed or allocated these grants according to the methodology applied to the Law 64/86 industrial development grants discussed above.

We used the grant methodology as described in section 351.524(d) of the regulations to calculate the subsidy for those grants that were allocated over time. We divided the benefits received by each company in the POR by its total sales, or total pasta sales, as appropriate, in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 488/92 industrial development grants to be 0.34 percent ad valorem for De Cecco and 0.60 percent ad valorem for Delverde.

3. Law 64/86 Industrial Development Loans

In addition to the industrial development grants discussed above, Law 64/86 also provided reduced rate industrial development loans with interest contributions paid by the GOI on loans taken by companies constructing new plants or expanding or modernizing existing plants in the Mezzogiorno. For the reasons discussed above, pasta companies were eligible for interest contributions to expand existing plants, but not to establish new plants. The interest rates on these loans were set at the reference rate with the GOI's interest contributions serving to reduce this rate. Although Law 64/86 was abrogated in 1992 (effective 1993), projects approved prior to 1993, were authorized to receive interest subsidies after 1993.

De Cecco and Delverde had Law 64/86 industrial development loans outstanding during the POR.

In *Pasta Investigation*, the Department determined that the Law 64/86 loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI providing a benefit in the amount of the difference between the benchmark interest rate and the interest rate paid by the companies after accounting for the GOI's interest contributions. Also, these loans were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these loans are a countervailable subsidy.

In accordance with section 351.505(c)(2) of the regulations, we calculated the benefit for the POR by computing the difference between the payments the loan recipients made on their Law 64/86 loans during the POR and the payments the companies would have made on a comparable commercial loan. We divided the benefit received by each company by its total sales or total pasta sales, as appropriate, in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 64/86 industrial development loans to be 0.52 percent ad valorem for De Cecco and 0.25 percent ad valorem for Delverde.

4. Law 341/95 Interest Contributions on Debt Consolidation Loans

Law 85/95 created the Fondo di Garanzia aimed at improving the financial structure of small- and medium-sized companies located in EU Objective 1 areas (*see*, ''European Social Fund'' section below). Under Article 2 of Law 341/95, monies from the Fondo di Garanzia are used to make interest contributions on debt consolidation loans obtained by eligible companies. The company first enters into a loan contract with a commercial bank. Then, the contract is submitted to the approving authority. After approval, the loan is made.

De Cecco had a Law 341/95 debt consolidation loan outstanding during the POR.

We preliminarily determine that the interest contributions on this loan confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI providing a benefit in the amount of the interest contributions. Also, these interest contributions are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.

Because De Cecco anticipated receiving the interest contributions when it applied for the debt consolidation loan, we are calculating the amount of the subsidy as if this were a reduced interest loan (see, section 351.508(c)(2) of the regulations). Thus, we have divided the interest contributions received by De Cecco in the POR by De Cecco's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from interest contributions under Law 341/95 to be 0.02 percent ad valorem for De Cecco.

*5. Social Security Reductions and Exemptions—Sgravi*

Italian law allows companies, particularly those located in the Mezzogiorno, to use a variety of exemptions and reductions (''sgravi'') of the payroll contributions that employers make to the Italian social security system for health care benefits, pensions, etc. The sgravi benefits are regulated by a complex set of laws and regulations and are sometimes linked to conditions such as creating more jobs. The benefits under some of these laws (*e.g.*, Laws 183/76 and 449/97) are available only to companies located in the Mezzogiorno and other disadvantaged regions. Other laws (*e.g.*, Laws 407/90 and 863/84) provide benefits to companies all over Italy, but the level of benefits is higher for companies in the south than for companies in other parts of the country.

The various laws identified as having provided sgravi benefits during the POR are: Law 183/76, Law 407/90, Law 863/84, Law 449/97, and Law 448/98. (Laws 449/97 and 448/98 are related and sometimes referred to jointly as ''Sgravi Capitario.'') All the respondent companies in this review, other than IAPC which is not located in the Mezzogiorno, received some form of sgravi benefits during the POR.

In *Pasta Investigation* and subsequent reviews, the Department determined that the various forms of social security reductions and exemptions confer countervailable subsidies within the meaning of section 771(5) of the Act. They represent revenue foregone by the GOI bestowing a benefit in the amount of the savings received by the companies. Also, they were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they were limited to companies in the Mezzogiorno or because the higher levels of benefits were limited to companies in the Mezzogiorno. In this review, neither the GOI nor the responding companies provided new information which would warrant reconsideration of our determination that these tax savings are a countervailable subsidy.

In accordance with section 351.524(c) of the regulations and consistent with our methodology in the investigation and previous reviews, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided each company's savings in social security contributions during the POR by that company's total sales in the

POR. In those instances where the applicable law provided a higher level of benefits to companies based on their location, we divided the amount of the sgravi benefits that exceeded the amount available to companies in other parts of Italy by the recipient company's total sales in the POR (*see*, section 351.503(d)(1) of the regulations).

In its November 26, 2001 questionnaire response, Delverde requested that it receive an offset or credit against current sgravi benefits to reflect repayment of certain sgravi benefits received in the past. Specifically, because Molise and Abruzzo have lost their status as regions entitled to higher benefit levels, Delverde has begun repayment of benefits it received between December 1, 1994 and November 30, 1996.

Consistent with our finding in *Fourth Review—Final Results*, Comment 7, because the repayments made by Delverde relate to prior recurring subsidies previously countervailed and because countervailing duties have already been assessed on the relevant imports of pasta, we have not credited the repayment of these past benefits against current sgravi benefits because they do not qualify as a permissible offset within the meaning of section 771(6) of the Act.

On this basis, we preliminarily determine the countervailable subsidy from the sgravi program to be 0.08 percent ad valorem for De Cecco, 0.17 percent ad valorem for Delverde, and 1.57 percent ad valorem for Labor.

6. IRAP Exemptions

On January 1, 1998, the local income tax (ILOR) was replaced with a new regional tax, the IRAP, as a result of Legislative Decree 446 (December 15, 1997). Existing exemptions from the ILOR continued under IRAP. In particular, income from production facilities located in the Mezzogiorno was exempt from tax for ten years.

De Cecco and Delverde claimed the IRAP tax exemption on their tax returns filed during the POR.

*In Pasta Investigation*, the Department determined that the ILOR tax exemption confers a countervailable subsidy within the meaning of section 771(5) of the Act, the exemption represents revenue foregone by the taxing authority and confers a benefit in the amount of the tax savings to the recipient companies, and the exemption was regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided any information to indicate that the substitution of the IRAP for the ILOR would warrant reconsideration of our determination that this tax exemption is a countervailable subsidy.

In accordance with sections 351.509(b) of the regulations and our treatment of the ILOR tax exemption in *Pasta Investigation*, we are calculating the countervailable subsidy by dividing each company's tax savings in the POR by its total sales, or total pasta sales, as appropriate, during the POR.

On this basis, we preliminarily determine the countervailable subsidy from the IRAP tax exemption to be 0.10 percent ad valorem for De Cecco, and 0.02 percent ad valorem for Delverde.

7. Law 304/90 Export Marketing Grants

Under Law 304/90, the GOI provided grants to promote the sale of Italian food and agricultural products in foreign markets. The grants were given for pilot projects aimed at developing links and integrating marketing efforts between Italian food producers and foreign distributors. The emphasis was on assisting small- and medium-sized producers.

Delverde received a grant under this program for an export sales pilot project in the United States. The purpose of the project was to increase the presence of all Delverde's products in the U.S. market, not only pasta.

In *Pasta Investigation*, the Department determined that these export marketing grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. Also, these grants were found to be specific within the meaning of section 771(5A)(B) of the Act because their receipt was contingent upon exportation. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants confer a countervailable subsidy.

Also in *Pasta Investigation*, the Department treated export marketing grants as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment.

Because this grant exceeded 0.5 percent of Delverde's exports to the United States in the year of receipt, we used the grant methodology described in section 351.524(d) of the regulations to allocate the benefit over time. We divided the benefit attributable to the POR by the value of Delverde's total exports to the United States in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 304/90 export marketing grants to be 0.37 percent ad valorem for Delverde.

8. Export Restitution Payments

The EU provides restitution payments to EU pasta exporters based on the durum wheat content of their exported pasta products. The program is designed to compensate pasta producers for the difference between EU prices and world market prices for durum wheat. Generally, under this program, a restitution payment is available to any EU exporter of pasta products, regardless of whether the pasta was made with imported wheat or wheat grown within the EU.

De Cecco and Delverde received export restitution payments during the POR for shipments of pasta to the United States.

In *Pasta Investigation*, the Department determined that export restitution payments confer a countervailable subsidy within the meaning of section 771(5) of the Act. These payments are a direct transfer of funds from the EU bestowing a benefit in the amount of the payment. The restitution payments were found to be specific because their receipt is contingent upon export performance. In this review, the GOI, the EU, and the responding companies have not provided new information which would warrant reconsideration of our determination that export restitution payments are countervailable subsidies.

In *Pasta Investigation*, we treated the export restitution payments as recurring benefits. We have found no reason to depart from this treatment in the current review. Therefore, to calculate the countervailable subsidy, we generally divided the export restitution payments received by the recipient companies in the POR for pasta shipments to the United States by the value of each company's pasta exports to the United States in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the export restitution program to be 0.02 percent ad valorem for De Cecco and 0.19 percent ad valorem for Delverde.

9. IRPEG Exemptions

In addition to providing sgravi benefits, Law 449/97 also provides partial exemptions from a corporate income tax, the IRPEG. These partial exemptions are given for new employees hired between October 1, 1997 and December 31, 2000. Only firms located in EU Objective 1 areas are eligible for these exemptions.

Under section 351.509(c) of the Department's regulations, direct tax benefits are assigned to the date on

which the recipient firm would otherwise have had to pay the taxes. Because the partial exemption was applied towards estimated taxes in 1999 and De Cecco's ultimate liability for tax year 1999 became known in 2000, we preliminarily determine that De Cecco received IRPEG exemptions in this POR.

To calculate the countervailable subsidy, we divided the IRPEG exemptions received by the recipient company in the POR by the value of the company's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the IRPEG partial exemption program to be 0.00 percent ad valorem for De Cecco.

**II. Programs Preliminarily Determined to Be Not Used**

We examined the following programs and preliminarily determine that the producers and/or exporters of the subject merchandise under review did not apply for or receive benefits under these programs during the POR:

1. Law 64/86 VAT Reductions
2. Export Credits under Law 227/77
3. Capital Grants under Law 675/77
4. Retraining Grants under Law 675/77
5. Interest Contributions on Bank Loans under Law 675/77
6. Interest Grants Financed by IRI Bonds
7. Preferential Financing for Export Promotion under Law 394/81
8. Urban Redevelopment under Law 181
9. Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (''PRISMA'')
10. Law 183/76 Industrial Development Grants
11. Law 598/94 Interest Subsidies
12. Law 236/93 Training Grants
13. European Regional Development Fund (ERDF)
14. Duty-Free Import Rights
15. Remission of Taxes on Export Credit Insurance Under Article 33 of Law 227/77
16. Law 1329/65 Interest Contributions (Sabatini Law)
17. European Social Fund (ESF)

**Preliminary Results of Review**

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter covered by this administrative review. For the period January 1, 2000 through December 31, 2000, we preliminarily determine the net subsidy rates for producers/exporters under review to be those specified in the chart shown below. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service (''Customs'') to assess countervailing duties at these net subsidy rates. The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties at these rates on the f.o.b. value of all shipments of the subject merchandise from the producers/exporters under review that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

| Company | Ad valorem rate (in percent) |
|---|---|
| F.lli De Cecco di Filippo Fara San Martino S.p.A | 1.90 |
| Delverde S.p.A | 2.83 |
| Italian American Pasta Company, S.r.L | 0.00 |
| Labor, s.r.l | 1.57 |

The calculations will be disclosed to the interested parties in accordance with section 351.224(b) of the regulations.

For companies that were not named in our notice initiating this administrative review (except Barilla G. e R. F.lli S.p.A. (''Barilla'') and Gruppo Agricoltura Sana S.r.L. (''Gruppo'') which were excluded from the order during the investigation), the Department has directed Customs to assess countervailing duties on all entries between January 1, 2000 and December 31, 2000 at the rates in effect at the time of entry. For the company for which this review has been rescinded (Puglisi), we will direct Customs to liquidate all entries between January 1, 2000 and December 31, 2000 at the rates in effect at the time of entry.

For all non-reviewed firms, we will instruct Customs to collect cash deposits of estimated countervailing duties at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy*, 61 FR 38544 (July 24, 1996) or the company-specific rate published in the most recent final results of an administrative review in which a company participated. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

**Public Comment**

Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of filing the case briefs. Parties who submit briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Interested parties may request a hearing within 30 days after the date of publication of this notice. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs.

The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: April 1, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02–8445 Filed 4–5–02; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Environmental Technologies Trade Advisory Committee (ETTAC)

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of open meeting.

*Date:* May 9, 2002.

*Time:* 9:00 a.m. to 11:30 p.m.

*Place:* U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, Room 3407.

**SUMMARY:** The Environmental Technologies Trade Advisory Committee will hold a plenary meeting on May 9, 2002, at the U.S. Department of Commerce.

ETTAC will hear briefings on trade and finance issues and discuss subcommittee work plans. The meeting is open to the public.

ETTAC is mandated by Public Law 103–392. It was created to advise the U.S. government on environmental trade policies and programs, and to help it to focus its resources on increasing the exports of the U.S. environmental industry. The ETTAC operates as an advisory committee to the Secretary of Commerce and the interagency

Environmental Trade Working Group (ETWG) of the Trade Promotion Coordinating Committee (TPCC). The ETTAC was originally chartered in May of 1994. It was most recently rechartered until May 30, 2002.

For further information phone Corey Wright, ETI, International Trade Administration, U.S. Department of Commerce at (202) 482–5225. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to ETI.

Dated: March 28, 2002.

**Carlos F. Montoulieu,**

*Director, Office of Environmental Technologies Industries.*

[FR Doc. 02–8446 Filed 4–5–02; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Public Meeting To Gather Information and Data Relating to the World Trade Center Disaster for Building and Fire Safety Purposes

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The National Institute of Standards and Technology (NIST) of the United States Department of Commerce has scheduled a public meeting to gather information for a proposed building and fire safety investigation of the World Trade Center disaster. Individuals and representatives of organizations who have information that could be helpful to such an investigation are invited to request a place on the agenda. The total number of speakers and organizations, and the time available for each, will be determined by the number of requests, but the time is likely to be 5 to 10 minutes each. Speakers who wish to expand upon their oral statements, those who wish to speak but cannot be accommodated on the agenda due to the constraints of time, and those who are unable to attend in person are invited to submit written statements and supporting material to the WTC Technical Information Repository

**DATES:** The meeting will be held on April 22, 2002, from 8:00 AM to 4:00 PM.

**ADDRESSES:** The meeting will be held at the New York Marriott Hotel, Financial Center, located at: 85 West Street, New York, NY, 10006. Telephone number is: (212) 385–4900.

**FOR FURTHER INFORMATION CONTACT:** Stephen Cauffman, (301) 975–6051 or by e-mail at *stephen.cauffman@nist.gov.* Written statements and supporting material should be submitted to the WTC Technical Information Repository, Building and Fire Research Laboratory, National Institute of Standards and Technology, MS 8610, Gaithersburg, MD 20899–8610 or electronically by e-mail to *WTC@NIST.gov* or by Fax to (301) 975–4052.

**SUPPLEMENTARY INFORMATION:** Specific technical issues of interest to NIST are the following:

- The probable technical causal factors for the collapse of the World Trade Center towers following the airplane impacts;
- Factors that led to the injuries and fatalities, including all technical aspects of fire protection, response, evacuation, and occupant behavior and emergency response;
- The procedures and practices used in the design, construction, operation, and maintenance of the World Trade Center towers;
- New technologies and procedures emerging that might be employed in the future to reduce the potential risks of such a collapse; and
- Building and fire codes, standards, and practices that might warrant revision.

To request an opportunity to speak, NIST must receive the following information via e-mail (*WTC@NIST.gov*) or FAX ((301)–975–4052) no later than 5:00 PM on April 17, 2002:

- Name and contact information (including FAX, phone and/or e-mail) of individual who will be speaking
- Name and complete address of organization(s) speaker represents
- Specific technical issue that is being discussed (from above list)

Those who are selected to speak will be contacted by 12:00 noon on April 19, 2002, using the FAX, phone or e-mail address provided. Speakers who wish to expand upon their oral statements, those who wish to speak but cannot be accommodated on the agenda due to the constraints of time, and those who are unable to attend in person are invited to submit written statements and supporting material to the WTC Technical Information Repository, Building and Fire Research Laboratory, National Institute of Standards and Technology, MS 8610, Gaithersburg, MD 20899–8610 or electronically by e-mail to *WTC@NIST.gov* or by Fax to (301) 975–4052.

Statements made at the meeting and/or submitted to NIST may be recorded and transcribed and made available to the public at a later date. The meeting will be webcast and linked to the NIST home page, *http://www.nist.gov/.*

Dated: April 2, 2002.

**Karen H. Brown,**

*Deputy Director.*

[FR Doc. 02–8385 Filed 4–5–02; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 020314059–2059–01; I.D. 022602B]**

**RIN 0648–ZB16**

### Financial Assistance for Environmental Education Projects in the Chesapeake Bay Watershed

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The purpose of this document is to invite the public to submit proposals for available funding to implement environmental education projects in the following two priority areas: ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience and Professional Development in the Area of Environmental Education for Teachers Within the Chesapeake Bay Watershed. Funds are available to K-through-12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments. This document describes the conditions under which project proposals will be accepted and criteria under which proposals will be evaluated for funding consideration. Potential recipients may submit proposals for both priority areas, but, for each, they must write a separate proposal. Selected recipients will enter into either a cooperative agreement or a grant.

**DATES:** Applications for funding under this program must be received by 5 p.m. eastern daylight-saving time on May 23, 2002. Note: for applications received after the postmark date, see **SUPPLEMENTARY INFORMATION**, Section IV, A.

**ADDRESSES:** You can obtain an application package from and send completed applications to Seaberry J. Nachbar, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403. You can also

obtain the application package from the NOAA Chesapeake Bay Office Home Page, Education link (http://noaa.chesapeakebay.net). No application will be accepted by facsimile machine or electronic mail submission.

**FOR FURTHER INFORMATION CONTACT:** Seaberry J. Nachbar, Education Coordinator, NOAA Chesapeake Bay Office, telephone: (410) 267-5664, or e-mail: seaberry.nachbar@noaa.gov.

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

*A. Authority*

The Fish and Wildlife Act of 1956, as amended, at 16 U.S.C. 753a, authorizes the Secretary of Commerce (Secretary), to develop adequate, coordinated, cooperative research and training programs for fish and wildlife resources, to continue to enter into cooperative agreements with colleges and universities, with game and fish departments of several states, and with nonprofit organizations relating to cooperative research units. The Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized by 15 U.S.C. 1540 to enter into cooperative agreements and other financial agreements with any nonprofit organization to aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs. The Departments of Commerce (DOC), Justice, State, the Judiciary, and Related Agencies Appropriations Act of 2002 make funds available to the Secretary.

*B. Catalog of Federal Assistance (CFDA)*

The projects to be funded are in support of the Chesapeake Bay Studies (CFDA 11.457), under the Chesapeake Bay Watershed Education and Training Program.

*C. Program Description*

As an agency that is dedicated to the conservation and wise management of the Nation's coastal and marine resources, NOAA recognizes that a commitment to environmental stewardship must include a strong educational component. Consistent with this commitment, NOAA has initiated an environmental education program through its Chesapeake Bay Office, the Bay Watershed Education and Training Program (B-WET Program). The B-WET Program objectives are to support and encourage environment based education and first-hand experiences, among the best ways to promote individual stewardship of the Bay and its tributaries.

Funded projects will assist in meeting the Stewardship and Community Engagement goals of the Chesapeake 2000 agreement (http://www.chesapeakebay.net/pubs/subcommittee/cesc/c2k.pdf). Projects will support organizations that provide students ''meaningful'' Chesapeake Bay or stream outdoor experiences and teachers professional development opportunities in the area of environmental education.

## II. Priority Areas and Evaluation Criteria

Proposals should address one of the two priority areas: (1) ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience; or, (2) Professional Development in the Area of Environmental Education for Teachers Within the Chesapeake Bay Watershed. Potential recipients may submit proposals for both priority areas, but they must write separate proposals for each one.

*A. ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience*

The NOAA Chesapeake Bay Office (NCBO) seeks proposals for projects that provide opportunities for students (K through 12) to participate in a ''meaningful'' Chesapeake Bay or stream outdoor experience. The Chesapeake Bay, with its tributaries, provides an excellent opportunity for environmental education. In many cases, its tidal and non-tidal waters and the surrounding landscape provide ≥hands-on≥ laboratories where students can see, touch, and learn about the Chesapeake Bay watershed and the greater environment. In other cases, the Bay watershed can be brought alive to the classroom through a strong complement of outdoor and classroom experiences. The Chesapeake Bay and its tributaries should be considered a living resource that provides a genuine, locally relevant source of environmental knowledge that can be used to help advance student learning skills and problem-solving abilities across the entire school curriculum.

Total anticipated funding is about $500,000. Of the amount available for this priority area, about $400,000 will be awarded to larger organizations that provide environmental education programs and up to $100,000 to smaller, community-based organizations that work at a local level to provide environmental education programs.

Proposals will be evaluated on the following nine criteria. Reviewers will assign scores ranging from 0 to 100 points.

1. *Experiences follow the scope and sequence of a ''meaningful'' Chesapeake Bay or stream outdoor experience:* This part of the program comprises a series of concepts and perceptions appropriate for K- through 12-grade students. See also the Stewardship and Meaningful Watershed Educational Experiences document (http://www.chesapeakebay.net/pubs/subcommittee/cesc/c2k.pdf). (10 points)

a. From K to 5. Experiences should be neighborhood-based and reinforce such basic concepts as maps and models, habitat principles, and the concept of the water cycle and watersheds.

b. From 6 to 8. Experiences should focus on team and class projects and investigations, conducted in or near water. Experiences should reinforce science, mathematics, and technology skills developed in middle school.

c. From 9 to 12. Experiences should be first-hand knowledge in or near water and should relate to the earth and biological sciences, concepts developed in civics and government, and attitudes reinforcing responsible citizenship.

2. *''Meaningful'' Chesapeake Bay or stream outdoor experiences are hands-on oriented:* Experiences should involve student participation and engage the student throughout the entire event. Experiences should not be limited to tours, gallery visits, simulations, demonstrations, or ''nature'' walks but should encourage the student to assist, share, communicate, and connect directly with the outdoors. Experiences do not have to be water-based activities directly on the Bay, tidal rivers, streams, creeks, ponds, wetlands, or other bodies of water. As long as there is an intentional connection to water quality, watershed, and the larger ecological system, outdoor experiences may include terrestrial activities (e.g., erosion control, buffer creation, groundwater protection, and pollution prevention). (10 points)

3. *''Meaningful'' Chesapeake Bay or stream outdoor experiences are richly structured:* Experiences should consist of three general parts, not necessarily occurring in this order- a preparation phase; an outdoor phase; and an analysis, reporting phase. Projects should provide teachers with the support, materials, resources, and information needed to conduct these three parts. The preparation phase should focus on a question, problem, or issue and involve students in discussions about it. The action phase should include one or more outdoor experiences sufficient to conduct the project, make the observations, or collect the data required. The reflection

phase should refocus on the question, problem, or issue; analyze the conclusions reached; evaluate the results; and assess the activity and the learning. (10 points)

4. *''Meaningful'' Chesapeake Bay or stream outdoor experiences reflect an integrated approach to learning:* Experiences should involve the use of materials, resources, and instruments to address multiple topics, such as maritime heritage, science, history, economics, math, and the cultural significance of our natural resources. Experiences make appropriate connections between subject areas and reflect an integrated approach to learning. (10 points)

5. *''Meaningful'' Chesapeake Bay or stream outdoor experiences are investigative or project-oriented:* Experiences should include activities where questions, problems, and issues are investigated through data collection, observation, and hands-on activities. Experiences should stimulate observation, motivate critical thinking, develop problem-solving skills, and instill confidence in students. (10 points)

6. *''Meaningful'' Chesapeake Bay or stream outdoor experiences are an integral part of the instructional program:* Experiences should not be considered ancillary, peripheral, or enriching only, but should be able to be clearly integrated into part of a concurrent classroom curriculum. The nature of these experiences should be based on State (VA, MD, PA, DE, WV, NY) and/or District (DC) academic learning standards. (10 points)

7. *Projects are new or significantly enhanced*: Proposals should consist of a project that is new to an organization's environmental education program or includes additions that significantly enhance an existing project. For example, projects could include different participants, focus on a new audience, concentrate on a different geographic location, or employ new techniques, methods, or ideas. (10 points)

8. *Projects demonstrate partnerships*: Project proposals should include partners involving any of the eligible applicants. Projects are encouraged to include environmental education organizations that do not have presently a well-established environmental education program. All partners should be actively involved in the project, not just supply equipment or curricula. (15 points)

9. *Justification and allocation of the proposed budget:* Proposals will be evaluated on the reasonableness of the proposed budget. (15 points)

*B. Professional Development in the Area of Environmental Education for Teachers within the Chesapeake Bay Watershed*

The NCBO seeks proposals for projects that provide K-through-12 teachers within the Chesapeake Bay watershed opportunities for professional development in the area of environmental education. As the purveyors of education, teachers can ultimately make meaningful environmental education experiences for students by weaving together classroom and field activities within the context of their curriculum and of current critical issues that impact the watershed. Systematic, long-term professional development opportunities will reinforce a teacher's ability to teach, inspire, and lead young people toward thoughtful stewardship of our natural resources.

Total anticipated funding is about $350,000. Proposals will be evaluated on the following eight criteria. Reviewers will assign scores ranging from 0 to 100 points.

1. *Projects follow the teaching of a ''meaningful'' Chesapeake Bay or stream outdoor experience and encourage the teacher to implement a ''meaningful'' experience project in his/her classroom:* Projects should be modeled to reflect the definition of a ''meaningful'' Chesapeake Bay or stream outdoor experience (http://www.chesapeakebay.net/pubs/subcommittee/cesc/c2k.pdf). Projects should provide teachers with lesson plans, materials, or resources needed for carrying out a ''meaningful'' Chesapeake Bay or stream outdoor experience and encourage them to implement an experience in their classroom or community. (15 points)

2. *Projects are aligned with academic learning standards:* Projects should be based on State (VA, MD, PA, DE, WV, NY) and/or District (DC) academic learning standards. (15 points)

3. *Projects are scientifically and educationally sound:* Projects should provide environmental education training that is scientifically and educationally sound and represent innovative techniques to address environmental issues. (10 points)

4. *Projects promote continued teacher involvement:* Projects should encourage teacher participation throughout the entire school year. For example, projects could provide courses or workshops, or promote web-based interaction during the school year. (10 points)

5. *Projects involve external sharing and communication*:Projects should promote peer-to-peer sharing and emphasize the need for external sharing and communication. Projects should include a mechanism that encourages teachers to share their experiences with other teachers and with the environmental education community. (10 points)

6. *Projects are new or significantly enhanced:* Proposals should consist of a project that is new to an organization's environmental education program or that includes additions that significantly enhance an existing project. For example, projects could include different participants, focus on a new audience, concentrate on a different geographic location, or employ new techniques, methods, or ideas. (10 points)

7. *Projects demonstrate partnerships:* Project proposals should include partners involving any of the eligible applicants. Projects are encouraged to include environmental education organizations that presently do not have a well-established environmental education program. All partners should be actively involved in the project and not just in the supply of equipment or curricula. (15 points)

8. *Justification and allocation of the proposed budget:* Proposals will be evaluated on the reasonableness of the proposed budget. (15 points)

**III. Funding**

*A. Funding Availability*

This solicitation announces that funding of up to $850,000 will be available for environmental education projects in the Chesapeake Bay watershed for FY 2002. About $500,000 will be for proposals that provide opportunities for students (K through 12) to participate in a ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience. Of this amount, about $400,000 will be awarded to larger organizations that provide environmental education programs and up to $100,000 to smaller, community-based organizations that work at a local level to provide environmental education programs. About $350,000 will be for proposals that provide opportunities for Professional Development in the area of Environmental Education for Teachers within the Chesapeake Bay Watershed.

There is no guarantee that sufficient funds will be available to make awards for all proposals. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and the NOAA representatives. Publication of this document does not obligate NOAA to

award any specific project or all or any part of any available funds.

Applicants should refer to and acknowledge the **Federal Register** notice, Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements, published October 1, 2001 (66 FR 49917). The pre-award notice provisions previously printed apply to this notice of availability of funds.

*B. Award Limits*

The NCBO anticipates that typical project awards for ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience will range from $50,000 to $200,000 for larger organizations, and $5,000 to $30,000 for smaller, community-based organizations. The NCBO anticipates that typical project awards for Professional Development in the area of Environmental Education for Teachers within the Chesapeake Bay Watershed will range from $20,000 to $70,000.

*C. Proposals that Demonstrate Partnerships*

Proposals that demonstrate partnerships may be considered for funds greater than the specified ranges.

*D. Duration and Terms of Funding*

Proposals may be submitted as multi-year projects. Proposals for the ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience may be submitted for up to 2 years. Proposals for the Professional Development in the area of Environmental Education for Teachers within the Chesapeake Bay Watershed may be submitted for up to 3 years. However, funds will be made available for only a 12-month award period, and any continuation of the award period will be subject to an approved scope of work, technical evaluation, satisfactory progress, and available funding to continue the award. No assurance for a funding continuation exists; funding will be at the complete discretion of NOAA. Multi-year proposals must include a full description of the activities and budget for the first year, and should include a summary description of the proposed work for each subsequent year and a estimated budget by line item (without the supporting budget detail pages) for review and analysis. The Program Officer and Grants Officer will conduct a cursory review of the proposed out year activities and if selected for funding the applicant will be required to submit a full statement of work and detailed budget page(s) ninety days prior to the anniversary date of the award. Project dates should be scheduled to begin no later than October 1, 2002.

*E. Funding Instrument*

Whether the funding instrument is a grant or a cooperative agreement will be determined by the amount of NCBO's involvement in the project. A cooperative agreement will be used if NCBO is involved substantially in:

1. Monitoring the progress of each funded project; and

2. Working with the recipients to prepare annual reports summarizing current accomplishments of the project.

*F. Cost-Sharing Requirements*

The NCBO strongly encourages applicants applying for either priority area to leverage as much investment as possible. Federal funds may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the final selection process.

**IV. How to Apply**

*A. Eligible Applicants*

Eligible applicants for both priority areas (i.e., ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience and Professional Development in the Area of Environmental Education for Teachers Within the Chesapeake Bay Watershed) are K-through-12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments in the Chesapeake Bay watershed.

The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in undeserved areas. The NCBO encourages proposals involving any of the above institutions.

Applications submitted via the U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. Applications that are received after the closing date will be accepted for review if the applicant can document that the application was provided to the delivery service on or prior to the specified postmark cut-off date. In any event, applications received later than five business days following the closing date will not be accepted.

*B. Format*

Applications for project funding must be complete and must follow the format described in this notice.

Applications may be submitted for both priority areas (i.e., ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience or Professional Development in the Area of Environmental Education for Teachers Within the Chesapeake Bay Watershed), but must be submitted separately. Applicants should not assume prior knowledge on the part of the NCBO as to the relative merits of the project described in the application. Applicants are required to submit one signed original and two copies of the application proposal. Application format must be in 12-point font, double-spaced, unbound, and one-sided. Applications must be submitted in the following format:

1. Cover sheet: An applicant must use Office of Management and Budget (OMB) Standard Form 424 (revised 7/97) as the cover sheet for each project. Applicants may obtain these forms from the NOAA Chesapeake Bay Office Web site (see **ADDRESSES**) or from the NOAA Grants Web site: http://www.rdc.noaa.gov/grants/index.html.

2. Project summary: It is recommended that each proposal contain a summary of no more than one page that provides the following:

a. Organization title.

b. Address and telephone number of applicant.

c. Priority area for which you are applying (i.e., (1)''Meaningful'' Chesapeake Bay or Stream Outdoor Experience or (2)Professional Development in the Area of Environmental Education for Teachers in the Chesapeake Bay Watershed).

d. Project title.

e. Project duration (beginning to end dates, starting on the first of the month and ending on the last day of the month).

f. Principal Investigator(s) (PI).

g. Project objectives.

h. Summary of work to be performed.

i. Total Federal funds requested.

j. Cost-sharing to be provided from non-Federal sources, if any. Specify whether contributions are project-related cash or in-kind.

k. Total project cost.

3. Project description: Describe precisely what your project will achieve why, how, who, and where. The project description must not exceed 15 pages in length. Visuals, materials, graphs, maps, and photographs are not included in the 15-page limitation.

a. Why: Explain the purpose of your project and which priority area your project

addresses (i.e., (1)''Meaningful'' Chesapeake Bay or Stream Outdoor Experience or (2) Professional Development in the Area of Environmental Education for Teachers Within the Chesapeake Bay Watershed). Explain specifically how your project addresses each of the evaluation criteria listed in that priority area (i.e., each of the nine criteria for the ''Meaningful'' Chesapeake Bay or Stream Outdoor Experience priority area or each of the eight criteria for the Professional Development in the area of Environmental Education for Teachers within the Chesapeake Bay Watershed priority area).

b. How: Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished. Explain your strategy, objectives, activities, delivery methods, and accomplishments to establish for reviewers that you have realistic goals and objectives and that you will use effective methods to achieve them. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and target completion dates.

Project Objectives: Objectives should be simple and understandable; as specific and quantitative as possible; clear as to the ''what and when,'' but should avoid the ''how and why.'' Project should be accomplishment oriented and identify specific performance measures.

c. Who: List each organization, cooperator, or other key individuals who will work on the project, along with a short description of the nature of their effort or contribution. Identify the target audience and demonstrate an understanding of the needs of that audience.

d. Where: Give a precise location of the project and area to be served.

4. Need for government financial assistance: Demonstrate the need for assistance. Explain why other funding sources cannot fund all the proposed work.

5. Benefits or results expected: Identify and document the results or benefits to be derived from the proposed activities.

6. Project evaluation: Explain how you will ensure that you are meeting the goals and objectives of your project. Evaluation plans may be quantitative and/or qualitative and may include, for example, evaluation tools, observation, or outside consultation. The applicant will be required to provide an evaluation of project accomplishments and progress toward the project objectives and performance measures and to report on specific information, as determined by the NCBO, in the final report.

7. Total project costs: Total project costs are the amount of funds required to accomplish what is proposed in the Project Description and include contributions and donations. A standard budget form (SF-424A) is available from the NOAA Chesapeake Bay Office Web site (see **ADDRESSES**) or from the NOAA Grants Web site (http://www.rdc.noaa.gov/grants/index.html). Explain the calculations and provide a narrative to support each budget category. The budget detail and narrative submitted with the application should match the dollar amounts on all required forms. Additional cost detail may be required prior to a final analysis of overall cost allowability, allocability, and reasonableness.

## V. Review Process

### *A. Initial Evaluation of the Applications*

NOAA will review all applications to assure that they meet all the requirements of this announcement, including eligibility and relevance to the Bay and Watershed Education and Training Program (B-WET Program).

### *B. Technical Review*

For applications meeting the requirements of this solicitation, eligible proposals will undergo an external technical review. This review will normally involve individuals in the field of environmental education from both NOAA and non-NOAA organizations. Proposals will be scored based on the evaluation criteria as defined in Section II (A) and II (B). Reviewers will be asked to score and comment on each proposal.

### *C. Review Panel*

The NCBO will convene a review panel consisting of at least three experts in the field of environmental education. The review panel will collectively discuss all review comments as a panel, incorporating the evaluation provided by the technical reviewers. The reviewers will then take into account the following: (a) diversity of geographic location, (b) diversity of applicants, and (c) proposed budget. Each review panel member will then numerically rank the submitted applications individually on a scale from 1 (poor) to 5 (excellent).

### *D. Funding Decision*

After applications have been evaluated and ranked numerically for funding by the review panel members, the Chief of the NCBO, in consultation with Program staff, will determine which projects will be recommended for funding based upon the technical evaluations and the panel review scores. However, in making the final selections, the Chief of the NCBO may also consider costs, including matching leverage, geographical distribution, and duplication with other projects. Accordingly, numerical ranking is not the sole factor in deciding which proposals will be selected for funding. The Chief of the NCBO will prepare a written justification for any recommendations for funding that fall outside the ranking order, or any cost adjustments. The Chief of the NCBO or his designee reserves the right to conduct a site visit to applicant organizations in order to help his making the final selection. The exact amount of funds awarded to each project will be determined in pre-award negotiations among the applicant, the Grants Office, and the NCBO staff. Potential grantees should not initiate projects in expectation of Federal funding until an award document signed by an authorized NOAA official has been received.

Unsuccessful applications will be kept on file in the Program office for a period of at least 12 months, then destroyed.

## VI. Administrative Requirements

### *A. Pre-Award Notification Requirements*

The requirements for grants and cooperative agreements contained in the **Federal Register** notice published October 1, 2001 (66 FR 49917), are applicable to this solicitation. However, please note that the Department of Commerce will not implement the requirements of Executive Order 13202 (66 FR 49921)under the Office of Management and Budget, in light of a court finding that the Executive Order was not legally authorized. See *Building and Construction Trades Department* v. *Allbaugh*, 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case has been finally resolved, the Department will provide further information on implementation of Executive Order 13202.

### *B. Indirect Cost Rates*

The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal government. Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the Department of Commerce will reimburse the recipient shall be the lesser of the line item amount for the Federal share of indirect costs contained in the approved budget of the award, or the Federal share of the total allocable indirect costs of the award based on the indirect cost rate approved by an oversight or cognizant Federal agency and current at the time the cost was incurred, provided the rate is approved on or before the award end date. However, the Federal share of the indirect costs may not exceed 25 percent of the total proposed direct

costs for this Program. Applicants with indirect costs above 25 percent may use the amount above the 25 percent level as cost sharing. If the applicant does not have a current negotiated rate and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of receiving an award.

*C. Allowable Costs*

Funds awarded cannot necessarily pay for all the costs that the recipient might incur in the course of carrying out the project. Allowable costs are determined by reference to the OMB Circulars A-122, ''Cost Principles for Nonprofit Organizations''; A-21, ''Cost Principles for Education Institutions''; and A-87, ''Cost Principles for State, Local and Indian Tribal Governments.'' Generally, costs that are allowable include salaries, equipment, supplies, and training, as long as these are ''necessary and reasonable.''

**Classification**

This action has been determined to be ''not significant'' for purposes of Executive Order 12866. Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Under section 553 (a)(2) of the Administrative Procedure Act, prior notice and an opportunity for public comment are not required for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for the purposes of the Regulatory Flexibility Act.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424 and 424A has been approved by OMB under the respective control numbers 0348-0043 and 0348-0044. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB control number.

Dated: April 1, 2002.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs for Fisheries, National Marine Fisheries Service.*

[FR Doc. 02–8433 Filed 4–5–02; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 000616180–2007–05]**

**RIN 0648–ZA91**

### NOAA Climate and Global Change Program, Program Announcement

**AGENCY:** Office of Global Programs, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Climate and Global Change Program represents a National Oceanic and Atmospheric Administration (NOAA) contribution to evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. This program builds on NOAA's mission requirements and long-standing capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Global Change Research Program (USGCRP), which is coordinated by the interagency Committee on Environmental and Natural Resources. NOAA's program is designed to complement other agencies' contributions to that national effort.

All proposals must be submitted in accordance with the requirements below. Failure to heed these guidelines will result in proposals being returned without review.

**DATES:** Unless otherwise noted, strict deadlines for submission to the FY 2003 process are: Letters of intent must be received at the Office of Global Programs (OGP) no later than 30 days after the Announcement appears in the **Federal Register**. Applicants who have not received a response to their letter of intent within four weeks should contact the Program Manager. Full proposals must be received at OGP no later than 60 days after the due date for Letters of Intent. The time from receipt of proposals to grant award varies by program area. We anticipate that review of full proposals will occur during August and September 2002, and funding should begin during early spring of 2003 for most approved projects. Applicants should be notified of their status within six months. February 1, 2003 or March 1, 2003, should be used as the proposed start date on proposals, unless otherwise directed by the appropriate Program Manager.

**ADDRESSES:** Letters of Intent and Proposals should be submitted to: Office of Global Programs; National Oceanic and Atmospheric Administration; 1100 Wayne Avenue, Suite 1210; Silver Spring, MD 20910–5603.

**FOR FURTHER INFORMATION CONTACT:** Irma duPree at the above address, or at (301) 427–2089 ext. 107, fax: (301) 427–2222, Internet: *irma.duPree@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**1. Funding Availability**

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current Program plans assume that over 50% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Please be advised that actual funding levels will depend upon the final FY 2003 budget appropriations. In previous years approximately $6,000,000 has been available. Approximately 60 new awards are made each year.

This Program Announcement is for projects to be conducted by investigators both inside and outside of NOAA, primarily over a one, two or three year period. The NOAA Climate and Global Change Program has been approved for multi-year funding up to a three year duration. The funding instrument for extramural awards will be a grant unless it is anticipated that NOAA will be substantially involved in the implementation of the project, in which case the funding instrument should be a cooperative agreement. Examples of substantial involvement may include but are not limited to proposals for collaboration between NOAA or NOAA scientists and a recipient scientist or technician and/or contemplation by NOAA of detailing Federal personnel to work on proposed projects. NOAA will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for contractual arrangements for services and products for delivery to NOAA is not available under this announcement. Matching share is not required by this program.

**2. Program Authority**

49 U.S.C. 44720(b); 33 U.S.C. 883d; 15 U.S.C. 2904; 15 U.S.C. 2931 et seq.; (CFDA No. 11.431)—Climate and Atmospheric Research

**3. Program Objectives**

The long-term objective of the Climate and Global Change Program is to

provide reliable predictions of climate variability and change with associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that climate variability across these time scales can be modelled with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmosphere-land surface system will be NOAA's primary contribution to a successful national effort to deal with observed or anticipated changes in the global environment. NOAA has a range of unique facilities and capabilities that can be applied to Climate and Global Change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural investigators are encouraged.

**4. Program Elements**

In FY 2003, NOAA will give priority attention to individual proposals in the Main Program Elements listed below. The names, affiliations and phone numbers of relevant Climate and Global Change Program Managers are provided. Funding for some programs may be limited to ongoing projects or may be used to fund projects proposed in FY 2002 that were unable to be funded due to budgetary circumstances. Prospective investigators are urged to check the Climate & Global Change Program Web page (*http://www.ogp.noaa.gov/*) for general Managers for information on priorities within program elements and prospects for funding.

(A) *Aerosol-Climate Interactions Program—(ACIP)*—The goal of the Aerosol-Climate Interaction Program (ACIP)—formerly known as the Aerosols Program, is elucidation of the role of aerosols in climate. To this end, ACIP seeks to answer the following questions: (1) What are the properties and distributions of radiatively significant tropospheric aerosols; and (2) What is the impact of those properties on the radiative balance of the Earth/Atmosphere climate system?

To this end, ACIP has restricted support to and will continue to support research focused on the following topics, which are all designed to address the two questions cited above in support of program goals: (1) In-situ measurements of aerosols, in the context of highly focused field studies; (2) improvement and development of methodologies necessary to fill critical gaps in current in-situ aerosol measurement capabilities; and (3) data analyses stressing the synergistic use of in-situ and remotely-sensed data sets.

ACIP functions in a highly cooperative context with related programs at the National Science Foundation, NASA, and the Department of Energy, with an emphasis on collaboration in multi-disciplinary field campaigns as well as individual investigations designed to exploit opportunities to achieve synergies among program goals. To facilitate achieving these ends, ACIP places high priority on research foci and strategies articulated by the National Aerosol-Climate Interaction Program. Further information on that program can be found on the Internet at *http://www.c4.ucsd.edu/NACIP.*

In FY 2003, ACIP anticipates augmentation of funding based upon the President's FY 2003 budget request. Because these funds have not yet been secured by NOAA, prospective participants in the program are warned that availability of funding is not assured.

For FY 2003, ACIP is soliciting proposals limited to the following:

(1) Investigations addressing limiting factors in current in-situ measurement capabilities. Priority will be given to methods and techniques applicable to development of fast, compact, instruments, capable of autonomous operation and integration with common data services, that can be deployed on light aircraft. Examples of applicable research include, but are not limited to, aerosol light absorption, chemical analyses of carbonaceous aerosols, selective analysis of soot, improved measurements of CCN, instrument intercomparisons and developments, of standards.

(2) Overlapping with item (1), special focus is placed on spin-up of comprehensive light-aircraft field measurements of the most radiatively important aerosols, with an emphasis on elucidation of black carbon distributions. The objective of this study will be collection of adequate data aloft to begin the process of verifying and validating chemical transport models. It is expected that a well-designed study will invoke and be highly integrated with a state-of-the-art modelling framework.

(3) As a follow-up to the ACE-Asia field campaign, data analyses stressing the synergistic use of multi-disciplinary data sets, with emphases on achieving closure on the radiative impacts of Asian aerosols observed during the campaign. Further information on ACE-Asia can be obtained at *http://http://saga.pmel.noaa.gov/aceasia/.*

Further information may be obtained from the ACIP home page posted on the Internet (*http://ogp.noaa.gov/mpe/acip/index.htm*). In addition, prospective investigators are welcome to contact the Program Manager, Joel Levy, at 301–427–2089 x111 (voice); 301–427–2073 (fax); or *Joel.Levy@noaa.gov* (e-mail).

(b) *Atmospheric Chemistry*—The Atmospheric Chemistry Project focuses on global monitoring, process-oriented laboratory and field studies, and theoretical modelling to improve the predictive understanding of the atmospheric trace species that influence the earth's chemical and radiative balance and the variation of the concentration of these trace species regionally and seasonally. Note that grants funded under this program support joint research activities of the International Global Atmospheric Chemistry (IGAC) project and NOAA/OGP, but are restricted to non-NOAA scientists whose participation is critical to the success of this research. Grant proposals will be evaluated by expert reviewers from the atmospheric chemistry community in the context of critical gaps in and desired supplements to the existing IGAC and NOAA research. For further information please contact: Krisa Arzayus NOAA/Office of Global Programs, 301–427–2089 ext. 183, Internet: *krisa.arzayus@noaa.gov;* or Fred C. Fehsenfeld, NOAA/Aeronomy Laboratory, Boulder, CO, 303–497–5819, Internet: *fcf@al.noaa.gov.*

(C) *Climate Observation:* The goal of this element is to build and sustain the global climate observing system that is needed to satisfy the long-term requirements of the operational forecast centers, international research programs, and major scientific assessments. The element supports in situ ocean and atmospheric components that contribute to global networks for understanding the Earth's climate system, the global water cycle, and the global carbon cycle, and looks for efficiencies to be gained by utilizing common platforms/sites/data infrastructure for several objectives. This program element will not accept applications for new projects in FY 2003, but will support renewal applications for ongoing efforts or as part of ongoing negotiations. For more information contact: Michael Johnson, NOAA Office of Global Programs, 301–427–2089 ext. 169, Internet: *johnson@ogp.noaa.gov.*

(D) *Climate and Societal Interactions (CSI):* Research on Vulnerability, Opportunities, and Response Options. Variability, change, and surprise results from a wide variety of climatological, social, economic and ecological circumstances and interactions. The purpose of this program is to increase

understanding of the impacts of climate variability and change as conditioned by ongoing processes of decision-making and socio-economic transformation. The suite of efforts is intended to further research-based integration between studies of the whole of the climate system, including human components, such as health, and evolving informational and educational needs of decision-makers in climate sensitive sectors around the world. The goal is to provide the basis for more effective application of climate information, including climate forecasts, for purposes of adaptation. The intent of this program is to encourage overlapping research approaches to integrate knowledge for problem solving. The CSI is a chapeau for a suite of activities; prospective applicants must apply to one of the following program elements:

*Human Dimensions of Global Change Research (HDGCR):* One of the main goals of the HDGCR program is understanding and analyzing the decision process as it relates to information about a dynamic climate system. The program is interested in building and analyses, modelling, and field work of societal adaptation to climate and the use of scientific information. For more information contact: Nancy Beller-Simms, NOAA/Office of Global Programs, 301–427–2089 ext. 180, *nancy.beller-simms@noaa.gov;* or Caitlin Simpson, NOAA/Office of Global Programs, 301–427–2089 ext. 152, *caitlin.simpson@noaa.gov.*

*Health and Climate Variability:* A joint interagency announcement is anticipated on Climate and Health. (For more information on this future announcement contact Juli Trtanj, NOAA/Office of Global Programs, 301–427–2089 ext. 134, Internet: *trtanj@ogp.noaa.gov.*)

*Regional Integrated Sciences and Assessments:* This program element was titled Regional Assessments. NOAA's present program of Regional Integrated Sciences and Assessments possesses three distinct qualities:

(1) Interdisciplinary, integration and synthesis; (2) bringing the gap between climatic, environmental and societal interactions on different temporal and spatial scales; and (3) decision support and services. It requires innovative partnerships among a spectrum of interested parties (Federal, State, local and private) to enable regional organizational capacity to develop accurate (*i.e.,* identifying risks, uncertainties, and/or indeterminacies), balanced syntheses and services on an ongoing basis. As such, the program relies heavily on consolidating the results and data from ongoing NOAA–OGP disciplinary program elements, already funded in a region, into an integrated framework. This program will not accept applications to initiate new activities, but will accept renewal applications for ongoing efforts or as part of ongoing negotiations. For more information contact: Harvey Hill, NOAA/Office of Global Programs, 301–427–2089 ext. 197, e-mail address: *harvey.hill@noaa.gov.*

(E) *Climate Change Data and Detection:* The scientific goals of this element include efforts to:

(1) Provide data and information management support to assure the availability of critical data sets for a variety of international programs and assessments of primary interest to NOAA's C&GC Program, *e.g.,* WCRP (World Climate Research Program) and IGBP (International Geosphere Biosphere Program), GCOS (the Global Climate Observing System), the IPCC (Intergovernmental Panel on Climate Change), as well as national programs and assessments, *e.g.,* Pan-American Climate Studies (PACS), US CLIVAR (Climate Variability and Predictability) Program, the US National Climate Assessment, the Tri-lateral North American Climate Extremes Assessment, *etc.;* (2) develop, quality control, and evaluate data sets and quantify time-dependent biases (homogeneity) for cross-cutting science necessary to improve our ability to describe, understand, and predict seasonal, interannual, decadal, and longer term climate variations and changes; (3) calibrate, validate, and blend existing data sets from a variety of observing systems, including space based, in situ, and model data (data set enrichment); (4) document the quantitative character of observed climate variations and changes (climate change detection); and (5) attribute changes in the observed climate record to specific climate forcing (climate change attribution).

During FY 2003, the Climate Change Data and Detection program element expects to include two major interagency activities:

—Climate Change Detection and Attribution: NOAA and the Department of Energy (DOE) will co-sponsor a project that addresses all aspects of climate change detection and attribution.

—Paleoclimatology: NOAA and the National Science Foundation (NSF) will co-sponsor a Paleoclimatology project that will entertain proposals to support the joint WCRP CLIVAR/IGBP PAGES Research Initiative. This initiative is jointly supported by NOAA and the NSF through the Earth System History (ESH) Program at NSF. This project will complement an in-house NOAA paleoclimatology research effort. For further information contact: Bill Murray, NOAA, 301–427–2098 ext. 133, Internet: *murray@ogp.noaa.gov;* Chris Miller, NOAA, 301–427–2089 ext. 143, Internet: *miller@ogp.noaa.gov;* Rick Petty, DOE; 301–903–5548, Internet: *rick.petty@oer.doe.gov;* or David Verardo, NSF, 703–292–8527, Internet: *dverardo@nsf.gov.*

(F) *Climate Dynamics and Experimental Prediction:* This program will not accept applications to initiate centers at new institutions, but will accept renewal applications for ongoing efforts or as part of ongoing negotiations. Qualified applications for this program may be submitted throughout the year. For further information contact: Anjuli Bamzai, NOAA/Global Programs, Silver Spring, MD; telephone: 301–427–2089 ext. 113, Internet: anjuli.bamzai.noaa.gov.

(G) *Climate Variability and Predictability (CLIVAR):* The U.S. CLIVAR program seeks to observe, model and understand patterns of climate variability on seasonal to decadal time scales and to assess the predictability of such climate variability. The ultimate goal of NOAA's participation in CLIVAR is to develop skillful predictions of climate variability and change on seasonal to multi-decadal time scales and regional spatial scales for optimal use in resource planning and police decision making. The program is designed to understand global climate variability; to determine the spatial and temporal extent to which this variability is predictable, to develop the observational, theoretical, and computational means to predict variability and to make enhanced predictions, where feasible. NOAA's research focuses on large-scale recurrent patterns of variability that influence climate on the regional scale, particularly over the US. Among these patterns are the El Nino-Southern Oscillation (ENSO), Pacific Decadal Oscillation (PDO), Tropical Atlantic Variability (TAV), the North Atlantic Oscillation (NAO), and the American monsoon systems. NOAA has structured its CLIVAR program to focus on variability and predictability within three regions: the Atlantic, the Pacific, and Pan America. For the Pan American Climate Studies (PACS) program, please contact Michael Patterson, NOAA/Global Programs, 301–427–2089 ext. 102, Internet: *michael.patterson@noaa.gov.* For further information on CLIVAR-Atlantic, please contact James Todd,

NOAA/Global Programs, 301/427–2089 ext. 139, Internet: *james.todd@noaa.gov.* For the CLIVAR- Pacific, please contact Ming Ji, NOAA/Global, Programs, 301–427–2089 ext. 189, Internet: *ming.ji@noaa.gov.*

(H) *Economics and Human Dimensions of Climate Fluctuations:* Please see *Climate and Societal Interactions (CSI)* above.

(I) *GEWEX Americas Prediction Project (GAPP):* GAPP is jointly supported by NOAA and NASA. Initiatives are solicited which have a geographical focus on the western USA or the Mississippi River Basin, and address the following GAPP priorities:

(1) *Land memory and orographic processes and their spatial and temporal variability:* GAPP seeks to better understand the contributions of orography (including features such as the low level jet), soil moisture, vegetation and snow and other cold land processes to the predictability of the water cycle.

(2) Model transferability studies, enriched data set production and assimilation of remotely-sensed data to support the US contribution to the GEWEX Coordinated Enhanced Observing Period.

(3) Scientific investigations to examine the applications of climate forecasts and GAPP products in water resources management. Details about GAPP are available through the GAPP Science Plan and on the GAPP Web Site at *http://www.ogp.noaa.gov/mpe/gapp/index.htm.* For further information, please contact Rick Lawford (lawford@ogp.noaa.gov. 301–427–2089 ext. 146), or Michael Jasinski (mjasinsk@mail.hq.nass.gov, 202–358–1847), or Jin Huang (huang@ogp.noaa.gov, 301–427–2089 ext. 148).

(J) *Global Carbon Cycle (GCC):* The U.S. Interagency Carbon Cycle Science Program (CCSP) seeks to answer two overarching questions: (1) How large and variable are the dynamic reservoirs and fluxes of carbon within the Earth System, and how might carbon cycling change and be changed in future years, decades and centuries, and (2) What are our options for managing carbon sources and sinks to achieve an appropriate balance of risk, costs, and benefits to society? For more detailed information on interagency priorities, science planning and agency roles, please consult the Web at: *http://www.carboncyclescience.gov.*

NOAA's participation in the U.S. program focuses on three main goals: (1) Quantifying spatial patterns and variability of carbon sources and sinks at global to regional scales; (2) documenting the fate of anthropogenic CO2 in the atmosphere and oceans; and (3) improving future climate predictions by incorporating a dynamic understanding of the carbon cycle into models. To achieve these goals, the GCC program focuses on oceanic and atmospheric observations, process-oriented field studies and modelling. Information and current project abstracts can be found on the Web at: *http://www.ogp.noaa.gov/mpe/gcc/index/html.* For FY2003, GCC will issue a separate announcement later in the year. Investigators interested in the GCC program area are encouraged to respond to this later announcement. For further information, please contact: Lisa Dilling, NOAA/Office of Global Programs, 301–427–2089 ext. 106, Internet: *dilling@ogp.noaa.gov* or Krisa Arzayus, 301–427–2089 ext. 183 Internet: *krisa.arzayus@noaa.gov* or see the Web at: *http://www.ogp.noaa.gov/mpe/gcc/index/html.*

(K) *Paleoclimatology:* Please see *Climate Change Data and Detection* above.

**5. Eligibility**

Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, international organizations, state, local and Indian tribal governments. Applications from non-Federal and Federal applicants will be competed against each other. Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this notice. Proposals selected for funding from NOAA scientists shall be effected by an intra-agency fund transfer. Proposals selected for funding from a non-NOAA Federal agency will be funded through an inter-agency transfer. PLEASE NOTE: Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of the appropriation. The only exception to this is governmental research facilities for awards issued under the authority of 49 USC 44720. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 USC 1535) is not an appropriate legal basis.

**6. Letters of Intent (LOI)**

The purpose of the LOI process is to provide information to potential applicants on the relevance of their proposed project to the Climate and Global Change Program and the likelihood of it being funded in advance of preparing a full proposal. Full proposals will be encouraged only for LOIs deemed relevant, therefore, it is in the best interest of the applicants and their institutions to submit an LOI; however, it is not a requirement. The LOI should provide a consise description of the proposed work and its relevance to the targeted program element. The LOI must include the components listed below. If these components are not included, the LOI risks a delayed response and may not be considered by the program reviewers. (A) Investigators must identify the program element that is being targeted in the LOI. (B) Investigators must specify a tentative project title in the LOI. (C) LOIs must include the name and institution of all principal investigator(s), and specify which individual is the Lead principal investigator. (D) LOIs should be no more than two pages in length and must include a statement of the problem, brief summary of work to be completed, methodology to be used, and approximate cost of the project. Facsimile and electronic mail are acceptable for LOIs (but not for full proposals).

A panel of program managers will review each LOI to determine whether the LOI is responsive to the program goals as advertised in this notice. An LOI response (e-mail or letter) will be sent back to the investigator encouraging or discouraging a full proposal. The final decision to submit a full proposal will be made by the investigator.

**7. Evaluation Criteria**

Consideration for financial assistance will be given to those proposals that address one of the Program Elements listed above and meet the following evaluation criteria:

(A) *Scientific Merit:* Intrinsic scientific value of the subject and the study proposed, including methodology and readiness: 50%.

(B) *Relevance:* Importance and relevance to the goals of the selected Program Element(s). (*See* **Program Objectives** above): 50%.

**8. Selection Procedures**

Proposals, including those submitted by NOAA employees, will be evaluated in accordance with the above evaluation criteria by (A) independent per mail review, and/or (B) independent peer panel review consisting of both NOAA and non-NOAA (including non-Federal) experts. The Program Manager will not be a voting member of an independent peer panel. Occasionally a peer mail review or a peer panel review will be used exclusively. More often, the peer

mail reviews will be provided to the peer review panel for use in its deliberations. The peer mail reviewers rate each proposal using the above evaluation criteria. The panel will review and discuss each project and, based on the above evaluation criteria, each member of the panel will separately provide a single numerical rating of each project. These ratings result in a rank order which, in association with a post-rating panel discussion, is used to establish those proposals that are meritorious and relevant and worthy of further consideration.

The Program Manager will make his/her recommendations to the Selecting Official based upon his/her determination as to which of the worthy proposals (1) best achieve the strategic goals of NOAA (2) are most likely to be completed successfully, (3) do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other federal agencies, (4) provide programmatic balance, (5) are highly cost effective and (6) fall within remaining funds available. Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding. Although rare, the Program Manager may decide to recommend a project that was not categorized as worthy of funding if he/she determines that it is a high-risk project from which a substantial potential benefit may occur. The Program Manager will also determine the total duration of funding and the amount of funding for each selected proposal.

The Program Manager submits his/her recommendations to the Selecting Official who may approve or modify the final selection of projects to be recommended to the Grants Officer for funding based on the selection factors (1) to (6) above or classified as high risk, but with substantial potential benefit.

Applications proposed for funding are subject to the requirements of Executive Order 12372, ''intergovernmental Review of Federal Programs''. This Notice has been determined to be ''not significant'' for purposes of Executive Order 12866. It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132. Because notice and comment are not required under 5 U.S.C. 553, or any other law, for this notice relating to public property, loans, grants benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 601 et seq. Pursuant to Executive Orders 13256, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HIS), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed at the following Internet Web site: *http://www.ed.gov/offices/OCR/99minin.html.*

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the Federal Register notice of October 1, 2001 (66 FR 49917), are applicable to this solicitation. However, please note that the Department will not implement the requirements of Executive Order 13202 (66 FR 49921), pursuant to guidance issued by the office of Management Budget in light of a court opinion which found that the Executive Order was not legally authorized. *See Building and Construction Trades Department* v. *Allbaugh*, 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case has been finally resolved, the Department will provide further information on implementation of Executive Order 13202.

**Louisa Koch,**

*Deputy Assistant Administrator.*

[FR Doc. 02–8453 Filed 4–5–02; 8:45 am]

**BILLING CODE 3510–KB–M**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Qatar

April 2, 2002.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting a limit.

**EFFECTIVE DATE:** April 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 347/348 is being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 59582, published on November 29, 2001.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

April 2, 2002.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 23, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Qatar and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002.

Effective on April 9, 2002, you are directed to reduce the current limit for Categories 347/348 to 691,957 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs

[1] The limit has not been adjusted to account for any imports exported after December 31, 2001.

exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–8419 Filed 4–5–02; 8:45 am]

**BILLING CODE 3510–DR–S**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Proposed Information Collection: Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Currently, the Corporation is soliciting comments concerning its proposed new AmeriCorps Application for Membership. This application will be used to screen and place applicants into the various AmeriCorps programs, and will replace the previous OMB approved individual application.

Copies of the information collection requests can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

The Corporation is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Propose ways to enhance the quality, utility and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section by June 7, 2002.

**ADDRESSES:** Send comments to the Corporation for National and Community Service, Office of AmeriCorps Recruitment, 8th Floor, Attn: Mr. Noel McCaman, 1201 New York Avenue, NW. Washington, DC 20525.

**FOR FURTHER INFORMATION CONTACT:** Mr. Noel McCaman, (202) 606–5000, ext. 443.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The AmeriCorps member application will gather data from applicants, including background information, educational history, skills and experience, and a motivational statement that AmeriCorps may use in evaluating their suitability for becoming a member and to place them in the most appropriate program(s) that match their skills and interests.

#### II. Current Action

The Corporation seeks approval of its new AmeriCorps Application for Membership. The new application has very few changes from the previously approved application. If approved, this application will continue to enable applicants to complete one application and be considered for multiple programs within AmeriCorps. This new application will continue to be cost-effective for the government by providing a centralized information source and streamlined process for receiving applications and placing them into the proper programs.

*Type of Review:* Renewal.

*Agency:* Corporation for National and Community Service.

*Title:* AmeriCorps Application for Membership.

*OMB Number:* 3045–0054.

*Agency Number:* None.

*Affected Public:* Those individuals interested in applying to become a member of any of the AmeriCorps programs, including AmeriCorps*NCCC and AmeriCorps*VISTA, and hundreds of State and local programs located throughout the country which recruit AmeriCorps members.

*Total Respondents:* Approximately 75,000. (Approximately 50,000 individuals serve each year in AmeriCorps programs; (collection totals are inexact, as almost all completed applications are submitted to local programs and are not sent to the Corporation for National Service)).

*Frequency:* One time. Applicants may make copies of their completed form, and submit copies (each, however, with an original signature) to several different AmeriCorps programs for consideration. In addition, applicants may fill out the same application on line at the Corporation's Web site. Applicants may then send multiple applications to programs electronically.

*Average Time Per Response:* 45 minutes.

*Estimated Total Burden Hours:* 56,250 hours. (if 75,000 individuals complete the form per year).

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 2, 2002.

**Noel V. McCaman,**

*Director, AmeriCorps Recruitment, Selection and Placement.*

[FR Doc. 02–8417 Filed 4–5–02; 8:45 am]

**BILLING CODE 6050–$$–P**

## DEPARTMENT OF DEFENSE

### U.S. Marine Corps

### Privacy Act of 1974; System of Records

**AGENCY:** U.S. Marine Corps, DoD.

**ACTION:** Notice to delete and amend systems of records.

**SUMMARY:** The U.S. Marine Corps proposes to delete and amend systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** This action will be effective without further notice on May 8, 2002, unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to the Head, FOIA and Privacy Act Section, Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

**FOR FURTHER INFORMATION CONTACT:** Ms. B. L. Thompson at (703) 614–4008 or DSN 224–4008.

**SUPPLEMENTARY INFORMATION:** The U.S. Marine Corps record system notices for

records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 1, 2002.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**Deletion**
**MFD00005**

**SYSTEM NAME:**

Retired Pay/Personnel System (RPPS) (February 22, 1993, 58 FR 10630).

**REASON:**

These records are now under the cognizance of the Defense Finance and Accounting Service (DFAS), and are being maintained under the DFAS system of records notice T7347b, Defense Military Retiree and Annuity Pay System (April 12, 1999, 64 FR 17629).

**Amendments**
**MIL00019**

**SYSTEM NAME:**

Equipment and Weapons Receipt or Custody Files (August 17, 1999, 64 FR 44698).

**CHANGES:**

* * * * *

**STORAGE:**

Delete entry and replace with 'Paper and automated records.'

* * * * *

**SAFEGUARDS:**

Delete entry and replace with 'Paper files and computer terminals are located in limited access areas and handled only by authorized personnel who are properly screened and trained to work with automated systems of records.'

* * * * *

**MIL00019**

**SYSTEM NAME:**

Equipment and Weapons Receipt or Custody Files.

**SYSTEM LOCATION:**

System is decentralized. Records are maintained at Marine Corps commands, organizations, or activities that issue said equipment or weapons.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

System contains name, rank, Social Security Number, unit address, and date.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This file contains name, rank, Social Security Number, itemized list of equipment issued, date issued, and possibly unit and section/Department to which assigned.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps.

**PURPOSE(S):**

To provide a record of individuals who have government property in their possession for use in the management of that property.

**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) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Marine Corps compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper and automated records.

**RETRIEVABILITY:**

Records are filed alphabetically by name.

**SAFEGUARDS:**

Paper files and computer terminals are located in limited access areas and handled only by authorized personnel who are properly screened and trained to work with automated systems of records.

**RETENTION AND DISPOSAL:**

These records are destroyed upon the return of the property listed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commanding officer of the activity.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding officer of the activity.

Provide full name and military status. Proof of identity may be established by military identification card or DD Form 214 and drivers license.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding officer of the activity.

Provide full name and military status. Proof of identity may be established by military identification card or DD Form 214 and drivers license.

**CONTESTING RECORD PROCEDURES:**

The USMC rules for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; Marine Corps Order P5211.2; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Information is entered by visual certification of property, issued and identification presented by individual.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**MMN00006**

**SYSTEM NAME:**

Marine Corps Military Personnel Records (OQR/SRB)(October 13, 2000, 65 FR 60914)

**CHANGES:**

* * * * *

**STORAGE:**

At the end of the sentence delete 'and on microfiche' and add ', on microfiche, and on electronic storage mediums.'

* * * * *

**SAFEGUARDS:**

Delete entry and replace with 'Paper files and computer terminals are located in limited access areas and handled only by authorized personnel who are properly screened and trained to work with automated systems of records. Computer terminals are protected by passwords.'

* * * * *

**MMN00006**

**SYSTEM NAME:**

Marine Corps Military Personnel Records (OQR/SRB).

**SYSTEM LOCATION:**

Primary system: Headquarters, U.S. Marine Corps (Code MMSB), 2008 Elliot Road, Quantico, VA 22134–5030.

**DECENTRALIZED SEGMENTS:**

Commanding officer of the organization to which the Marine officer or enlisted individual is assigned for duty and has responsibility for the Officer Qualification Records/Service Record Books (OQR/SRB).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All Marine Corps military personnel (enlisted/officer): Reserve, retired and discharged or otherwise separated.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains the Official Military Personnel File, SRB and OQR.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 30l, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

**PURPOSE(S):**

To provide a record on all Marine Corps military personnel for use in management of resources, screening and selection for promotion, training and educational programs, administration of appeals, grievances, discipline, litigations and adjudication of claims and determination of benefits and entitlements.

**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) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of the Coast Guard and National Guard in the performance of their official duties relating to screening members who have expressed a positive interest in an interservice transfer, enlistment, appointment or acceptance.

To agents of the Secret Service in connection with matters under the jurisdiction of that agency upon presentation of credentials.

To private organizations under government contract to perform random analytical research into specific aspects of military personnel management and administrative procedures.

To officials and employees of the American Red Cross and Navy Relief Society in the performance of their duties. Access will be limited to those portions of the member's record required to effectively assist the member.

To officials and employees of the Sergeant at Arms of the U.S. House of Representatives in the performance of official duties related to the verification of Marine Corps service of Members of Congress. Access will be limited to those portions of the member's record required to verify service time, active and reserve.

To state, local, and foreign (within Status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

To officials and employees of the Department of Veterans Affairs, Department of Health and Human Services, and Selective Service Administration in the performance of their official duties related to eligibility, notification, and assistance in obtaining benefits by members and former members of the Marine Corps.

To officials and employees of the Department of Veterans Affairs in the performance of their official duties relating to approved research projects.

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in performance of their official duties related to the management, supervision, and administration of members and former members of the Marine Corps.

To Federal agencies, their contractors and grantees, and to private organizations, such as the National Academy of Sciences, for the purposes of conducting personnel and/or health-related research in the interest of the Federal government and the public. When not considered mandatory, the names and other identifying data will be eliminated from records used for such research studies.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Marine Corps compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are stored on paper in file folders, magnetic megastorage, on microfiche, and on electronic storage mediums.

**RETRIEVABILITY:**

The records at Headquarters, U.S. Marine Corps (all active and reserve officer records, all temporary disability retired records, all active and organized reserve and Fleet Marine Corps Reserve enlisted records of personnel joined/transferred to these components subsequent to June 30, 1974, all former Commandants, all living retired officers (who served in General Officer grade, records of all personnel separated/retired four months or less) are retrieved by full name and Social Security Number. Except for OQR's and SRB's of participating members, all other categories of Marine Corps military personnel records are maintained at the National Personnel Records Center, St. Louis, MO. Those retired to St. Louis prior to January 1, 1964 and/or those with military service numbers (MSN) below 1800000 are retrieved by MSN and full name. All other Marine Corps records retired to St. Louis, MO are accessed by MSN and/or Social Security Number and are retrieved by an assigned registry number.

**SAFEGUARDS:**

Paper files and computer terminals are located in limited access areas and handled only by authorized personnel who are properly screened and trained to work with automated systems of records. Computer terminals are protected by passwords.

**RETENTION AND DISPOSAL:**

Records are permanent. Records maintained at Headquarters, U.S. Marine Corps are transferred to the National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100, one year after separation, placement on the Permanent Disability Retired List, retirement, retirement from Fleet Marine Corps Reserve, death of an officer who served in General Officer grade and former Marines no longer considered of newsworthy status.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commandant of the Marine Corps (Code MMSB), Headquarters, U.S. Marine Corps, 2008 Elliot Road, Quantico, VA 22134–5030.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commandant of the Marine Corps (Code MMSB), Headquarters, U.S. Marine Corps, 2008 Elliot Road, Quantico, VA 22134–5030 (for active duty members); or to the Director, National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100 (for separated members).

Individuals seeking to determine information about their OQR/SRB

records maintained by their respective commanding officer should address written inquiries to the command concerned. U.S. Marine Corps official mailing addresses are incorporated into Department of the Navy's mailing addresses, published as an appendix to the Navy's compilation of record system notices. Written requests should contain the full name, Social Security Number, and signature of the requester.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records about themselves contained in this system of records should address written requests to the Commandant of the Marine Corps (Code MMSB), Headquarters, U.S. Marine Corps, 2008 Elliot Road, Quantico, VA 22134–5030 (for active duty personnel); to the respective commanding officer of the command concerned for OQR/SRB; or to the Director, National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100 (for separated members).

Written requests should include the full name, Social Security Number, and signature of the requester.

The individual may visit any of the above activities for review of records. Proof of identification may consist of an individual's active, reserve or retired identification card, Armed Forces Report of Transfer or Discharge (DD Form 214), discharge certificate, driver's license, or other data sufficient to insure that the individual is the subject of the record.

**CONTESTING RECORD PROCEDURES:**

The U.S. Marine Corps rules for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; Marine Corps Order P5211.2; 32 CFR part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Staff agencies and subdivisions of Headquarters, U.S. Marine Corps; Marine Corps commands and organizations; other agencies of federal, state, and local government; medical reports; correspondence from financial and other commercial enterprises; correspondence and records of educational institutions; correspondence of private citizens addressed directly to the Marine Corps or via the U.S. Congress and other agencies; investigations to determine suitability for enlistment, security clearances, and special assignments; investigations related to disciplinary proceedings; and the individual of the record.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 02–8239 Filed 4–5–02; 8:45 am]

**BILLING CODE 5001–08–P**

## DEPARTMENT OF EDUCATION

### President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

**AGENCY:** President's Advisory Commission on Educational Excellence for Hispanic Americans, Department of Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Advisory Commission on Educational Excellence for Hispanic Americans (Commission). This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

**DATES AND TIMES:** Wednesday, April 17, 2002, 8 a.m. to 4:30 p.m., and Thursday, April 18, 2002, 8:00 a.m. to 9 a.m. and 12:30 p.m. to 2 p.m.

**ADDRESSES:** The Commission meeting will be held in Las Vegas, Nevada, at The Venetian Hotel located at 3355 Las Vegas Boulevard South, Las Vegas, Nevada, 89109.

**FOR FURTHER INFORMATION CONTACT:** Leslie Sanchez, Executive Director, or Adam Chavarria, Associate Director, White House Initiative on Educational Excellence for Hispanic Americans, 400 Maryland Ave., SW., Washington, D.C. 20202, (202) 401–1411.

**SUPPLEMENTARY INFORMATION:** The President's Advisory Commission on Educational Excellence for Hispanic Americans is established under Executive Order 13230 dated October 12, 2001. The Commission is established to provide advice to the Secretary of Education (Secretary) and issue reports to the President concerning: (a) the progress of Hispanic Americans in closing the academic achievement gap and attaining the goals established by the President's No Child Left Behind Act of 2002; (b) the development, monitoring, and coordination of Federal efforts to promote high-quality education for Hispanic Americans; (c) ways to increase parental, State and local, private sector, and community involvement in improving education; and (d) ways to maximize the effectiveness of Federal education initiatives within the Hispanic community. Individuals who will need accommodations for a disability in order to attend the meeting (i.e. interpreting services, assistive listening devices, materials, in alternative format) should notify Adam Chavarria at (202) 401–1411 by no later than April 12. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities. On Wednesday, April 17th, the Commission will receive testimony from a panel of experts on a range of educational topics. On Thursday, the Commission will convene in the morning to receive briefings from two working groups and to deliberate on presentations, findings and next steps. The Commission will meet in open session from 8 a.m. to 4:30 p.m. on Wednesday, and from 8 a.m. to 9 a.m. and from 12:30 p.m. to 2 p.m. on Thursday.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the White House Initiative on Educational Excellence for Hispanic Americans from the hours of 9 a.m. to 5 p.m.

Dated: April 1, 2002.

**Laurie M. Rich,**

*Assistant Secretary, Office of Intergovernmental and Interagency Affairs.*

[FR Doc. 02–8371 Filed 4–5–02; 8:45 am]

**BILLING CODE 4000–01–M**

## DEPARTMENT OF ENERGY

### Office of Science; Advanced Scientific Computing Advisory Committee; Notice of Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of Open Meeting.

**SUMMARY:** This notice announces a meeting of the Advanced Scientific Computing Advisory Committee (ASCAC). Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, May 2, 2002, 8:30 a.m. to 5:30 p.m.; Friday, May 3, 2002, 8:45 a.m. to 2:00 p.m.

**ADDRESSES:** Crowne Plaza Hotel, 14th and K Streets, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Melea Baker, Office of Advanced Scientific Computing Research; US Department of Energy; 19901 Germantown Road; Germantown, MD

20874–1290; Telephone (301)–903–7486 (E-mail: *Melea.Baker@science.doe.gov*).

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Meeting:* The purpose of this meeting is to provide advice and guidance with respect to the advanced scientific computing research program.

**Tentative Agenda**

*Thursday, May 2, 2002*

Introduction
Remarks from the Director, Office of Science
Remarks from the Office of Advanced Scientific Computing Research
Scientific Discovery through Advanced Computing Update
Facilities Subcommittee Report
Performance Measures
Biotechnology Subcommittee Update
Genomes to Life Roadmap
Public Comment

*Friday, May 3, 2002*

Nanotechnology Workshop Update
SC-Wide Issues
New Business
Advisory Committee Open Discussion of Issues
Public Comment

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Melea Baker via FAX at 301–903–4846 or via e-mail (*Melea.Baker@science.doe.gov*). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

*Minutes:* The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW; Washington, DC 20585; between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, DC on April 2, 2002.

**Rachel M. Samuel,**

*Deputy Committee Management Officer.*

[FR Doc. 02–8395 Filed 4–5–02; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Office of Science; Biological and Environmental Research Advisory Committee; Notice of Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Biological and Environmental Research Advisory Committee. Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, April 25, 2002, 8:30 a.m. to 5:00 p.m.; and Friday, April 26, 2002, 8:30 a.m. to 12:00 p.m.

**ADDRESSES:** American Geophysical Union, 2000 Florida Avenue, NW, Washington, DC 20009.

**FOR FURTHER INFORMATION CONTACT:** Dr. David Thomassen (301–903–9817; *david.thomassen@science.doe.gov*), or Ms. Shirley Derflinger (301–903–0044; *shirley.derflinger@science.doe.gov*), Designated Federal Officers, Biological and Environmental Research Advisory Committee, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–70, 19901 Germantown Road, Germantown, Maryland 20874–1290. The most current information concerning this meeting can be found on the Web site: *http://www.science.doe.gov/ober/berac/announce.html.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Meeting:* To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the biological and environmental research program.

**Tentative Agenda**

Thursday, April 25, and Friday, April 26, 2002:

- Welcoming Remarks.
- Remarks from Dr. Ray Orbach, Director, Office of Science.
- Presentations and discussion by other Federal agencies who partner with Biological and Environmental Research—the National Institutes of Health, the United States Department of Agriculture, the Environmental Protection Agency, and the National Science Foundation.
- Discussion of research resource needs for the Genomes to Life research program.
- Science talk on free electron laser research.
- Report by Dr. Ari Patrinos, Associate Director of Science for Biological and Environmental Research.
- Review of working group activities.
- Report on mathematics and computing needs for the Genomes to Life research program.
- New Business.
- Public Comment (10-minute rule).

*Public Participation:* The day and a half meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact David Thomassen or Shirley Derflinger at the address or telephone numbers listed above. You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

*Minutes:* The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on April 2, 2002.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 02–8394 Filed 4–5–02; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–301–044]**

### ANR Pipeline Company; Notice of Negotiated Rates

April 2, 2002.

Take notice that on March 28, 2002, ANR Pipeline Company (ANR) filed amendments to fifteen (15) service agreements that have previously been accepted as negotiated rate agreements.

ANR states that the amendments reflect revised exhibits effectuating a change in shippers' quantities in storage agreements and transportation agreements used for injection into storage.

ANR further requests clarification as to the necessity of filing amendments

that effectuate changes to negotiated rate agreements pursuant to provisions that have previously been authorized by the Commission. Alternatively, ANR seeks a waiver of the filing requirement for changes in volume levels pursuant to the provision in its agreements that permit such changes upon changes in fuel use percentages.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8407 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. PR02–13–000]**

## The Cincinnati Gas & Electric Company; Notice of Petition for Rate Approval

April 2, 2002.

Take notice that on March 1, 2001, The Cincinnati Gas & Electric Company (Cincinnati), filed a new rate election pursuant to Section 284.123(b)(1)(ii) of the Federal Energy Regulatory Commission's (Commission), Regulations (18 CFR 284.123). Cincinnati proposes an effective date of March 1, 2002.

Pursuant to Section 284.123(b)(1)(ii) of the Commission's regulation, Cincinnati proposes to utilize a cost-based rate that has been approved by the Public Utilities Commission of Ohio, in this instance Cincinnati's currently effective Rate IT for comparable interruptible transportation service.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before April 17, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This petition for rate approval is on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8404 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP02–213–000]**

## Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 2, 2002.

Take notice that on March 28, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of to its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of May 1, 2002:

Ninth Revised Sheet No. 282
Second Revised Sheet No. 290

On May 2, 2001, Columbia made a filing with the Commission initiating Docket No. CP01–260. In that filing, Columbia requested a certificate of public convenience and necessity to construct and operate facilities needed to serve a new customer. On February 27, 2002, the Commission issued an order (Order) (Columbia Gas Transmission Corp., 98 FERC ¶ 61,206 (2002)) approving Columbia's proposals. In the May 2, 2001 filing, Columbia requested a waiver of the 20-year term limit for service agreements currently in its tariff. In the Order, the Commission questioned whether this current 20-year restriction in Columbia's tariff was necessary and directed Columbia to revise its tariff to eliminate this term restriction. The instant filing is being made to revise the tariff to eliminate this term restriction.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8414 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–212–000]**

### Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC gas Tariff

April 2, 2002.

Take notice that on March 28, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of May 1, 2002:

Fourth Revised Sheet No. 146
First Revised Sheet No. 150

On May 2, 2001, Columbia Gulf's affiliate, Columbia Gas Transmission Corporation, (Columbia Gas) made a filing with the Commission initiating Docket No. CP01–260. In that filing, Columbia Gas requested a certificate of public convenience and necessity to construct and operate facilities needed to serve a new customer. On February 27, 2002, the Commission issued an order (Order) (Columbia Gas Transmission Corp., 98 FERC ¶ 61,206 (2002)) approving Columbia Gas' proposals. In the May 2, 2001 filing, Columbia Gas requested a waiver of the 20-year term limit for service agreements currently in its tariff. In the Order, the Commission questioned whether this current 20-year restriction in Columbia Gas' tariff was necessary and directed Columbia Gas to revise its tariff to eliminate this term restriction. The instant filing is being made by Columbia Gulf to incorporate similar changes to its tariff.

Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8413 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–211–000]**

### Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 2, 2002.

Take notice that on March 28, 2002, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of May 1, 2002:

First Revised Sheet No. 82
First Revised Sheet No. 90

On May 2, 2001, Crossroads' affiliate, Columbia Gas Transmission Corporation, (Columbia Gas) made a filing with the Commission initiating Docket No. CP01–260. In that filing, Columbia Gas requested a certificate of public convenience and necessity to construct and operate facilities needed to serve a new customer. On February 27, 2002, the Commission issued an order (Order) (Columbia Gas Transmission Corp., 98 FERC ¶ 61,206 (2002)) approving Columbia Gas' proposals. In the May 2, 2001 filing, Columbia Gas requested a waiver of the 20-year term limit for service agreements currently in its tariff. In the Order, the Commission questioned whether this current 20-year restriction in Columbia Gas' tariff was necessary and directed Columbia Gas to revise its tariff to eliminate this term restriction. The instant filing is being made by Crossroads to incorporate similar changes to its tariff.

Crossroads states that copies have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8412 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP96–383–040]**

### Dominion Transmission, Inc.; Notice of Compliance Filing

April 2, 2002.

Take notice that on March 28, 2002, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet to comply with the Commission's Letter Order issued on March 15, 2002, in Docket No. RP96–383–038, with an effective date of November 1, 2001:

First Revised Sheet No. 1138

DTI states that the purpose of this filing is to comply with the condition imposed by the Letter Order. DTI requests an effective date of April 1, 2002, for its proposed tariff sheet.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers, interested state commissions and on all persons on the official service list compiled by the Secretary of the Commission for this proceeding.

Any person desiring to protest said filing should file a protest with the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8406 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP02–214–000]**

## El Paso Natural Gas Company; Notice of Crediting Report

April 2, 2002.

Take notice that on March 28, 2002, El Paso Natural Gas Company (EPNG) tendered for filing its revenue crediting report for the calendar year 2001.

EPNG states that the report details EPNG's crediting of risk sharing revenues for the calendar year 2001 in accordance with Section 25.3 of the General Terms and Conditions of its Volume No. 1–A Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed April 9, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8415 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP96–320–055]**

## Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

April 2, 2002.

Take notice that on March 28, 2002, Gulf South Pipeline Company, LP (Gulf South) tendered for filing contracts between Gulf South and the following companies for disclosure of recently negotiated rate transactions. As shown on the contracts, Gulf South requests an effective date of April 1, 2002.

Special Negotiated Rate Between Gulf South Pipeline Company, LP and:
Atmore Utilities Board, Contract No. 14485
Town of Century, Contract No. 14496
The City of Pensacola, Contract No. 14560
South Alabama Gas, Contract No. 14505
South Alabama Utilities, Contract No. 14558

Gulf South states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this proceeding

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8405 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP02–215–000]**

## Kinder Morgan Interstate Gas Transmission, LLC; Notice of Tariff Filing

April 2, 2002.

Take notice that on March 29, 2002 Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing to become part of KMIGT's FERC Gas Tariff, the following revised tariff sheets, to become effective May 1, 2002:

*Fourth Revised Volume No. 1–A*

Third Revised Sheet No. 11
Original Sheet No. 37A
Original Sheet No. 93A

*Fourth Revised Volume No. 1–B*

Third Revised Sheet No. 32
Second Revised Sheet No. 33
Fourth Revised Sheet No. 43

KMIGT states that it is making this tariff filing to add a new appendix to its Firm Transportation Service Agreement and to its No Notice Service Agreement and to change and update certain sections of KMIGT's FERC Gas Tariff.

KMIGT states that a copy of this filing has been served upon all of its customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8416 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP01–172–005]**

### Mojave Pipeline Company; Notice of Report of Rate Refunds

April 2, 2002.

Take notice that on March 27, 2002, Mojave Pipeline Company (Mojave) tendered for filing its Report of Rate Refunds at Docket Nos. RP01–172–000, et al.

Mojave states that on March 1, 2002, it distributed refunds totaling $2,605,268.02, inclusive of interest, to eligible shippers.

Mojave states that a copy of this Report of Rate Refunds, except for the diskette and the Tab 3 refund detail, is being served upon all shippers on Mojave's system, and interested state regulatory commissions. Mojave states that copies of the pertinent refund detail, and capacity release detail if applicable, were included with each shipper's refund. Mojave has not furnished the refund detail under Tab 3 of this filing to all shippers and interested parties due to the commercially sensitive nature of such material.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 9, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8409 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–13–002]**

### Portland Natural Gas Transmission System; Notice of Compliance Filing

April 2, 2002.

Take notice that on March 29, 2002, Portland Natural Gas Transmission System (PNGTS) tendered for filing to its FERC Gas Tariff, Original Volume No. 1, Substitute First Revised Sheet No. 100, to become effective on April 1, 2002.

PNGTS states that the purpose its filing is to place into effect previously suspended rates at the end of the maximum five-month suspension period, i.e., effective April 1, 2002, in accordance with Section 4(e) of the Natural Gas Act and the Commission's order issued on October 31, 2001 in this proceeding. The Commission's October 31, 2001 order suspended PNGTS's proposed rates filed October 1, 2001 for the maximum five-month statutory period to be effective April 1, 2002, subject to refund, and upon motion by PNGTS. PNGTS's rate change is described in detail in its October 1, 2001 filing, which was previously filed with the Commission, served on all customers and affected state commissions, and is available for public inspection at the Commission.

PNGTS states that the proposed rates to be effective on April 1, 2002 have been adjusted to reflect the elimination of facilities not in service at the end of the suspension period. PNGTS further states that there have been no intervening Commission orders requiring any other changes to the proposed rates.

PNGTS states that copies of this filing are being served on all jurisdictional customers, applicable state commissions, and participants in Docket No. RP02–13–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8410 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–83–003]**

### Tennessee Gas Pipeline Company; Notice of Compliance Filing

April 2, 2002.

Take notice that on March 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Substitute Second Revised Sheet No. 23F, with an effective date of January 1, 2002.

Tennessee states that on February 22, 2002, Tennessee filed Second Revised Sheet No. 23F to reflect the revised funding surcharges for the Gas Research Institute (GRI) for Rate Schedule FT–IL. The Commission's letter order dated March 19, 2002 in this docket (March 19 Letter Order) accepted the tariff sheet effective January 1, 2002, subject to Tennessee filing a substitute tariff sheet to revise the GRI surcharge in footnote No. 1 for firm transportation with a load factor less than 50 percent. Tennessee states that it is submitting the proposed substitute tariff sheet in compliance with the March 19 Letter Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section

385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8411 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP00–426–008]**

## Texas Gas Transmission Corporation; Notice of Compliance Filing

April 2, 2002.

Take notice that on March 27, 2002, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective April 1, 2002:

Fourth Revised Sheet No. 40

Texas Gas states that the purpose of this filing is to reflect a new negotiated rate/non-conforming contract in its tariff as required Section 154.112(b) of the Commission's regulations and as directed by Commission Letter Order dated April 27, 2001. The contract is non-conforming due to its capacity release crediting mechanism.

Texas Gas states that copies of the revised tariff sheet is being mailed to the parties on the official service list for this docket number, Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8408 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Tendered for Filing With the Commission, Establishing Procedures for Relicensing and Deadline for Commenting, and Submission of Final Amendments

April 2, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License

b. *Project No.:* 637–022

c. *Date Filed:* March 28, 2002

d. *Applicant:* Public Utility District No.1 of Chelan County (Chelan PUD)

e. *Name of Project:* Lake Chelan Hydroelectric Project

f. *Location:* On the Chelan River in Chelan County, Washington. The project occupies about 465 acres of federal lands administered by the U.S Forest Service and the National Park Service.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Gregg Carrington, Chelan PUD, 327 North Wenatchee Ave, Wenatchee WA 98801 or P.O. Box 1231, Wenatchee WA 98807–1231, 509–663–8121 or within Washington State toll-free at 888–663–8121, email: gregg@chelanpud.org

i. *FERC Contact:* Vince Yearick, FERC, 888 First Street, NE, Room 61–11, Washington, DC 20426, (202) 219–3073, email: vince.yearick@ferc.gov

j. *Deadline for filing comments:* 30 days from the issuance date of this notice

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commissions, 888 First Street, NE., Washington, DC 20426. Comments may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.gov under the ''e-Filing'' link.

k. The existing Lake Chelan Project consists of: Lake Chelan, a natural glacial lake that was raised 21 feet by construction of the dam to a current normal maximum water surface elevation of 1,100 feet; a 40-foot-high, 490-foot-long, concrete gravity, steel-reinforced dam; a 14-foot-diameter power tunnel, 2.2 miles long; a 45-foot-diameter-by-125-foot-high steel surge tank located along the power tunnel approximately 700 feet upstream of the powerhouse; a 90-foot-long penstock transition that reduces from 14 feet in diameter to 12 feet in diameter and then bifurcates; two 9-foot-diameter, steel-lined, concrete-encased penstocks that reduce to 7.5 feet in diameter at the turbine shutoff valves; a 140-foot-long, 100-foot-wide and 124-foot-high reinforced concrete powerhouse that contains two vertical-shaft, Francis-type turbines with a rated generating capacity of 24,000 kilowatts (kW) each; and a 1,700-foot-long excavated tailrace channel adjacent to the mouth of the Chelan River that discharges into the Columbia River.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction by contacting the applicant identified in item h above.

m. *Relicensing procedures and final amendments:* The Commission staff proposes to issue a single Environmental Assessment (EA) rather than issuing a draft and final EA. Staff intends to allow at least 30 days for entities to comment on the EA before final action is taken on the license application. If any person or organization objects to this staff proposed procedure, they should file comments as stipulated in item j above, explaining the basis for their objection.

The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of application has been accepted for filing

Notice soliciting final terms and conditions

Notice of the availability of the NEPA document

Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 45 days from the issuance date of the notice soliciting final terms and conditions.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8403 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD02–14–000]**

### Conference on Emergency Reconstruction of Interstate Natural Gas Infrastructure; Notice of Conference

April 2, 2002.

On April 22, 2002 at 9 a.m. in the Commission Meeting Room (2C), staff from the Federal Energy Regulatory Commission (Commission) and from the Office of Pipeline Safety (OPS) of the Department of Transportation will convene a technical conference to begin discussions with interested parties on whether and how to clarify, expedite and streamline permitting and approvals for interstate pipeline reconstruction in the event of disaster, whether natural or otherwise.

Commission and OPS staff will provide an overview of their current regulatory processes and recent experiences for dealing with emergency situations. Additionally, Commission and OPS staff will facilitate discussions on possible approaches to expedite permitting emergency reconstruction of natural gas facilities. Other participants, including relevant Federal agencies and representatives of industry, will describe their responsibilities and present their views.

In order to more clearly focus the discussion at the technical conference, other potential presenters should consider the following questions and present their responses at the conference:

- What industry practices exist to respond to incidents of intentional or accidental damage? Does the industry need additional flexibility to respond to such incidents? What are the antitrust implications of pipeline companies coordinating construction and operations to restore service?
- What existing state processes are there which may be useful to coordinate emergency responses across a diffuse community of industry and regulatory interests?
- Are there any existing regulations and authorities that could be relied on to facilitate rerouting or reconstruction in the event of an emergency? Are these sufficient to ensure that reconstructed facilities are placed in service as expeditiously as possible? If not, what changes may be warranted? Are modifications to, or waivers of, regulatory requirements called for?
- How can compliance with the National Environmental Policy Act (NEPA) be assured and expedited? Can a generic public interest/national security finding be made that avoids case-specific environmental assessment in order to permit a pipeline company to commence immediate construction?
- In the event of an emergency, what agency should take the lead? What government entity makes the determination that a particular incident constitutes an emergency, and what are the implications of this? How will agencies cooperate on needed actions and authorizations to ensure rapid reconstruction and restoration of service? What are the roles of other agencies, State and local governments, and the regulatory authorities in Canada and Mexico?
- Should the Commission have the authority to compel construction in certain emergency circumstances? Should companies be compelled to construct redundant facilities for certain high-risk/high-profile targets? Who should pay for any compelled construction?

We will issue further details on the conference, including the agenda and a list of participants, as plans evolve. For additional information, please contact Carol Connors in the Office of External Affairs at *carol.connors@ferc.gov.*

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8400 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD02–15–000]**

### Conference on Emergency Reallocation of Natural Gas; Notice of Conference

April 2, 2002.

On April 23, 2002 at 9 a.m. in the Commission Meeting Room (2C), staff from the Federal Energy Regulatory Commission (FERC or Commission) and from the Department of Energy (DOE) will convene a technical conference to begin discussions with interested parties on whether and how to clarify, expedite and streamline processes for reallocating natural gas among shippers, pipelines, and local distribution companies (LDCs) in today's non-vertically integrated industry in the event of a disaster, whether natural or otherwise.

Commission and DOE staff will provide an overview of their current processes for emergency reallocation of natural gas. Commission staff will review FERC-related statutes and regulations and discuss the provisions related to reallocation and compensation contained in natural gas companies' tariffs. DOE staff will review DOE-related statutes and regulations. Other participants, including relevant Federal agencies and representatives of industry, will describe their responsibilities and present their views.

In order to more clearly focus the discussion at the technical conference, other potential presenters should consider the following questions and present their responses at the conference:

- What industry practices exist to respond to emergency-related reallocations of natural gas? Does the industry need additional flexibility to respond to such situations? What are the antitrust implications of shippers, pipelines, and LDCs coordinating reallocation response?
- Are there any antitrust limitations that would hinder the ability of industry to communicate and coordinate logistical and other information in the event of an emergency? If so, can and should remedies be crafted to facilitate such communication and coordination?
- What existing state processes are there which may be useful to coordinate emergency responses across a diffuse community of industry and regulatory interests ?
- Are there any existing regulations, authorities, and business practice standards that could be relied on to

facilitate transporting emergency reallocations of natural gas among shippers and across multiple pipeline systems? Are these sufficient to ensure the timely and effective reallocation of available natural gas supplies? If not, what changes may be warranted? Are modifications to, or waivers of, regulatory requirements called for?

• How can natural gas requirements be identified and prioritized so that during emergencies efforts can be made to ensure delivery of available natural gas supplies to the most important requirements? Is it necessary to establish a process to collect and assess this information and keep it up-to-date in anticipation of future emergencies?

• How do we ensure adequate emergency coordination among pipeline operators?

• What types of decisions would natural gas pipeline operators need from regulators'and in what time frames would those decisions be required'to ensure adequate emergency response? What are the antitrust implications of pipeline companies coordinating these decisions? How should compensation be addressed?

• What information on emergency status is available in real-time to keep relevant government officials informed? What additional information might regulators require to make appropriate time-critical decisions in an emergency?

• What types of events or contingencies is the industry already prepared to face? And what types of contingencies is the industry not yet prepared to face? What should our expectations be as to what is reasonable to accomplish and expect?

We will issue further details on the conference, including the agenda and a list of participants, as plans evolve. For additional information, please contact Carol Connors in the Office of External Affairs at *carol.connors@ferc.gov.*

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8401 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. EC01–156–000, et al.]**

## Alliant Energy Corporate Services, et al.; Notice of State-Federal Western Regional Panel Discussion April 2, 2002

In the matter of: EC01–156–000 and ER01–3154–000, ER01–2995–000, RT01–44–000, RT02–1–000, and EL02–9–000, RT01–15–000 and RT01–35–000, EL00–95–023, EL00–98–022, and RT01–85–000, RT01–93–000, RT01–89–000, EC01–146–000, EC01–156–000, EL01–80–000, ER01–3000–000, ER01–3154–000, ER02–323–000, RM01–12–000, RT01–2–000, RT01–10–000, RT01–67–000, RT01–74–000, RT01–75–000, RT01–77–000, RT01–86–000, RT01–87–000, RT01–88–000, RT01–94–000, RT01–95–000, RT01–98–000, and RT01–101–000, EL00–98–047, EL00–98-Independent System Operator and the -049, and EL00–98–050, EL01–68–000, EL01–116–000, EL01–80–000, RT01–94–000, RM00–10–000, PA02–1–000, EL00–95–024, EL00–98–023, and RT01–83–000, RT01–99–000, RT01–100-000, and RM99–2–000, RT01–1–000, RM98–1–000, EL00–98–021 and RT01–82–000, EL00–95–000, EL00–95–025, EL00–98–024, and RT01–92–000, RT01–34–000, RT02–2–000; Alliant Energy Corporate Services, American Electric Power Company, Arizona Public Service Company, Avista Corporation, California Independent System Operator, California Power Exchange Corporation, Citizens Communications Co., Electricity Market Design and Structure, Investigation of Practices of the California Independent System Operator and the California Power Exchange, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council, Montana-Dakota Utilities Company, National Grid USA, NSTAR Services Co., Open Access Same Time Information System, Operational Audit of the California Independent System Operator, Pacific Gas and Electric Company, Regional Transmission Organizations, Regional Transmission Organization Informational Filings, Regulations Governing Off-the-Record Communications, San Diego Gas & Electric Company, San Diego Gas & Electric Company, Sellers of Energy and Ancillary Services, Southern California Edison Company, Southwest Power Pool, Inc., State-Federal Regional Panels.

### Notice of State-Federal Western Regional Panel Discussion

April 2, 2002.

The Federal Energy Regulatory Commission (the Commission) will participate in the meeting of the Committee on Regional Electric Power Cooperation on April 29–30, 2002. The meeting will be held at the Horton Grand Hotel, 311 Island Avenue, San Diego, California 92101. From 1:00 p.m. to 2:30 p.m. on April 30, 2002, there will be a state-federal regional panel to discuss standard market design and the cost and benefits of western regional transmission organizations. See Order Announcing the Establishment of State-Federal Regional Panels to Address RTO Issues, Modifying the Application of Rule 2201 in the Captioned Dockets, and Clarifying Order No. 607, 97 FERC ¶61,182 (2001).

The panel discussion will be transcribed, and the transcripts will be placed in related dockets. Ace-Federal Reporters will provide copies of the transcripts at cost. Their phone numbers are (800) 336–6646 and (202) 347–3700. Additionally, The Commission will post the transcripts on its website ten days after receipt from Ace-Federal Reporters.

For additional information, please contact:

Edward Meyers,
Director of State Relations,
Federal Energy Regulatory Commission,
888 N. Capitol Street, NE,
Washington, D.C. 20426,
(202) 208–0004,
Edward.meyers@ferc.gov.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8402 Filed 4–5–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice

April 3, 2002.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552b:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**DATE AND TIME:** April 10, 2002, 10 a.m.

**PLACE:** Room 2C 888 First Street, NE., Washington, DC 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

**Note:** Items listed on the Agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Magalie R. Salas, Secretary, Telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Comission. It does not include a listing of all papers relevent to the items on the agenda; however, all public documents may be examined in the reference and information center.

**789th—Meeting April 10, 2002, Regular Meeting 10 a.m.**

**Administrative Agenda**

A–1.
Docket# AD02–1, 000, Agency Administrative Matters

A–2.
Docket# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

**Markets, Tariffs and Rates—Electric**

E–1.

Docket# RM01–12, 000, Electricity Market Design and Structure

E–2.
Docket# ER02–348, 000, Arizona Independent Scheduling Administrator Association

E–3.
Docket# ER02–1021, 000, Ontario Energy Trading International Corporation

E–4.
Docket# ER02–1043, 000, Entergy-Koch Trading, LP

E–5.
Docket# ER00–1608, 001, Southern Company Services, Inc.
Other#s ER00–2166, 001, Southern Company Services, Inc.

E–6. Docket# ER02–977, 000, Wisconsin Power & Light Company

E–7. Docket# ER01–1152, 000, PacifiCorp
Other#s ER01–1152, 001, PacifiCorp
ER01–1152, 002, PacifiCorp
ER01–1152, 003, PacifiCorp

E–8.
Docket# ER01–3022, 000, Cinergy Services, Inc.
Other#s ER01–3022, 001, Cinergy Services, Inc.; ER01–3022, 002, Cinergy Services, Inc.

E–9.
Docket# ER02–300, 000, Armstrong Energy Limited Partnership, LLLP
Other#s ER02–300, 001, Armstrong Energy Limited Partnership, LLLP; ER02–300, 002, Armstrong Energy Limited Partnership, LLLP; ER02–300, 003, Armstrong Energy Limited Partnership, LLLP; ER02–301, 000, Troy Energy, LLC; ER02–301, 001, Troy Energy, LLC; ER02–301, 002, Troy Energy, LLC; ER02–301, 003, Troy Energy, LLC; ER02–835, 000, Armstrong Energy Limited Partnership, LLLP; ER02–835, 001, Armstrong Energy Limited Partnership, LLLP; ER02–836, 000, Pleasants Energy, LLC; ER02–836, 001, Pleasants Energy, LLC; ER02–837, 000, Troy Energy, LLC; ER02–837, 001, Troy Energy, LLC

E–10.
Docket# ER00–1969, 009, New York Independent System Operator, Inc.;
Other#s ER00–1969, 012, New York Independent System Operator, Inc.; ER00–3591, 008, New York Independent System Operator, Inc.; ER00–3591, 010, New York Independent System Operator, Inc.

E–11.
Docket# ER02–1004, 000, New England Power Pool

E–12.
Docket# TX97–7, 000, Missouri Basin Municipal Power Agency
Other#s NJ98–1, 000, United States Department of Energy -Western Area Power Administration

E–13.
Omitted

E–14.
Docket# ER01–2536, 004, New York Independent System Operator, Inc.

E–15.
Omitted

E–16.
Omitted

E–17.
Docket# ER00–2067, 001, Boston Edison Company
Other#s ER00–2067, 002, Boston Edison Company

E–18.
Omitted

E–19.
Docket# EL00–99, 001, Maine Public Utilities Commission, United Illuminating Company and Bangor Hydro-Electric Company v. ISO New England, Inc.
Other#s EL00–100, 001, Maine Public Utilities Commission, United Illuminating Company and Bangor Hydro-Electric Company v. ISO New England, Inc.; EL00–112, 001, Maine Public Utilities Commission, United Illuminating Company and Bangor Hydro-Electric Company v. ISO New England, Inc.

E–20.
Docket# EL01–104, 002, Dynegy Power Marketing, Inc. v. Southwest Power Pool, Inc.

E–21.
Docket# EF98–5031, 001, United States Department of Energy -Western Area Power Administration

E–22.
Docket# EG02–97, 000, Southeast Chicago Energy Project, LLC

E–23.
Docket# EL02–23, 000, Consolidated Edison Company of New York, Inc. v. Public Service Electric and Gas Company, PJM Interconnection, L.L.C. and New York Independent System Operator, Inc.

E–24.
Docket# EL01–123, 000, Mirant Americas Energy Marketing, Inc. v. ISO New England, Inc.
Other#s EL00–62, 035, ISO New England, Inc.; EL00–62, 041, ISO New England, Inc.; EL00–62, 042, ISO New England, Inc.

E–25.
Omitted

E–26.
Docket# ER02–925, 000, Southern California Edison Company
Other#s ER02–925, 001, Southern California Edison Company

E–27.
Docket# ER96–1046, 000, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
Other#s EL96–42, 000, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company; OA96–185, 000, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company

E–28.
Docket# EL02–26, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C. Enron Power Marketing, El Paso Merchant Energy and American Electric Power Services Corporation
Other#s EL02–28, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C. Enron Power Marketing, El Paso Merchant Energy and American Electric Power Services Corporation; EL02–29, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, L.P., BP Energy Company and Allegheny Energy Supply Company, L.L.C.; EL02–30, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, L.P., BP Energy Company and Allegheny Energy Supply Company, L.L.C.; EL02–31, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, L.P., BP Energy Company and Allegheny Energy Supply Company, L.L.C.; EL02–32, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, L.P., BP Energy Company and Allegheny Energy Supply Company, L.L.C.; EL02–33, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C. Enron Power Marketing, El Paso Merchant Energy and American Electric Power Services Corporation; EL02–34, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, L.P., BP Energy Company and Allegheny Energy Supply Company, L.L.C.; EL02–38, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C. Enron Power Marketing, El Paso Merchant Energy and American Electric Power Services Corporation; EL02–39, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, L.P., BP Energy Company and Allegheny Energy Supply Company, L.L.C.; EL02–43, 000, Southern California Water Company v. Mirant Americas Energy Marketing, L.P.; EL02–56, 000, Public Utility District No. 1 of Snohomish County, Washington v. Morgan Stanley Capital Group, Inc.

E–29.
Docket# ER02–711, 000, American Electric Power Service Corporation

**Miscellaneous Agenda**

M–1.
Reserved

**Markets, Tariffs and Rates—GAS**

G–1.
Omitted

G–2.
Docket# RP02–200, 000, El Paso Natural Gas Company

G–3.
Docket# RP02–199, 000, Mississippi River Transmission Corporation

G–4.
Docket# RP00–476, 000, Southern Natural Gas Company
Other#s RP00–476, 002, Southern Natural Gas Company RP01–64, 000, Southern Natural Gas Company
G–5.
Docket# PR02–8, 000, Hill-Lake Gas Storage, L.P.
G–6.
Docket# CP01–70, 004, Columbia Gas Transmission Corporation
G–7.
Docket# RP01–35, 000, Norteno Pipeline Company
Other#s RP01–92, 000, Norteno Pipeline Company
G–8.
Docket# RP00–403, 000, Northern Border Pipeline Company
Other#s RP00–403, 001, Northern Border Pipeline Company; RP01–85, 000, Northern Border Pipeline Company; RP01–388, 000, Northern Border Pipeline Company
G–9.
Docket# RP00–321, 000, Destin Pipeline Company, L.L.C.
Other#s RP01–86, 000, Destin Pipeline Company, L.L.C.
G–10.
Omitted
G–11.
Docket# RP00–470, 000, Sea Robin Pipeline Company
Other#s RP00–612, 000, Sea Robin Pipeline Company
G–12.
Docket# RP00–487, 000, Tuscarora Gas Transmission Company
Other#s RP01–14, 000, Tuscarora Gas Transmission Company
G–13.
Omitted
G–14.
Omitted
G–15.
Docket# RP01–169, 002, Northern Natural Gas Company
Other#s RP02–62, 001, Northern Natural Gas Company
G–16.
Docket# RP02–201, 000, Colorado Interstate Gas Company
G–17.
Docket# PR01–14, 000, Enogex Inc.
Other#s PR01–14, 001, Enogex Inc.
G–18.
Docket# RP96–320, 053, Gulf South Pipeline Company, LP

**Energy Projects—Hydro**

H–1.
Docket# P–2107, 013, Pacific Gas and Electric Company
H–2.
Docket# P–2556, 040, FPL Energy Maine Hydro, LLC
H–3.
Docket# P–2232, 418, Duke Energy Corporation
Other#s P–2232, 408, Duke Energy Corporation
H–4.
Docket# P–2145, 040, Public Utility District No. 1 of Chelan County, Washington
H–5.
Docket# P–2543, 053, The Montana Power, L.L.C.
H–6.
Docket# P–2622, 009, International Paper Company and Turners Falls Hydro LLC
Other#s P–2622, 010, International Paper Company and Turners Falls Hydro LLC

**Energy Projects—Certificates**

C–1.
Docket# CP93–541, 010, Young Gas Storage Company, Ltd.
C–2.
Docket# CP97–169, 003, Alliance Pipeline L.P.
C–3.
Omitted
C–4.
Docket# CP01–153, 003, Tuscarora Gas Transmission Company
Other#s CP01–153, 002, Tuscarora Gas Transmission Company
C–5.
Docket# RM01–6, 000, Assignment of Upstream Capacity by Interstate Pipelines
C–6.
Docket# CP02–73, 000, Cargill, Incorporated v. Saltville Gas Storage Company, L.L.C.
C–7.
Docket# CP01–22, 003, North Baja Pipeline LLC
Other#s CP01–23, 002, North Baja Pipeline LLC; CP01–24, 003, North Baja Pipeline LLC; CP01–25, 003, North Baja Pipeline LLC;

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–8500 Filed 4–4–02; 8:45 am]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7168–7]**

## Demonstration Program To Recognize Local Governments Taking Extraordinary Efforts to Protect Watersheds-Clean Water Partners for the 21st Century

**AGENCY:** Environmental Protection Agency.

**ACTION:** Announcement of a demonstration program to recognize local governments that are taking extraordinary actions now to protect and improve watershed health and commit to actions in the future. Request for applications.

**SUMMARY:** Leadership by local governments is essential if the overall health of the Nation's watersheds are to be maintained and improved over time. While state and federal agencies have an important role to play, local leadership must be encouraged and recognized. Accordingly, the Office of Water at the Environmental Protection Agency (EPA) announces its intention to undertake a demonstration program to recognize local governments of various types that are undertaking extraordinary actions now to protect and enhance watershed health and also commit to undertake specific actions in the future, over and above the requirements of the Clean Water Act. This demonstration program is being undertaken initially as part of an overall effort to celebrate the 30th anniversary of the Clean Water Act (CWA). Depending on the success of this effort, EPA would hope to continue the program in future years. This program is intended to give local government entities of all types the opportunity to be recognized, and is not limited to wastewater treatment agencies.

Organizations interested in applying would be asked to describe their current actions to protect and enhance watershed health and make specific commitments to future actions, based on application guidelines developed for the program. These guidelines are available at *www.cleanwaterpartners.org.* Organizations applying for the program would undergo a screen of their past compliance based on EPA's Compliance Screening Guidelines for Voluntary Programs. These guidelines can be found at *http://es.epa.gov/oeca/polover.pdf.* Applications will then be evaluated by a committee made up of members of various local government organizations. Both individual and group applications will be accepted. Those local governments that are ultimately selected to participate would be recognized as a Clean Water Partner by EPA at an appropriate recognition event in fall 2002, roughly coinciding with the 30th anniversary of the Clean Water Act and would be allowed to publicize their selection in various ways throughout their organization.

This program is intended to recognize a broad range of current activities and future commitments by local governments of all types designed to enhance overall watershed health. It will not replace EPA's existing National Wastewater Management Excellence awards program, which will continue to recognize operational achievements in specific areas of wastewater management.

**DATES:** Application should be submitted no later than May 30, 2002.

**ADDRESSES:** Applications can be electronically to *www.cleanwaterpartners.org.* Hard copy applications can be mailed or faxed to Clean Water Partners for the 21st Century Program 1816 Jefferson Place,

NW. Washington, DC 20036–2505; FAX (202–564–4657).

*EPA Point of Contact:* Jim Horne, Office of Wastewater Management, Phone: (202) 564–0571, E-mail: *horne.james@epa.gov.*

Dated: April 1, 2002.

**Michael B. Cook,**

*Director, Office of Wastewater Management.*

[FR Doc. 02–8420 Filed 4–5–02; 8:45 am]

**BILLING CODE 6560–50–M**

## FARM CREDIT ADMINISTRATION

### Farm Credit Administration Board; Regular Meeting; Sunshine Act

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

**DATE AND TIME:** The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on April 11, 2002, from 9:00 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

**ADDRESS:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

**SUPPLEMENTARY INFORMATION:** This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

**Open Session**

*A. Approval of Minutes*

- March 21, 2002 (Open)

*B. Reports*

- Corporate Approvals
- Status Report on General Accounting Office (GAO) Response
- Release of UPPR, Analytical, and YBS Reports on the Internet
- USDA Outlook Conference
- Condition of the Farm Credit System

*C. New Business—Other*

- High Plains ACA Consolidation

Dated: April 4, 2002.

**Kelly Mikel Williams,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 02–8516 Filed 4–4–02; 11:27 am]

**BILLING CODE 6705–01–P**

## FARM CREDIT ADMINISTRATION

### Farm Credit Administration Board; Regular Meeting; Sunshine Act

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the May 9, 2002 regular meeting of the Farm Credit Administration Board (Board) will not be held. The FCA Board will hold a special meeting at 9:00 a.m. on Thursday, May 2, 2002. An agenda for this meeting will be published at a later date.

**FOR FURTHER INFORMATION CONTACT:** Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: April 4, 2002.

**Kelly Mikel Williams,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 02–8517 Filed 4–4–02; 11:27 am]

**BILLING CODE 6705–01–P**

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Proposed Collection; Comment Request

**SUMMARY:** On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**Request for comment on information collection proposal.**

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Comments must be submitted on or before June 7, 2002.

**ADDRESSES:** Comments may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e–mail to regs.comments@federalreserve.gov, or faxing them to the Office of the Secretary at 202–452–3819 or 202–452–3102. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, N.W. Members of the public may inspect comments in Room MP–500 between 9:00 a.m. and 5:00 p.m. on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket

files once approved may be requested from the agency clearance officer, whose name appears below. Mary M. West, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202–452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

**Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:**

1. *Report title:* Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks
*Agency form number:* Reg H–
*OMB control number:* 7100–
*Frequency:* Aggregate report, quarterly; policy statement, annually.
*Reporters:* state member banks
*Annual reporting hours:* 21,060 hours
*Estimated average hours per response:* Aggregate report, 5 hours; policy statement, 20 hours
*Number of respondents:* 976
Small businesses are affected.
*General description of report:* This information collection is mandatory (12 U.S.C. 1828(o)) and is not given confidential treatment.
*Abstract:* State member banks must adopt and maintain a written real estate lending policy. Also, banks must identify their loans in excess of the supervisory loan–to–value limits and report (at least quarterly) the aggregate amount of the loans to the bank's board of directors.

Board of Governors of the Federal Reserve System, April 2, 2002.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 02–8375 Filed 4–5–02; 8:45 am]

**BILLING CODE 6210–01–S**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 22, 2002.

**A. Federal Reserve Bank of Kansas City** (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

*1. Harold A. Hartzog*, Hoxie, Kansas; to acquire control of State Bank Employees Stock Ownership Plan, Hoxie, Kansas, and thereby indirectly acquire control of Prairie State Bancshares, Inc., Hoxie, Kansas, and State Bank, Hoxie, Kansas.

Board of Governors of the Federal Reserve System, April 2, 2002.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 02–8377 Filed 4–5–02; 8:45 am]

**BILLING CODE 6210–01–S**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 23, 2002.

**A. Federal Reserve Bank of Atlanta**

(Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Southern Bancorp, Inc., Employee Stock Ownership Plan, Marietta, Georgia; to retain voting shares of Southern Bancorp, Inc., Marietta, Georgia, and thereby indirectly retain voting shares of Southern National Bank, Marietta, Georgia.

Board of Governors of the Federal Reserve System, April 3, 2002.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 02–8436 Filed 4–5–02; 8:45 am]

**BILLING CODE 6210–01–M**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 2002.

**A. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

*1. Tru-Bank Holdings LLC*, St. Louis, Missouri; to become a bank holding company by acquiring 16.2 percent of the voting shares of The Templar Fund, Inc., St. Louis, Missouri, and thereby indirectly acquire voting shares of Truman Bancorp, Inc., St. Louis, Missouri, and its subsidiary Truman Bank, St. Louis, Missouri.

*2. The Templar Fund, Inc.*, St. Louis, Missouri; to acquire an additional 4.1

percent, for a total of 40.9 percent of the voting shares of Truman Bancorp, Inc., St. Louis, Missouri, and thereby indirectly acquire Truman Bank, St. Louis, Missouri.

Board of Governors of the Federal Reserve System, April 2, 2002.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 02–8378 Filed 4–5–02; 8:45 am]

**BILLING CODE 6210–01–S**

## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 2002.

**A. Federal Reserve Bank of Philadelphia** (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

*1. First Leesport Bancorp, Inc.*, Leesport, Pennsylvania; to acquire over 5 percent of Liberty Centre Bancorp, Inc., Pottsville, Pennsylvania, and thereby acquire shares of Liberty Savings Bank, F.S.B., Pottsville, Pennsylvania, and engage in owning, controlling or operating a savings association pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, April 2, 2002.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc.02–8376 Filed 4–5–02; 8:45 am]

**BILLING CODE 6210–01–S**

## FEDERAL RESERVE SYSTEM

### Federal Open Market Committee; Domestic Policy Directive of January 29–30, 2002

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on January 29–30, 2002.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 1¾ percent.

By order of the Federal Open Market Committee, April 1, 2002.

**Donald L. Kohn,**

*Secretary, Federal Open Market Committee.*

[FR Doc. 02–8374 Filed 4–5–02; 8:45 am]

**BILLING CODE 6210–01–S**

[1] Copies of the Minutes of the Federal Open Market Committee meeting on January 29–30, 2002, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0101]**

### Federal Acquisition Regulation; Submission for OMB Review; Drug-Free Workplace

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning drug-free workplace. A request for public comments was published at 67 FR 6233, February 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before May 8, 2002.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0101, Drug-Free Workplace, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Laura Smith, Acquisition Policy Division, GSA (202) 208–7279.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

The contract clause at FAR 52.223–6(b)(5) requires (1) contract employees to notify their employer of any criminal drug statute conviction for a violation occurring in the workplace; and (2) Government contractors, after receiving notice of such conviction, to notify the contracting officer.

The information provided to the Government is used to determine contractor compliance with the statutory requirements to maintain a drug-free workplace.

**B. Annual Reporting Burden**

*Respondents:* 600.
*Responses Per Respondent:* 1.

*Annual Responses:* 600.
*Hours Per Response:* .17.
*Total Burden Hours:* 102.
*Obtaining Copies of Proposals:* Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0101, Drug-Free Workplace, in all correspondence.

Dated: April 2, 2002.

**Al Matera,**

*Director, Acquisition Policy Division.*

[FR Doc. 02–8447 Filed 4–5–02; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0058]**

### Federal Acquisition Regulation; Submission for OMB Review; Schedules for Construction Contracts

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning schedules for construction contracts. A request for public comments was published in the **Federal Register** at 67 FR 6013, on February 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before May 8, 2002.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0058, Schedules for Construction Contracts, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Federal construction contractors may be required to submit schedules, in the form of a progress chart, showing the order in which the contractor proposes to perform the work. Actual progress shall be entered on the chart as directed by the contracting officer. This information is used to monitor progress under a Federal construction contract when other management approaches for ensuring adequate progress are not used.

**B. Annual Reporting Burden**

*Respondents:* 2,600.
*Responses Per Respondent:* 2.
*Annual Responses:* 5,200.
*Hours Per Response:* 1.
*Total Burden Hours:* 5,200.

*Obtaining Copies of Proposals*

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0058, Schedules for Construction Contracts, in all correspondence.

Dated: April 2, 2002.

**Al Matera,**

*Director, Acquisition Policy Division.*

[FR Doc. 02–8448 Filed 4–5–02; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0060]**

### Federal Acquisition Regulation; Submission for OMB Review; Accident Prevention Plans and Recordkeeping

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning accident prevention plans and recordkeeping. A request for public comments was published in the **Federal Register** at 67 FR 6012, February 8, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before May 8, 2002.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0060, Accident Prevention Plans and Recordkeeping, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

The FAR clause at 48 CFR 52.236–13 Accident Prevention requires Federal construction contractors to keep records of accidents incident to work performed under the contract that result in death, traumatic injury, occupational disease or damage to property, materials, supplies or equipment. Records of personal inquiries are required by OSHA (OMB Control No. 1220–0029). The FAR requires records of damage to property, materials, supplies or equipment to provide background information when claims are brought against the Government.

If the contract involves work of a long duration, the contractor must submit a written proposal for implementation of the clause. The Accident Prevention Plan, for projects that are hazardous or of long duration, is analyzed by the contracting officer along with the agency safety representatives to determine if the proposed plan will meet the requirement of the safety regulations and applicable statutes. The records maintained by the contractor are used to evaluate compliance and may be used in workmen's compensation cases. The Accident Prevention Plan is placed in the contract file for reference.

**B. Annual Reporting Burden**

*Respondents:* 2,106.

*Responses Per Respondent:* 2.

*Annual Responses:* 4,212.

*Hours Per Response:* 2.

*Total Burden Hours:* 8,424.

*Obtaining Copies of Proposals*

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0060, Accident Prevention Plans and Recordkeeping, in all correspondence.

Dated: April 2, 2002.

**Al Matera,**

*Director, Acquisition Policy Division.*

[FR Doc. 02–8449 Filed 4–5–02; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0064]**

### Federal Acquisition Regulation; Submission for OMB Review; Organization and Direction of Work

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning organization and direction of work. A request for public comments was published in the **Federal Register** at 67 FR 6010, February 8, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before May 8, 2002.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0064, Organization and Direction of Work, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

When the Government awards a cost-reimbursement construction contract, the contractor must submit to the contracting officer and keep current a chart showing the general executive and administrative organization, the personnel to be employed in connection with the work under the contract, and their respective duties. The chart is used in administration of the contract and as an aid in determining cost. The chart is used by contract administration personnel to assure the work is being properly accomplished at reasonable prices.

**B. Annual Reporting Burden**

*Respondents:* 50.
*Responses Per Respondent:* 1.
*Annual Responses:* 50.
*Hours Per Response:* .75.
*Total Burden Hours:* 38.

**Obtaining Copies of Proposals**

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0064, Organization and Direction of Work, in all correspondence.

Dated: April 2, 2002.

**Al Matera,**

*Director, Acquisition Policy Division.*

[FR Doc. 02–8450 Filed 4–5–02; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0062]**

### Federal Acquisition Regulation; Submission for OMB Review; Material and Workmanship

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a

request to review and approve an extension of a currently approved information collection requirement concerning material and workmanship. A request for public comments was published in the **Federal Register** at 67 FR 6011, on February 8, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments or before May 8, 2002.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Under Federal contracts requiring that equipment (*e.g.,* pumps, fans, generators, chillers, etc.) be installed in a project, the Government must determine that the equipment meets the contract requirements. Therefore, the contractor must submit sufficient data on the particular equipment to allow the Government to analyze the item.

The Government uses the submitted data to determine whether or not the equipment meets the contract requirements in the categories of performance, construction, and durability. This data is placed in the contract file and used during the inspection of the equipment when it arrives on the project and when it is made operable.

**B. Annual Reporting Burden**

*Respondents:* 3,160.
*Responses Per Respondent:* 1.5.
*Annual Responses:* 4,740.
*Hours Per Response:* .25.
*Total Burden Hours:* 1,185.

**Obtaining Copies of Proposals**

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0062, Material and Workmanship, in all correspondence.

Dated: April 2, 2002.

**Al Matera,**

*Director, Acquisition Policy Division.*

[FR Doc. 02–8451 Filed 4–5–02; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to review contract proposals and provide recommendations to the Acting Director, AHRQ, with respect to the technical merit of proposals submitted in response to a Request for proposals (RFP) regarding a ''Medical Expenditure Panel Survey (MEPS))''. The RFP was published in the Commerce Business Daily on November 26, 2001.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, 42 CFR Part 67 Subpart B, and procurement regulations, 41 CFR 101–6.1023 and 48 CFR 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary information and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

*Name of TRC:* The Agency for Healthcare Research and Quality—''Medical Expenditure Panel Survey (MEPS)''.

*Date:* April 9, 2002.

*Place:* Agency for Healthcare Research & Quality, 2101 East Jefferson Street, 5th Floor Conference Room, Rockville, Maryland 20852.

*Contact Person:* Anyone wishing to obtain information regarding this meeting should contact Doris Lefkowitz, Center for Cost Financing Studies, Agency for Healthcare Research and Quality, 2101 East Jefferson Street, Suite 500, Rockville, Maryland, 20852, 301–594–1077.

This notice is being published less than 15 days prior to the April 9 meeting due to the timing limitations imposed by the review and funding cycle.

Dated: April 2, 2002.

**Carolyn M. Clancy,**

*Acting Director.*

[FR Doc. 02–8422 Filed 4–5–02; 8:45 am]

**BILLING CODE 4160–90–M**

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### Outer Continental Shelf, Gulf of Mexico Region, Proposed Central and Western Gulf Multisale Environmental Impact Statement

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of Availability of the Draft Environmental Impact Statement (EIS) and Locations and Dates of Public Hearings on Proposed Central Planning Area Sales 185, 190, 194, 198, and 201, and Proposed Western Planning Area Sales 187, 192, 196, and 200.

**SUMMARY:** The Minerals Management Service (MMS) has prepared a draft environmental impact statement (EIS) for nine proposed areawide oil and gas lease sales in the Central Planning Area (CPA) and Western Planning Area (WPA) outer continental shelf (OCS) of the Gulf of Mexico.

**DATES:** Comments on Draft EIS due May 31, 2002.

Public Hearings—New Orleans, May 1, 2002; Houston, Texas, April 30, 2002; Mobile, Alabama, May 2, 2002.

**FOR FURTHER INFORMATION CONTACT:** Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. Joseph Christopher, telephone (504) 736–2774.

**SUPPLEMENTARY INFORMATION:** This EIS addresses nine proposed federal actions that offer for lease areas on the Gulf of Mexico OCS that may contain economically recoverable oil and gas resources. Federal regulations allow for several related or similar proposals to be analyzed in one EIS (40 CFR 1502.4).

Since each lease sale proposal and projected activities are very similar each year for each planning area, a single EIS is being prepared for all nine Central and Western Gulf sales scheduled in the proposed *Outer Continental Shelf Oil and Gas Leasing Program: 2002–2007* (the proposed 5-Year Program). Under the proposed 5-Year Program, five annual areawide lease sales are scheduled for the CPA and five annual areawide lease sales are scheduled for the WPA. The first proposed lease sale—Western Gulf Sale 184—is not addressed in this multisale EIS; a separate environmental analysis is being done for that proposal. The Central Gulf sales addressed in this EIS are Sale 185 in 2003, Sale 190 in 2004, Sale 194 in 2005, Sale 198 in 2006, and Sale 201 in 2007. The Western Gulf sales are Sale 187 in 2003, Sale 192 in 2004, Sale 196 in 2005, and Sale 200 in 2006. Although this EIS addresses nine proposed lease sales, at the completion of this EIS process, decisions will be made only for proposed Sale 185 in the CPA and proposed Sale 187 in the WPA. A National Environmental Policy Act (NEPA) review will be conducted for each subsequent lease sale in the proposed 5-Year Program.

**Public Hearings**

Public hearings on the draft EIS will be held at the following locations on the dates and times listed: New Orleans, Louisiana, Wednesday, May 1, 2002, 2–4 p.m., Minerals Management Service, 1201 Elmwood Park Boulevard; Houston, Texas, Tuesday, April 30, 2002, 1–3 p.m., Houston Airport Marriott, 18700 Kennedy Boulevard; Mobile, Alabama, Thursday, May 2, 2002, 2–4 p.m. and 6:30–8:30 p.m, Adams Mark Hotel, 64 South Water Street. The contact person for these hearings is Ms. Janet Diaz at telephone number (504) 736–2540. Interested individuals, representatives of organizations, and public officials who wish to testify at the public hearings are requested to notify Ms. Diaz at least five days prior to the hearing. If time is available during the hearing period, after the presentation of oral statements by those who have pre-registered, other individuals will be given an opportunity to be heard. Time limitations may make it necessary to limit the length of each oral presentation to ten minutes or less. An oral statement may be supplemented by a written statement, which should be submitted to the hearing officer at the time of the oral presentation. Hearings will recess when all speakers have had an opportunity to testify. If there are no additional speakers, the hearing will adjourn immediately after the recess.

If you cannot attend the hearings, or if you prefer, you may submit your comments in writing to the address below.

**Written Comments**

MMS requests interested parties to submit comments on the draft EIS to Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5410), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 by May 31, 2002. Our practice is to make comments, including the name and home address of respondents, available for public review. An individual commenter may ask that we withhold name, home address, or both from the public record, and we will honor such a request to the extent allowable by law. If you submit comments and wish us to withhold such information, you must state so prominently at the beginning of your submission. We will not consider anonymous comments, and we will make available for inspection in their entirety all comments submitted by organizations and businesses or by individuals identifying themselves as representatives of organizations and businesses. The comment period ends on May 31, 2002.

**EIS Availability**

You may find out which local libraries along the Gulf Coast have copies of the draft EIS for review, or you may obtain single copies of the draft EIS from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 or by calling 1–800–200–GULF. For a list of libraries containing the EIS you may also call Mrs. Diaz at the number listed in the Public Hearings portion of this notice. The list of libraries and their locations are also available on the Gulf of Mexico regional home page on the Internet at *http://www.temporarygomr.com*.

After the public hearing testimony and written comments on the draft EIS have been reviewed and analyzed, a final EIS will be prepared.

Dated: March 29, 2002.

**Thomas A. Readinger,**

*Associate Director for Offshore Minerals Management.*

Approved: March 29, 2002.

**Willie R. Taylor,**

*Director, Office of Environmental Policy and Compliance.*

[FR Doc. 02–8364 Filed 4–5–02; 8:45 am]

BILLING CODE 4310–MR–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### National Preservation Technology and Training Board: Meeting

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on April 9 and 10, 2002, in Washington, DC.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training (NCPTT), as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet in Conference Room A of the American Geophysical Union Building, 2000 Florida Avenue NW, Washington, DC 20009, telephone (202) 462-6900. Tuesday, April 9, the meeting will start at 1:00 p.m. and end no later than 5:00 p.m. Matters to be discussed will include NPS updates on FY03 budget and administration issues, NCPTT issues and work plan, reports from partners, and re-inventing the board's relationship to NCPTT. Wednesday, April 10, the meeting will start at 9:00 a.m. and end no later than 4:30 p.m. Matters to be discussed will include a strategic planning exercise based on the November 2001 forum, the November 2001 meeting in Natchitoches, LA, developing a business plan, and new business.

The meeting will be open to the public. Facilities and space for accommodating members of the public are limited, however, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may contact Mr. E. Blaine Cliver, Chief, HABS/HAER/HALS, National Park Service, 1849 C Street NW-300 NC, Washington, DC 20240 (mailing address), or HABS/HAER/HALS, National Park Service, 800 North Capitol Street NW, Suite 300, Washington, DC 20001 (commercial delivery address), telephone (202) 343-1024. Increased security in the Washington, DC, area may cause delays in the delivery of U.S. Mail to Government offices. In addition to mail or commercial delivery, please fax a copy of the written submission to Mr. E.

Blaine Cliver, Chief, HABS/HAER/HALS, at (202) 343-9624.

Due to an unanticipated administrative delay in reviewing this notice within the National Park Service, it could not be published at least 15 days prior to the meeting dates. The National Park Service regrets this error, but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of board members who have adjusted their schedules to accommodate the proposed meeting dates and the high level of anticipation by all parties who will be affected by the outcome of the board's actions. Since there has been advance notice to the board members about this meeting, the National Park Service believes that the public interest will not be adversely affected by the less-than-15-days advance notice in the **Federal Register.**

Meeting minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of HABS/HAER/HALS, National Park Service, 800 North Capitol Street NW, Suite 300, Washington, DC.

**de Teel Patterson Tiller,**

*Deputy Associate Director, Historic Preservation, Recreation and Partnerships and Acting Manager, National Center for Preservation Technology and Training.*

[FR Doc. 02–8545 Filed 4–5–02; 1:46 pm]

**BILLING CODE 4310–70–S**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Under 28 CFR 50.7 notice is hereby given that on March 26, 2002, a proposed consent decree in *United States* v. *Great Western Inorganics, Inc.,* Civil Action No. 02–N–0604, was lodged with the United States District Court for the District of Colorado.

In this action the United States alleges that under sections 107(a) and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), as amended, 42 U.S.C. 9607(a) and 9613(g)(2), Great Western Inorganics, Inc. (''GWI'') is liable for the recovery of costs incurred or to be incurred by the United States in response to releases or threatened releases of hazardous substances at and from the GWI's chemical manufacturing facility located in the Rocky Flats Industrial Park Site in unincorporated Jefferson County, Colorado (the ''Facility''). Under the terms of the proposed consent decree, which is based in part on GWI's limited financial resources, GWI will pay the Environmental Protection Agency (''EPA'') $220,000 over a period of three years in reimbursement of EPA's response costs. GWI will also perform work at the Facility valued at $333,000 to enhance and maintain EPA's response actions and will enter into an environmental covenant designed to ensure the continued protectiveness of those response actions.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney The United States' covenant is conditioned on the veracity and completeness of the financial information General, Environment and Natural Resources Division, P.O. Box 7911, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Great Western Inorganics, Inc,* D.J. Ref. 90–11–3–1719/3. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed consent decree may be examined at U.S. EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202. A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611 fax. no. (202) 616–6584; phone confirmation no. (202) 514–1547. In requesting a copy, please enclose a check in the amount of $15.50 (25 cents per page reproduction cost) payable to the Consent Decree Library. In requesting a copy exclusive of exhibits and defendants' signatures, please enclose a check in the amount of $7.00 (25 cents per age reproduction cost) payable to the Consent Decree Library. The check should refer to United States v. Great Western Inorganics, Inc., CA No. 02–N–0604, D. CO. and DOJ #90–11–3–1719/3.

**Robert Brook,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 02–8362 Filed 4–5–02; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on March 14, 2002, a proposed Consent Decree in *United States* v. *T H Agriculture & Nutrition, L.L.C.*, Civil Action No. 1:02–CV–38–2, was lodged with the United States District Court for the Middle District of Georgia.

In this action the United States sought injunctive relief in order to remedy conditions in connection with the release and threatened release of hazardous substances into the environment at and from Operable Unit Number 1 of the T.H. Agriculture and Nutrition Superfund Site (''Site'') in Albany, Dougherty County, Georgia. The United States also sought to recover unreimbursed costs incurred and to be incurred for response activities undertaken and to be undertaken at Operable Unit Number 1 of the Site. The Site consists of two former pesticide formulation facilities. The proposed Consent Decree settles claims against defendant T H Agriculture & Nutrition, L.L.C. (''THAN'') pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9606, 9607, with respect to injunctive relief and response costs sought. The proposed Consent Decree requires the Defendant, THAN, to implement the remedy selected by the Environmental Protection Agency (''EPA'') for Operable Unit Number 1. The proposed Consent Decree provides for the defendant to file a motion to dismiss with prejudice its appeal from a United States District Court decision denying its claim for reimbursement of response costs under CERCLA Section 106(b)(2), 42 U.S.C. 9606(b)(2), currently on appeal before the United States Court of Appeals for the Eleventh Circuit as Appeal No. 00–12854–BB, *T H Agriculture & Nutrition* v. *EPA, et al.* The proposed Consent Decree provides that the defendant shall not be required to pay for the United States' past or future response costs at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United*

*States* v. *T H Agriculture & Nutrition, L.L.C.*, D.J. Ref. 90–11–3–1426/2.

The Consent Decree may be examined at the Office of the United States Attorney, Middle District of Georgia, 433 Cherry Street, 5th Floor, Macon, Georgia 31202, and at U.S. EPA Region IV, 61 Forsyth Street, Atlanta, Georgia 30303. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $65.50 (25 cents per page reproduction cost) payable to the Consent Decree Library. In requesting a copy exclusive of appendices, please enclose a check in the amount of $11.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

**Ellen M. Mahan,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 02–8363 Filed 4–5–02; 8:45 am]

**BILLING CODE 4410–15–M**

## DEPARTMENT OF JUSTICE

**[AAG/A Order No. 260–2002]**

## Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Federal Bureau of Prisons (Bureau) proposes to modify a system of records. Specifically:

The ''Access Control Entry/Exit System, JUSTICE/BOP–010'' (last published on October 4, 1995 (60 FR 52013)).

The system has been only slightly revised to expand the categories of records to specifically include testing data for drugs, explosives, weapons, and other contraband. One Routine Use has been revised and a new Routine Use added. The storage description has been expanded to include compact discs (CDs). This modified system will be effective sixty (60) days from [the publication date].

Title 5 U.S.C. 552a (e)(4) and (11) provide that the public be provided a 30-day period in which to comment. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires that it be given a 40-day period in which to review the system. Therefore, please submit any comments by May 8, 2002. The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

A description of the modified system is provided below. Although there were only a few changes to the system as previously published, the entire notice is provided below for the convenience of the public.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: March 28, 2002.

**Robert F. Diegelman,**

*Acting Assistant Attorney General for Administration.*

### JUSTICE/BOP–010

**SYSTEM NAME:**

Access Control Entry/Exit System.

**SYSTEM LOCATION:**

Records may be retained at the Central Office, Regional offices, and at any of the Bureau of Prisons (Bureau) facilities. A list of these system locations may be found at 28 CFR part 503 and on the Internet at *http://www.bop.gov.*

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former staff, inmates now or formerly under the custody of the Attorney General or the Bureau, and all visitors to Bureau facilities, including law enforcement personnel, contractors, volunteers, and inmate visitors.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information retrieved and stored by the system may include any information relative to providing safe and secure prison facilities, to protecting the prison population and/or the general public, and/or, where appropriate, to otherwise promoting the interests of effective law enforcement.

Examples include:

(a) Identification data (much of which is collected from the individual), such as the person's name, current residence, social security number, employer, place and date of birth, age, height, weight, digital image, biometric identifier information, alien registration number, driver's license number, telephone number, passport number, system-generated number, hair color, eye color, sex, race, escort of visitor into institution, and system classification of individual;

(b) other data collected from the visitor and/or from law enforcement to enable prison officials to determine the suitability/acceptability of a visitor such as: the purpose of the visit, testing data regarding drugs, explosives, weapons and/or other contraband, relationship to the inmate and information indicating whether the visitor is under investigation by law enforcement and/or has ever been convicted of a crime, probation and/or parole status, name of supervising probation/parole officer, etc.;

(c) records generated by the system to report entry/exit activity, e.g. date and time of entry/exit, entry/exit locations used; and location data, including location in the institution visited and/or movement within the institution;

(d) any related law enforcement or investigatory data, provided by third parties such as inmates, courts, and other federal, state, local, and foreign law enforcement agencies, e.g. criminal history and/or investigatory data relating to potential visitors; investigatory data otherwise developed by Bureau officials regarding any activity, or suspicious activity, which may threaten the safe and secure operation of federal correctional facilities, e.g. remarks describing a possible introduction of contraband; drug testing data; and any other information that may enable the Bureau to pursue an internal investigation on a record subject.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system is established and maintained under the authority of 18 U.S.C. 3621, 4042, 5003.

**PURPOSE(S):**

The records in this system are maintained to better ensure the safety, security and good order of Bureau facilities; to improve staff ability to quickly account for all persons (inmates, visitors, and staff) within an institution in the event of an emergency, such as an institution disturbance or a natural disaster; to identify and, where appropriate, determine the suitability of visitors with respect to entering prison facilities; and, to more effectively prevent violations of institution policy and/or criminal activity, such as inmate escapes and the introduction of contraband. Where these efforts fail to prevent such violations, and/or where appropriate, records may be collected and used by the Bureau for internal investigations.

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

Relevant data from this system will be disclosed as follows:

(a) To federal, state, local, foreign and international law enforcement agencies who have a need for the information to perform their duties, e.g. in the course

of apprehensions, investigations, possible criminal prosecutions, civil court actions, regulatory proceedings, inmate disciplinary hearings, parole hearings, responding to emergencies, or other law enforcement activity;

(b) to federal, state, local, foreign and international law enforcement agencies in order to solicit or obtain data needed by prison officials for law enforcement purposes, e.g. to determine whether a visitor may be under investigation, have a criminal record, or otherwise be unsuitable to visit; or to obtain any information that may enable the Bureau to pursue an internal investigation pertaining to any record subject based on information developed by the Bureau;

(c) to the news media and the public 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;

(d) 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;

(e) to the National Archives and Records Administration (NARA) and to the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

(f) to a court or adjudicative body before which the Department of Justice or the Bureau is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the Bureau to be arguably relevant to the litigation: (1) The Bureau, or any subdivision thereof, or (2) any Department or Bureau employee in his or her official capacity, or (3) any Department or Bureau employee in his or her individual capacity where the Department has agreed to provide representation for the employee, or (4) the United States, where the Bureau determines that the litigation is likely to affect it or any of its subdivisions;

(g) in an appropriate proceeding before a court or administrative or regulatory body when records are determined by the Department of Justice to be arguably relevant to the proceeding, including federal, state, and local licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit;

(h) 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;

(i) to any person or entity to the extent necessary to prevent immediate loss of life or serious bodily injury; and

(j) pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local 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.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information maintained in the system is stored in electronic media in Bureau facilities via a configuration of personal computer, client/server, and mainframe systems architecture. Computerized records are maintained on hard disks, floppy diskettes, compact discs (CDs), magnetic tape and/or optical disks. Documentary records are maintained in manual file folders and/or index card files.

**RETRIEVABILITY:**

Records are retrievable by identifying data, including last name, inmate register number, system classification category, Social Security number, alien registration number, system-generated identification number, passport number, employee badge number and/or miscellaneous identification number as provided by the visitor and/or other law enforcement agencies.

**SAFEGUARDS:**

Information is safeguarded in accordance with Bureau rules and policy governing automated information systems security and access. These safeguards include the maintenance of records and technical equipment in restricted areas, and the required use of proper passwords and user identification codes to access the system. Similarly, paper records are stored in secured areas to prevent unauthorized access. Only those Bureau personnel who require access to perform their official duties may access the records described in this system of records.

**RETENTION AND DISPOSAL:**

Records generated by the system to report entry/exit and internal movement activities are retained in accordance with General Records Schedule (GRS) 18. All other records in the system of records are retained until such time as the records no longer serve the purpose described by this system of records. At such time, these records (including investigatory records and/or records relating to disciplinary hearings and/or other appropriate personnel actions) may be incorporated into an appropriate, published BOP system of records with an approved retention schedule, or destroyed. Computerized records are destroyed by shredding, degaussing, etc., and documentary records are destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Director, Information, Policy, and Public Affairs Division, Federal Bureau of Prisons, 320 First Street NW., Washington, DC 20534.

**NOTIFICATION PROCEDURE:**

Inquiries concerning this system should be directed to the System Manager listed above.

**RECORD ACCESS PROCEDURES:**

All requests for records may be made by writing to the Director, Federal Bureau of Prisons, 320 First Street NW., Washington, DC 20534, and should be clearly marked ''Privacy Act Request.'' This system is exempt, under 5 U.S.C. 552a (j)(2) or (k)(2), from some access. A determination as to exemption shall be made at the time a request for access is received.

**CONTESTING RECORD PROCEDURES:**

Same as above.

**RECORD SOURCE CATEGORIES:**

Records are generated by: (1) Individuals covered by the system; (2) federal, state, local, tribal, foreign and international law enforcement agencies; and (3) federal and state probation and judicial offices.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Pursuant to 5 U.S.C. 552a(j)(2) or (k)(2), the Attorney General has exempted this system from subsections (c)(3) and (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(5) and (e)(8), and (g) of the Privacy Act. Rules have been promulgated in accordance with the requirements of 5

U.S.C. 553(b), (c) and (e) and may be found at 28 CFR part 16.97 (c) and (d).

[FR Doc. 02–8424 Filed 4–5–02; 8:45 am]

BILLING CODE 4410–05–P

## DEPARTMENT OF JUSTICE

**[AAG/A Order No. 261–2002]**

## Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Federal Bureau of Prisons (Bureau) proposes to modify its system of records entitled ''Telephone Activity Record System, JUSTICE/BOP–011''. This system, which was last published on April 21, 1995 (60 FR 19958), is now being modified and will become effective 60 days from the date of publication.

The Bureau is updating the system's location and modifying the system to include all individuals placed directly under the custody of the Bureau pursuant to 18 U.S.C. 3621 and 5003 (state inmates). Digital recordings and Compact Discs (CDs) have been added to the sections describing Categories of Records and Storage. Two Routine Uses have been revised and a new Routine Use added. All other sections remain the same, including the exemptions from certain provisions of the Privacy Act.

Title 5 U.S.C. 552a (e)(4) and (11) provide that the public be provided a 30-day period in which to comment. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires that it be given a 40-day period in which to review the system. Therefore, please submit any comments by May 8, 2002. The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

A description of the modified system is provided below. Although there were only a few changes to the system as previously published, the entire notice is provided below for the convenience of the public.

Dated: March 28, 2002.

**Robert F. Diegelman,**

*Acting Assistant Attorney General for Administration.*

### JUSTICE/BOP–011

**SYSTEM NAME:**

Telephone Activity Record System.

**SYSTEM LOCATION:**

Records may be retained at the Central Office, Regional Offices, or at any of the Federal Bureau of Prisons (Bureau) facilities, or at any location operated by a contractor authorized to provide computer and/or telephone service to Bureau inmates. A list of Bureau facilities may be found at 28 CFR part 503 and on the Internet at *http://www.bop.gov.*

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former inmates, including pre-trial detainees, under the custody of the Attorney General and/or the Director of the Bureau of Prisons; recipients of telephone calls from current and former inmates; individuals on the approved telephone lists of current or former inmates; individuals who request, in writing, that the Bureau delete their name and telephone number from inmate telephone lists.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system include: (1) Personal identification data; (2) accounting data, including amounts deposited by the inmate, call charges, and account balances; (3) telephone call data, including date, time, and duration of each call; the name and register number of the inmate who placed the call; and the telephone number and name of the call recipient and his/her relationship to the inmate, audiotapes and digital recordings of telephone calls; and (4) investigatory data developed internally as well as any related data collected from federal, state, local and foreign law enforcement agencies, and from federal and state probation and judicial officers.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

18 U.S.C. 2510 et seq., 3621, 4042, and 5003.

**PURPOSE(S):**

This system of records is maintained to manage financial records relating to inmate calls and to ensure that inmates exercise their telephone privileges in a manner consistent with correctional goals. The related uses for which BOP will maintain the system include (1) accounting of inmate funds for telephone use; (2) maintaining inmate telephone lists; (3) monitoring of inmate telephone activity; and (4) conducting investigations, e.g., investigation of inmate funds as related to telephone usage, and/or illegal activities or suspected illegal activities being conducted, coordinated, or directed from within a federal correctional institution.

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

Relevant data from this system will be disclosed as follows:

(a) To federal, state, local, foreign and international law enforcement agencies and officials for law enforcement purposes such as civil court actions, regulatory proceedings, responding to an emergency, inmate disciplinary proceedings in the course of apprehensions or other disposition; or for such law enforcement needs as prison administration, investigations, and possible criminal prosecutions, including possible criminal violations discovered as part of telephone monitoring done for the safety, security and good order of penal institutions. Such telephone monitoring information will be disclosed only in accordance with the provisions of the federal wiretap statutes contained in 18 U.S.C. 2510 et seq. and Bureau implementing policy.

(b) to a court or adjudicative body before which the Department of Justice or the Bureau is authorized to appear, or to a private attorney authorized by the Department of Justice to represent a Bureau employee, when any of the following is a party to litigation or has an interest in litigation and such records are determined by the Bureau to be arguably relevant to the litigation: (1) The Bureau, or any subdivision thereof, or (2) any Department or Bureau employee in his or her official capacity, or (3) any Department or Bureau employee in his or her individual capacity where the Department has agreed to provide representation for the employee, or (4) the United States, where the Bureau determines that the litigation is likely to affect it or any of its subdivisions;

(c) 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;

(d) to Members 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 record subject;

(e) to the news media and the public 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;

(f) to the National Archives and Records Administration and General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

(g) to affected non-inmate record subjects to the extent necessary to provide such persons with information concerning placement and/or removal from an inmate's telephone list;

(h) to any person or entity to the extent necessary to prevent immediate loss of life or serious bodily injury;

(i) in an appropriate proceeding before a court or administrative or regulatory body when records are determined by the Department of Justice to be arguably relevant to the proceeding, including federal, state, and local licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit, and;

(j) Pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local 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.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information maintained in the system is stored in electronic media via a configuration of personal computer, client/server, and mainframe systems architecture and may be accessed by those with a need-to-know at all Bureau and contractor facilities. Some information may be stored in other computerized media, e.g., hard disk, floppy diskettes, magnetic tape, digital recordings, Compact Discs (CDs), and/or optical disks. Documentary records are maintained in manual file folders and/or on index card files.

**RETRIEVABILITY:**

Records may be retrieved by identifying data including name and/or register number of inmate; and /or by name and/or telephone number of call recipient or individual on approved inmate telephone list.

**SAFEGUARDS:**

Manual records are stored in locked filing cabinets or in safes and can be accessed only by authorized personnel by key or combination formula. Automated equipment is kept in secured rooms and can be accessed only by authorized personnel through passwords and identification codes. All records in Bureau facilities are maintained in guarded buildings.

**RETENTION AND DISPOSAL:**

Automated records in this system are maintained on magnetic medium ordinarily for six years from the date created, at which time they will be overwritten with new data. Paper documents are maintained for a period of 30 years from expiration of sentence of the inmate, at which time they are destroyed by shredding. Audiotapes are maintained ordinarily for six months from the date created, at which time they are overwritten with new data.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Director, Administration Division, Federal Bureau of Prisons; 320 First Street NW., Washington, DC 20534.

**NOTIFICATION PROCEDURE:**

Inquiries should be directed to the System Manager listed above.

**RECORD ACCESS PROCEDURES:**

All requests for records may be made by writing to the System Manager identified above, Federal Bureau of Prisons, 320 First Street NW, Washington, DC 20534. The envelope should be clearly marked ''Freedom of Information/Privacy Act Request.'' This system of records is exempted from access pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). A determination as to the applicability of the exemption to a particular record(s) shall be made at the time a request for access is received.

**CONTESTING RECORD PROCEDURES:**

Same as above.

**RECORD SOURCE CATEGORIES:**

Records are generated by: individuals covered by the system; Bureau staff; federal, state, local, tribal, international, and foreign law enforcement agencies; and federal/state probation and judicial offices.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2), (e)(3), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**. The rules are published at 28 CFR 16.97(e) and (f).

[FR Doc. 02–8425 Filed 4–5–02; 8:45 am]

**BILLING CODE 4410–05–P**

## DEPARTMENT OF JUSTICE

**[AAG/A Order No. 262–2002]**

## Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Federal Bureau of Prisons (Bureau) proposes to establish a new system of records entitled, ''Outside Employment Requests Record System, (JUSTICE/BOP–015).'' This system, which will become effective June 7, 2002, is being established to assist staff in tracking approved and disapproved requests for outside employment by Bureau employees, including professional staff, e.g. attorneys, doctors, psychiatrists, chaplains and architects.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires that it be given a 40-day period in which to review the system.

Therefore, please submit any comments by May 8, 2002. The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

A description of the system of records is provided below. In addition, the Department of Justice has provided a report to OMB and the Congress in accordance with 5 U.S.C. 552a(r).

Dated: March 28, 2002.

**Robert F. Diegelman,**

*Acting Assistant Attorney General for Administration.*

**JUSTICE/BOP–015**

**SYSTEM NAME:**

Outside Employment Requests Record System.

**SYSTEM LOCATION:**

Records may be retained at the Central Office, Regional Offices, and/or at any of the Federal Bureau of Prisons (Bureau) facilities. A list of these system locations may be found at 28 CFR part 503 and on the Internet at *http://www.bop.gov.*

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former Bureau employees, including the following professionals: attorneys, doctors, psychiatrists, chaplains and architects, who request approval for outside employment.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Submitted requests for permission to be employed outside the Bureau; staff notes, correspondence and/or memoranda concerning the processing of these requests; approved/disapproved requests signed by appropriate Bureau officials; identifying data of intended employers, including name, address, telephone number, point of contact; identifying data of Bureau employee, including name, duty location, address, telephone number, and system-generated number.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

This system is established and maintained under the authority of 5 CFR part 3801.106.

**PURPOSE(S):**

The purpose of this system is to track approved and disapproved requests by Bureau employees for outside employment, including the following professions: attorneys, doctors, psychiatrists, chaplains and architects.

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

In addition to Bureau employees who have a need for the information in the course of their duties, relevant data from this system will be disclosed as follows:

(a) to federal, state, local, tribal, foreign and international law enforcement agencies and officials for law enforcement purposes such as investigations, possible criminal prosecutions, civil court actions, and/or regulatory proceedings;

(b) to a court or adjudicative body before which the Department of Justice or the Bureau is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the Bureau to be arguably relevant to the litigation; (1) the Bureau, or any subdivision thereof, or (2) any Department or Bureau employee in his or her official capacity, or (3) any Department or Bureau employee in his or her individual capacity where the Department has agreed to provide representation for the employee, or (4) the United States, where the Bureau determines that the litigation is likely to affect it or any of its subdivisions;

(c) in an appropriate proceeding before a court or administrative or regulatory body when records are determined by the Department of Justice to be arguably relevant to the proceeding, including federal, state, and local licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit;

(d) 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;

(e) to the National Archives and Records Administration and General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(f) 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; and

(g) pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local 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.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information maintained in the system is stored in electronic media in Bureau facilities via a configuration of personal computer, client/server, and mainframe systems architecture. Computerized records are maintained on hard disk, floppy diskettes, compact discs (CDs), magnetic tapes and/or optical disks. Documentary records are maintained in manual file folders and/or index card files.

**RETRIEVABILITY:**

Documentary records are sorted by year, and then filed alphabetically by the subject's last name. Computerized data is retrievable by the fields entered into the data-base, including name, duty location, date, region, and the system-generated number.

**SAFEGUARDS:**

Information is safeguarded in accordance with Bureau rules and policy governing automated information systems security and access. These safeguards include the maintenance of records and technical equipment in restricted areas, and the required use of proper passwords and user identification codes to access the system. Only those Bureau personnel who require access to perform their official duties may access the system equipment and the information in the system.

**RETENTION AND DISPOSAL:**

Records are reviewed every two years and are retained for seven (7) years from the date of the approval/disapproval of the request. Documentary records are destroyed by shredding and electronic records are destroyed by either erasing or degaussing.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Directory/General Counsel, Office of General Counsel, Federal Bureau of Prisons, 320 First Street NW, Washington, D.C. 20534.

**NOTIFICATION PROCEDURE:**

Inquiries concerning this system should be directed to the System Manager listed above.

**RECORD ACCESS PROCEDURES:**

All requests for records may be made in writing to the Director, Federal Bureau of Prisons, 320 First Street NW, Washington, D.C. 20534, and should be clearly marked ''Privacy Act Request.''

**CONTESTING RECORD PROCEDURES:**

Same as above.

**RECORD SOURCE CATEGORIES:**

Records are generated by Bureau employees who submit requests for permission to be employed outside the Bureau, by Bureau staff involved in the processing of these requests, and by intended employers.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 02–8426 Filed 4–5–02; 8:45 am]

**BILLING CODE 4410–05–P**

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-day notice of information collection under review: extension of existing collection: annual parole survey, annual probation survey, and annual probation survey (short term).

The Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, page 921 on January 8, 2002, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until May 8, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Forms: CJ–7; CJ–8; and CJ–8A. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked to respond, as well as a brief abstract: Primary: State Departments of Corrections or State probation and Parole authority. Others: The Federal Bureau of Prisons, city and county courts and probation officers for which a central reporting authority does not exist. For the CJ–7 form, 54 central reporters (two State jurisdictions in California and one each from the remaining States, the District of Columbia, the Federal Bureau of Prisons, and one local authority) responsible for keeping records on parolees will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult parolees under their jurisdiction;

(b) The number of adults entering parole during 2002 through discretionary release from prison, mandatory release from prison, or reinstatement of parole;

(c) The number of adults released from parole during 2002 through successful completion, incarceration, transfer to another parole jurisdiction, or death;

(d) Whether adult parolees supervised out of State have been included in the total number of parolees on December 31, 2002, and the number of adult parolees supervised out of State;

(e) As of December 31, 2002, the number of male and female parolees under this jurisdiction;

(f) As of December 31, 2002, the number of white (not of Hispanic origin), black (not of Hispanic origin), Hispanic or Latino, American Indian or Alaska Native, Asian or Pacific Islander, or additional categories in their information systems;

(g) As of December 31, 2002, the number of adult parolees under their jurisdiction with a sentence of more than one year, or a year or less;

(h) As of December 31, 2002, the number of adult parolees under their jurisdiction who were active, inactive, absconders, or supervised out of state;

(i) As of December 31, 2002, the number of adult parolees under their jurisdiction who were supervised following a discretionary release, a mandatory release, a special conditional release, or other type of release from prison;

(j) Whether the parole authority operated an intensive supervision program, a program involving electronic monitoring, or had any parolees enrolled in a program that approximates a bootcamp, and the number of adult parolees in each of the programs as of December 31, 2002; and

(k) Of the adult parolees who died between January 1 and December 31, 2002, the number of deaths by gender and the number of deaths by race.

For the CJ–8 form, 333 reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons; and 295 from local authorities) responsible for keeping records on probations will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult probationers under their jurisdiction:

(b) The number of adults entering probation during 2002 with and without a sentence to incarceration;

(c) The number of adults discharged from probation during 2002 through successful completion, incarceration, a detainer or warrant, transfer to another parole jurisdiction, and death;

(d) Whether adult parolees supervised out of State have been included in the total number of parolees on December 31, 2002, and the number of adult parolees supervised out of State;

(e) As of December 31, 2002, the number of male and female probationers under their jurisdiction;

(f) As of December 31, 2002, the number of white (not of Hispanic origin), black (not of Hispanic origin), Hispanic or Latino, American Indian or Alaska Native, Asian or Pacific Islander, or additional categories in their information system;

(g) As December 31, 2002, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type;

(h) As of December 31, 2002, the number of adult probationers who had as their most serious offense a drug law violation, driving while intoxicated, other traffic offense, or domestic violence offense.

(i) Whether the probation authority supervised any probations held in local jails, prisons, or an INS holding facility, and the number of adult probationers held in each on December 31, 2002;

(j) As of December 31, 2002, the number of adult probationers under their jurisdiction who had entered probation with a direct sentence to probation, a split sentence to probation, a suspended sentence to incarceration, or a suspended imposition of sentence;

(k) As of December 31, 2002, the number of adult probationers under their jurisdiction who were active, inactive, absconders, or supervised out of State; and

(l) Whether the probation authority operated an intensive supervision program, a program involving electronic monitoring, or had any probationers enrolled in a program that approximates a bootcamp, and the number of adult probationers in each of the programs as of December 31, 2002.

(m) Whether the probation authority contracted out to a private agency for supervision, and the number of probationers supervised by a private agency that here included in the total population of December 31, 2002.

For the CJ–8A form, 150 reporters (from local authorities) responsible for keeping records on probationers will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation and discharged from probation during 2002;

(c) As of December 31, 2002, the number of male and female probationers under their jurisdiction; and

(d) As of December 31, 2002, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, reasearchs, students, the media, and others interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. There are five hundred and thirty-seven respondents, each taking an average 1.17 hours to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: Six hundred and fifty six annual burden hours are associated with this information collection.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: March 29, 2002.

**Brenda E. Dyer,**

*Department Deputy Clearance Officer, United States Department of Justice.*

[FR Doc. 02–8257 Filed 4–5–02; 8:45 am]

**BILLING CODE 4410–18–M**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice.

**SUMMARY:** NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used when veterans or other authorized individuals request information from or copies of documents in military service records. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be received on or before June 7, 2002, to be assured of consideration.

**ADDRESSES:** Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to *tamee.fechhelm@nara.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed collection information is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

*Title:* Request Pertaining to Military Records.

*OMB number:* 3095–0029.

*Agency form number:* SF 180.

*Type of review:* Regular.

*Affected public:* Veterans, their authorized representatives, state and local governments, and businesses.

*Estimated number of respondents:* 552,500.

*Estimated time per response:* 5 minutes.

*Frequency of response:* On occasion (when respondent wishes to request information from a military personnel record).

*Estimated total annual burden hours:* 46,042 hours.

*Abstract:* In accordance with rules issued by the Department of Defense (DOD) and Department of Transportation (DOT, US Coast Guard), the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers military service records of veterans after discharge, retirement, and death. When veterans and other authorized individuals request information from or copies of documents in military service records, they must provide in forms or in letters certain information about the veteran

and the nature of the request. Federal agencies, military departments, veterans, veterans organizations, and the general public use Standard Forms (SF) 180, Request Pertaining to Military Records, in order to obtain information from military service records stored at NPRC. The authority for this information collection is contained in 36 CFR 1228.162.

Dated: April 2, 2002.

**L. Reynolds Cahoon,**

*Assistant Archivist for Human Resources and Information Services.*

[FR Doc. 02–8360 Filed 4–5–02; 8:45 am]

**BILLING CODE 7515–01–U**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–397]**

## Energy Northwest; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–21, issued to Energy Northwest (the licensee), for operation of the Columbia Generating Station located in Benton County, Washington.

The proposed amendment would change Technical Specification (TS) Surveillance Requirement (SR) 3.6.1.3.6 to add a modifying footnote to the verification requirements for main steam isolation valve (MSIV) isolation times to specify that the isolation time of each MSIV includes circuit response time and to require verification that isolation of all of the main steam lines can be completed within the limits specified in SR 3.6.1.3.6.

On March 21, 2002, Energy Northwest requested enforcement discretion from compliance with Required Action A of Limiting Condition for Operation (LCO) 3.6.1.3 because two inboard MSIVs were declared inoperable due to failure to meet SR 3.6.1.3.6. Compliance with the LCO action would have required isolation of two main steam lines necessitating a plant shutdown. The SR for MSIVs was previously thought to be met and each MSIV operable. The discovery that circuit response time should not be included in MSIV isolation time regarding the three-second time limit portion of SR 3.6.1.3.6, resulted in two MSIVs being technically inoperable. The staff issued the Notice of Enforcement Discretion (NOED) on March 26, 2002. The exigent technical specification amendment request will preclude the need for continued enforcement discretion.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The MSIV closure transient is discussed in FSAR [Final Safety Analysis Report] section 15.2.4. The sequence of events for this transient is given in FSAR Table 15.2–5 that assumes a time of 3.0 sec for all MSIVs to be closed. A review was performed of the Cycle 16 analysis, which modeled the four sets of MSIVs (two valves per steam line) collectively as a single orifice that transitions from full open to full closed in 3 seconds (includes valve motion time only). The overpressurization event occurs as a result of the pressure wave reflected back to the reactor pressure vessel by rapid MSIV closure. When analyzing the specific closure times from the last MSIV isolation time surveillances, performed on February 18 and February 22, 2002, it was determined that although two steam lines would be isolated in less than 3 seconds, the two remaining steam lines would be isolated in greater than 3 seconds. Averaging of the limiting (fastest) time for each of the four main steam lines yields an average valve motion time of 3.12 seconds. This average time is within the bounds of the analysis assumptions. There is no affect on the probability of a previously evaluated accident because two main steam lines isolating at the slightly faster time does not alter any event sequence considered in the accident analysis.

Therefore, this request for amendment does not involve a significant increase in the probability or consequences of the MSIV closure accident previously evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will not change the design function or operation of the MSIVs involved. There are no credible new failure mechanisms, malfunctions, or accident initiators associated with this change that are not considered in the design and licensing bases. The safety function of the MSIVs is to mitigate release of radioactive material. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a significant reduction in the margin of safety.

**Qualitative Risk Assessment**

Analysis by Columbia Generating Station has determined that the current MSIV isolation times will not result in exceeding MCPR [minimum critical power ratio] or ASME vessel protection limits. Therefore, there is no adverse affect on any station equipment. Accordingly, implementing the requested amendment to Technical Specifications would not affect the baseline core damage probability.

Since the average of the measured limiting (fastest) isolation times for the MSIVs remain bounded by the Cycle 16 Licensing analysis there is no condition that would present a challenge to thermal limits, and thus, fuel failures. Also, since margin to the ASME overpressure limit is still maintained, protection of the RPV is not diminished. Therefore, there can be no increased risk to the public health and safety.

Other relevant analyses indicate that for closure times of 2 seconds or greater the impact on MCPR and vessel pressure is insignificant and will not challenge safety limits. The measured valve motion times of 2.74 seconds and 2.88 seconds are well above this value. Further, the average MSIV valve motion time of 3.12 seconds shows that the overall plant response with the current configuration is well within the bounds of the analysis. Therefore, this amendment request does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or

shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 8, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and available electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Thomas C. Poindexter, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 22, 2002, as supplemented by letter dated March 28, 2002, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/*

*reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 2nd day of April 2002.

For the Nuclear Regulatory Commission.

**John Hickman,**

*Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 02–8388 Filed 4–5–02; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–368]**

## Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 50.60 and 10 CFR part 50, Appendix G, for Facility Operating License No. NPF–6, issued to Entergy Operations, Inc. (the licensee), for operation of the Arkansas Nuclear One, Unit 2 (ANO–2), nuclear power plant, located in Pope County, Arkansas. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

### Environmental Assessment

*Identification of the Proposed Action*

The proposed action would allow a one-time exemption from 10 CFR part 50, Appendix G requirements that pressure-temperature (P-T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak testing conditions. Specifically, 10 CFR part 50, Appendix G, states that ''[t]he appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR part 50 specifies that the requirements for these limits are contained in the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code), Section XI, Appendix G.

To address provisions of an amendment to the Technical Specifications (TSs) P-T limits and low-temperature overpressure protection (LTOP) system TS restrictions, the licensee requested in its submittal dated October 30, 2001, as supplemented by letters dated February 25 and March 13, 2002, that the NRC staff exempt the ANO–2 nuclear power plant from the requirements of 10 CFR part 50, Appendix G. The exemption requested would allow the use of ASME Code Case N–641 in establishing the reactor vessel pressure limits at low temperatures.

Code Case N–641 permits the use of an alternate reference fracture toughness ($K_{IC}$ fracture toughness curve instead of the $K_{IA}$ fracture toughness curve) for reactor vessel materials in determining the P-T limits, LTOP system setpoints, and LTOP system effective temperature (also known as the LTOP system enable temperature, $T_{enable}$), and provides for plant-specific evaluation of $T_{enable}$. Since the $K_{IC}$ fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1 (the $K_{IC}$ fracture toughness curve) provides greater allowable fracture toughness than the corresponding $K_{IA}$ fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1 (the $K_{IA}$ fracture toughness curve), and a plant-specific evaluation of $T_{enable}$ would give lower values of $T_{enable}$ than use of a generic bounding evaluation for $T_{enable}$, use of Code Case N–641 for establishing the P-T limits, LTOP system setpoints, and $T_{enable}$ would be less conservative than the methodology currently endorsed by 10 CFR part 50, Appendix G. Although the use of the $K_{IC}$ fracture toughness curve in ASME Code Case N–641 was recently incorporated into Appendix G to Section XI of the ASME Code, an exemption is still needed because 10 CFR part 50, Appendix G requires a licensee's analysis to use an edition and addenda of Section XI of the ASME Code incorporated by reference into 10 CFR part 50, Section 50.55a, i.e., the editions through 1995 and addenda through the 1996 addenda (which do not include the provisions of Code Case N–641). Therefore, an exemption to apply the Code case is required by 10 CFR part 50, Section 50.60.

The proposed action is in accordance with the licensee's application for exemption dated October 30, 2001, as supplemented by letters dated February 25 and March 13, 2002.

*The Need for the Proposed Action*

ASME Code Case N–641 is needed to revise the method used to determine the reactor coolant system (RCS) P-T limits, LTOP setpoints, and $T_{enable}$.

The purpose of 10 CFR part 50, Section 50.60(a), and 10 CFR part 50, Appendix G, is to protect the integrity of the reactor coolant pressure boundary (RCPB) in nuclear power plants. This is accomplished through these regulations that, in part, specify fracture toughness requirements for ferritic materials of the RCPB. Pursuant to 10 CFR part 50, Appendix G, it is required that P-T limits for the RCS be at least as conservative as those obtained by applying the methodology of the ASME Code, Section XI, Appendix G.

Current overpressure protection system (OPPS) setpoints produce operational constraints by limiting the P-T range available to the operator to heat up or cool down the plant. The operating window through which the operator heats up and cools down the RCS becomes more restrictive with continued reactor vessel service. Reducing this operating window could potentially have an adverse safety impact by increasing the possibility of inadvertent OPPS actuation due to pressure surges associated with normal plant evolutions, such as reactor coolant pump start and swapping operating charging pumps with the RCS in a water-solid condition. The impact on the P-T limits and OPPS setpoints has been evaluated for an increased service period for operation to 32 effective full-power years for ANO–2, based on ASME Code, Section XI, Appendix G requirements. The results indicate that these OPPS setpoints would significantly restrict the ability to perform plant heatup and cooldown, create an unnecessary burden to plant operations, and challenge control of plant evolutions required with OPPS enabled. Continued operation of ANO–2 with P-T curves developed to satisfy ASME Code, Section XI, Appendix G, requirements without the relief provided by ASME Code Case N–641 would unnecessarily restrict the P-T operating window, especially at low temperature conditions.

Use of the $K_{IC}$ curve in determining the lower bound fracture toughness of RPV steels is more technically correct than use of the $K_{IA}$ curve, since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The $K_{IC}$ curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the conservatism of the $K_{IA}$ curve since 1974, when the curve was adopted by the ASME Code. This conservatism was initially necessary due to the limited knowledge of the fracture toughness of RPV materials at that time. Since 1974, additional

knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the $K_{IA}$ curve greatly exceeds the margin of safety required, and that the $K_{IC}$ curve is sufficiently conservative to protect the public health and safety from potential RPV failure. Application of ASME Code Case N–641 will provide results that are sufficiently conservative to ensure the integrity of the RCPB, while providing P-T curves that are not overly restrictive. Implementation of the proposed P-T curves, as allowed by ASME Code Case N–641, does not significantly reduce the margin of safety.

In the associated exemption, the NRC staff has determined that, pursuant to 10 CFR part 50, section 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served by the implementation of ASME Code Case N–641.

*Environmental Impacts of the Proposed ACTION:*

The NRC has completed its evaluation of the proposed action and concludes, as set forth below, that there are no significant environmental impacts associated with the use of the alternative analysis method to support the revision of the RCS P-T limits, LTOP setpoints and proposed $T_{enable}$.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

*Environmental Impacts of the Alternatives to the Proposed Action:*

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources:*

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the ANO–2 nuclear power plant, dated June 1977 (NUREG–0254).

*Agencies and Persons Consulted:*

On March 18, 2002, the staff consulted with the Arkansas State official, Mr. B. Bevill of the Division of Radiation Control and Emergency Management of the Arkansas Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 30, 2001, as supplemented by letters dated February 25 and March 13, 2002. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 2nd day of April 2002.

For the Nuclear Regulatory Commission.

**Robert A. Gramm,**

*Chief, Section I, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 02–8387 Filed 4–5–02; 8:45 am]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Collection; Comment Request for Review of a Revised Information Collection: OPM 1386B

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit a request to the Office of Management and Budget (OMB) for review of a revised information collection. OPM 1386B, Applicant Race and National Origin Questionnaire, is used to gather information concerning the race and national origin of applicants for employment under the Outstanding Scholar provision of the Luevano consent Decree, 93 F.R.D. 68 (1981).

New standards for collecting race and ethnicity are defined in the **Federal Register** Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, 62 FR 58782 (1997). The standards change the classification of Federal data on race and ethnicity contained in OMB Directive 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting. This classification provides a minimum standard for maintaining, collecting, and presenting data on race and ethnicity. The standards have five categories for race and two for ethnicity. They also allow individuals to select more than one race, based on self-identification.

Approximately 100,000 OPM 1386B forms are completed annually. Each form takes approximately eight minutes to complete. The annual estimated burden is 13,333 hours.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey at (202) 606–

8358, FAX (202) 418–3251 or email to *mbtoomey@opm.gov*. Please include your mailing address with your request.

**DATES:** Comments on this proposal should be received within 60 calendar days from the date of this publication.

**ADDRESSES:** Send or deliver comments to: Suzy M. Barker, Director, Examining and Qualifications Policy Division, Employment Service, U.S. Office of Personnel Management, 1900 E Street NW, Room 6500, Washington, DC 20415.

U.S. Office of Personnel Management.

**Kay Coles James,**

*Director.*

[FR Doc. 02–8423 Filed 4–5–02; 8:45 am]

**BILLING CODE 6325–38–M**

## POSTAL SERVICE

### Disclosure of Information on U.S. Mail

**ACTION:** Notice.

**SUMMARY:** The Postal Service is publishing notice that it has amended its *Administrative Support Manual* to clarify the instances when it may collect an image of the U.S. Mail, in whole or parts, for operational or health and safety purposes.

**DATES:** The amendment to the *Administrative Support Manual* (ASM) is effective when published in the Postal Bulletin (issue 22073) on April 4, 2002.

**ADDRESSES:** Parties interested in reviewing these amendments may find them online at *http://www.usps.com/cpim/ftp/bulletin/pb.htm.*

**FOR FURTHER INFORMATION CONTACT:** Elizabeth P. Martin, Chief Counsel, Customer Protection and Privacy, 202–268–3022.

**SUPPLEMENTARY INFORMATION:**

**Discussion of Amendments**

The Postal Service is revising ASM section 274.5, Disclosure of Information Collected From Mail Sent or Received by Customers, to designate two additional circumstances in which the Postal Service may collect images of live mail for specified purposes. Specifically, we:

- Added section 274.5(f)(9) to allow for developing, testing, and improving recognition and processing capabilities without getting written approval from the Chief Postal Inspector. This change facilitates the use of test decks for purposes of testing and calibrating enhanced processing technology.
- Added section 274.5(i) to allow the Postal Service to collect images of mail for the purpose of ensuring the health and safety of its employees and the public.
- Clarified that any images collected for operational purposes by the Postal Service may not be used for criminal investigative purposes, unless law enforcement officials comply with the procedures in ASM 213 regarding mail covers.
- Made technical amendments to replace the words ''photocopy'' or ''picture'' with the word ''image'', to encompass all the ways to create an image of a piece of mail.
- Created a new part 274.51, Disclosure of Information from Contents of Sealed Mail, to separate the limitations on uses for information obtained from the cover of mail from the limitations on the uses of information obtained from the contents of sealed mail. Sealed mail may be opened in mail recovery centers only for the purpose of obtaining an address to where the mail may be delivered. The new section 274.51 makes no changes to the limitations on other uses of that information.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 02–8361 Filed 4–5–02; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. IC–25508; 812–12612]**

### Investec Ernst & Company, et al.; Notice of Application

April 3, 2002.

**AGENGY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice of an application under: (i) Section 6(c) of the Investment Company Act of 1940 (''Act'') for exemptions from sections 2(a)(32), 2(a)(35), 22(d), and 26(a)(2)(C) of the Act and from rule 22c–1 under the Act; (ii) sections 11(a) and 11(c) of the Act for approval of certain exchange and rollover privileges and conversion offers; and (iii) sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

*Summary of Application:* Applicants request an order to permit certain unit investment trusts (''UITs'') to: (i) Impose sales charges on a deferred basis and waive the deferred sales charge in certain cases; (ii) offer unitholders certain exchange and rollover privileges and conversion offers; and (iii) sell portfolio securities of a terminating series of a UIT to a new series of that UIT.

*Applicants:* Investec Ernst & Company (''Sponsor'' or ''Investec''), EST Symphony Trust, The Pinnacle Family of Trusts, Equity Securities Trust, Mortgage Securities Trust, Municipal Securities Trust (including Insured Municipal Securities Trust), New York Municipal Trust, A Corporate Trust, Schwab Trusts, any future registered UIT sponsored or co-sponsored by Investec or an entity controlled by or under common control with Investec (the future UITs, together with the above-specified UITs are ''Trusts'') and any presently outstanding or subsequently issued series of each Trust (each, a ''Series''). The requested order would supersede three prior orders (''Prior Orders'').[1]

*Filing Dates***:** The application was filed on August 16, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

*Hearing or Notification of Hearing***:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 23, 2002 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW, Washington, DC, 20549–0609; Applicants: Peter J. DeMarco, c/o Investec Ernst & Company, One Battery Park Plaza, 7th Floor, New York, New York 10004.

**FOR FURTHER INFORMATION CONTACT:** Laura J. Riegel, Senior Counsel, at (202) 942–0567 or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the

[1] Reich & Tang Distributors L.P., et al., Investment Company Act Release Nos. 22222 (Sept. 13, 1996) (notice) and 22273 (Oct. 9, 1996) (order); Reich & Tang Distributors L.P., et al., Investment Company Act Release Nos. 22700 (June 11, 1997) (notice) and 22739 (July 8, 1997) (order); and Reich & Tang Distributors L.P., et al. Investment Company Act Release Nos. 22840 (Oct. 3, 1977) (notice) and 22866 (Oct. 29, 1997) (order).

application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC, 20549–0102 (tel. (202) 942–8090).

**Applicants' Representations**

1. Investec, a broker-dealer registered under the Securities Exchange Act of 1934, is the Sponsor to the existing Trusts.[2] Each Trust is or will be a UIT registered under the Act.[3] Each Series is or will be created by a trust indenture among the Sponsor, a banking institution or trust company as trustee (''Trustee''), and, for those Series that the Trustee does not also serve as evaluator, the evaluator.

2. The Sponsor acquires a portfolio of securities, which it deposits with the Trustee in exchange for certificates representing units of fractional undivided interest in the deposited portfolio (''Units''). The Units are then offered to the public through the Sponsor, underwriters and dealers at a public offering price which, during the initial offering period, is based upon the aggregate market value (the aggregate offering side evaluation for fixed income securities) of the underlying securities plus a front-end load sales charge. The sales charge currently ranges from 1.25% to 5.5% of the public offering price, generally depending upon the terms of the underlying securities

3. The Sponsor maintains a secondary market for Units and continually offers to purchase Units at prices based upon the market value (the bid side evaluation for fixed income securities) of the underlying securities. Investors may purchase Units on the secondary market at the current public offering price plus a front-end sales charge. If the Sponsor discontinues maintaining such a market at any time for any Series, holders of the Units (''Unitholders''') of that Series may redeem their Units through the Trustee.

*A. Deferred Sales Charge and Waiver of Deferred Sales Charge Under Certain Circumstances*

1. Applicants request an order to the extent necessary to permit them to impose a sales charge on a deferred basis (''deferred sales charge'' or ''DSC''). For each Series, the Sponsor would set a maximum sales charge per Unit, a portion of which may be collected ''up front'' (i.e., at the time an investor purchases the Units). The DSC would be collected subsequently in equal installments (''Installment Payments'') from Unitholders'' distributions on the Units. The Sponsor would not add any amount for interest or any similar or related charge to adjust for such deferral.

2. In order to ensure that sufficient cash is available to make Installment Payments, a Series may hold securities, the proceeds from the maturity or sale of which may be used to make payments. Installment Payments will be collected from Unitholders by withholding the payment amount from Unitholders' distributions on Units, from proceeds of Unit redemptions or sales by the Unitholder, or by reducing the number of Units held by the Unitholder. The Installment Payment will be passed by the Trustee to the Sponsor at the time it is collected. The Trustee may advance an Installment Payment if, for example, it is due immediately before a dividend or interest payment is due on portfolio securities. The Trustee will be reimbursed when the Installment Payment is collected from the Unitholder.

3. When a Unitholder redeems or sells Units, the Sponsor intends to deduct any unpaid DSC from the redemption or sale proceeds. When calculating the amount due, the Sponsor will assume that Units held for the longest time are redeemed or sold first. Applicants represent that the DSC collected at the time of redemption or sale, together with the Installment Payments and any amount collected up front, will not exceed the maximum sales charge per Unit. Under certain circumstances, the Sponsor may waive the collection of any unpaid DSC in connection with redemptions or sales of Units. These circumstances will be disclosed in the prospectus for the relevant Series and implemented in accordance with rule 22d–1 under the Act.

4. Each Series offering Units subject to a DSC will state the maximum charge per Unit in its prospectus. In addition, the prospectus for such Series will include the table required by item 3 of Form N–1A (modified as appropriate to reflect the difference between UITs and open-end management investment companies) and a schedule setting forth the number and date of each Installment Payment, along with the duration of the collection period. The prospectus for that Series also will disclose that portfolio securities may be sold to pay an Installment Payment if distribution income is insufficient, and that securities will be sold pro rata or a specific security will be designated for sale.

*B. Exchange Privilege, Rollover Privilege, and Conversion Offer*

1. Applicants propose to offer an exchange privilege to Unitholders of the Trusts at a reduced sales charge (''Exchange Privilege''). Unitholders would be able to exchange any or all of their Units in a Series of a Trust for Units in one or more available Series of the Trusts (''Exchange Series''). Applicants also propose a conversion offer (''Conversion Offer'') pursuant to which Unitholders may elect to redeem Units of any Series in which there is no active secondary market (''Redemption Series'') and apply the proceeds to the purchase of available Units of one or more Series of the Trusts (''Conversion Series''). In addition, applicants propose to offer a rollover privilege to Unitholders of the Trusts at a reduced sales charge (''Rollover Privilege''). Unitholders would be able to ''roll over'' their Units in a Series which is terminating (''Terminating Series'') for Units in one or more new Series of the Trusts (''Rollover Series'').

2. To exercise the Exchange Privilege or Rollover Privilege, a Unitholder must notify the Sponsor. In order to exercise the Conversion Offer, a Unitholder must notify his or her retail broker. The Conversion Offer will be handled entirely through the Unitholder's retail broker and the retail broker must tender the Units to the Trustee of the Redemption Series for redemption and then apply the proceeds toward the purchase of Units of a Conversion Series. Exercise of the Exchange Privilege or Rollover Privilege is subject to the following conditions: (i) The Sponsor must be maintaining a secondary market in Units of the available Exchange Series or Rollover Series; (ii) at the time of the Unitholder's election to participate, there must be Units of the Exchange Series or Rollover Series to be acquired available for sale, either under the initial primary distribution or in the Sponsor's secondary market; (iii) exchanges will be in whole Units only; and (iv) for certain Series, Units may be obtained in blocks of certain sizes only.

3. Unitholders who wish to exchange Units under the Exchange Privilege, the Rollover Privilege or the Conversion Offer within the first five months of purchase will not be eligible for the reduced sales charge. Such Unitholders

[2] On April 27, 2001, ING Funds Distributor, Inc. and ING Mutual Funds Management Co. LLC (collectively, ''ING'') transferred its UIT business to Investec. ING has acquired its UIT business from Reich & Tang Distributors, Inc. on February 9, 2000. On April 24, 2001, Investec received a no-action letter allowing Investec to rely on the Prior Orders pending action by the Commission on the application until no later than April 24, 2002.

[3] All presently existing Trusts that currently intend to rely on the requested order have been named as applicants. Any other existing Trust or any Trust organized in the future that relies on the requested order will comply with the terms and conditions of the application.

will be charged a sales load equal to the greater of: (i) the reduced sales load, or (ii) an amount which, when added to the sales charge paid by the Unitholder upon his or her original purchase of Units of the applicable Series, would equal the sales charge applicable to the direct purchase of the newly acquired Units, determined as of the date of purchase.

*C. Purchase and Sale Transactions Between a Terminating Series and a New Series*

1. Each Terminating Series will have a date (''Rollover Date'') by which Unitholders of that Series may, at their option, redeem their Units and receive in return Units of a subsequent Series of the same type (''New Series''). The New Series will be created on or about the Rollover Date and will have a portfolio that contains securities, many, if not all, of which are actively traded (i.e., have had an average daily trading volume in the preceding six months of at least 500 shares equal in value to at least U.S. $25,000) on an exchange (a ''Qualified Exchange'') that is either (i) a national securities exchange that meets the qualifications of section 6 of the Securities Exchange Act of 1934, (ii) a foreign securities exchange meeting the qualifications set forth in the proposed amendments to rule 12d3–1(d)(6) under the Act [4] and releasing daily closing prices or (iii) the Nasdaq-National Market System (securities meeting the preceding tests are referred to as ''Qualified Securities'').

2. Applicants anticipate that there will be some overlap in the Qualified Securities selected for the portfolios of a Terminating Series and the related New Series. Absent the requested relief, a Terminating Series would, upon termination, sell its Qualified Securities on the applicable Qualified Exchange. Likewise, a New Series would acquire its Qualified Securities on the applicable Qualified Exchange. This procedure would result in Unitholders of both the Terminating Series and the New Series incurring brokerage commissions on the same Qualified Securities. Applicants accordingly request an order to the extent necessary to permit a Terminating Series to sell its portfolio securities to a New Series and to permit the New Series to purchase those securities.

**Applicants' Legal Analysis**

*A. DSC and Waiver of DSC Under Certain Circumstances*

1. Section 4(2) of the Act defines a ''unit investment trust'' as an investment company that issues only redeemable securities. Section 2(a)(32) of the Act defines a ''redeemable security'' as a security that, upon its presentation to the issuer, enables the holder to receive approximately his or her proportionate share of the issuer's current net assets or the cash equivalent of those assets. Rule 22c–1 under the Act requires that the price of a redeemable security issued by a registered investment company for purposes of sale, redemption or repurchase be based on the security's current net asset value (''NAV''). Because the collection of any unpaid DSC may cause a redeeming Unitholder to receive an amount less than the NAV of the redeemed Units, applicants request relief from section 2(a)(32) and rule 22c–1.

2. Section 22(d) of the Act and rule 22d–1 under the Act require a registered investment company and its principal underwriter and dealers to sell securities only at the current public offering price described in the investment company's prospectus, with the exception of sales of redeemable securities at prices that reflect scheduled variations in the sales load. Section 2(a)(35) of the Act defines the term ''sales load'' as the difference between the sales price and the portion of the proceeds invested by the depositor or trustee. Applicants request relief from sections 2(a)(35) and 22(d) to permit waivers, deferrals or other scheduled variations of the sales load.

3. Under section 6(c) of the Act, the Commission may exempt classes of transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their proposal meets the standards of section 6(c). Applicants state that the provisions of section 22(d) are intended to prevent (i) riskless trading in investment company securities due to backward pricing, (ii) disruption of orderly distribution by dealers selling shares at a discount, and (iii) discrimination among investors resulting from different prices charged to different investors. Applicants assert that the proposed DSC program will present none of these abuses. Applicants further state that all scheduled variations in the sales load will be disclosed in the prospectus of each Series and applied uniformly to all investors, and that applicants will comply with all the conditions set forth in rule 22d–1.

4. Section 26(a)(2)(C) of the Act, in relevant part, prohibits a trustee or custodian of a UIT from collecting from the trust as an expense any payment to the trust's depositor or principal underwriter. Because the Trustee's payment of the DSC to the Sponsor may be deemed to be an expense under section 26(a)(2)(C), applicants request relief under section 6(c) from section 26(a)(2)(C) to the extent necessary to permit the Trustee to collect Installment Payments and disburse them to the Sponsor. Applicants submit that the relief is appropriate because the DSC is more properly characterized as a sales load.

*B. Exchange Privilege, Conversion Offer and Rollover Privilege*

1. Sections 11(a) and (c) of the Act prohibit any offer of exchange by a UIT for the securities of another investment company unless the terms of the offer have been approved in advance by the Commission. Applicants request an order under sections 11(a) and 11(c) for Commission approval of the Exchange Privilege, the Conversion Offer and the Rollover Privilege.

2. Applicants state that the Exchange Privilege and Rollover Privilege provide investors with a convenient means of transferring their interests at a reduced sales charge into Exchange Series and Rollover Series which suit their current investment objectives. Further, applicants state that the Conversion Offer provides Unitholders of a Series in which there is no active secondary market to redeem those Units and invest the proceeds at a reduced sales charge into Units of the Conversion Series in which there is an active secondary market. Applicants state that absent the Exchange Privilege, Rollover Privilege and Conversion Offer, Unitholders would be required to dispose of their Units, either in the secondary market (in the case of the Exchange Privilege and Rollover Privilege) or through redemption, and to reinvest, at the then fully applicable sales charge, into the chosen Series.

3. Applicants represent that Unitholders will not be induced or encouraged to participate in the Exchange Privilege, Rollover Privilege,

[4] Investment Company Act Rel. No. 17096 (Aug. 3, 1989) (proposing amendments to Rule 12d3–1). The proposed amended rule defined a ''Qualified Foreign Exchange'' as a stock exchange in a country other than the United States where: (i) trading generally occurred at least four days per week, (ii) there were limited restrictions on the ability of acquiring companies to trade their holdings on the exchange, (iii) the exchange had a trading volume in stocks for the previous year of at least U.S. $7.5 billion, and (iv) the exchange had a turnover ratio for the preceding year of at least 20% of its market capitalization. The version of the amended rule that was adopted did not include the part of the proposed amendment defining the term ''Qualified Foreign Exchange.''

or Conversion Offer through an active advertising or sale campaign. The Sponsor recognizes its responsibility to its customers against generating excessive commissions through churning and asserts that the sales charge collected will not be a significant economic incentive to salesmen to promote inappropriately the Exchange Privilege, Rollover Privilege or the Conversion Offer. Applicants state that the reduced sales charge will fairly and adequately compensate the Sponsor and the participating underwriters and brokers for their services and expenses in connection with the administration of the programs. Applicants further believe that the Exchange Privilege, Rollover Privilege, and Conversion Offer are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

*C. Purchase and Sale Transactions Between a Terminating Series and a New Series*

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with the other person. Investec is or will be the Sponsor of each Series. Since the Sponsor of a Series may be deemed to control the Series, all of the Series may be deemed to be affiliated persons of each other.

2. Rule 17a–7 under the Act was designed to permit registered investment companies which might be deemed affiliates by reason of common investment advisers, directors and/or officers, to purchase securities from or sell securities to one another at an independently determined price, provided that certain conditions are met. Paragraph (e) of the rule requires an investment company's board of directors (''Board'') to adopt and monitor procedures to assure compliance with the rule. Paragraph (f) of the rule requires that: (i) directors who are not interested persons under section 2(a)(19) of the Act constitute a majority of the Board; (ii) such directors select and nominate any other directors who are not interested persons under the Act; and (iii) any legal counsel for such directors be an ''independent legal counsel,'' as defined in rule 0–1(a)(6) under the Act. Because UITs do not have Boards, the Series would be unable to comply with these requirements. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraphs (e) and (f).

3. Section 17(b) of the Act provides that the Commission will exempt a proposed transaction from section 17(a) if evidence establishes that: (i) the terms of the transaction are reasonable and fair and do not involve overreaching; (ii) the transaction is consistent with the policies of each registered investment company involved; and (iii) the transaction is consistent with the general purposes of the Act. Applicants request relief under sections 6(c) and 17(b) to permit a Terminating Series to sell Qualified Securities to a New Series and permit the New Series to purchase the Qualified Securities.

4. Applicants believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b). Applicants represent that purchases and sales between Series will be consistent with the policies of each Series. Applicants further state that permitting the proposed transactions would result in savings on brokerage fees for the Series.

5. Applicants state that the condition that the Qualified Securities must be actively traded on a Qualified Exchange protects against overreaching. In addition, applicants state that the Sponsor will certify to the Trustee, within five days of each sale of Qualified Securities from a Terminating Series to a New Series: (i) That the transaction is consistent with the policy of both the Terminating Series and the New Series, as recited in their respective registration statements and reports filed under the Act; (ii) the date of the transaction; and (iii) the closing sales price on the Qualified Exchange for the sale date of the Qualified Securities. The Trustee will then countersign the certificate, unless, in the unlikely event that the Trustee disagrees with the closing sales price listed on the certificate, the Trustee immediately informs the Sponsor orally of such disagreement and returns the certificate within five days to the Sponsor with corrections duly noted. Upon the Sponsor's receipt of a corrected certificate, if the Sponsor can verify the corrected price by reference to an independently published list of closing sales prices for the date of the transactions, the Sponsor will ensure that the price of the Units of the New Series, and the distributions to Unitholders of the Terminating Series, accurately reflect the corrected price. To the extent that the Sponsor disagrees with the Trustee's corrected price, the Sponsor and the Trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

**Applicants' Conditions**

Applicants agree that the order granting the requested relief will be subject to the following conditions:

*A. DSC and Waiver of DSC Under Certain Circumstances*

1. Each Series offering Units subject to a DSC will include in its prospectus the disclosure required in Form N–1A relating to deferred sales charges, modified as appropriate to reflect the differences between UITs and open-end investment companies, and a schedule setting forth the number and date of each installment payment.

2. Any DSC imposed on Units issued by a Series will comply with the requirements of subparagraphs (1), (2) and (3) of rule 6c–10(a) under the Act.

*B. Exchange Privilege, Conversion Offer and Rollover Privilege*

1. The prospectus of each Series offering exchanges, rollovers, or conversions and any sales literature or advertising that mentions the existence of the Exchange Privilege, Conversion Offer or Rollover Privilege will disclose that the Exchange Privilege, Conversion Offer or Rollover Privilege is subject to modification, termination or suspension without notice, except in limited cases.

2. Whenever the Exchange Privilege, Conversion Offer or Rollover Privilege is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, *provided that:* (a) no such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to make one or more New Series eligible for the Exchange Privilege, Conversion Offer or Rollover Privilege, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Series under section 22(e) of the Act and the rules and regulations promulgated under that section, or (ii) a Series temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies, and restrictions.

3. An investor who purchases Units under the Exchange Privilege,

Conversion Offer or Rollover Privilege will pay a lower sales charge than that which would be paid for the Units by a new investor.

*C. Purchase and Sale Transactions Between a Terminating Series and a New Series*

1. Each sale of Qualified Securities by a Terminating Series to a New Series will be effected at the closing price of the securities sold on a Qualified Exchange on the sale date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to investors in the appropriate prospectus of each Terminating Series and New Series.

3. The Trustee of each Terminating Series and New Series will review the procedures discussed in the application relating to the sale of securities from a Terminating Series and the purchase of those securities for deposit in a New Series, and make such changes to the procedures as the trustee deems necessary to ensure compliance with paragraphs (a) through (d) of rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to this order will be maintained as provided in rule 17a–7(g).

For the Commission, by the Division of Investment Management, under delegated authority.

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 02–8434 Filed 4–5–02; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. IC–25507; 812–12600]**

## Investec Ernst & Company, et al.; Notice of Application

April 3, 2002.

**AGENCY:** Securities and Exchange Commission (''Commission'') .

**ACTION:** Notice of an application under: (i) Section 6(c) of the Investment Company Act of 1940 (''Act'') for exemptions from sections 14(a) and 19(a) of the Act and from rule 19b–1 thereunder; (ii) sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act; and (iii) section 12(d)(1)(J) of the Act for an exemption from section 12(d)(1)(F)(ii) of the Act.

**SUMMARY OF APPLICATION:** Applicants Investec Ernst & Company (''Sponsor'' or ''Investec''), Equity Securities Trust, Symphony Series, and EST Symphony Trust, as well as any unit investment trust (''UIT'') for which Investec serves as the sponsor in the future (collectively, ''Trusts'') and any presently outstanding or subsequently issued series of the Trusts (each, a ''Trust Series'') request an order: (a) under section 12(d)(1)(J) of the Act to permit each Trust Series to offer and sell to the public units (''Units'') with a sales load that exceeds the 1.5% limit in section 12(d)(1)(F)(ii) of the Act; (b) under sections 6(c) and 17(b) for an exemption from section 17(a) of the Act to permit the Trust Series to invest in affiliated registered investment companies within the limits of section 12(d)(1)(F) of the Act; and (c) under section 6(c) of the Act for exemptions from sections 14(a) and 19(b) of the Act and rule 19b-1 under the Act to permit Units to be publicly offered without requiring the Sponsor to take for its own account or place with others $100,000 worth of Units, and to permit the Trust Series to distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt. The requested order would supersede a prior order (''Prior Order'').[1]

**FILING DATES:** The application was filed on August 20, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 23, 2002 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW, Washington, DC, 20549–0609; *Applicants:* Peter J. DeMarco, c/o Investec Ernst & Company, One Battery Park Plaza, 7th Floor, New York, New York 10004.

**FOR FURTHER INFORMATION CONTACT:** Laura J. Riegel, Senior Counsel, at (202) 942–0567 or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC, 20549–0102 (tel. (202) 942–8090).

### Applicants' Representations

1. Investec, a broker-dealer registered under the Securities Exchange Act of 1934, is the Sponsor to the existing Trusts.[2] Each Trust Series is or will be a UIT registered under the Act and organized under a trust indenture that incorporates or will incorporate by reference a master trust agreement between the Sponsor and a qualified bank as trustee. Pursuant to the trust indenture, the Sponsor will deposit into each Trust Series shares of existing registered investment companies (''Funds''), or contracts and monies for the purchase of shares of the Funds. Each of the Funds will be a closed-end investment company, an open-end investment company or a UIT.

2. The purpose of each Trust Series is to provide retail investors an investment with a professionally selected asset allocation model or investment theme based upon the Sponsor's assessment of the overall economic climate and financial markets, and the opportunity for income and/or capital appreciation through a diversified fixed portfolio of Funds professionally selected by the Sponsor from the total population of available Funds within the various market sectors of the Sponsor's asset allocation model or consistent with the enunciated investment theme. Applicants anticipate that certain of the Funds selected may be advised and/or distributed by the Sponsor or one of its affiliates (''Affiliated Funds''). Applicants anticipate that most of the Funds selected will be unaffiliated with the Sponsor (''Unaffiliated Funds''). Applicants state that the Trust Series'

[1] Reich & Tang Distributors, Inc., et al., Investment Company Act Release Nos. 23106 (Apr. 8, 1998) (notice) and 23173 (May 5, 1998) (order).

[2] On April 27, 2001, ING Funds Distributor, Inc. and ING Mutual Funds Management Co. LLC (collectively ''ING'') transferred its UIT business to Investec. ING has acquired its UIT business from Reich & Tang Distributors, Inc. on February 9, 2000. On April 24, 2001, Investec received a no-action letter allowing Investec to rely on the Prior Order pending action by the Commission on the application until no later than April 24, 2002.

All presently existing Trusts that currently intend to rely on the requested order have been named as applicants. Any other existing Trust or any Trust organized in the future that relies on the requested order will comply with the terms and conditions of the application.

investments in Affiliated Funds and Unaffiliated Funds will comply with section 12(d)(1)(F) in all respects except for the sales load restriction of section 12(d)(1)(F)(ii).

2. The only Funds that will be eligible for inclusion in a Trust Series are either no load Funds or Funds which, although they offer shares with a front-end sales charge, agree to waive any otherwise applicable front-end sales load with respect to all shares sold or deposited in any Trust Series. Shares of each of the Funds (except closed-end Funds), therefore, will be sold for deposit into any Trust Series at net asset value. Shares of closed-end Funds will be purchased by a Trust Series at market prices. Investors in the Trust Series (''Unitholders'') will pay a specified sales load to the Sponsor in connection with the purchase of their Units.

3. No evaluation fee will be charged with respect to determining the value of the Funds' shares that comprise the Trust Series' portfolio. The Trustee will receive service fees under a rule 12b-1 plan from certain Funds to compensate it for providing servicing and sub-accounting functions with respect to Fund shares held by a Trust Series. The Trustee will reduce its regular fee to a Trust Series directly by the fees it receives from the Funds and rebate any excess fees it receives to the Trust Series. Any fees so rebated will be utilized by the Trust Series to absorb other bona fide trust expenses. To the extent that these fees exceed the total Trust Series' expenses, the excess will be distributed along with other income earned by the Trust Series.

**Applicants' Legal Analysis**

*A. Section 12(d)(1) of the Act*

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if those securities represent more than 3% of the acquired company's total outstanding voting stock, more than 5% of the acquiring company's total assets, or if the securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets.

2. Section 12(d)(1)(F) of the Act provides that section 12(d)(1) does not apply to an acquiring company if the company and its affiliated persons own no more than 3% of an acquired company's total outstanding securities, provided that the acquiring company does not impose a sales load of more than 1.5%. In addition, the section provides that no acquired company may be obligated to honor any acquiring company's redemption request in excess of 1% of the acquired company's securities during any period of less than 30 days, and the acquiring company must vote its acquired company shares either in accordance with instructions from its shareholders or in the same proportion as all other shareholders of the acquired company.

3. A Trust Series will invest in Affiliated and Unaffiliated Funds in reliance on section 12(d)(1)(F) of the Act. If the requested relief is granted, the Trust Series will offer Units to the public with a sales load that exceeds the 1.5% limit in section 12(d)(1)(F)(ii).

4. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1), if and to the extent that such exemption is consistent with the public interest and the protection of investors.

5. Applicants have agreed, as a condition to the requested relief, that any sales charges and/or service fees with respect to Units of a Trust Series will not exceed the limits set forth in rule 2830 of the National Association of Securities Dealers, Inc. (''NASD'') Conduct Rules applicable to a fund of funds. Applicants believe that it is appropriate to apply the NASD's rule to the proposed arrangement instead of the sales load limitation in section 12(d)(1)(F)(ii) because the proposed limit would cap the aggregate sales charges of the Units and the Funds. Applicants assert that the NASD's rule more accurately reflects today's regulatory environment with respect to the methods by which investment companies finance sales expenses.

6. Applicants state that, with respect to shares of closed-end Funds held by a Trust Series, no front-end sales load, contingent deferred sales charges, rule 12b–1 fees, or other distribution fees or redemption fees will be charged in connection with the sale or purchase of Fund shares by a Trust Series. Applicants state that although the Trust Series likely will incur brokerage commissions in connection with its market purchases of shares of closed-end Funds, these commissions will not differ from commissions otherwise incurred in connection with the purchase or sale of comparable portfolio securities.

7. Applicants also agree, as a condition to the requested relief, that no Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

*B. Section 17(a) of the Act*

1. With regard to the Trust Series' investments in Affiliated Funds, applicants request relief from section 17(a) of the Act under sections 6(c) and 17(b). Section 17(a) of the Act generally prohibits an affiliated person, or an affiliated person of an affiliated person, of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with the other person. Applicants submit that the Trust Series and Affiliated Funds may be deemed to be affiliated persons of one another by virtue of being under common control of the Sponsor. Applicants state that purchases and redemptions of shares of the Affiliated Funds by a Trust Series could be deemed to be principal transactions between affiliated persons under section 17(a).

2. Section 6(c) of the Act provides that the Commission may exempt persons or transactions from any provisions of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act provides that the Commission will exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Applicants state that shares of Affiliated Funds will be sold to the Trust Series at net asset value, or, in the case of closed-end Funds, at market prices. As a result, applicants believe that the proposed terms and conditions of the Trust Series' transactions in Affiliated Fund shares, including the consideration to be paid or received, will be reasonable and fair and will not involve overreaching on the part of any person concerned. Furthermore, applicants believe that the proposed transactions will be consistent with the policies of the Trust Series as recited in their registration statements, including disclosure that each Trust Series is to hold shares of various Funds.

*C. Section 14(a) of the Act*

1. Section 14(a) of the Act requires in substance that a registered investment company have $100,000 of net worth prior to making a public offering. Applicants believe that each Trust Series will comply with this requirement because the Sponsor will deposit substantially more than $100,000 of Fund shares in each Trust Series. Applicants assert, however, that the Commission has interpreted section 14(a) as requiring that the initial capital investment in an investment company be made without any intention to dispose of the investment. Applicants state that, under this interpretation, a Trust Series would not satisfy section 14(a) because of the Sponsor's intention to sell all of the Units of the Trust Series.

2. Rule 14a–3 under the Act exempts UITs from section 14(a) if certain conditions are met, one of which is that the UIT invest only in ''eligible trust securities,'' as defined in the rule. Applicants submit that the Trust Series cannot rely on the rule because Fund shares are not eligible trust securities. Consequently, applicants seek an exemption under section 6(c) from the net worth requirement of section 14(a). Applicants state that the Trust Series and the Sponsor will comply in all respects with the requirements of rule 14a–3, except that the Trust Series will not restrict their portfolio investments to ''eligible trust securities.''

*D. Section 19(b) of the Act*

1. Section 19(b) of the Act and rule 19b–1 under the Act provide that, except under limited circumstances, no registered investment company may distribute long-term gains more than once every twelve months. Rule 19b–1(c), under certain circumstances, excepts a UIT investing in ''eligible trust securities'' (as defined in rule 14a–3) from the requirements of rule 19b–1. Because the Trust Series do not limit their investments to ''eligible trust securities,'' the Trust Series do not qualify for the exemption in paragraph (c) of rule 19b–1. Therefore, applicants request an exemption under section 6(c) from section 19(b) and rule 19b–1 to the extent necessary to permit capital gains earned in connection with the redemption and sale of Fund shares to be distributed to Unitholders along with the Trust Series' regular distributions. Applicants state that, in all other respects, the Trust Series will comply with section 19(b) and rule 19b–1. Applicants assert that the abuses that section 19(b) and rule 19b–1 were designed to prevent do not exist with regard to the Trust Series. Applicants state that any gains from the redemption or sale of Fund shares would be triggered by the need to meet Trust Series' expenses or by requests to redeem Units, events over which the Sponsor and the Trust Series have no control.

**Applicants' Conditions**

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Each Trust Series will comply with section 12(d)(1)(F) in all respects except for the sales load limitation of section 12(d)(1)(F)(ii).

2. Any sales charges and/or service fees (as those terms are defined in NASD Conduct Rule 2830) charged with respect to Units of a Trust Series will not exceed the limits set forth in NASD Conduct Rule 2830 applicable to a fund of funds (as defined in NASD Conduct Rule 2830).

3. No Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

4. The Trust Series and the Sponsor will comply in all respects with the requirements of rule 14a–3, except that the Trust Series will not restrict their portfolio investments to ''eligible trust securities.''

5. No Trust Series will terminate within thirty days of the termination of any other Trust Series that holds shares of one or more common Funds.

6. The prospectus of each Trust Series and any sales literature or advertising that mentions the existence of an in-kind distribution option will disclose that Unitholders who elect to receive Fund shares will incur any applicable rule 12b–1 fees.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 02–8435 Filed 4–5–02; 8:45 am]

BILLING CODE 8010–01–U

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–25504; File No. 812–12775]**

## Conseco Variable Insurance Company

April 1, 2002.

**AGENCY:** The Securities and Exchange Commission (''SEC'' or ''Commission'').

**ACTION:** Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''Act''), approving a substitution of securities.

*Applicants:* Conseco Variable Insurance Company (''Conseco Variable''), Conseco Variable Annuity Account C, Conseco Variable Annuity Account E, Conseco Variable Annuity Account F, Conseco Variable Annuity Account G, Conseco Variable Annuity Account H, and Conseco Variable Annuity I (each an ''Account,'' together the ''Accounts'') (the Accounts together with Conseco Variable, the ''Applicants'').

*Summary of Application:* The Applicants request an order permitting the substitution of securities issued by Strong Opportunity Fund II: Investor Class (the ''Substitute Fund'') for securities issued by the Berger IPT-New Generation Fund (the ''Replaced Fund''), and held by each Account that supports variable annuity contracts issued by Conseco Variable (the ''Contracts'').

*Filing Date:* The initial application was filed on February 11, 2002. The amended and restated application was filed on March 25, 2002.

*Hearing or Notification of Hearing:* An order granting the amended and restated application will be issued unless the Commission orders a hearing. Interested person may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 25, 2002, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified may request notification by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Meg Cullem-Fiore, Esq., Conseco Variable Insurance Company, 11815 N. Pennsylvania Street, Carmel, Indiana 46032. Copy to Mary Jane Wilson-Bilik, Esq., Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Ave., NW, Washington, DC 20004–2415.

**FOR FURTHER INFORMATION CONTACT:** Curtis A. Young, Senior Counsel, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management at 202–942–0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the amended and restated application. The complete

amended and restated application may be obtained for a fee from the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

**Applicants' Representations**

1. Conseco Variable Insurance Company was originally organized in 1937. Prior to October 7, 1998, Conseco Variable was known as Great American Reserve Company. Conseco Variable is principally engaged in the life insurance and annuity business in 49 states and the District of Columbia. Conseco Variable is a stock company organized under the laws of the state of Texas and is an indirect wholly-owned subsidiary of Conseco, Inc., a publicly held financial services holding company.

2. Each Account is a ''separate account'' as defined by Rule 0–1(e) under the Act. Each Account is registered with the Commission as a unit investment trust (the file number for each Account is provided in the chart below.) Each Account is comprised of 59 subaccounts and each subaccount invests exclusively in shares of a registered open-end, diversified, management investment company established to fund benefits under variable annuity contracts and variable life insurance policies (a ''Fund''). Under the insurance law of Texas, the assets of each Account attributable to the Contracts are owned by its depositor, but are held separately from the other assets of the depositor for the benefit of the owners of, and the persons entitled to payment under, those Contracts.

| Separate account | 1940 Act File No. | Contract | 1933 Act File No. |
|---|---|---|---|
| Variable Annuity: Account C | 811–04819 | Maxiflex Individual | 033–02460 |
| | | Maxiflex Group | 033–61122 |
| Variable Annuity: Account E | 811–08288 | Achievement Series and Educator Series | 033–74092 |
| Variable Annuity: Account F | 811–08483 | Conseco Advantage | 333–40309 |
| Variable Annuity: Account G | 811–07501 | Monument Series | 333–00373 |
| Variable Annuity: Account H | 811–09693 | Advantage Plus | 333–90737 |
| Variable Annuity: Account I | 811–10213 | Advantage Strategy | 333–53836 |

3. The Contracts are flexible premium variable annuity contracts. The variable annuity Contracts provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and provide settlement or annuity payment options on a variable or fixed basis, or both. The assets of each Account, other than Variable Annuity Account C, support one variable annuity Contract; interests in the Variable Accounts offered through such Contracts have been registered under the Securities Act of 1933, as amended, (the ''1933 Act'') on Form N–4. Under each of the Contracts Conseco Variable reserves the right to substitute shares of one Fund for shares of another, including a Fund of a different trust. The prospectuses for the Contracts and the Accounts contain appropriate disclosure of this right.

4. The Replaced Fund is a series in the Berger Institutional Products Trust (the ''Trust''), a series investment company as defined by Rule 18f–2 under the Act that issues separate series of shares of beneficial interest in connection with each of its funds.

5. The Substitute Fund is a management investment company that is not a series company. The shares of the Replaced Fund and the Substitute Fund are registered under the 1933 Act on Form N–1A (Nos. 033–45320 and 033–63493, respectively). Conseco Variable is not affiliated with the Substitute Fund.

6. Conseco Equity Sales, Inc., an affiliate of Conseco Variable, is the principal underwriter and distributor of the Contracts. Conseco Equity Sales is a broker-dealer registered under the Securities Exchange Act of 1934, as amended, and a member of the National Association of Securities Dealers, Inc. Sales of the Contracts are made by registered representatives of Conseco Equity Sales and broker-dealers authorized to sell the Contracts.

7. Strong Capital Management, Inc. (''Strong'') serves as Investment Advisor to the Substitute Fund. Conseco Variable is not affiliated with Strong or with the Substitute Fund.

8.The following chart sets out the investment objectives and certain policies of the Substitute Fund and the Replacement Fund, as stated in their respective prospectuses and statements of additional information.

| Substitute fund | Replacement fund |
|---|---|
| Berger IPT-New Generation Fund | Strong Opportunity Fund II (Investor Class). |
| Investment Objective—To seek capital appreciation. | Investment Objective—To seek capital growth. |
| Investment Policies—The Fund invests primarily in the common stocks of companies with new ideas, technologies or methods of doing business. The Fund generally is weighted toward small capitalization companies and is intended for investors comfortable with above-average risk.. | Investment Policies-Under normal circumstances, the Fund invests primarily in stocks of medium-capitalized companies that the fund's manager believes are underpriced, yet have attractive growth prospects. |

9. The following charts show the approximate year-end size (in net assets), expense ratio (ratio of operating expenses as a percentage of average net assets), and annual total returns for each of the past three years (if available) for each of the Funds involved in the proposed substitution.

REPLACED FUND: BERGER IPT-NEW GENERATION FUND

| Year | Net assets at year-end (in millions) | Expense ratio (without waivers) (in percent) | Expense ratio (with waivers) (in percent) | Total return (in percent) |
|---|---|---|---|---|
| 2000* | $2.5 | 3.52 | 1.15 | −40.8 |
| 2001 | $2.1 | 2.31 | 1.15 | −49.0 |

*For period from inception, May 1, 2000 to December 31, 2000.

SUBSTITUTE FUND: STRONG GROWTH OPPORTUNITY FUND II

| Year | Net assets at year-end (in millions) | Expense ratio (without waivers) (in percent) | Expense ratio (with waivers) (in percent) | Total return (in percent) |
|---|---|---|---|---|
| 1998 | $912 | 1.20 | 1.2 | 13.5 |
| 1999 | $1,119 | 1.20 | 1.1 | 34.9 |
| 2000 | $1,182 | 1.20 | 1.1 | 6.6 |
| 2001 | $1,283 | 1.35 | 1.10 | −3.36 |

| Fund | Before reimbursement or fee waiver (in percent) | After reimbursement or fee waiver (in percent) | Revenue sharing percentage (in percent) |
|---|---|---|---|
| Replaced fund | 2.31 | 1.15 | .25 |
| Substitute fund | 1.35 | 1.10 | .20 |

10. Applicants believe that for this proposed substitution, the investment objective and policies of the Substitute Fund are sufficiently similar to those of the Replaced Fund that Contract owners will have reasonable continuity in investment expectations. Applicants also believe that the proposed substitution will better serve the interests of Contract owners because, generally, the Substitute Fund has lower fees or expenses, superior performance, and a larger, growing asset base in the Contracts than the Replaced Fund.

11. Recently Conseco Variable was informed by Berger Institutional Products Trust that the latter intends to take steps to close the Berger Institutional Products Trust-New Generation Fund. At a recent meeting, the board of trustees voted to authorize the liquidation of the New Generation Fund on or after April 29, 2002 (the ''Liquidation Date'').

12. Applicants propose to have Conseco Variable purchase shares of the Substitute Fund on the Liquidation Date with the proceeds it receives from the liquidation of the Replaced Fund. Applicants represent that the proposed substitution will occur at the relative accumulation unit values of the subaccounts investing in the Replaced Fund and the Substitute Fund on the Liquidation Date in conformity with Section 22(c) of the Act and Rule 22c-1 thereunder, without the imposition of any transfer or similar charge, and with no change in the amount of any Contract owner's account value or death benefit or in the dollar value of his or her investment in any of the Accounts. Contract owners will not incur any fees or charges as a result of the proposed substitution, nor will their rights or Applicants' obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitution, including brokerage commissions, legal, accounting, and other fees and expenses, will be paid by Applicants and will not be borne by Contract owners. In addition, the proposed substitution will not impose any tax liability on Contract owners and will in no way alter the tax benefits to contract owners. The proposed substitution will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitution than before the proposed substitution. The proposed substitution will in no way alter the insurance benefits to contract owners or the contractual obligations of Conseco Variable.

13. Conseco Variable represents that it does not currently receive, and will not receive for three years, any amounts from the Substitute Fund or its adviser (or the adviser's affiliates) at a higher rate than it had received from the Replaced Fund and/or its adviser/affiliates, including without limitation 12b-1, shareholder service, administration, or other service fees, revenue sharing or other arrangement, either with specific reference to the Substitute Fund or as part of an overall business arrangement.

14. Applicants represent that in the event that the Substitute Fund has operating expenses (taking into account expense waivers and reimbursements) for any fiscal period (not to exceed a fiscal quarter) during the 12 months following the date of the proposed substitution, equal on an annualized basis to an amount greater than 1.15%, Conseco Variable will make adjustments to the expenses for the subaccounts that invest in the Substitute Fund for those owners who were owners on the date of the substitution. These adjustments will limit those owners' expenses so that the amount of the Substitute Fund's operating expenses together with the corresponding subaccount's asset-based expenses paid during such period on an annualized basis will be no greater than the sum of the Replaced Fund's expenses after waivers and reimbursements (1.15%) together with the corresponding subaccount's asset-based expenses during the fiscal year preceding the proposed substitution.

15. In addition, for those owners who were owners on the date of the substitution, Conseco Variable will not

increase contract charges for a period of 12 months following the date of the substitution, except to the extent of any increase in premium taxes charged by one or more states. The non-asset-based expenses include the Contract Maintenance Charge and Surrender Charges.

16. Applicants represent that the proposed substitution will not be treated as a transfer for the purpose of assessing transfer charges or for determining the number of remaining permissible transfers in a Contract quarter or year. Except where Conseco Variable may impose restrictions to prevent or restrict ''market timing'' activities by Contract owners or their agents, Applicants will not exercise any right they may have under the Contracts to impose additional restrictions on transfers under any of the Contracts for a period of at least 30 days following the substitution. Similarly, Applicants will permit Contract owners to make one transfer of Contract value out of a subaccount to be affected by the proposed substitution to another subaccount without the transfer being treated as one of a limited number of permitted transfers or a limited number of transfers permitted without a transfer charge

17. By supplements to the various May 1, 2001 prospectuses for the Contracts and the Accounts, Applicants will notify owners of the Contracts of their intention to take the necessary actions, including seeking the order requested by this amended and restated application to substitute shares of Substitute Fund as described herein (''Pre-Substitution Notice'').

18. The supplements about the proposed substitution will advise Contract owners that from the date of the supplement until the date of the proposed substitution, Applicants will not (except where Applicant may impose restrictions to prevent or restrict ''market timing'' activities by Contract owners or their agents) exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the proposed substitution. Similarly, the supplements will disclose that, from the date of the supplement until the date of the substitution, Applicants will permit Contract owners to make one transfer of Contract value out of a subaccount to be affected by the proposed substitution to another subaccount without the transfer being treated as one of a limited number of permitted transfers or a limited number of transfers permitted without a transfer charge. The supplements also will advise Contract owners that if the proposed substitution is carried out, then each Contract owner affected by a substitution will be sent a written notice (''Post-Substitution Notice'') informing them of the fact and details of the substitution.

19. In addition, within five days after the proposed substitution, any Contract owners who are affected by a substitution will be sent a written confirmation of the transaction in accordance with Rule 10b-10 under the Securities Exchange Act of 1934, as amended, informing them that the substitution was carried out. The confirmation notice also will reiterate the facts that Applicants: (a) will not exercise any rights reserved by it under any of the Contracts to impose additional restrictions on transfers, and (b) will permit such Contract owners to make one transfer of Contract value out of an affected subaccount to another subaccount for 30 days after the substitution without the transfer being treated as one of a limited number of permitted transfers or a limited number of transfers permitted without a transfer charge. A current prospectus for the Substitute Fund will be sent to Contract owners on or about the time the confirmation notices are sent.

**Applicants' Legal Analysis**

1. Section 26(c) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to receive Commission approval before substituting the securities held by the trust.

2. Section 26(c) was intended to specifically address substitution by unit investment trusts that previously had been scrutinized under Section 11 of the Act. Section 26(c) allows Commission scrutiny of proposed substitutions which could, in effect, force investors dissatisfied with the substitute security to redeem their shares, thereby possibly incurring a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the proceeds of redemption, or both. The section was designed to forestall the ability of a depositor to present holders of interest in a unit investment trust with situations in which an investor's only choice would be to continue an investment in an unsuitable underlying security, or to elect a costly and, in effect, forced redemption.

3. The Applicants submit that the substitution is not the type of substitution that Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer Contract values into other subaccounts.

4. Also, the proposed substitution is unlike the type of substitution that Section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners select much more than a particular investment company in which to invest their Contract values. They also select the specific type of insurance coverage offered by Conseco Variable under their Contract as well as numerous other rights and privileges set forth in the Contract. Contract owners may also have considered the size, financial condition, type, and reputation for service of the Applicant from whom they purchased their Contract. These factors will not change because of the proposed substitution.

5. Applicants maintain that Contract owners will be well served by the proposed substitution. The proposed substitution is an appropriate one given the Funds available under the Contracts. For the proposed substitution, Applicants believe that the Substitute Fund is substantially the same or more conservative in its investment objective(s) or strategies than the Replaced Fund. Likewise, Applicants believe that the Substitute Fund has a lower investment risk profile than the Replaced Fund.

6. Apart from the replacement of the underlying investment vehicle, the rights of the Contract owners and the obligations of Conseco Variable under the Contracts would not be altered by the substitution except, of course, that Contract owners will not have the right to allocate contract value to subaccounts that invest in the Substitute Fund.

7. The Applicants note that, in accordance with the terms of each of the Contracts, no sales charges or surrender charges will apply to transfers in connection with the substitution, and Conseco Variable represents that no such charge shall be imposed. In addition, Contract owners who were affected by the substitution will be sent a Post-Substitution Notice informing them that the substitution was carried out and advising them of their transfer rights. The Applicants assert that the procedures to be implemented are sufficient to assure that each Contract owner's cash values immediately after the substitution shall be equal to the cash value immediately before the substitution.

**Applicants' Conditions**

For purposes of the approval sought pursuant to Section 26(c) of the Act, the

substitution described in the amended and restated application will not be completed, unless all of the following conditions are met.

1. The Commission shall have issued an order approving the substitution under Section 26(c) of the 1940 Act.

2. Each Contract owner will have been sent (a) a copy of the effective prospectus relating to the Replacement Fund and any necessary amendments to the prospectuses relating to the Contracts, (b) prior to the Liquidation Date, a Pre-Substitution Notice describing the terms of the substitution and the rights of the Contract owners in connection with the substitution, and (c) if affected by the substitution, a Post-Substitution Notice informing them that the substitution was carried out and advising them of their transfer rights.

Applicants assert, for the reasons stated above, that the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act and the requested Order approving the substitution should be granted.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–8365 Filed 4–5–02; 8:45 am]

**BILLING CODE 8010–01–U**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 8, 2002: A closed meeting will be held on Wednesday, April 10, 2002 at 9:30 a.m. and an open meeting will be held on Thursday, April 11, 2002 at 10:00 a.m., in Room 1C30, the William O. Douglas Room.

Commissioner Glassman, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting scheduled for Wednesday, April 10, 2002, will be: formal orders of private investigation; institution and settlement of injunctive actions; and institution and settlement of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, April 11, 2002, will be:

1. The Commission will consider a proposal to amend the definition of ''equity security'' in rules under the Securities Act of 1933 and the Securities Exchange Act of 1934 to include a security future. The proposed amendment would conform the definitions to the statutory changes made by the Commodity Futures Modernization Act of 2000 to the definition of ''security'' in the Securities Act and definitions of ''security'' and ''equity security'' in the Exchange Act with respect to security futures.

2. The Commission will consider proposals to accelerate the filing of Exchange Act quarterly and annual reports. The proposals also would require companies to disclose in their annual reports whether they provide access to their annual, quarterly and current reports on Form 8–K on their websites. If a company does not provide website access to its reports, it would have to state the reasons why it does not provide such access. The proposed amendments are part of the changes to the corporate disclosure rules that the Commission announced its intention to propose in Press Release 2002–22 on February 13, 2002.

3. The Commission will consider proposing amendments to Exchange Act Form 8–K, the form companies use to file current reports. The proposed amendments would require companies with a class of equity securities registered under Section 12 of the Exchange Act to report on Form 8–K: (1) directors' and executive officers' transactions in company equity securities; (2) directors' and executive officers' arrangements for the purchase and sale of company equity securities intended to satisfy the affirmative defense conditions of Exchange Act Rule 10b5–1; and (3) loans of money to a director or executive officer made or guaranteed by the company collateralized by the director's or executive officer's company equity securities. The proposed amendments are part of the changes to the corporate disclosure rules that the Commission announced its intention to propose in Press Release 2002–22 on February 13, 2002.

4. The Commission will consider whether to propose new rule 203A–2(f) under the Investment Advisers Act of 1940, which would permit certain investment advisers that provide advisory services through interactive Internet websites to register with the Commission instead of state securities authorities.

5. The Commission will consider whether to adopt a new registration form, Form N–6, for insurance company separate accounts registered as unit investment trusts that offer variable life insurance policies. The form is to be used by these separate accounts to register under the Investment Company Act of 1940 and to offer their securities under the Securities Act of 1933. The form would focus prospectus disclosure on essential information that will assist investors in deciding whether to invest in a particular variable life insurance policy, and would streamline the registration process by replacing two forms that were not specifically designed for variable life insurance policies with a single form tailored to these products. The Commission will also consider whether to adopt an amendment to Form N–1A, the form used by mutual funds to register under the Investment Company Act and to offer their shares under the Securities Act, to require a fee table for mutual funds that offer their shares as investment options exclusively for variable life insurance policies and variable annuity contracts.

6. The Commission will consider whether to propose amendments to Form N–4, the registration form for insurance company separate accounts that are registered as unit investment trusts and that offer variable annuity contracts. The proposed amendments would revise the format of the fee table of Form N–4 to require disclosure of the range of expenses for all of the mutual funds offered through the separate account, rather than disclosure of the expenses of each fund. These and other proposed technical amendments to the fee table would conform the treatment of fund expenses in Form N–4 to that in proposed Form N–6, a registration form for variable life insurance policies that will be considered for adoption by the Commission, and Form N–1A, the registration form used by mutual funds.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: the Office of the Secretary at (202) 942–7070.

Dated: April 4, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–8513 Filed 4–4–02; 11:18 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–45670; File No. SR–CBOE–2002–08]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Allocation of Orders

March 28, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On March 22, 2002, the CBOE submitted Amendment No. 1 to the proposed rule change.[3] On March 27, 2002, the CBOE submitted Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules governing the priority of bids and offers and to clarify how orders are to be allocated to market participants on the floor.

Below is the text of the proposed rule change. Deleted language is in brackets. Proposed new language is *italicized.*

Rule 6.45 Priority of Bids and Offers—*Allocation of Trades*

*Except as provided by Rules, including but not limited to Rule 6.2A, 6.8, 6.9, Rule 6.47, Rule 6.74, Rule 8.87, and CBOE Regulatory Circulars approved by the SEC concerning Participation Rights*, the following rules of priority shall be observed with respect to bids and offers:

(a) Priority of bids.

(*i*) The highest bid shall have priority, but where two or more bids for the same option contract represent the highest price and one such bid is displayed in the customer limit order book in accordance with Rules 7.7 *and 8.85(b)*, such bid shall have priority over any other bid at the post. *If more than one public customer order is represented in the customer limit order book at the best price, priority shall be afforded to such orders in the sequence in which they were received by the Order Book Official (''OBO'') or Designated Primary Market-Maker (''DPM'').*

*(ii) The following applies with respect to orders being represented by a Floor Broker, DPM acting as agent under Rule 8.85(b), or OBO, or with respect to bids made in response to a specific request from a Market-Maker. With respect to each of the following, the Floor Broker, DPM, OBO, or Market-Maker shall determine the sequence in which the bids were made.*

(*1*) If two or more bids represent the highest price and a bid from the customer limit order book is not involved, priority shall be afforded to such bids in the sequence in which they are made.

*(2) If the bids were made at the same time, or in the event the Floor Broker, DPM, OBO, or Market-Maker cannot reasonably determine the sequence in which the bids were made, priority shall be apportioned equally.*

*(3) If the Floor Broker, DPM, OBO, or Market-Maker cannot reasonably determine the sequence in which the bids were made beyond a certain number of market participants, the Floor Broker, DPM, OBO, or Market-Maker shall provide for the remaining contracts, if any, to be apportioned equally among those market participants who bid at the best price at the time the market was established.*

(4) *In the event a market participant declines to accept any portion of the available contracts, any remaining contracts shall be apportioned equally among the other market participants who bid at the best price at the time the market was established until all contracts have been apportioned.*

*The Floor Broker, DPM, OBO, or Market-Maker shall determine which market participants responded at the best market at the time the market was established.*

*(iii) Any contracts remaining in an order, if any, after giving effect to paragraph (ii) above, shall be apportioned equally between any other market participants in the trading crowd who bid at the best price in a reasonably prompt manner subsequent to the time the market was established.*

*(iv) Whenever a member requests from members of a trading crowd a single bid in excess of the RAES order eligibility size for that option class as provided for in Interpretation .11 to Rule 8.7, each member of the trading crowd shall be apportioned a share of the executed order based on an approximate pro rata percentage, to the extent practicable, of the crowd member's portion of the size of the original single bid. The member requesting the single bid shall determine what constitutes an approximate pro rata percentage of the order that is executed with respect to each member of the trading crowd who participated in making the single bid.*

(b) Priority of offers.

The lowest offer shall have priority, but where two or more offers for the same option contract represent the lowest price, priority shall be determined in the same manner as specified in paragraph (a) in the case of bids.

(c) No change

(d) No Change

(e) Exception.

Notwithstanding anything in paragraphs (a) and (b) to the contrary, when a member holding a spread order, a straddle order, or a combination order and bidding or offering in a multiple of the minimum increment on the basis of a total credit or debit for the order has determined that the order may not be executed by a combination of transactions with the bids and offers displayed in the customer limit order book or announced by members in the trading crowd, then the order may be executed as a spread, straddle, or combination at the total credit or debit with one other member without giving priority to bids or offers of members in the trading crowd that are no better than the bids or offers comprising such total debit or credit and bids and offers in the customer limit order book provided at least one leg of the order would trade at a price that is better than the corresponding bid or offer in the book. Under the circumstances described above, a stock-option order, as defined in Rule 1.1(ii)(a), has priority over the bids and offers of members in the trading crowd but not over the bids and offers in the customer limit order book. A stock option order as defined in Rule 1.1(ii)(b), consisting of a combination order with stock, may be executed in accordance with the first sentence in this subparagraph (*e*).

* * * Interpretations and Policies:

.01 No Change

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Madge M. Hamilton, Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 22, 2002. The changes made by Amendment No. 1 have been incorporated into this notice.

[4] *See* letter from Madge M. Hamilton, Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 22, 2002. The changes made by Amendment No. 2 have been incorporated into this notice.

*.02 The provisions of this rule are subject to Rule 8.7, Interpretation and Policy .05, and Rule 8.51.*

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

CBOE submits the proposed change to CBOE Rule 6.45 pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000,[5] which requires that the options exchanges adopt new, or amend existing, rules to make express any practice or procedure ''whereby market makers trading any particular option class determine by agreement the spreads or option prices at which they will trade any option class, or the allocation of orders in that option class.''

CBOE Rule 6.45 currently requires that the highest bid or lowest offer (''best bid or offer'') shall have priority. CBOE Rule 6.45 also provides that, with limited exceptions set forth in 6.45(c) and (d), an order representing the best bid or offer in the customer limit order book receives priority over another order at the same best price. Proposed CBOE Rule 6.45(a)(i) would add that if more than one public customer order is represented in the customer limit order book at the best price, priority shall be afforded to such orders in the sequence in which they were received by the OBO or DPM.

The Exchange also proposes to adopt CBOE Rule 6.45(a)(ii) to apply to those orders represented by a Floor Broker, a DPM acting as agent under CBOE Rule 8.85(b), or an OBO, or with respect to bids made in response to a specific request from a market maker. In these instances, the proposed rule change provides that the Floor Broker, DPM, OBO, or Market-Maker shall determine which market participants responded at the best market at the time the market was established.[6] Accordingly, this provision provides that the Floor Broker, DPM, OBO, or market maker shall determine the sequence in which bids (offers)[7] were made, subject to the following:

(1) If there are two or more bids (offers) at the best price, and an order in the customer limit order book is not involved, priority is afforded to the orders in the sequence in which they were made. *See* Proposed CBOE Rule 6.45(ii)(1).

(2) If the bids (offers) were made at the same time, or in the event the Floor Broker, DPM, OBO, or market maker cannot reasonably determine the sequence in which the bids (offers) were made, priority shall be apportioned equally. *See* Proposed CBOE Rule 6.45(ii)(2).

(3) If the Floor Broker, DPM, OBO, or market maker cannot reasonably determine the sequence in which the bids (offers) were made beyond a certain number of market participants, the Floor Broker, DPM, OBO, or Market-Maker shall provide for the remaining contracts, if any, to be apportioned equally among those market participants who bid (offered) at the best price at the time the market was established. *See* Proposed CBOE Rule 6.45(ii)(3).

(4) In the event a market participant declines to accept any portion of the available contracts, any remaining contracts shall be apportioned equally among the other market participants who bid (offered) at the best price at the time the market was established until all contracts have been apportioned.[8] *See* Proposed CBOE Rule 6.45(ii)(4).

Proposed CBOE Rule 6.45(iii) provides that any contracts remaining in an order after the operation of CBOE Rule 6.45(ii) shall be apportioned equally between any other market participants in the trading crowd who bid (offered) at the best price in a reasonably prompt manner subsequent to the time the market was established.

Proposed CBOE Rule 6.45(iv) provides that whenever a member requests from members of a trading crowd a single bid in excess of the RAES order eligibility size for that option class as provided for in Interpretation .11 to CBOE Rule 8.7, each member of the trading crowd shall be apportioned a share of the executed order based on an approximate pro rata percentage, to the extent practicable, of the crowd member's portion of the size of the original single bid. The member requesting the single bid shall determine what constitutes an approximate pro rata percentage of the order that is executed with respect to each member of the trading crowd who participated in making the single bid.

The proposed amendment to CBOE Rule 6.45 also identifies all other Exchange Rules that may have bearing on the allocation of an order. These Rules include CBOE Rule 6.2A (''Rapid Opening System''), CBOE Rule 6.8 (''RAES Operations''), CBOE Rule 6.9 (''Solicited Transactions''), CBOE Rule 6.47 (''Priority on Split Price Transactions''), CBOE Rule 6.74 (''Crossing Orders'') and CBOE Rule 8.87 (''Participation Entitlement of DPMs''), as well as CBOE Regulatory Circulars approved by the Commission concerning participation rights.[9]

Finally, the Exchange proposes to add Interpretation and Policy .02 to CBOE Rule 6.45. This interpretation will clarify that the provisions of CBOE Rule 6.45 are subject to the operation of CBOE Rules 8.7, Interpretation and Policy .05, and CBOE Rule 8.51.

2. Statutory Basis

The proposed rule change provides comprehensive information concerning the priority of trades, which furthers the objectives of section 6(b)(5) of the Act[10]

[5] Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000).

[6] The Exchange has represented that it has the ability to determine the identity of the individual who allocated a trade executed on the Exchange. Telephone conversation between Madge Hamilton, Attorney, the CBOE, and Ira Brandriss, Special Counsel, Division, Commission, on March 21, 2002.

[7] Paragraph (b) of this Rule 6.45 provides generally that in cases where two or more offers represent the lowest price, priority is determined in the same manner as specified in paragraph (a) in the case of bids.

[8] In this respect, the Exchange notes that the number of contracts the DPM may receive if a participant declines to accept an allocation (''unallocated portion'') is still capped by the DPM participation entitlement amount (i.e., 30%, 40%, or 50%) unless the other participants decline to accept any of the unallocated portion. For example, if there is an order in which it has been determined that market makers A, B, C, and D are entitled to receive an allocation along with the DPM, the order would be allocated as follows: 30% to DPM and 17.5% each to A, B, C, and D. If D declines to receive an allocation, D's portion would be allocated evenly among A, B, and C. The DPM would not be entitled to receive any portion of D's allocation because it would result in an allocation to the DPM in excess of the 30% participation entitlement. If, however, A, B, and C decline to accept any of D's unallocated contracts, the DPM could then take those additional contracts.

[9] The current participation rights of DPMs under CBOE rules are detailed in CBOE Regulatory Circular RG 00–193, dated December 28, 2000. *See* Securities Exchange Act Release No. 43750 (December 20, 2000), 65 FR 82420 (December 28, 2000).

[10] 15 U.S.C. 78(b)(5).

to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to file number SR–CBOE–2002–08 and should be submitted by April 29, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–8367 Filed 4–5–02; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–45671; File No. SR–NASD–2002–01]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to the Automatic Refreshing of Quotations in Nasdaq's SuperMontage System and the Withdrawal of Market Makers That Fail To Maintain a Clearing Relationship

March 28, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 3, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq submitted Amendment No. 1 on March 5, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Nasdaq proposes to amend NASD Rules 4710(b)(5) and 4619(c) to modify the procedures for refreshing exhausted market maker quotes in, and withdrawing market makers that fail to maintain proper clearing arrangements from, Nasdaq's future Order Display and Collector Facility (collectively referred to as the Nasdaq National Market System ''NNMS'' or ''SuperMontage''). Below is the text of the proposed rule change. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

4710. Participant Obligations in NNMS

(a) through (b)(4) No Change.

(5) If an NNMS Market Maker's Attributable Quote/Order is reduced to zero on one side of the market due to NNMS executions, the NNMS will close the Market Maker's quote in the NNMS [with respect to both sides of its market] *on that side of the market,* and the NNMS Market Maker will be permitted a grace period of [three minutes] *30 seconds* within which to take action to restore its Attributable Quote/Order if the market maker has not authorized use of the QR functionality or does not otherwise have an Attributable Quote/Order on that side[s] of the market in the system. An NNMS Market Maker that fails to transmit an Attributable Quote/Order in a security within the allotted time will have [its] the *exhausted side of its* quotation restored by the system at *a price $0.01 inferior* to the lowest displayed bid price [and] *or* the highest displayed offer price in that security *as appropriate. If all bids and/or offers are exhausted so that there are no longer any Quote/Orders displayed on the bid and/or offer side of the market, the system will refresh a market maker's exhausted bid or offer quote to a normal unit of trading priced $0.01 inferior to the lesser of either: (a) The last valid displayed inside bid/offer in the security before all such bids/offers were exhausted; or b) the market maker's last displayed bid/offer before exhaustion. If the resulting bid/offer quote would create a locked or crossed market, NNMS will instead re-open the exhausted market maker's bid/offer quote at a price $0.01 inferior to the unexhausted inside bid/offer in that security. If at any time this automatic quote restoration process would result in the creation of a bid/offer of less than $0.01, the system will refresh that bid/offer to a price of $0.01.* Except as provided in subparagraph (b)(6) of this rule, an NNMS Market Maker that withdraws from a security may not re-register in the system as a market maker in that security for twenty (20) business days. The requirements of this subparagraph shall not apply to a market maker's Agency Quote.

(6) through (10) No Change.

* * * * *

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Thomas P. Moran, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 4, 2002 (''Amendment No. 1''). In Amendment No. 1, Nasdaq modified its filing, as originally-proposed, by removing the words ''at least'' from each reference to the phrases ''at least $0.01 inferior'' and ''at least one penny inferior'' in both Nasdaq's proposed amendments to NASD Rule 4710(b)(5) and the text of Nasdaq's Form 19b–4.

4619. Withdrawal of Quotations and Passive Market Making

(a)–(b) No Change.

(c) Excused withdrawal status may be granted to a market maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency and is withdrawn from participation in the Automated Confirmation Transaction service, thereby terminating its registration as a market maker in Nasdaq issues. Provided however, that if the Association finds that the market maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to Rule 4620 and the Rule 4700 Series governing the Nasdaq National Market Execution System. *Market makers that fail to maintain a clearing relationship will have their NNMS system status set to ''suspend'' and be thereby prevented from entering, or executing against, any quotes/orders in the system.*

* * * * *

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

As part of its ongoing preparation for the launch of SuperMontage,[4] Nasdaq is engaging in a continuing review of the system's functionality and rules with a view to constant improvement. As a result of this review, and in consultation with industry professionals, Nasdaq has determined to: (a) modify SuperMontage's procedure for the automatic re-entering of the quotations of market makers that have been reduced to zero on either the bid or offer side of the market as the result of previous executions; and (b) alter the NNMS system status of market makers that fail to maintain a clearing relationship.

a. *Refreshing Exhausted Quotations*

First, Nasdaq proposes to change the way Nasdaq market makers' quotes on the SuperMontage would be automatically refreshed after being reduced to zero by executions. Currently, the NASD rules for SuperMontage provide that if a market maker's quote/order is reduced by executions to zero on either the bid or offer side of the market, and not voluntarily refreshed by that market maker within 3 minutes, the system will automatically zero out and refresh *both* sides of the quote to a size of 100 shares priced at the lowest bid or highest offer currently being displayed by any other quoting participant in that security.

Upon further review, and after consulting with market participants, Nasdaq has determined to make several improvements to this process. First, Nasdaq proposes to reduce, from 3 minutes to 30 seconds, the amount of time that a market maker can leave its bid or offer quotation at zero before SuperMontage begins its automatic quote refreshing process. Nasdaq believes that the current 3 minute time period is simply too long for a quote to remain inaccessible given the rapid automated nature of trading that is expected in the SuperMontage environment.

Further, Nasdaq proposes to limit the automatic refreshing of quotes to the single bid or offer side of a quotation that has been reduced to zero through executions. Under current NASD rules for SuperMontage, if a market maker is displaying a two-sided quote and either its bid or offer is reduced to zero and not voluntarily refreshed, the system will automatically zero out the market maker's entire quote (both the bid and offer sides) and create a new bid and offer based on the displayed prices of other quoting participants in the security. Upon further review, Nasdaq has determined that altering both sides of the market maker's quote in this situation unfairly disadvantages the orders of market participants that remain on the unexhausted side of that quote. By automatically zeroing out and refreshing a side of the market maker's quote where trading interest remains, the orders represented by that unexhausted side of the quote lose their execution priority in the system and have their ability to interact with the quotes and orders of others unfairly impaired. To remedy this situation, Nasdaq proposes to alter the process for the refreshing of exhausted quotes in SuperMontage so that the process only operates against the sides of market makers' quotations where trading interest has been reduced to zero by executions. In addition, Nasdaq has determined to refresh exhausted bid/offers to prices $0.01 inferior to the lowest bid or highest offer displayed in the particular security. The unexhausted sides of such quotes would remain displayed in the system and available for execution.

Finally, Nasdaq also proposes to establish a method for refreshing the exhausted sides of market maker quotations in situations where there are no available quotes from which to determine a refresh price. In this situation, SuperMontage would refresh the exhausted side of a quote to a normal unit or trading at a price level that is one penny inferior to the lesser of either: (a) the last valid displayed inside bid/offer in the security before all such bids/offers were exhausted; or (b) the market maker's last displayed bid/offer. If the resulting bid/offer quote would create a locked or crossed market, NNMS would instead re-open the market maker's bid/offer quote at a price that is one penny inferior to the unexhausted contra side of the market. Nasdaq believes that this process provides a uniform and fair method to quickly establish reasonable market maker quotes in situations where no trading interest is being currently displayed.

b. *Withdrawal of Quotations for Failure to Maintain a Clearing Relationship*

In addition to changing the way SuperMontage will handle exhausted quotes, Nasdaq also proposes to alter the designation given to market makers that withdraw from the market based on their failure to maintain a clearing relationship. Currently, when a market maker seeks to leave the market because of a lack of a clearing relationship, it is placed in ''excused withdrawal'' status. In that status, the market maker is expected not to enter quotes or orders into the SuperMontage, but is not technologically prevented from doing so. To ensure that withdrawing market makers are precluded from participating in the system without a clearing relationship, Nasdaq proposes that such market makers have their system status designated as ''suspend.'' Once a market maker is designated in the system as being in a suspend status, SuperMontage would be able to prevent that market maker from placing quotes or orders into the system. Once the market maker regains a clearing relationship, the suspend status would be lifted, and the market maker would be free to participate again. Nasdaq

[4] See Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001) (order approving SuperMontage).

believes that this proposal should enhance the integrity of the system and significantly reduce the potential for inappropriate quoting and trading activity.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of section 15A(b)(6) of the Act,[5] in that the proposals are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with person engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–01 and should be submitted by April 29, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–8366 Filed 4–5–02; 8:45 am]

**BILLING CODE 8010–01–P**

[5] 15 U.S.C. 78*o*-3(b)(6).

[6] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–45662; File No. SR–PCX–2002–10]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Addition of a Surcharge Fee for the Automatic Execution of Broker-Dealer Orders

March 27, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on February 4, 2002, the Pacific Exchange, Inc. (''Exchange'' or ''PCX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PCX. On March 21, 2002, the PCX submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The PCX is proposing to modify its Schedule of Fees and Charges by adding a surcharge fee for the automatic execution of broker-dealer orders.

The text of the proposed rule change, as amended, is available at the PCX and at the Commission.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to adopt a $0.45 per contract surcharge fee for all broker-dealer orders [4] executed via the Exchange's automatic execution system (''Auto-Ex''). On November 6, 2001, the Commission approved a PCX rule change proposal to permit broker-dealer orders to be executed on Auto-Ex.[5] The November 6, 2001 Rule Change was implemented on an issue-by-issue basis, subject to the approval of the Options Floor Trading Committee.[6]

The Exchange proposes to implement a $0.45 per contract surcharge on all trades executed pursuant to this

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Cindy L. Sink, Senior Attorney, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 20, 2002 (''Amendment No. 1''). In Amendment No. 1, the PCX elaborated, in detail, on the purpose for the proposed rule change. The changes made by Amendment No. 1 have been incorporated into this notice. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on March 21, 2002, the date the PCX filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[4] A broker-dealer order is an order for the account of a registered broker-dealer.

[5] *See* Securities Exchange Act Release No. 45032 (November 6, 2001), 66 FR 57145 (November 14, 2001) (SR–PCX–2000–05) (approving portion of proposal that allowed for orders for the account of broker-dealers to be executed on Auto-Ex on an issue-by-issue basis) (''November 6, 2001 Rule Change'').

[6] *Id.*

proposed rule change, as amended. The Exchange represents that, under this proposal, *all* trades executed via Auto-Ex on behalf of broker-dealers will be uniformly assessed the fee. The Exchange also represents that the surcharge for automatic execution of broker-dealer orders will only be charged to member firms. The Exchange asserts that these firms will be assessed the fee monthly. The Exchange represents that bills will be issued to these firms approximately five days after the end of each trade month. The Exchange asserts that the surcharge will not apply to non-members.

The Exchange represents that the November 6, 2001 Rule Change to Auto-Ex extends the benefits of automatic execution to broker-dealers.[7] The Exchange asserts that such change provides instant execution without the need for a floor broker. The Exchange represents that the fast turnaround time minimizes the possibility that the market will move away from the prevailing quote. The Exchange asserts that broker-dealers who want to access the PCX's markets, but who do not want to pay the surcharge, can send their orders to the PCX for manual execution by Floor Brokers. The Exchange believes, however, that the benefits of automatic execution outweigh the burden of paying the surcharge.

The Exchange represents that broker-dealer orders that are automatically executed on Auto-Ex are not subject to brokerage fees that would otherwise be imposed by PCX members. The Exchange believes that the floor brokerage fees on broker-dealer order executions are generally comparable to the proposed surcharge amount. The Exchange represents that broker-dealer orders routed to Floor Broker Hand Held Terminals are not subject to the surcharge. The Exchange asserts that the surcharge is in addition to existing fees.

The Exchange represents that the fee will recoup costs associated with developing the new feature allowing automatic execution of broker-dealer orders in designated option issues. The Exchange asserts that the costs required to allow its Pacific Options Exchange Trading System (''POETS'') to accept and execute these orders included an extensive system design change, programming and testing, and that billing programming was also required. The Exchange believes the fee is reasonable.

[7] The Exchange represents that, previously, these benefits were only available to public customers.

*2. Statutory Basis*

The Exchange believes the proposed rule change, as amended, is consistent with section 6 of the Act,[8] in general, and with section 6(b)(4) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The PCX does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments on the proposed rule change, as amended, were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [10] and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes or changes a due, fee, or other charge. At any time within 60 days of March 21, 2002, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[12]

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX–2002–10 and should be submitted by April 29, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–8368 Filed 4–5–02; 8:45 am]

**BILLING CODE 8010–01–P**

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] *See* 15 U.S.C. 78(b)(3)(C).

[13] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG–2002–11843]**

### National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of agency policy; request for comment.

**SUMMARY:** The Coast Guard proposes to revise its list of agency actions that we have determined do not individually or cumulatively have a significant effect on the human environment and, thus, are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA). Consistent with the Council on Environmental Quality's regulations for implementing the procedural provisions of NEPA, the Coast Guard has periodically reviewed its NEPA implementing procedures and has determined that it was necessary to clarify some existing categorical exclusions (CEs) to prevent misinterpretation and to create new CEs to reduce excessive and needless paperwork for actions that have proven to have no potential for significant impacts. The purpose of this notice is to provide the public an opportunity to comment on the proposed changes to our list of categorical exclusions.

**DATES:** Comments and related material must reach the Docket Management Facility on or before May 8, 2002.

**ADDRESSES:** To make sure your comments and related material are not

entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2002–11843), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

In choosing among these means, please give due regard to the recent difficulties and delays associated with delivery of mail through the U.S. Postal Service to Federal facilities.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as this notice, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Kebby Kelley, Office of Civil Engineering, Environmental Management Division, U.S. Coast Guard, Headquarters, 202–267–6034 or via e-mail at *kkelley@comdt.uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

## Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or comments. Persons submitting comments should please include their name and address, and identify the docket number (USCG–2002–11843). You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period.

## Background

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) established the Council on Environmental Quality (CEQ). NEPA and CEQ regulations (40 CFR parts 1500–1508) establish a broad national policy which encourages and promotes productive harmony between man and his environment and provides policies and goals to ensure that environmental considerations and associated public concerns are given careful weight in all decisions of the Federal government.

Section 102 of NEPA (42 USCS 4332) and 40 CFR 1507.3 require Federal agencies to develop and, as needed, revise implementing procedures consistent with NEPA and the CEQ regulations. Additionally, 40 CFR 1500.4 and 1500.5 require Federal agencies to use categorical exclusions (CEs) to reduce excessive paperwork and reduce delay.

To determine whether improvements are needed in its list of agency actions that we have determined are categorically excluded from further NEPA environmental impact analysis, the Coast Guard periodically reviews its list. For references to some of these reviews in the **Federal Register**, *see* 59 FR 3152, January 20, 1994; 59 FR 38654; July 29, 1994; and 61 FR 13563, March 27, 1996. This list of CEs is contained in section 2.B.2, figure 2–1, of the ''Coast Guard National Environmental Policy Act (NEPA) Implementing Procedures and Policy for Considering Environmental Impacts,'' (Commandant Instruction M16475.1D).

During the most recent review, NEPA-related information in our project administrative records was examined to determine whether the current CEs were being applied consistently and appropriately. Areas of confusion or misinterpretation were identified for further evaluation. Also, the Coast Guard evaluated whether new CEs would be appropriate to further reduce needless paperwork and delay.

Where areas of confusion or misinterpretation with the existing CEs were identified, the USCG evaluated whether the situation could be resolved through improvements in internal guidance, modifications to the existing CEs, or the development of new CEs. Evaluations, in these cases included both an examination of the administrative record, as well as experiences of expert staff in working with the existing CEs. Modifications of existing CEs and new CEs have been proposed where appropriate to resolve areas of confusion or misinterpretation of the existing CE list.

The need for other new CEs was identified by examination of Environmental Assessments (EAs), and associated Findings of No Significant Impact (FONSI's) for similar or like actions. Where it was found that EAs with FONSI's existed for many similar or like actions, a new CE has been proposed. The working group also received input from other Coast Guard staff as to actions that were not currently categorically excluded but should be based on their experience that such projects normally had no significant environmental impacts.

The working group determined that new CEs were needed for several categories of Coast Guard personal and real property actions. The working group then benchmarked the our CEs against those of the General Services Administration (GSA) as the expert agency in terms of personal and real property management for the Federal government. Since other new CEs involved Coast Guard operations, the working group used the Department of the Navy as a benchmark because many of the Navy's actions are similar operationally, albeit at a much larger scale. Coast Guard CEs were then developed to address Coast Guard actions.

Finally, one new and one revised CE for regulatory actions were proposed. The new regulatory CE was proposed for regulatory actions mandated by Congress for the improvement or protection of the environment. The working group found that the Coast Guard had multiple EAs with FONSIs for regulations of this type, and, after reviewing the regulations and their environmental aspects, they determined that these types of actions do not normally have significant effects either individually or cumulatively on the human environment.

The recommended list of new and modified CEs developed by the working group was then extensively reviewed within the Coast Guard. This draft list was then also reviewed by and discussed with CEQ. Further revisions were made based on CEQ comments. The draft list is available in the appendix to this notice that will also be available in the docket (as indicated under **ADDRESSES**). It is now being offered for public comment.

After receipt of public comment, CEQ will conduct their final review. The USCG will then incorporate, as necessary, any public or CEQ comments prior to finalizing and publishing the final list of USCG new and modified CEs in the **Federal Register**.

Our proposed revisions to Section 2.B.2, Figure 2–1, of M16475.1D, entitled, ''Coast Guard Categorical Exclusions'' consist of three related parts. The first part is a non-substantive administrative reorganization of the Coast Guard's CEs to group CEs for like actions together under an appropriate general heading. The second part is a proposed revision requiring that a written Categorical Exclusion Determination (CED) be prepared for the administrative record whenever a CE calls for the preparation of a written environmental checklist (checklist). The third part is a substantive addition of new and modified CEs.

A CED is a 1- or 2-page Coast Guard document that states the Coast Guard project being proposed and the CE that is applicable. Our administrative procedures (contained in the Commandant Instruction M16475.1 series) require that the applicability of each CE be examined for extraordinary circumstances for each specific action. The checklist is a tool that is designed to assist us in determining whether there are any extraordinary circumstances that might require preparation of an Environmental Impact Statement (EIS) or an EA.

The NEPA regulations require agencies to consider extraordinary circumstances and to define categories of agency actions that do not have the potential for significant impacts (that is, categorically excluded actions); however, they do not require that such consideration of extraordinary circumstances or agency use of CEs be documented. (Thus, both, the CED and the checklist are internal Coast Guard administrative requirements to ensure that the potential for impacts on the human environment are given adequate consideration in proposed Coast Guard actions and are not required by NEPA law or regulation.) We are proposing that a CED be prepared whenever a checklist is required for a Coast Guard CE. Currently, checklists are required for those CEs covering actions which experience has shown could be likely to occasionally involve unusual circumstances that might make the CE inappropriate in certain instances.

Our CE revision also proposes new and modified CEs, the majority of which address real and personal property actions. A few additional modifications and new CEs are proposed for certain Coast Guard operations, specific Coast Guard environmental studies, and two types of Coast Guard regulatory actions.

These proposed new and modified CEs represent actions that, based on our past experience with similar actions, do not normally require an EA or EIS because they do not individually or cumulatively have a significant effect on the human environment. We propose CEs for certain situations in which the Coast Guard acquires, or arranges for permitted use of, property. At the time of acquisition or arrangement for permitted use of the property, we will use our Environmental Analysis Checklist to determine whether a CE is appropriate or if an EIS or EA is required. If a CE is appropriate, the USCG will prepare a written CED.

If, in the future, the Coast Guard determines the need to change the use of the property, we will conduct the appropriate NEPA analysis and prepared the documentation—either another CE, an environmental assessment, or an environmental impact statement on the proposed new use. The earlier acquisition or permit use arrangement for the property will not influence the subsequent environmental analysis and documentation, including the need to use the property for the proposed new use, the consideration of alternatives, or selection of the preferred alternative.

**Synopsis of Proposed Changes**

The proposed general changes to the current Coast Guard CEs are that the CEs will be reorganized by action type as Administrative Actions, Real and Personal Property Actions, Training Actions, Operational Actions, Special Studies, Bridge Administration Actions, and Regulatory Actions. Additionally, all CEs requiring an environmental checklist will also require a CED.

Specific changes to our current CEs involve the proposed new or amended CEs listed in the appendix to this notice. In the appendix, the proposed new CEs and the proposed modified language of existing CEs are shown in *italics*. Where a change to the CEs involves deletion of text, that text will be shown in brackets (''[]''). Existing Coast Guard CEs that remain unchanged are not included in the appendix.

This notice provides the public opportunity to comment on the proposed changes to the Coast Guard's CEs. All comments on the proposed changes will be considered in preparing the final version of Figure 2–1 of Commandant Instruction M16475.1D. The Coast Guard encourages full public participation during this comment period.

Dated: April 1, 2002.

**R.F. Silva,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Systems, ''Chief Engineer''.*

**Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions Notice of Agency Policy and Request for Comments***

1. *Administrative Actions:*

a. *Personnel and other administrative actions associated with consolidations, reorganizations, or reductions in force resulting from identified inefficiencies, reduced personnel or funding levels, skill imbalances, or other similar causes. (Checklist and CED required.)*

b. Approval of recreational activities or events (such as a USCG unit picnic) [which do not involve significant physical alteration of the environment, increased disturbance by humans of sensitive natural habitats, or disturbance of historic properties, and which do not occur in, or adjacent to, areas inhabited by threatened or endangered species. (Checklist required unless the activity will take place] at a location developed or created for that type of activity.)

2. *Real and Personal Property Related Actions (where the term ''real property'' is used throughout this section, it means real and any related personal property—and the term ''related personal property'' means personal property that is an integral part of the subject real property and removal of the personal property would significantly diminish the economic value of the subject real property):*

*a. The initial lease of, or grant of an easement interest in, Coast Guard-controlled real property to a non-Federal party, or the amendment, renewal, or termination of such lease or easement interest, where the reasonably foreseeable real property use will not change significantly and is similar to existing uses. (Checklist and CED required).*

b. *The grant of a license, to a non-Federal party, to perform specified acts upon Coast Guard-controlled real property, or the amendment, renewal, or termination of such license, where the proposed real property use is similar to existing uses. (Checklist and CED required.)*

c. *Allowing another Federal agency to use Coast Guard-controlled real property under a permit, use agreement or similar arrangement, or the amendment, renewal, or termination of such permit or agreement where real property use is similar to existing uses. (Checklist and CED required.)*

*d. The lease of a Coast Guard-controlled historic lighthouse property to a non-Federal party* as outlined in the Programmatic Memorandum of Agreement between the Coast Guard, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers. *(*Checklist *and CED required.)*

e. *Acquisition of real property (including fee simple estates, leaseholds, and easements), improved or unimproved, and related personal property from a non-Federal party, by purchase, lease, donation or exchange where the proposed real property*

*use is similar to existing uses for the foreseeable future (acquisition through condemnation not covered). (Checklist and CED required).*

f. *Acquisition of real property and related personal property, through transfer of administrative control, from another Department of Transportation (DOT) component or another Federal agency to the Coast Guard where title to the property remains with the United States, including transfers made pursuant to the Defense Base Closure and Realignment Act of 1990, Pub. L. 101–510, as amended (10 U.S.C. 2687 note), where the proposed Coast Guard real property use is similar to existing uses. (Checklist and CED required).*

g. *Coast Guard use of real property under the administrative control of another DOT component or another Federal agency through a permit, use agreement or similar arrangement where the proposed real property use is similar to existing uses. (Checklist and CED required).*

h. USCG new construction upon, *or improvement of, land where all of the following conditions are met* (Checklist and CED required):

• *The structure and proposed use are substantially in compliance with prevailing local planning and zoning standards.*

• The site is on heavily developed *property and/or located on a previously disturbed site in a developed area;*

• *The proposed use will not substantially increase the number of motor vehicles at the facility; and,*

• *The site and scale of construction are consistent with those of existing or adjacent or nearby buildings.*

*i. Real property inspections for compliance with deed or easement restrictions.*

j. *Transfer of administrative control over real property, from the Coast Guard to another Department of Transportation (DOT) component or another Federal agency (title to the property remains with the United States), that results in no immediate change in use of the property. (Checklist and CED required.)*

k. *Determination by the Coast Guard that real property is excess to its needs, pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), and the subsequent reporting of such determination to the Administrator of the General Services Administration or the subsequent filing of a notice of intent to relinquish lands withdrawn or reserved from the public domain with the Bureau of Land Management, Department of Interior, in accordance with 43 CFR Part 2370. (Checklist and CED required).*

l. Congressionally mandated conveyance of Coast Guard controlled real property *to another Federal agency or non-Federal entity.* (Checklist *and CED required.)*

m. *Relocation of Coast Guard personnel into existing Federally owned or leased space where use does not change substantially and any attendant modifications to the facility would be minor.*

n. *Decisions to temporarily or permanently decommission, disestablish, or close Coast Guard shore facilities including any follow on connected protection and maintenance needed to maintain the property until it is no longer under Coast Guard control. (Checklist and CED Required).*

o. Demolition of buildings, structures, or *fixtures and disposal of subsequent building, structure, or fixture waste materials. (Checklist and CED required).*

p. *Determination by the Coast Guard that Coast Guard controlled personal property, including vessels and aircraft, is ''excess property,'' as that term is defined in the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)), and any subsequent transfer of such property to another Federal agency's administrative control, or conveyance of the United States' title in such property to a non-Federal entity. (Checklist and CED required).*

q. Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities that do not result in a change in functional use of the real property, [a historically significant element, or historically significant setting] *(e.g., realigning interior spaces of an existing building, extending an existing roadway in a developed area a short distance, installing a small antenna on an already existing antenna tower, adding a small storage shed to existing building, etc.)* (Checklist *and CED required.)*

r. Installation of devices to protect human or animal life, such as raptor electrocution prevention devices, fencing to restrict wildlife movement on to airfields, and fencing and grating to prevent accidental entry to hazardous areas. (Checklist *and CED required*.)

3. *Training:*

a. Defense preparedness training and exercises conducted on Coast Guard-*controlled* property that do not involve undeveloped property, or increased noise levels over adjacent property and involve a limited number of personnel, such as exercises involving primarily electronic simulation or command post personnel. *(Checklist and CED required.)*

4. *Operational Actions:*

a. *Realignment or initial homeporting of mobile assets, including vessels and aircraft, to existing operational facilities that have the capacity to accommodate such assets or where supporting infrastructure changes will be minor in nature to perform as new homeports or for repair and overhaul. Note: If the realignment or homeporting would result in more than a one for one replacement of assets at an existing facility, then the checklist required for this CE must specifically address whether such an increase in assets could trigger the potential for significant impacts to protected species or habitats before use of the CE can be approved.) Checklist and CED required.)*

5. *Special Studies:*

a. *Environmental site characterization studies and environmental monitoring, including siting, construction, operation, and dismantling or closing of characterization and monitoring devices. Such activities include, but are not limited to:*

• *Geological, geophysical, geochemical, and engineering surveys and mapping, including the establishment of survey marks;*

• *Installation and operation of field instruments, such as stream-gauging stations or flow-measuring devices, telemetry systems, geochemical monitoring tools, and geophysical exploration tools;*

• *Drilling of wells for sampling or monitoring of groundwater, well logging, and installation of water-level recording devices in wells;*

• *Aquifer response testing;*

• *Installation and operation of ambient air monitoring equipment;*

• *Sampling and characterization of water, soil rock, or contaminants;*

• *Sampling and characterization of water effluents, air emissions, or solid waste streams;*

• *Sampling of flora or fauna;*

• *Archeological, historic, and cultural resource identification and evaluation studies in compliance with 36 CFR part 800 and 43 CFR part 7.*

• Data gathering, information gathering, and studies that involve no physical change to the environment. Examples include topographic surveys, bird counts, wetland mapping, and other inventories.

6. *Regulatory Actions:*

a. Regulations concerning *vessel operation safety standards (e.g., regulations requiring: certain boaters to use approved equipment which is required to be installed, such as an ignition cut-off switch, or carried on board, such as personal flotation devices (PFDs), and/or stricter blood alcohol concentration (BAC) standards for recreational boaters, etc.),* equipment approval, and/or equipment carriage requirements *(e.g., personal flotation devices (PFDs) and visual distress signals (VDS)).*

b. *Congressionally mandated regulations designed to improve or protect the environment (e.g., regulations implementing the requirements of the Oil Pollution Act of 1990, such as those requiring vessels to have the capability to transmit and receive on radio channels that would allow them to receive critical safety and navigation warnings in U.S. waters, regulations to increase civil penalties against persons responsible for the discharge of oil or hazardous substances into U.S. waters, etc.). (Checklist and CED required).*

*** Note** *to Appendix:* Specific changes to our current Categorical Exclusions (CEs) involve the proposed new or amended CEs listed in this appendix. The proposed new CEs and the proposed modified language of existing CEs are shown in italics. Proposed deletion of text is shown in brackets (''[]''). Existing Coast Guard CEs that remain unchanged are not included in this appendix.

[FR Doc. 02–8440 Filed 4–5–02; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Transit Administration

## Job Access and Reverse Commute Program Grants

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of availability of funds; solicitation for grant proposals.

**SUMMARY:** The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the solicitation of grant proposals for Fiscal Years (FY) 2002 and 2003 funding provided under the Job Access and Reverse Commute (JARC) grant program, as authorized under Section 3037 of the Transportation Equity Act for the 21st Century (TEA–21). The FY 2002 DOT Appropriations Act provides $125 million for the JARC Program, the guaranteed funding level under TEA–21. In the FY 2002 Conference Report the appropriators indicated their desire for $109,339,000 of this amount to be awarded to specified States and localities. These congressionally-specified areas were included in FTA's 2002 Annual Apportionment Notice, published in the **Federal Register** on January 2, 2002. That notice can be found at: *http://www.fta.dot.gov/library/legal/federalregister/2002/fr1202a.pdf*. States, localities, and private nonprofit agencies listed in the report, along with States, localities, and private nonprofit agencies not so listed, must follow the application procedures provided in this notice to apply for JARC funding. The guaranteed funding level for the JARC program is $150 million for fiscal year 2003, the final year of the program under FTA's current authorizing legislation. This announcement describes the conditions under which proposals will be received for the FY 2002 and FY 2003 JARC competitive grant program and the criteria that FTA will apply in evaluating project proposals. It includes all of the information needed to apply for JARC competitive grants.

This announcement is available on the U.S. Department of Transportation's FTA website at: *http://www.fta.dot.gov/wtw*.

**DATES:** All proposal applications for funding of continuation projects must be submitted to the appropriate FTA regional office (see Appendix B) and be received no later than June 7, 2002. Proposal applications for new projects must be submitted no later than July 8, 2002, but applicants must notify the appropriate regional office of their intent to apply for funding no later than June 7, 2002. The 60-day deadline will allow FTA to inform Congress of demands for FY 2003 funds before deliberation on FTA's fiscal year 2003 budget. The selection of projects to be funded will be announced upon completion of the evaluation process.

**FOR FURTHER INFORMATION CONTACT:** the appropriate FTA Regional Administrator (see Appendix B) for proposal-specific information and issues. For general program information, contact Sue Masselink, Office of Program Management, (202) 366–2053, email *sue.masselink@fta.dot.gov*. A TDD is available at 1–800–877–8339 (TDD/FIRS). Comments or questions related to this notice may be mailed, faxed, or electronically submitted to *Sue Masselink, Federal Transit Administration, Room 9315, 400 7th Street, SW., Washington, DC 20590; FAX (202) 366–7951; email: sue.masselink@fta.dot.gov*.

**SUPPLEMENTARY INFORMATION:**

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## I. Fiscal Years 2002 and 2003 Program Highlights

### *A. Projects for Congressionally-Designated Areas*

Applicants for JARC projects in congressionally-designated areas must submit applications responding to the program selection criteria and will be evaluated, scored, and ranked against all other applicants. Consistent with statutory requirements for competitive selection of projects, funds will be allocated among all projects, including those in congressionally-designated areas, based upon their ranking in the competitive evaluation process and other factors as set forth in this notice.

### *B. Multi-Year Funding*

Because recipients of JARC funds have expressed the need for multi-year funding through the early stages of project implementation and because FY 2003 is the last year of the authorization period for the JARC program, FTA will consider multi-year funding. To give effect to this new policy, FTA will give priority to funding continuation of previously selected projects. FTA is soliciting applications for funding from those applicants previously funded under the JARC program, as well as from new JARC applicants. Grantees may apply for up to two additional years of continuation funding beyond that previously approved. Continuation does not include expansion of services beyond those previously funded. Expanded services will be treated as new projects. Applicants for all new projects, both existing JARC recipients and eligible applicants that have not previously been awarded JARC funds, are encouraged to apply for a level of funding that will allow them to sustain new service for at least two years.

### *C. New Freedom Initiative Principles*

The President and the Federal Departments are moving to implement a ''New Freedom'' Initiative, the intent of which is to tear down the barriers to equality for persons with disabilities that remain after the implementation of the Americans with Disabilities Act. As part of that initiative, the President is proposing funding in FY 2003 to support additional transportation services to assist persons with disabilities to reach jobs. The major goal of the JARC program is to increase access to jobs for welfare recipients and other low-income individuals, and persons with disabilities are disproportionately represented among low-income groups. The unemployment rate for Americans with disabilities hovers at around 70 percent. The lack of adequate transportation is a primary barrier to work for people with disabilities; one-third of people with disabilities report that transportation is a significant problem.

Accordingly, area-wide JARC Transportation Plans must address the mobility needs of persons with disabilities, among others, in reaching employment sites and support activities. Plans previously developed that did not address the mobility needs of persons with disabilities must be revised to include this information. Projects addressing the needs of persons with disabilities will also be eligible for New Freedom Initiative funding being proposed by the Department of Transportation in FY 2003, subject to these funds being made available by Congress.

### *D. Automobile Programs*

While direct funding to individuals for private automobile ownership and repair is not eligible under the program, funds may be used for local programs that assist individuals in acquiring and maintaining vehicles, such as loan programs that help low-income

individuals purchase vehicles. Agencies that receive funding for such projects must ensure that title to the vehicles remains with the funded agency, that the vehicles are used for shared rides, and that the vehicles are used for intended purposes.

*E. Pre-Award Authority*

FTA is providing pre-award spending authority for this program which permits successful applicants to incur costs on eligible projects without prejudice to possible Federal participation in the cost of the project(s). However, in exercising pre-award authority, successful applicants must comply with all Federal requirements. Failure to do so will render a project ineligible for FTA financial assistance. Successful applicants must consult the appropriate FTA regional office regarding the eligibility of the project for future FTA funds or the applicability of the conditions and Federal requirements. Pre-award spending authority is provided to projects selected and announced in response to this notice effective December 18, 2001, the date on which the Department of Transportation (DOT) and Related Agencies Appropriations Act for Fiscal Year 2002 was signed into law by President Bush.

*F. Electronic Application*

An electronic application for FY 2002/2003 proposals is posted on the FTA website at: *http://www.fta.dot.gov/wtw/ftagpa.html.* Applicants may input information directly without downloading the application.

**II. General Program Information**

*A. Authority.*

This program is authorized under Section 3037 of the Transportation Equity Act for the 21st Century (TEA–21).

*B. Scope*

Improving mobility and advancing economic development are key strategic goals of the US DOT. Job Access funds help improve mobility and economic opportunity for welfare recipients and other low-income people through the provision of new or expanded transportation service. Reverse Commute funds help improve mobility to suburban employment opportunities for the general public, including welfare recipients and low-income individuals.

*C. Eligible Applicants*

Local agencies and authorities and private non-profit organizations are eligible to apply for JARC Program funds. Local agencies and authorities include states, local governments, metropolitan planning organizations, public transit agencies and tribal organizations.

In urbanized areas with populations of 200,000 or more, MPOs select the applicant(s). FTA urges MPOs to designate a single recipient to submit a consolidated application in these urbanized areas.

In areas with populations under 200,000, states select the applicants. For areas with populations between 50,000 and 200,000, applications forwarded to the state for selection must be endorsed by the area MPO as a project the MPO would be willing to include in the Transportation Improvement Program if the projects were selected for funding. States are urged to serve as the designated recipients for grants to small urban and nonurbanized areas. The selected grant recipient can suballocate funds to other project participants.

*D. Eligible Projects*

Job Access and Reverse Commute Projects. A Job Access project is one that provides new or expanded transportation service designed to fill gaps that exist for welfare recipients and other low-income individuals to and from jobs and other employment-related services. A Reverse Commute project facilitates the provision of new or expanded public mass transportation services for the general public from urban, suburban, and rural areas to suburban work sites. Capital and operating costs for such projects are eligible. Localities have wide flexibility in selecting service strategies that are appropriate to their areas, including but not limited to:

(a) Late-night and weekend service;
(b) guaranteed ride home service;
(c) shuttle service;
(d) expanding fixed-route mass transit routes;
(e) demand-responsive van service;
(f) ridesharing and carpooling activities;
(g) bicycling; and
(h) local car loan programs that assist individuals in purchasing and maintaining vehicles for shared-rides

Lead applicants submitting consolidated applications on behalf of a number of subrecipients may apply for program administration costs of up to 10 percent of the grant request.

JARC Program funds may also be used for *promoting*, through marketing efforts, the:

(a) use of transit by workers with non-traditional work schedules;
(b) the use of transit voucher programs by appropriate agencies for welfare recipients and other low-income individuals;
(c) development of employer-provided transportation such as shuttles, ridesharing, carpooling; or
(d) use of transit pass programs and benefits under Section 13 of the Internal Revenue Code of 1986.

In order to improve customer service and operating efficiency, localities are encouraged to:

(a) establish regional mobility managers or transportation brokerage activities;
(b) apply Geographic Information System (GIS) tools;
(c) implement Intelligent Transportation Systems (ITS), including customer trip information technology;
(d) integrate automated regional public transit and human service transportation information, scheduling and dispatch functions; and
(e) deploy vehicle position-monitoring systems.

*E. Ineligible Costs*

1. JARC funds may not be used for planning or coordination activities. Metropolitan and Statewide Planning funds made available under the FTA Sections 5303 and 5313(b) programs, FHWA Metropolitan Planning Program (PL) (23 U.S.C. Section 134) and FHWA State Planning and Research Program (SPR) (23 U.S.C. Section 505) funds can be used to fund welfare to work transportation planning activities at a 100 percent Federal share. Other funds, including the U.S. Department of Health and Human Services' Temporary Assistance to Needy Families (TANF) and the U.S. Department of Labor's Welfare-to-Work (WtW) administrative funds can also be used for transportation planning activities consistent with the allowable uses of those resources.

2. While the marketing and promotion of transit pass programs are eligible expenses under the JARC Program, funding individual transit passes is not an eligible expense. Transit passes are eligible expenses under Temporary Assistance for Needy Families (TANF) and Welfare-to-Work programs.

3. Additionally, the construction of child care centers and other employment support facilities at transit hubs are not eligible for JARC Program grants. Transit-oriented construction activities are eligible under FTA's Section 5307, Section 5309, and Section 5311 grant programs.

*F. Cost Sharing*

The JARC grant program is intended to fill gaps in existing services and leverage other Federal, state and local transportation funding to address the unmet needs of individuals moving

from welfare to work and other low-income individuals. Neither funds awarded under this grant program, nor funds used to match the grants, can be used to replace any existing source of funds.

The maximum US DOT share of a grant under the JARC Program may not exceed 50 percent of the total project cost. The non-US DOT share shall be provided in cash or in the form of in-kind services that have a discernable cash value that is directly attributable to the service to be provided. If funds are matched from other Federal programs, the funds must be applied directly to project expenses. Revenues from service agreements are an eligible match, but revenues from individual fares cannot be used as matching funds.

Transportation—eligible funding from Federal programs other than the Department of Transportation may be used to match US DOT funds. These funds include, but are not limited to:

a. Temporary Assistance for Needy Families administered by the U.S. Department of Health and Human Services;

b. Community Services Block Grants (CSBG) and Social Services Block Grants (SSBG) administered by the U.S. Department of Health and Human Services;

c. Workforce Investment and Welfare-to-Work (WtW) formula and competitive grants administered by the U.S. Department of Labor; and

d. Community Development Block Grants (CDBG) and HOPE VI grants administered by the U.S. Department of Housing and Urban Development.

The prohibition on the use of WtW funds for matching requirements under section 403(a)(5)(C)(ii) of the Social Security Act does not apply to Federal or state funds that provide transportation services. TANF and WtW grants, when used as a match, may be expended only for new or expanded transportation services and cannot be used for construction or to subsidize current transit operating expenses. Such funds also must supplement rather than supplant other state expenditures on transportation.

Under the TANF Final Rule, investment in transportation services for families who are employed, including the purchase of transit vouchers, and investments used as match for the JARC program, do not constitute ''assistance'' and, therefore, do not trigger the 60-month lifetime limit on receipt of Federal benefits nor the reporting requirements of families receiving ''assistance.'' The Secretaries of Transportation, Labor, and Health and Human Services released revised joint guidance on the use of WtW and TANF funds on June 1, 2000, which reflects changes in the final TANF rule. The joint guidance is at: *http://www.fta.dot.gov/wtw/uoft.html.*

*G. Planning*

1. Coordinated Transportation/Human Services Planning Process

The statewide and metropolitan transportation planning processes mandated by TEA–21 promote ongoing, cooperative, and active involvement of public transportation providers, the public, and state, metropolitan and local government agencies in the development of statewide and metropolitan transportation plans and improvement programs. DOT expects that the JARC grant program will be a catalyst for broadening the transportation planning process to better integrate employment and social equity considerations.

Proposed JARC projects must be derived from an Area-wide JARC Transportation Plan (see below) developed through a coordinated public transit and human services transportation planning process. Any interested stakeholder group in the area may initiate the planning process. FTA encourages MPOs to serve as the regional forum in urbanized areas.

The planning process must include transportation planning officials from state and metropolitan transportation planning organizations; representatives of existing transportation service providers (local transit agencies and private nonprofit and for-profit transportation operators, such as human service transportation providers and taxi companies); the agencies administering TANF and WtW formula and competitive grants; and the community to be served. Stakeholders within the community to be served include welfare recipients and low-income residents, as well as community and faith-based organizations, disability groups, farm and migrant worker organizations and other groups representing the interests of low-income persons.

The planning process also should include other stakeholders such as organized transit labor representatives; employment, human service, and child care support service providers; a variety of local and state workforce development organizations including One-stop Career Centers; public and assisted housing providers and community development agencies; economic development agencies; employers and employer groups (such as transportation management organizations and Chambers of Commerce); elected representatives including tribal officials; local government officials including mayors, and county supervisors; and state officials, such as state legislators, governors and others; and interested citizens. Participants in the planning process should provide written endorsement or sign-off of the Area-wide JARC Transportation Plan.

2. Area-Wide JARC Transportation Plan

The purpose of collaboration is to develop a comprehensive area-wide approach to providing transportation services to welfare recipients and low-income persons regardless of jurisdictional boundaries. In general, the JARC Program should be viewed as a catalyst to provide long-term mobility and access to jobs for welfare recipients and low-income individuals. Any project proposed for funding should be identified in the Area-wide Job Access Transportation Plan resulting from the above process. The Plan is not meant to supersede, but to build upon, existing area welfare-to-work transportation planning activities. The Plan must:

a. Identify the geographic distribution of welfare recipients and low-income people in the region;

b. Identify the geographic distributions of employment centers and employment-related activities in the region;

c. Identify existing public, private, non-profit and human services transportation providers in the region;

d. Identify transportation gaps between the geographic distributions of people, as specified in section ''a,'' and employment, as specified in section ''b,'' which are not currently served by the transportation services, as specified in section ''c;''

e. Identify, in order of funding priority, projects to address the gaps identified in section ''d.'' Each project identification must include:

(1) The goals and objectives of the project;

(2) the cost of the project;

(3) an explanation of how the project will maximize use of existing transportation service providers and what mechanisms will be used to integrate or coordinate the project services with the existing transportation network;

(4) an explanation of how the project will meet the mobility needs of persons with disabilities in reaching employment sites and support activities; and

(5) identification of any employer-provided or employer-assisted transportation service strategies incorporated in the project.

The area-wide JARC Transportation Plan should build on and incorporate existing welfare-to-work transportation planning activities. As noted in the Fiscal Years 2002 and 2003 Program Highlights, Section I.C. above, if a previously adopted plan did not address the mobility needs of persons with disabilities, it must be revised to include this information.

1. MPO Planning Requirements

In regions with populations of more than 200,000, MPOs are responsible for selecting applicants to be considered for Federal JARC grants. In regions with populations between 50,000 and 200,000, MPOs will recommend projects to the state, which will select the applicants to be considered for Federal JARC grants.

This means that MPOs are responsible for the following:

(a) Determining that JARC projects are consistent with the regional long-range transportation plan.

(b) Ensuring that the submitted application contains projects prioritized according to local need.

(c) Endorsing and subsequently programming JARC projects into the area Transportation Improvement Program in urbanized areas of over 50,000 population.

(d) Conducting the locally-developed public participation process as required by the Joint FHWA/FTA Planning Rule (23 CFR part 450, 49 CFR part 613).

In all regions with MPOs, individual JARC projects must be adopted into the MPO's Transportation Improvement Program (TIP) prior to receiving a grant. Because this entails a formal review and project approval by the MPO Policy Board, FTA strongly urges the partners developing the area-wide JARC transportation plan to communicate with the MPO at an early stage. Further, as financial sustainability of a project is one of the evaluation criteria, coordination with the agencies participating in the MPO forum could be a critical factor in ensuring long-term support for JARC activities.

4. Statewide Transportation Planning Requirements

In all regions with populations of less than 200,000, the state is responsible for selecting applicants based on the recommendation of the MPO in areas between 50,000–200,000 population. In addition, JARC projects selected for funding must be endorsed by the state and incorporated into the statewide transportation improvement program (STIP). Because this requires state approval, FTA strongly urges the partners to communicate with state officials, including the state DOT, at an early stage. In selecting projects in rural areas, states should give priority to projects providing service to places that are not currently served or are underserved by public transit systems. States must prioritize the projects for funding based on their analysis of local needs and service effectiveness, as well as the collaboration achieved among stakeholders. Given the sovereign nature of tribal governments, tribal projects need not be included in the state's prioritization of projects, though they must be included in the State Transportation Improvement Program (STIP).

## III. Guidelines for Preparing Grant Proposal Applications

FTA is conducting a national solicitation for application proposals under the JARC Program for FY 2002 and FY 2003 funding. All grant awards, including those to congressionally-specified areas, will be made on a competitive basis. FTA encourages both traditional transportation recipients and new program entrants in urban, suburban, and rural areas to participate in the development of projects. Applicants must submit a proposal that describes the proposed project for which funding is sought and responds to the requirements outlined in this Notice. A project for which funding is sought is a service or set of services targeted to serve welfare recipients and low-income individuals, including persons with disabilities, living in a specific and distinguishable geographic locale. Because FY 2003 is the last year of the program under TEA–21, applicants are encouraged to apply for a level of funding sufficient to sustain the project for two years. If selected for funding, the applicant must document compliance with the standard FTA requirements listed in Appendix E as well as the availability of the financial match for the grant. Contact the appropriate FTA regional office for guidance on meeting standard FTA program requirements.

For continuation projects, applicants must also document satisfactory progress toward achieving JARC program goals. Current JARC grantees desiring continuation of funding for a project must document the continued endorsement of its planning partners, and provide an update of what has already been accomplished and the level of funding drawn down to date. Recipients requesting continuation funding may apply for up to two additional years of funding beyond that previously approved.

*A. Grant Funding Amounts*

Suggested grant sizes are identified below:

1. For urbanized areas with populations of over one million, FTA expects to make grants of no more than $1 million. (Places with populations of over 5 million may request funding above $1 million.)

2. For urbanized areas with populations greater than 200,000 and less than one million, FTA expects to make grants of no more than $500,000.

3. For urbanized areas with populations between 50,000 and 200,000, FTA expects to make grants of no more than $200,000. States should not submit applications that collectively exceed $1 million for this category.

4. For rural areas (areas with populations of less than 50,000), individual area grant applications generally should not exceed $150,000. Collective grant applications by states for rural areas should not exceed $1 million. Tribal applications may be considered separately from this state funding limitation.

## IV. Grant Proposal Application Development and Submission

To promote collaboration and reduce administrative paperwork, FTA strongly encourages the submission of a consolidated application by a single entity in urbanized areas and the submission of a consolidated application by the state for rural areas. In both cases, funds may be passed on to subrecipients. Tribal governments may choose to allow the state to include their project(s) in the state's application or, as sovereign governments, may apply directly to FTA. Since existing FTA grantees such as states and local transit agencies are familiar with many of the FTA requirements that apply to this program, FTA encourages these entities to submit applications on behalf of other entities.

Applicants should submit proposals to the appropriate regional office electronically according to the instructions included in the electronic application form, available through FTA's website at: *http://www.fta.dot.gov/wtw/ftagpa.html.* If an applicant is unable to submit the application electronically, the proposal should be submitted on a 3.5 inch formatted disk for use on a personal computer (PC). Documents should be submitted to the appropriate Regional Office in Word or Rich Text Format (RTF). Tables should be submitted in an Excel, or Tab Delimited Format. Submission of proposal applications for continuation funding must be received

by FTA no later than 60 days after the date of this notice. Submission of proposal applications for funding for new projects must be received by FTA no later than 90 days after the date of this notice, although these applicants must notify the appropriate regional office of their intent to submit a proposal application no later than 60 days after the date of this notice.

## V. Grant Proposal Application Review and Evaluation Process

FTA will screen all applications to determine whether all required eligibility elements are present. In addition to mandated project award criteria, FTA will select projects based on what is most advantageous to the government, and may consider the following factors: FTA's commitment to continue funding JARC projects already funded and undertaken; the time frame in which projects can be implemented; Congressional designation of projects for funding; and geographic distribution of project funds.

FTA will notify applicants of selection decisions. Those selected must then submit appropriate certifications, assurances, and other documentation necessary to meet the applicable FTA Section 5307 Urbanized Area Formula Grant Program requirements and be included in the TIP or STIP as appropriate, if these requirements have not been met. Technical assistance regarding these requirements is available from each FTA regional office.

FTA is committed to obligating Job Access and Reverse Commute funding expeditiously. Therefore, FTA urges applicants to develop documentation in accordance with the Section 5307 program guidance as soon as possible. This allows the information necessary for grant approval to be readily available for submission to FTA when projects are selected for funding.

## VI. General Grant Requirements and Performance Monitoring

In addition to the project proposal based on the program-specific requirements outlined in this notice, the applicant will be required to submit appropriate certifications, assurances, and other documentation necessary to meet the requirements of FTA's Urbanized Area Formula Grant Program (section 5307 program under Title 49, United States Code—*see* Appendix E). Applicants must have the financial, legal, and technical capacity to apply for and administer projects. Also included are planning; environmental; school bus; charter; procurement; labor protections; civil rights requirements, including the Americans with Disabilities Act, Title VI, Environmental Justice and Disadvantaged Business Enterprise; and drug and alcohol testing requirements.

Applicants are encouraged to coordinate with affected transit labor unions and to gather all information required by the U.S. Department of Labor for labor certification as soon as possible to avoid delay in the certification process upon grant selection. (See Appendix E for a description of required information).

FTA requires grant recipients to monitor the performance of their JARC services and to cooperate with the FTA and General Accounting Office (GAO) national evaluations mandated by law. Evaluation of JARC project progress will be a key element in determining continuation of FTA financial assistance. Performance measures on: (1) Increasing access between welfare recipients and low-income populations and employment sites; and (2) job access and reverse commute service effectiveness and efficiency must be provided. The required performance measures may be found on FTA's web site (*www.fta.dot.gov/wtw*). Performance monitoring will take place primarily through FTA standard project progress reports. Information must be reported in accordance with FTA's standard reporting requirements which are: (1) For projects in non-urbanized areas, reporting requirements for the 5311 Program (FTA C 9040.1E, page VI–6): annual program of projects status reports, annual financial status reports, and annual Disadvantaged Business Enterprise (DBE) reports; (2) for projects in urbanized areas, reporting requirements for the 5307 Program: quarterly milestone/progress and financial status reports, National Transit Database reporting, annual audits and triennial review.

Issued on: April 2, 2002.

**Jennifer L. Dorn,**

*Administrator.*

## Appendix A: JARC Grant Proposal Application

Below is the information that is requested in the JARC electronic form at: *http://www.fta.dot.gov/wtw/ftagpa.html.*

**Federal Transit Administration Job Access and Reverse Commute Program Grant Proposal Application**

This section requests information for the application as a whole:

*Applicant Information*

Name:
Type of Agency (see Appendix G):

*Subrecipient Information*

List of Subrecipients:
Type of Agencies (see Appendix G):

*For Additional Information Contact:*

Name:
Address:
Telephone Number:
Fax Number:
Email:

*For Notification of Project Selection Contact:*

Name:
Address:
Telephone Number:
Fax Number:
Email:

*Proposal Summary*

*(2 paragraphs, 250 words or less, for press purposes, including planning partners, brief description of gaps in service that exist and services proposed to bridge gaps, intended project beneficiaries):*

*Brief Description of Applicant's Financial, Legal and Technical Ability To Apply for and Administer Projects*

*Total Federal JARC Funding Requested for All Continuation Projects*

| | Population | | | |
|---|---|---|---|---|
| | >1,000,000 | 200,000–1,000,000 | 50,000–200,000 | <50,000 |
| FY 2002: | | | | |
| Job Access | $_____ | $_____ | $_____ | $_____ |
| Reverse Commute | $_____ | $_____ | $_____ | $_____ |
| FY 2003: | | | | |
| Job Access | $_____ | $_____ | $_____ | $_____ |
| Reverse Commute | $_____ | $_____ | $_____ | $_____ |

*Total Federal JARC Funding Requested for All New Projects*

| | Population | | | |
|---|---|---|---|---|
| | >1,000,000 | 200,000–1,000,000 | 50,000–200,000 | <50,000 |
| FY 2002: | | | | |
| Job Access | $_____ | $_____ | $_____ | $_____ |
| Reverse Commute | $_____ | $_____ | $_____ | $_____ |
| FY 2003: | | | | |
| Job Access | $_____ | $_____ | $_____ | $_____ |
| Reverse Commute | $_____ | $_____ | $_____ | $_____ |

*Please List for Each Project in Funding Priority Order*

Funding Priority
Short Title
Area Served
Congressional District(s)
Continuation
New

This section requests information on a project-by-project basis.

Projects will be evaluated according to responses to the following four criteria, the values of which are provided. Applicants applying for funding for a number of projects, such as state-wide or metro-wide applicants, should provide the following information for each JARC project. A project is a service or a set of services aimed at a low-income population located in a specific geographic area (see Appendix C—Definitions).

Project (identified by funding priority number from part 1):_____

*1. Coordinated Human Services/ Transportation Planning Process and Regional Job Access and Reverse Commute Transportation Plan (25 Points)*

A. Date Area-wide JARC Transportation Plan submitted to appropriate FTA regional office:

Month _____

Year _____

B. Date of latest revisions to Area-wide JARC Transportation Plan submitted to appropriate FTA regional office:

Month _____

Year _____

C. Brief (250 words or less) description of the collaborative human services/ transportation planning process used in developing the Area-wide JARC Transportation Plan, including all participants (states, MPOs, existing transportation providers, agencies administering TANF and WtW funds, employers, and others):

D. Brief (250 words or less) description of outreach efforts to community to be served (i.e., welfare recipients and other low-income individuals).

E. Number of meetings of JARC transportation planning partners since original Area-wide JARC Transportation Plan was submitted to FTA:

0 _____

1 _____

2 _____

3 _____

4 or more _____

F. Did all partners provide written endorsement of the plan?

Yes _____

No _____

G. If not, please explain.

*2. Demonstrated Need for Additional Transportation Services (30 Points)*

A. Percentage of low-income persons in project service area.

0–20% _____

21–40% _____

41–60% _____

61–80% _____

81–100% _____

B. Percentage of low-income persons in Metropolitan Statistical Area or county.

0–20% _____

21–40% _____

41–60% _____

61–80% _____

81–100% _____

C. Describe the transportation gaps between existing services and employment opportunities for low-income individuals in the service area. Include:

—Definition of the proposed project service area(s).
—Description of major employment opportunities.
—Description of existing transportation network, including human services, private and public transportation providers.
—Description of transportation gaps between welfare recipients and other low-income populations and employment opportunity sites. (For reverse commute projects, describe need for additional transportation services.)

*3. Extent to Which Proposed Services Will Meet the Needs for Service (30 Points)*

A. Percentage of target population (low-income population in service areas) served by the proposed project.

1–10% _____

11–30% _____

31–50% _____

51–100% _____

B. Describe in detail the extent to which the proposed services improve access to employment sites, employment support services (training and child care, etc.) and low-income residential areas. Include:

—Project description, including goals and objectives.
—Operation-specific data, such as miles/ hours of service, new routes, route extensions, reduced travel times, etc.
—Indicators that will be used to monitor project performance and to make subsequent adjustments in project implementation.
—Estimate of annualized cost per rider.
—Employment potential in service area, including new jobs/employment sites reached.
—Description of how project meets the mobility needs of persons with disabilities.

D. Describe how the project effectively uses existing transportation providers and integrates new services into existing transportation system or services.

*4. Financial Commitments (15 Points)*

A. Document sources of matching funds and degree of commitment for this project.

B. Identify long-term financing sources to support continuation of the proposed project or other aspects of the regional plan, including continued transit, human service and employer provided financial resources.

C. For new projects, provide estimate of when services are expected to begin.

Project Budget

Please prepare a separate Budget for each of the following:

Total Capital FTA Assistance—$ _____

List capital costs such as purchase of vehicles and facilities. For vehicles, include the type of vehicles and quantity of each type.

Capital Items

_____

_____

Quantity

_____

_____

Total Eligible Cost

$ _____

$ _____

FTA Amount

$ _____

$ _____

Total Operating FTA Assistance—$ _____

List operating assistance costs. Include the period of performance.

Operating costs

_____

_____

Dates

_____

_____

Total Eligible Cost

$ _____

$ _____

FTA Amount

$ _____

$ _____

Project Administration: Applicants such as State DOT's or MPO's applying on behalf of multiple subrecipients may include up to 10% of the total project costs for project administration.

Total Eligible Cost

$ _____

FTA Amount

$ _____

Total Project Cost:

Total JARC Federal Share

$ _____

$ _____

Total Eligible Cost

$ _____

$ _____

*Additional Information From Applicants Requesting Continuation Funding*

A. Project was previously funded under grant number(s):

B. Or, grant amendment number(s):

C. Total amount of funds approved for this project in previous year(s):

D. Total amount of funds (from all previous years) dispersed to date:

E. Brief summary of what has been accomplished to date:

F. New stops within ¼ mile of employment, childcare, or employment training sites not previously accessible by transit:

G. Ridership on new transportation services provides since service initiated:

## Appendix B: FTA Regional Offices

Region I—Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine

Richard H. Doyle, FTA Regional Administrator, Volpe National Transportation Systems Center, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, (617) 494–2055.

Region II—New York, New Jersey, Virgin Islands

Letitia Thompson, FTA Regional Administrator, One Bowling Green, Room 429, New York, NY 10004–1415, (212) 264–8162.

Region III—Pennsylvania, Maryland, Virginia, West Virginia, Delaware, Washington, DC

Susan Schruth, FTA Regional Administrator, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, (215) 656–7100.

Region IV—Georgia, North Carolina, South Carolina, Florida, Mississippi, Tennessee, Kentucky, Alabama, Puerto Rico

Jerry Franklin, FTA Regional Administrator, 61 Forsyth Street, S.W., Suite 17T50, Atlanta, GA 30303, (404) 562–3500.

Region V—Illinois, Indiana, Ohio, Wisconsin, Minnesota, Michigan

Joel Ettinger, FTA Regional Administrator, 200 West Adams Street, Suite 320, Chicago, IL 60606–5232, (312) 353–2789.

Region VI—Texas, New Mexico, Louisiana, Arkansas, Oklahoma

Robert Patrick, FTA Regional Administrator, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, (817) 978–0550.

Region VII—Iowa, Nebraska, Kansas, Missouri

Mokhtee Ahmad, FTA Regional Administrator, 901 Locust Street, Suite 404, Kansas City, MO 64106, (816) 329–3920.

Region VIII—Colorado, North Dakota, South Dakota, Montana, Wyoming, Utah

Lee Waddleton, FTA Regional Administrator, Columbine Place 216 16th Street, Suite 650, Denver, CO 80202–5120, (303) 844–3242.

Region IX—California, Arizona, Nevada, Hawaii, American Samoa, Guam

Leslie Rogers, FTA Regional Administrator, 201 Mission Street, Suite 2210, San Francisco, CA 94105–1831, (415) 744–3133.

Region X—Washington, Oregon, Idaho, Alaska

Helen Knoll, FTA Regional Administrator, Jackson Federal Building 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, (206) 220–7954.

## Appendix C: Definitions

1. *Welfare Recipient*—An individual who receives or received aid or assistance under a state program funded under Part A of Title IV of the Social Security Act (whether in effect before or after the effective date of the amendments made by Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2110)) at any time during the three-year period before the date on which the applicant applies for a grant.

2. *Eligible Low-Income Individual*—An individual whose family income is at or below 150 percent of the poverty line (as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) including any revisions required by that section for a family of the size involved, as calculated by HHS. The 2001 guidelines were published in the February 16, 2001 (Volume 66, Number 33) **Federal Register**, page 10695–10697, and are available on the web at *http://aspe.hhs.gov/poverty/poverty.htm.*

3. *Existing Transportation Service Providers*—Public transportation providers including public, private and non-profit fixed route and paratransit operators, and governmental agencies and nonprofit organizations that receive assistance from Federal, state, or local sources for non-emergency transportation services.

4. *Human Services Providers*—Agencies and organizations involved in helping welfare recipients and low-income populations to make the transition to work and providing supportive employment services. These agencies and organizations include state and local workforce development organizations, agencies administering TANF and WtW formula and competitive funds, public and assisted housing providers and community development agencies, and, where appropriate, faith-based and community-based organizations providing employment support services.

5. *Qualified Entity*—(A) With respect to any proposed eligible project in an urbanized area with a population of at least 200,000, the applicant(s) selected by the appropriate Metropolitan Planning Organization that meets the program eligibility requirements, including planning and coordination requirements, from among local governmental authorities and agencies and nonprofit organizations and; (B) With respect to any proposed eligible project in an urbanized area with a population of greater than 50,000 and less than 200,000, or an area other than an urbanized area, the applicant(s) selected by the chief executive officer of the state in which the area is located that meets the program eligibility requirements, including the planning and coordination requirements, from among local governmental authorities and nonprofit organizations.

6. *Transit Capital and Operating Assistance Projects*—Projects to finance acquisition, construction, improvement, and operating costs of facilities, equipment and associated capital maintenance items used in mass transportation service, including crime prevention and security of and for such equipment and facilities. Direct administrative expenses associated with the provision of job access and reverse commute services are also eligible operating expenses.

7. *Community to be Served*—Neighborhoods and geographic areas with a disproportionate number of welfare recipients and low-income residents as compared to the general population, and population groups such as tribes, migrant workers, and persons with disabilities who are disproportionately represented among low-income individuals.

8. *Metropolitan Planning Organizations (MPO)*—Comprised of elected officials representing local governments and transportation service providers within the metropolitan area. They are responsible for adopting transportation plans and improvement programs to address a region's unique transportation needs, and working with states to include these priorities in statewide plans.

*9. Project*—A service or a set of services aimed at a low-income population located in a specific geographic area. A project may cover the entire area outlined in the Area-Wide Transportation Plan, or it may be aimed at a specific geographic area within that plan. Projects in areas with a population of over 200,000 frequently include services directed toward the low-income population segments of a political jurisdiction within the metropolitan region, but they may address the entire low-income population throughout the metropolitan region. Small urban (between 50,000 and 200,000 in population) and rural areas (populations of below 50,000) can propose projects that may be directed at low-income populations located in a specific area, or throughout a small urban area, county, or even at multi-county populations. State-wide proposals should be divided into specific locations with specific subregions.

## Appendix D: Program Background Information

While two-thirds of all new jobs are in the suburbs, three-quarters of welfare recipients live in central cities or rural areas. Studies in some metropolitan areas with extensive transit systems have shown that less than half of the jobs are accessible by transit. Even fewer jobs are accessible by transit in areas with limited transit systems. Many entry-level workers have difficulty reaching jobs during evening or weekend shifts when transit services are frequently diminished or non-existent. Work trips can also be complex, involving several destinations, including childcare providers. The problems can be more challenging in rural areas, where approximately 40 percent of rural counties lack public transit systems and commuting distances generally are longer than in urban areas.

Auto ownership among welfare recipients and other low-income persons is low. Most welfare recipients do not own cars and nearly 40 percent of workers with annual incomes below $10,000 do not commute by car.

Transportation is clearly a key barrier to those moving from welfare to work. Providing a variety of new or expanded transportation options for low-income workers, especially those who are receiving or who have recently received welfare benefits, will increase the likelihood that those workers will get and retain jobs.

The major goal of the JARC Program is to provide transportation services in urban, suburban and rural areas to assist welfare recipients and other low-income individuals in accessing employment opportunities. Another objective of the program is to increase collaboration among regional transportation providers, human service agencies, employers, metropolitan planning organizations (MPOs), states, and affected communities and individuals.

The JARC Program is intended to establish a regional approach to job access challenges through the establishment of an Area-wide JARC Transportation Plan. This plan is to be developed through a collaborative planning process. Projects derived from this plan support the implementation of a variety of transportation services to connect welfare recipients and other low-income individuals to jobs and related employment activities. All projects funded under the JARC Program must be derived from such an area-wide plan.

Funding under the JARC Program is available for a wide range of transportation services, but projects should be developed to make the most efficient use of existing local transportation providers. While projects must be planned in coordination with traditional transit authorities where they exist, other interested organizations, including MPOs and State DOTs, can take the lead in establishing the collaborative planning process or submitting a project application. The collaborative process must include consultation with the community to be served, including welfare recipients and other low-income individuals, persons with disabilities, and faith- and community-based organizations that represent the interests of such individuals.

A Job Access project provides transportation services designed to transport welfare recipients and other low-income individuals to and from jobs and activities related to their employment, such as child-care and training facilities. A Reverse Commute project provides transportation services designed to transport residents of urban, suburban, and rural areas to suburban employment opportunities. JARC projects implement new transportation services or extend existing services to fill the gaps that exist in many areas between where people live and employment sites. JARC projects also promote the use of transportation services through marketing efforts and by improving customer service and operating efficiency. JARC Program funds may not be used for planning or coordinating activities and cannot supplant existing sources of funds used for transportation services.

JARC funds will provide for up to 50 percent of the project cost. A non-US DOT match of at least 50 percent is required. Certain other Federal funds that are eligible to be used for transportation costs can be used as part or all of the non-US DOT match.

## Appendix E: Summary of FTA'S Section 5307 Requirements

This is the full range of 5307 requirements. Some of these items are covered in the application, in which case you will not need to submit information twice.

### Approval Prerequisites

On file with FTA, or to be submitted with application and updates as appropriate: Opinion of Counsel, Authorizing Resolution, Current annual Certification and Assurances, Civil rights submissions up-to-date (Title VI, Annual DBE Goal, DBE Program, EEO Program, ADA), National Transit Database reports up-to-date, any outstanding oversight findings resolved or resolution plan and schedule set

### Additional Information

Project Budget, Project Description, Project Justification/Supporting Information as necessary, Project Milestone Schedule, Labor Union Description(s) (See Appendix F for a description of required information), STIP—Date of Approval by FTA, Request for copy of Master Agreement (If applicant does not have latest one on file)

## Appendix F: Information Required by the U.S. Department of Labor for Labor Certification

### I. Background

Federal Transit law requires that fair and equitable arrangements must be made, as determined by the U.S. Department of Labor (DOL), to protect the interests of employees affected by Job Access and Reverse Commute grants. These interests include the preservation of rights, privileges, and benefits under existing collective bargaining agreements, the continuation of collective bargaining rights, the protection of individual employees against a worsening of their positions related to employment, assurances of employment to employees of acquired mass transportation systems, priority of reemployment, and paid training or retraining.

DOL processes the employee protection certifications required under section 5333(b) in accordance with procedural Guidelines published at 29 CFR 215.3 (July 28, 1999 **Federal Register**). The DOL will process Job Access grants serving populations of 200,000 or more by referring a copy of the grant application to labor organizations representing affected employees and seeking the views of organized labor and the grant recipients on proposed certification terms. For grants serving populations under 200,000, DOL will issue its certification without seeking the views of the parties. In either case, the certification terms will be based on existing protective arrangements used for prior FTA grants, if any, or standard operating and/or capital arrangements developed by the DOL where there are no existing arrangements. (Such existing arrangements do not include the Special Section 13(c) Warranty that is used for projects funded under the Section 5311 program.)

It is essential where there are questions regarding the DOL certification process and/or information needed by DOL to obtain a labor certification that the applicant contact the appropriate FTA Regional Office immediately. Where information lacks specificity, is unclear or is missing, DOL will place the grant application in an ''incomplete'' status until the necessary information is received. Conceptual terms such as ''collaborative effort'' or ''working in conjunction with * * *'' or ''services will be provided to assist * * *'' do not provide the specificity necessary for DOL to process a grant.

Upon receipt of a grant application, DOL will determine whether there is sufficient information to process the grant application. Because it is DOL's responsibility to address the protections afforded employees through the certification of appropriate protections, it must examine the activities of each subrecipient under the grant in order to frame a protective arrangement appropriate to the activity funded.

### II. Description of Required Information

DOL needs the following information to process a JARC grant application (including those for areas under 200,000 population) for labor certification.

a. Project Description (Brief). This section should contain a brief, succinct description of what is in the project. This generally would cover the major budget line items.

b. Project Description (Detail). This section should provide a complete description of each activity to be undertaken. It should include funding information, what the project application is for, how and where line items will be used, whether the project is new service, and a description of the operating service area of the recipient or subrecipient. If there is more than one subrecipient under a grant, this information must be developed for each subrecipient's portion of the project.

c. Grantee Contact Person. This information is not contained in the TEAM application. Under ''Project Details'' please

enter the name of a contact person for the grantee. In addition, if the grant will ''pass through'' funding to one or more subrecipients or other public entities, enter the full name of the subrecipient or other public entity, a contact name, mailing address, telephone number and facsimile number for each of these.

d. Union Information. This information is not contained in the TEAM application. Under ''Project Details'' please (1) identify all the labor organizations that represent transit employees of the recipient and each subrecipient, and (2) identify any other transportation providers that operate in the service area of the recipient and the subrecipients, and all labor organizations that represent employees of these other transportation providers. Because employee protections are not limited to the employees of the grant recipient, other service area providers must be identified. Please note that a useful reference for obtaining labor union information is contained in Directory of U.S. Labor Organizations, 2001 edition. This may be purchased from the Bureau of National Affairs Books, P.O. Box 7814, Edison, N.J. 08810–7814. Telephone orders: 1–(800)–960–1220.

For each local of a nationally affiliated union, the applicant must provide the name of the national organization and the number or other designation of the local union. (For example, Amalgamated Transit Union Local 1258.) Since DOL makes its referral to the national union's headquarters, there is no need to provide a local contact in these situations.

However, for each independent labor organization (i.e., a union that is not affiliated with a national or international organization) the local contact information will be necessary (name of organization, contact person, mailing address, telephone number, facsimile number).

e. Extended Budget Descriptions. This section must provide a project description and project justification for most line items. There are few line items that need no additional description and/or justification. If there are subreceipients under a grant, indicate which subrecipient will receive funds under each budget description.

If you have any questions, please contact the U.S. Department of Labor, Division of Statutory Programs, at (202) 693–0126.

### Appendix G: Agency Classifications

State Government
  State DOT
  State Human Services
  State Labor/Employment
  Other State Agencies
Indian Tribe
Regional Public Transit Authority
State Transit Agency
City Transit Agency
County Transit Agency
Private for Profit Companies
  Bus
  Taxi
  Specialized Service (e.g., Medicaid Operator)
  Other
  Non-Profit Organizations
  Human Services Transportation Provider
  Community-Based Organization
  Other
Transportation Planning Organizations
  MPO
  Council of Governments
  Other
Local governments—General Purpose
  County Government
  City Government
Human Sevice Agencies
  Local County/City Public Human Svcs Agency
  Local County/City Welfare Agency
  Local County/City Workforce Development Agency
  Local Public Housing Agency
  Non-Profit Service Providers
  Human Support Services (e.g., Child Care, Substance Abuse)
  Employment (e.g., Job Training, Job Placement)
Economic Development Agencies
  Local/County Government
  Non-Profit Corporations
Private Nonprofit Agencies
  Community Action Agencies & Organizations
  Community-Based Organizations
  Faith-Based Organizations
  Other private nonprofit organizations
Business Organizations
  Chamber of Commerce
  Transportation Management Organization
Other Organizations

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BILLING CODE 4910–57–P

## DEPARTMENT OF TRANSPORTATION

## Federal Transit Administration

## Over-the-road Bus Accessibility Program Grants

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of availability of fiscal year 2002 funds; solicitation of grant applications.

**SUMMARY:** The U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) announces the availability of funds in fiscal year (FY) 2002 for the Over-the-road Bus (OTRB) Accessibility Program, authorized by Section 3038 of the Transportation Equity Act for the 21st Century (TEA–21). The OTRB Accessibility Program makes funds available to private operators of over-the-road buses to finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility final rule, published in a **Federal Register** Notice on September 24, 1998. The OTRB Accessibility Program calls for national solicitation of applications, with grantees to be selected on a competitive basis. FTA's FY 2002 Appropriations Act makes Federal funds available to intercity fixed-route providers and other OTRB providers at up to 90 percent of the project cost.

A total of $24.3 million is available for the program over the life of TEA–21. The guaranteed level of funding available for intercity fixed-route service was $2 million in FY 1999, $2 million in FY 2000, $3 million in FY 2001, and is $5.25 million in FY 2002 and FY 2003, for a total of $17.5 million. The guaranteed level of funding for other over-the-road bus services, including charter and tour bus, is $1.7 million per year from FY 2000 to FY 2003, for a total of $6.8 million.

For FY 2002, $5.25 million was appropriated for intercity fixed-route service providers and $1.7 million was appropriated for other over-the-road bus service providers. This announcement describes application procedures for the OTRB Accessibility Program and the procedures FTA will use to determine which projects it will fund.

This announcement is available on the Internet on the FTA website at: *http://www.fta.dot.gov/library/legal/federalregister/2002/index.html*. FTA will announce final selections on the website and in the **Federal Register**.

**DATES:** Complete applications for OTRB Accessibility Program grants must be submitted to the appropriate FTA regional office (see Appendix A) by the close of business June 14, 2002. The appropriate FTA regional office is that office which serves the state in which an applicant's headquarters office is located. FTA will announce grant selections in August 2002.

**FOR FURTHER INFORMATION:** Contact the appropriate FTA Regional Administrator (Appendix B) for application-specific information and issues. For general program information, contact Sue Masselink, Office of Program Management, (202) 366–2053, e-mail: *sue.masselink@fta.dot.gov*. A TDD is available at 1–800–877–8339 (TDD/FIRS).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. General Program Information
II. Guidelines for Preparing Grant Applications
III. Grant Application Review Process
Appendix A OTRB Accessibility Program Application
Appendix B FTA Regional Offices

### I. General Program Information

*A. Authority*

The program is authorized under Section 3038 of the Transportation Equity Act for the 21st Century (TEA–21). Funds have been appropriated for this program under the Department of

Transportation and Related Agencies Appropriations Act, 2002.

*B. Background*

Over-the-road buses are used in intercity fixed-route service as well as other services, such as commuter, charter, and tour bus services. These services are an important element of the U.S. transportation system. TEA–21 authorized FTA's Over-the-road Bus Accessibility Program to assist over-the-road bus operators in complying with the Department's Over-the-road Bus Accessibility rule, ''Transportation for Individuals with Disabilities'' (49 C.F.R. Part 37) published in a **Federal Register** notice on September 24, 1998.

Summary of DOT's Over-the-Road Bus Accessibility Rule

*Deadlines for Acquiring Accessible Vehicles*. Under the over-the-road bus accessibility rule, all new buses obtained by large (Class I carriers, i.e., those with gross annual operating revenues of $5.3 million or more), fixed-route carriers after October 30, 2000 must be accessible, with wheelchair lifts and tie-downs that allow passengers to ride in their own wheelchairs. The rule requires 50 percent of the fixed-route carriers' fleets to be accessible by 2006, and 100 percent of the vehicles in their fleets to be accessible by 2012. The buses acquired by small (gross operating revenues of less than $5.3 million annually) fixed-route providers after October 29, 2001 also are required to be lift-equipped, although they do not have a deadline for total fleet accessibility. Small providers also can provide equivalent service in lieu of obtaining accessible buses. Starting in 2001, charter and tour companies have to provide service in an accessible bus on 48 hours' advance notice. Fixed-route companies must also provide this kind of service on an interim basis until their fleets are completely accessible.

*Deadlines for Delivering Accessible Service*. The rules for delivering accessible motorcoach service went into effect October 29, 2001 for large fixed-route, charter, tour and other demand-responsive motorcoach companies. The rules go into effect for small operators on October 28, 2002. After these dates, companies must provide service in an accessible coach to a passenger who requests it and gives 48 hours' advance notice. Small companies may provide equivalent service, instead of acquiring accessible coaches. This equivalent service may be provided in an alternate vehicle (e.g., a van), provided that the service allows passengers to travel in their own wheelchairs.

Specifications describing the design features that an over-the-road bus must have to be readily accessible to and usable by persons who use wheelchairs or other mobility aids required by the ''Americans with Disabilities Act Accessibility Guidelines for Transportation Vehicles: Over-the-Road Buses' rule (36 CFR Part 1192) were published in another **Federal Register** Notice on September 28, 1998.

*C. Scope*

Improving mobility and shaping America's future by ensuring that the transportation system is accessible, integrated, efficient and offers flexibility of choices is a key strategic goal of the Department of Transportation. Over-the-road Bus Accessibility projects will improve mobility for individuals with disabilities by providing financial assistance to help make vehicles accessible and provide training to ensure that drivers and others understand how to use accessibility features as well as how to treat patrons with disabilities.

*D. Eligible Applicants*

Grants will be made directly to operators of over-the-road buses. Intercity, fixed-route over-the-road bus service providers may apply for the $5.25 million available to intercity fixed-route providers in FY 2002. Other over-the-road bus service providers, including operators of local fixed-route service, commuter service, and charter or tour service may apply for the $1.7 million available in FY 2002 for these providers. OTRB operators who provide intercity, fixed-route service and another type of service, such as commuter, charter or tour, may apply for both categories of funds with a single application. Private for-profit operators of over-the-road buses are eligible to be direct applicants for this program. This is a departure from the other FTA programs for which the direct applicant must be a state or local public body.

*E. Vehicle and Service Definitions*

An ''over-the-road bus'' is a bus characterized by an elevated passenger deck located over a baggage compartment.

Intercity, fixed-route over-the-road bus service is regularly scheduled bus service for the general public, using an over-the-road bus that: operates with limited stops over fixed routes connecting two or more urban areas not in close proximity or connecting one or more rural communities with an urban area not in close proximity; has the capacity for transporting baggage carried by passengers; and makes meaningful connections with scheduled intercity bus service to more distant points.

Other over-the-road bus service means any other transportation using over-the-road buses, including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions). While some commuter service may also serve the needs of some intercity fixed-route passengers, the statute includes commuter service in the definition of ''other'' service. Commuter service providers should apply for these funds, even though the services designed to meet the needs of commuters may also provide service to intercity fixed-route passengers on an incidental basis. If a service provider can document that more than 50 percent of its passengers are using the service as intercity fixed-route service, the provider may apply for the funds designated for intercity fixed-route operators.

*F. Eligible projects*

Projects to finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility rule (49 CFR part 37) are eligible for funding. Incremental capital costs eligible for funding include adding lifts, tie-downs, moveable seats, doors and all labor costs associated with work on the vehicle needed to make vehicles accessible. Retrofitting vehicles with such accessibility components is also an eligible expense. Please see Buy America section for further determination of eligibility.

Funds may be awarded by FTA for costs already incurred by the applicants. Any new wheelchair accessible vehicles delivered since June 8, 1998, the date that the Transportation Equity Act for the 21st Century was effective, are eligible for funding under the program. Vehicles of any age that have been retrofitted with lifts and other accessibility components since June 8, 1998 are also eligible for funding.

Eligible training costs are those required by the final accessibility rule as described in 49 CFR 37.209. These activities include training in proper operation and maintenance of accessibility features and equipment, boarding assistance, securement of mobility aids, sensitive and appropriate interaction with passengers with disabilities, and handling and storage of mobility devices. The costs associated with developing training materials or providing training for local providers of over-the-road bus services for these purposes are eligible expenses.

FTA will not fund the incremental costs of acquiring used wheelchair accessible OTRBs, as it may be impossible to verify whether or not FTA funds were already used to make the vehicles accessible. Also, it would be difficult to place a value on the accessibility features based upon the depreciated value of the vehicle. FTA wishes to increase the number of wheelchair accessible over-the-road buses available to persons with disabilities throughout the country, and the purchase of used accessible vehicles, whether or not they were previously funded by FTA, does not further this objective.

FTA has sponsored the development of accessibility training materials for public transit operators. FTA-funded Project Action is a national technical assistance program to promote cooperation between the disability community and the transportation industry. Project Action provides training, resources and technical assistance to thousands of disability organizations, consumers with disabilities, and transportation operators. It maintains a resource center with the most up-to-date information on transportation accessibility. Project Action may be contacted at: Project Action, 700 Thirteenth Street, N.W., Suite 200, Washington, DC 20590, Phone: 1–800–659–6428, Internet address: *http://www.projectaction.org/.*

*G. Grant Criteria*

FTA will award grants based on:

a. The identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant;

b. The extent to which the applicant demonstrates innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities;

c. The extent to which the over-the-road bus operator acquires equipment required by DOT's over-the-road bus accessibility rule prior to the required timeframe in the rule;

d. The extent to which financing the costs of complying with DOT's rule presents a financial hardship for the applicant; and

e. The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals.

These are the statutory criteria upon which funding decisions will be made. In addition to these criteria, FTA may also consider other factors, such as the size of the applicant's fleet and the level of FTA funding that may already have been awarded to applicants in prior years.

*H. Grant Requirements*

Applicants selected for funding must include documentation necessary to meet the requirements of FTA's Nonurbanized Area Formula program (Section 5311 under Title 49, United States Code). Technical assistance regarding these requirements is available from each FTA regional office. The regional offices will contact those applicants selected for funding regarding procedures for making the required certifications and assurances to FTA before grants are made.

Federal requirements apply only to the incremental cost of adding the wheelchair accessibility features, either to new vehicles or when retrofitting existing vehicles. Training costs are not subject to all requirements. For example, labor protections, and Buy America are not applicable to training assistance.

Those applicants selected for funding will be required to certify compliance with all of the Federal requirements applicable to the OTRB Accessibility Program, provided in the comprehensive compilation below. All applicants are advised to read the entire list of requirements to be confident of their responsibilities and commitments for compliance.

The authority for these requirements are provided by the Transportation Equity Act for the 21st Century, Pub. L. 105–178, June 9, 1998, as amended by the TEA–21 Restoration Act 105–206, 112 Stat. 685, July 22, 1998, 49 U.S.C. chapter 53, Title 23, United States Code, U.S. DOT and FTA regulations at 49 CFR, and FTA Circulars.

*A. Buy America*

In the OTRB Accessibility program, FTA's Buy America regulations, 49 CFR part 661, apply to the incremental capital cost of making vehicles accessible. Those regulations do not apply to associated labor costs. The following discussion relates to the contract between the grantee and the prime contractor.

The ''General Requirements'' found at 49 CFR 661.5 apply to that portion of the accessibility system being funded. That section requires that all of the manufacturing processes for the product take place in the United States and that all components of the product be made in the United States. A component is considered domestic if it is manufactured in the U.S.A., regardless of the origin of its subcomponents. The lift, the moveable seats, and the securement devices will all be considered components for purposes of this program; accordingly, a ''General Requirements'' analysis should be applied to each of these items individually. Should a recipient choose to request funding for only a specific component, such as the lift or the securement device, then the Buy America requirements would apply only to that item funded by FTA.

Three exceptions to the general requirements can be found at 49 CFR 661.7: first, a waiver may be requested when the application of the regulation is not in the public interest; second, the general requirements will not apply if materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; and third, a price differential waiver will be available under this program only if the grantee conducts a competitive procurement (*see* Competitive Procurement Section, below). FTA approval must be received by the recipient of FTA funds prior to the execution of contract.

It should also be noted that FTA has issued a general public interest waiver for all purchases under the Federal ''small purchase'' threshold, which is currently set at $100,000. This waiver can be found in 49 CFR 661.7, Appendix A(e). In Section 3038(b) of TEA–21, Congress authorized FTA financing of the incremental capital costs of compliance with DOT's OTRB accessibility rule. Consistent with this provision, the small purchase waiver applies only to the incremental cost of the accessibility features FTA is funding. Where more then one bus is purchased, the grantee must consider the incremental cost increase for the entire procurement when determining if the small purchase waiver applies. For example, if $30,000 is the incremental cost for the accessibility features eligible under this program per bus (regardless of the Federal share contribution), then a procurement of three buses with a total such cost of $90,000, would qualify for the small purchase waiver. No special application to FTA would be required.

The grantee must obtain a certification from the bus manufacturer that all items included in the incremental cost for which the applicant is applying for funds meet Buy America requirements.

The Buy America regulations can be found at *www.fta.dot.gov/library/legal/49661.htm.*

*B. Labor Protection*

Before FTA may award a grant for capital assistance, 49 USC 5333(b) requires that fair and equitable arrangements must be made to protect the interests of transit employees affected by FTA assistance. Those arrangements must be certified by the Secretary of Labor as meeting the requirements of the statute. When a labor organization represents a group of affected employees in the service area of an FTA project, the employee protective arrangement is usually the product of negotiations or discussions with the union. The grant applicant can facilitate Department of Labor (DOL) certification by identifying in the application any previously certified protective arrangements that have been applied to similar projects undertaken by the grant applicant, if any. Receiving funds under the OTRB Accessibility program, however, will not require the grantee's employees to be represented by organized labor. Nothing in the labor protection provisions in 49 U.S.C § 5333(b) requires a motorcoach operator to become a union carrier or encourages union organizing in any manner. Upon receipt of a grant application requiring employee protective arrangements, FTA will transmit the application to DOL and request certification of the employee protective arrangements. In accordance with DOL guidelines, DOL notifies the relevant unions in the area of the project that a grant for assistance is pending and affords the grant applicant and union the opportunity to agree to an arrangement establishing the terms and conditions of the employee protections. If necessary, DOL furnishes technical and mediation assistance to the parties during their negotiations. The Secretary of Labor may determine the protections to be certified if the parties do not reach an agreement after good faith bargaining and mediation efforts have been exhausted. DOL will also set the protective conditions when affected employees in the service area are not represented by a union. When DOL determines that employee protective arrangements comply with labor protection requirements, DOL will provide a certification to FTA. The grant agreement between FTA and the grant applicant incorporates by reference the employee protective arrangements certified by DOL.

Applicants must identify any labor organizations that may represent their employees and all labor organizations that represent the employees of any other transit providers in the service area of the project.

For each local of a nationally affiliated union, the applicant must provide the name of the national organization and the number or other designation of the local union. (For example, Amalgamated Transit Union local 1258.) Since DOL makes its referral to the national union's headquarters, there is no need to provide a means of contacting the local organization.

However, for each independent labor organization (i.e., a union that is not affiliated with a national or international organization) the local information will be necessary (name of organization, address, contact person, phone, fax numbers).

Where a labor organization represents transit employees in the service area of the project, DOL must refer the proposed protective arrangements to each union and to each recipient. For this reason, please provide DOL with a contact person, address, telephone number and fax number for your company, and associated union information.

DOL issued a **Federal Register** notice addressing the new TEA–21 programs, including the OTRB Accessibility Program, ''Amendment to Section 5333(b) Guidelines to Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA–21)''; Final Rule, dated July 28, 1999. FTA issued a ''Dear Colleague'' letter, dated December 5, 2000, addressing DOL processing of grant applications. Attached to the letter is an application checklist which provides information that DOL must have in order to review and certify FTA grant applications. This letter and attachment can be found at: *http://www.fta.dot.gov/office/public/c0019.html.* Questions concerning protective arrangements and related matters pertaining to transit employees should be addressed to the Division of Statutory Programs, Department of Labor, 200 Constitution Avenue, NW., Room N–5411, Washington, D.C. 20210; telephone (202) 693–0126, fax (202) 219–5338.

*C. Competitive Procurement*

Federal procurement requirements apply to FTA funds awarded to state and local governments and private nonprofit agencies under 49 CFR parts 18 and 19. To the extent a direct recipient of FTA funds under this program is a private for-profit entity, the Federal procurement requirements do not apply.

*D. Planning*

Applicants are encouraged to notify the appropriate state departments of transportation and metropolitan planning organizations (MPO) in areas likely to be served by equipment made accessible through funds made available in this program. Those organizations, in turn, should take appropriate steps to inform the public, and individuals requiring fully accessible services in particular, of operators' intentions to expand the accessibility of their services. Incorporation of funded projects in the plans and transportation improvement programs of states and metropolitan areas by states and MPOs also is encouraged, but is not required.

*E. Authority of Applicant and Its Representative*

The authorized representative of the Applicant and legal counsel who sign these certifications, assurances, and agreements affirm that both the Applicant and its authorized representative have adequate authority under state and local law and the by-laws or internal rules of the Applicant organization to:

(1) Execute and file the application for Federal assistance on behalf of the Applicant,

(2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant, and

(3) Execute grant agreements and cooperative agreements with FTA on behalf of the Applicant.

*F. Standard Assurances*

The Applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The Applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The Applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the project. The Applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

*G. Debarment, Suspension, and Other Responsibility Matters for Primary Covered Transactions*

As required by U.S. DOT regulations on Government-wide Debarment and

Suspension (Nonprocurement) at 49 CFR 29.510:

(1) The Applicant (Primary Participant) certifies, to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not, within a three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.

(2) The Applicant also certifies that, if it later becomes aware of any information contradicting the statements of paragraph (1) above, it will promptly provide that information to FTA.

(3) If the Applicant (Primary Participant) is unable to certify to all statements in paragraphs (1) and (2) above, it shall indicate so in its signature page and provide a written explanation to FTA.

*H. Drug-Free Workplace Agreement*

As required by U.S. DOT regulations, ''Drug-Free Workplace Requirements (Grants),'' 49 CFR part 29, Subpart F, as modified by 41 U.S.C. 702, the Applicant agrees that it will provide a drug-free workplace by:

(1) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace and specifying the actions that will be taken against its employees for violation of that prohibition;

(2) Establishing an ongoing drug-free awareness program to inform its employees about:

(a) The dangers of drug abuse in the workplace,

(b) Its policy of maintaining a drug-free workplace,

(c) Any available drug counseling, rehabilitation, and employee assistance programs, and

(d) The penalties that may be imposed upon its employees for drug abuse violations occurring in the workplace;

(3) Making it a requirement that each of its employees be engaged in the performance of the grant be given a copy of the statement required by paragraph (1) above;

(4) Notifying each of its employees in the statement required by paragraph (1) that, as a condition of employment financed with Federal assistance provided by the grant, the employee will be required to:

(a) Abide by the terms of the statement, and

(b) Notify the employer (Applicant) in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after that conviction;

(5) Notifying FTA in writing, within ten (10) calendar days after receiving notice required by paragraph (4)(b) above from an employee or otherwise receiving actual notice of that conviction. The Applicant, as employer of any convicted employee, must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. Notice shall include the identification number(s) of each affected grant;

(6) Taking one of the following actions within thirty (30) calendar days of receiving notice under paragraph (4)(b) of this agreement with respect to any employee who is so convicted:

(a) Taking appropriate personnel action against that employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or

(b) Requiring that employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency; and

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6) of this agreement. The Applicant agrees to maintain a list identifying its headquarters location and each workplace it maintains in which project activities supported by FTA are conducted, and make that list readily accessible to FTA.

*I. Intergovernmental Review Assurance*

The Applicant assures that each application for Federal assistance submitted to FTA has been or will be submitted, as required by each state, for intergovernmental review to the appropriate state and local agencies. Specifically, the Applicant assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. DOT regulations, ''Intergovernmental Review of Department of Transportation Programs and Activities,'' 49 CFR part 17.

*J. Nondiscrimination Assurance.*

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, ''Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act,'' 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, ''Title VI Program Guidelines for Federal Transit Administration Recipients'', and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA as follows:

(1) The Applicant assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.

(2) The Applicant assures that it will take appropriate action to ensure that any transferee receiving property financed with Federal assistance derived from FTA will comply with the applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21.

(3) The Applicant assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of

transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, ''Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act,'' 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, ''Title VI Program Guidelines for Federal Transit Administration Recipients'', and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA as follows:

(1) The Applicant assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.

(2) The Applicant assures that it will take appropriate action to ensure that any transferee receiving property financed with Federal assistance derived from FTA will comply with the applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21.

(3) The Applicant assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.

(4) The Applicant assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.

(5) As required by 49 CFR 21.7(a)(2), the Applicant will include in each third party contract or subagreement provisions to invoke the requirements of 49 U.S.C. 5332 and 49 CFR part 21, and include provisions to invoke those requirements in deeds and instruments recording the transfer of real property, structures, improvements.

*K. Assurance of Nondiscrimination on the Basis of Disability*

As required by U.S. DOT regulations, ''Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,'' at 49 CFR part 27, implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, the Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.* at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

*L. Certifications Prescribed by the Office of Management and Budget (SF–424B and SF–424D)*

The Applicant certifies that it:

(1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application.

(2) Will give FTA, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

(3) Will establish safeguard to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

(4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval.

(5) Will comply with all statutes relating to nondiscrimination including, but not limited to:

(a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;

(b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, 1683, and 1685 through 1687, which prohibits discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicaps;

(d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibit discrimination on the basis of age;

(e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92–255, March 21, 1972, and amendments thereto, relating to nondiscrimination on the basis of drug abuse;

(f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91–616, Dec. 31, 1970, and amendments thereto, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd–3 and 290ee–3, related to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.,* relating to nondiscrimination in the sale, rental, or financing of housing;

(i) Any other nondiscrimination provisions in the specific statutes under which Federal assistance for the project may be provided including, but not limited to section 1101(b) of the Transportation Equity Act for the 21st Century, 23 U.S.C. 101 note, which provides for participation of disadvantaged business enterprises in FTA programs; and

(j) The requirements of any other nondiscrimination statute(s) that may apply to the project.

(6) Will comply, or has complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies

Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal of federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. As required by U.S. DOT regulations, ''Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,'' at 49 CFR 24.4, and sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, the Applicant assures that it has the requisite authority under applicable state and local law and will comply or has complied with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, ''Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,'' 49 CFR part 24 including, but not limited to the following:

(a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;

(b) The Applicant will provide fair and reasonable relocation payments and assistance required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations or associations displaced as a result of any project financed with FTA assistance;

(c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24 and FTA procedures;

(d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);

(e) The Applicant will carry out the relocation process in such a manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin; and

(f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;

(g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will participate in the Applicant's eligible costs of providing payments for those expenses as required by 42 U.S.C. 4631;

(h) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

(i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions.

(7) To the extent applicable, will comply with provisions of the Hatch Act, 5 U.S.C. 1501 through 1508, and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose principal employment activities are financed in whole or part with Federal funds including a Federal loan, grant, or cooperative agreement, but pursuant to 23 U.S.C. 142(g), does not apply to a nonsupervisory employee of a transit system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act does not otherwise apply.

(8) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 276a through 276a(7), the Copeland Act, as amended, 18 U.S.C. 874 and 40 U.S.C. 276c, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 through 333, regarding labor standards for federally-assisted subagreements.

(9) To the extent applicable, will comply with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring recipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

(10) Will comply with environmental standards that may be prescribed to implement the following Federal laws and executive orders:

(a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.* and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;

(b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;

(c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;

(d) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988, 42 U.S.C. 4321 note;

(e) Assurance of project consistency with the approved State management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

(f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 *et seq.*;

(g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300h *et seq.*;

(h) Protection of endangered species under the Endangered Species Act of 1973, as amended, Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*; and

(i) Environmental protections for Federal transit programs, including, but not limited to protections for a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance or any land from a historic site of national, state, or local significance used in a transit project as required by 49 U.S.C. 303.

(11) Will comply with the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 *et seq.* relating to protecting components of the national wild and scenic rivers systems.

(12) Will assist FTA in assuring compliance with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f, Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note, and the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469a–l *et seq.*

(13) Will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

(14) Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without

permission and instructions from the awarding agency.

(15) Will record the Federal interest in the title of real property in accordance with FTA directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

(16) Will comply with FTA requirements concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, ''Seismic Safety,'' 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41.

(17) Will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by FTA or the State.

(18) Will comply with the National Research Act, Pub. L. 93–348, July 12, 1974, as amended, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance and DOT regulation, ''Protection of Human Subjects,'' 49 CFR part 11.

(19) Will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.* pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by FTA assistance.

(20) Will have performed the financial and compliance audits required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.* and OMB Circular No. A–133, ''Audits of States, Local Governments, and Non-Profit Organizations and Department of Transportation provisions of OMB A–133 Compliance Supplement, March 2000.''

(21) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the project.

*M. Lobbying Certification for an Application Exceeding $100,000*

An Applicant that submits, or intends to submit this fiscal year, an application for Federal assistance exceeding $100,000 must provide the following certification. Consequently, FTA may not provide Federal assistance for an application exceeding $100,000 until the Applicant provides this certification by selecting category ''II'' on the Signature Page at the end of this document.

(1) As required by U.S. DOT regulations, ''New Restrictions on Lobbying,'' at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application for a Federal assistance exceeding $100,000:

(a) No Federal appropriated funds have been or will be paid, by or on behalf of the Applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and

(b) If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' including the information required by the form's instructions, which may be amended to omit such information as permitted by 31 U.S.C. 1352.

(2) The Applicant understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

## II. Guidelines for Preparing Grant Application

FTA is conducting a national solicitation for applications under the OTRB Accessibility program. Grant awards will be made on a competitive basis. Applicants should submit 3 copies of their project proposal application, consistent with the application format provided at Appendix A, to the appropriate regional office. Project proposal applications must be received by FTA no later than June 14, 2002. The OTRB operators should submit the application to the office in the region in which its headquarters office is located (see Appendix B). The application should provide information on all items for which you are requesting funding in FY 2001. The application must include the following elements:

*1. Applicant Information*

This addresses basic identifying information, including:

a. Company name

b. Contact information for notification of project selection: Contact name, address, fax and phone number

c. Description of services provided by company

d. For fixed-route carriers, whether you are a large (Class I, with gross annual operating revenues of $5.3 million or more) or small (gross operating revenues of less than $5.3 million annually) carrier

e. Existing fleet and employee information, including number of over-the-road buses used for intercity fixed-route service and other service and number of employees

f. Estimate of the proportion of service, if any, that is intercity fixed-route

g. Description of your technical, legal, and financial capacity to implement the proposed project.

*2. Project Information*

Every application must:

a. Provide the Federal amount requested for each purpose for which funds are sought.

b. How intercity fixed-route service meets the definition of intercity fixed-route service, including how service makes meaningful connections with scheduled intercity bus service to more distant points.

c. Document matching funds, including amount and source.

d. Describe project, including components to be funded, i.e., lifts, tie-downs, movable seats, etc., and/or training.

e. Provide project time-line, including significant milestones such as date or contract for purchase of vehicle(s), and actual or expected delivery date of vehicles.

f. Address each of the five statutory evaluation criteria.

g. Complete Standard Form 424, ''Federal Assistance.''

*7. Labor Information*

a. Identify any labor organizations that may represent your employees and all labor organizations that represent the employees of any transit providers in the service area of the project. For each local of a nationally affiliated union, the applicant must provide the name of the national organization and the number or other designation of the local union. (For example, Amalgamated Transit Union local 1258.) Since DOL makes its referral to the national union's headquarters, there is no need to provide a means of contacting the local organization.

b. For each independent labor organization (*i.e.*, a union that is not affiliated with a national or international organization) the local information will be necessary (name of organization, address, contact person, phone, fax numbers).

c. Where a labor organization represents transit employees in the service area of the project, DOL must refer the proposed protective arrangements to each union and to each recipient. For this reason, please provide DOL with a contact person, address, telephone number and fax number for your company and associated union information.

## III. Grant Application Review Process

Applications are to be submitted to the appropriate FTA Regional Office by the close of business on June 14, 2002. FTA will screen all applications to determine whether all required eligibility elements, as described in Section 2 of the application, are present. An FTA evaluation team will evaluate each application according to the criteria described in this announcement.

*A. Notification*

FTA expects to notify all applicants, both those selected for funding and those not selected, in August 2001. Projects selected for funding will be published in a **Federal Register** notice.

Issued on: April 2, 2002.

**Jennifer L. Dorn,**

*Administrator.*

## Appendix A

**Over-the-Road Bus Accessibility Program Project Proposal Application**

1. APPLICANT INFORMATION
A. Company Name:
B. For Notification of Project Selection Contact:
Name of Individual:
Address:
Telephone number:
C. Describe Services Provided by Company, including Areas Served:
D. Intercity Fixed-Route Carriers:
_____Large/Class I (gross annual operating revenues of $5.3 Million or more)
_____Small (gross annual revenues of less than $5.3 Million)
E. Existing Fleet and Employee Information:
#_____Over-the-road Buses in fleet used for Intercity Fixed-route Service
#_____Over-the-road have lifts buses currently
#_____Over-the-road Buses in fleet used for Other Service, e.g., Charter, Tour, & Commuter
#_____Over-the-road Buses currently have lifts
#_____Employees
F. If you provide both intercity fixed-route service and another type of service, such as commuter, charter or tour service, please provide an estimate of the proportion of your service that is intercity
_____% of services is intercity fixed-route
G. Describe your technical, legal, and financial capacity to implement the proposed project.
2. PROJECT INFORMATION
A. Federal Amount Requested (Up to 90% Federal Share):

*Intercity Fixed Route Service:*

$_____ for #_____New Over-the-road Buses
$_____for #_____Retrofits
$_____for #_____Employees—Training

If funds are being requested for intercity fixed-route services, please describe how the service meets the definition of intercity fixed-route service, including how the service makes meaningful connections with scheduled intercity bus service to more distant points.

*Other Service (Commuter, Charter, or Tour)*

$_____for #_____New Over-the-road Buses
$_____for #_____Retrofits
$_____for #_____Employees—Training
B. Document Matching Funds, including Amount and Source:
C. Describe Project, including Components to be funded, i.e., Lifts, Tie-downs, Moveable Seats, etc. and/or Training:
D. Provide Project Time Line, including Significant Milestones such as Date of Contract for Purchase of Vehicle(s), and actual or expected delivery date of vehicles:
E. Project Evaluation Criteria—Projects will be evaluated according to the following criteria:

The identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant. (20 points)

The extent to which the applicant demonstrated innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities. (20 points)

The extent to which the over-the-road bus operator acquired equipment required by DOT's over-the-road bus accessibility rule prior to the required time-frame in the rule. (20 points)

The extent to which financing the costs of complying with DOT's rule presents a financial hardship for the applicant. (20 points)

The impact of accessibility requirements on the continuation of over-the-road bus service with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals. (20 points)

F. OMB Standard Form 424, ''Federal Assistance''

BILLING CODE 4910–57–P

## APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

| | | | |
|---|---|---|---|
| | | **2. DATE SUBMITTED** | Applicant Identifier |
| **1. TYPE OF SUBMISSION:** Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction | | **3. DATE RECEIVED BY STATE** | State Application Identifier |
| | | **4. DATE RECEIVED BY FEDERAL AGENCY** | Federal Identifier |

**5. APPLICANT INFORMATION**

| | |
|---|---|
| Legal Name: | Organizational Unit: |
| Address *(give city, county, State, and zip code):* | Name and telephone number of person to be contacted on matters involving this application *(give area code)* |

**6. EMPLOYER IDENTIFICATION NUMBER** *(EIN):*

☐☐ – ☐☐☐☐☐☐☐

**7. TYPE OF APPLICANT:** *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

**8. TYPE OF APPLICATION:**

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

**9. NAME OF FEDERAL AGENCY:**

**10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:**

☐☐ – ☐☐☐

TITLE:

**11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:**

**12. AREAS AFFECTED BY PROJECT** *(Cities, Counties, States, etc.):*

| **13. PROPOSED PROJECT** | | **14. CONGRESSIONAL DISTRICTS OF:** | |
|---|---|---|---|
| Start Date | Ending Date | a. Applicant | b. Project |

**15. ESTIMATED FUNDING:**

| | |
|---|---|
| a. Federal | $ .00 |
| b. Applicant | $ .00 |
| c. State | $ .00 |
| d. Local | $ .00 |
| e. Other | $ .00 |
| f. Program Income | $ .00 |
| g. TOTAL | $ .00 |

**16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?**

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

**17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?**

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

**18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.**

| | | |
|---|---|---|
| a. Type Name of Authorized Representative | b. Title | c. Telephone Number |
| d. Signature of Authorized Representative | | e. Date Signed |

Previous Edition Usable
Authorized for Local Reproduction

Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

## INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

| Item: | Entry: |
|---|---|
| 1. | Self-explanatory. |
| 2. | Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable). |
| 3. | State use only (if applicable). |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. |
| 7. | Enter the appropriate letter in the space provided. |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:<br>-- "New" means a new assistance award.<br>-- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>-- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |
| 9. | Name of Federal agency from which assistance is being requested with this application. |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. |
| 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |

BILLING CODE 4910–5–C

## Appendix B—FTA Regional Offices

**Region I—Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine**

Richard H. Doyle
FTA Regional Administrator
Volpe National Transportation Systems Center
Kendall Square
55 Broadway, Suite 920
Cambridge, MA 02142–1093
(617) 494–2055

**Region II—New York, New Jersey, Virgin Islands**

Letitia Thompson
FTA Regional Administrator
26 Federal Plaza, Suite 2940
New York, NY 10278–0194
(212) 264–8162

**Region III—Pennsylvania, Maryland, Virginia, West Virginia, Delaware, Washington, DC**

Susan Schruth
FTA Regional Administrator
1760 Market Street, Suite 500
Philadelphia, PA 19103–4124
(215) 656–7100

**Region IV—Georgia, North Carolina, South Carolina, Florida, Mississippi, Tennessee, Kentucky, Alabama, Puerto Rico**

Jerry Franklin
FTA Regional Administrator
61 Forsyth Street, S.W., Suite 17T50
Atlanta, GA 30303
(404) 562–3500

**Region V—Illinois, Indiana, Ohio, Wisconsin, Minnesota, Michigan**

Joel Ettinger
FTA Regional Administrator
200 West Adams Street, Suite 320
Chicago, IL 60606–5232
(312) 353–2789

**Region VI—Texas, New Mexico, Louisiana, Arkansas, Oklahoma**

Robert Patrick
FTA Regional Administrator
819 Taylor Street
Room 8A36
Ft. Worth, TX 76102
(817) 978–0550

**Region VII—Iowa, Nebraska, Kansas, Missouri**

Mokhtee Ahmad
Regional Administrator
901 Locust Street, Suite 404
Kansas City, MO 64106
(816) 329–3920

**Region VIII—Colorado, North Dakota, South Dakota, Montana, Wyoming, Utah**

Lee Waddleton
FTA Regional Administrator
Columbine Place
216 16th Street, Suite 650
Denver, CO 80202–5120
(303) 844–3242

**Region IX—California, Arizona, Nevada, Hawaii, American Samoa, Guam**

Leslie Rogers
FTA Regional Administrator
201 Mission Street, Suite 2210
San Francisco, CA 94105–1831
(415) 744–3133

**Region X—Washington, Oregon, Idaho, Alaska**

Helen Knoll
FTA Regional Administrator
Jackson Federal Building
915 Second Avenue, Suite 3142
Seattle, WA 98174–1002
(206) 220–7954

[FR Doc. 02–8390 Filed 4–5–02; 8:45 am]

BILLING CODE 4910–57–P

## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

### Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held at 10:30 AM on Monday, April 29, 2002, by conference call in the Administrator's Office, room 5424, 400 7th Street, SW., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; New Business; and Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than April 26, 2002, Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590; 202–366–6823.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on April 3, 2002.

**Marc C. Owen,**

*Chief Counsel.*

[FR Doc. 02–8392 Filed 4–5–02; 8:45 am]

BILLING CODE 4910–61–P

## DEPARTMENT OF THE TREASURY

### Office of the Assistant Secretary for International Affairs; Survey of Foreign Ownership of U.S. Securities

**AGENCY:** Departmental Offices, Department of the Treasury.

**ACTION:** Notice of reporting requirements.

**SUMMARY:** By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory survey of foreign ownership of U.S. securities as of June 28, 2002. This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. Additional copies of the reporting forms and instructions may be printed from the Internet at: *http://www.treas.gov/tic/forms.htm*

*Definition:* A U.S. person is any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a state, provincial, or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), who resides in the United States or is subject to the jurisdiction of the United States.

*Who Must Report:* The following U.S. persons must report on this survey: The panel for this survey is based upon the level of foreign holdings of U.S. securities reported on the March 2000 benchmark survey of foreign holdings of U.S. securities and will consist of the largest reporters on that survey. Entities required to report will be contacted individually by the Federal Reserve Bank of New York. Entities not contacted by the Federal Reserve Bank of New York have no reporting responsibilities.

*What to Report:* This report will collect information on foreign resident holdings of U.S. securities, including equities, short-term debt securities (including selected money market instruments), and long-term debt securities.

*How to Report:* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be obtained by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720–6300, e-mail: SHL.help@ny.frb.org. The mailing

address is: Federal Reserve Bank of New York, Statistics Function, 4th Floor, 33 Liberty Street, New York, NY 10045–0001.

*When to Report:* Data should be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by August 30, 2002.

Dated: April 3, 2002.

**Dwight Wolkow,**

*Administrator, International Portfolio Investment Data Reporting Systems.*

[FR Doc. 02–8432 Filed 4–5–02; 8:45 am]

**BILLING CODE 4810–25–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Forms 941c and 941cPR

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 941c, Supporting Statement To Correct Information, and Form 941cPR, Planilla Para La Correccion De Informacion.

**DATES:** Written comments should be received on or before June 7, 2002 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Form 941c, Supporting Statement To Correct Information, and Form 941cPR, Planilla Para La Correccion De Informacion.

*OMB Number:* 1545–0256.

*Form Number:* Forms 941c and 941cPR.

*Abstract:* Form 941c (or Form 941cPR for use in Puerto Rico to correct FICA tax only) is used by employers to correct previously reported FICA or income tax data. The forms may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund, credit, or adjustment of FICA or income tax.

*Current Actions:* There are no changes being made to the forms at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations, not-for profit institutions, and state, local or tribal governments.

*Estimated Number of Respondents:* 958,050.

*Estimated Time Per Respondent:* 9 hours, 7 minutes.

*Estimated Total Annual Burden Hours:* 8,729,307.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 2, 2002.

**George Freeland,**

*IRS Reports Clearance Officer.*

[FR Doc. 02–8441 Filed 4–5–02; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[REG–106527–98]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–106527–98 (TD 8902), Capital Gains, Partnership, Subchapter S, and Trusts Provisions (§ 1.1(h)-1(e)).

**DATES:** Written comments should be received on or before June 7, 2002 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Capital Gains, Partnership, Subchapter S, and Trusts Provisions.

*OMB Number:* 1545–1654.

*Regulation Project Number:* REG–106527–98.

*Abstract:* The regulation relates to sales, or exchanges of interests in partnerships, S corporations, and trusts. The regulations interpret the look-through provision of section 1(h), added by section 311 of the Taxpayer Relief Act of 1997 and amended by sections 5001 and 6005(d) of the Internal Revenue Service Restructuring and Return Act of 1998, and explain the

rules relating to the division of the holding period of a partnership interest. The regulations affect partnerships, partners, S corporations, S corporation shareholders, trusts, and trusts beneficiaries.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, and individual or households.

The burden estimates for requirement is reflected in the burden estimates for: Form 1040, U.S. Individual Income Tax Return; Form 1065, U.S. Partnership Return of Income; Form 1041, U.S. Income Tax Return for Estates and Trusts; and Form 1120S, U.S. Income Tax Return for an S Corporation.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 2, 2002.

**George Freeland,**

*IRS Reports Clearance Officer.*

[FR Doc. 02–8442 Filed 4–5–02; 8:45 am]

BILLING CODE 4830–01–P

# Corrections

**Federal Register**

Vol. 67, No. 67

Monday, April 8, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3030–0112]**

### Submission for OMB Review; Comment Request Entitled State Agency Monthly Donation Report of Surplus Property

*Correction*

In notice document 02–7136 beginning on page 13633, in the issue of Monday, March 25, 2002, make the following corrections:

1. On page 13633, in the third column, under the **SUMMARY:** heading, in the last line, ''Personnel'' should read ''Personal''.

2. On page 13634, in the first column, the text under the **DATES:** heading should read ''*Submit comments on or before*: April 24, 2002.''.

[FR Doc. C2–7136 Filed 4–5–02; 8:45 am]

**BILLING CODE 1505–01–D**

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0023]**

### Submission for OMB Review; Comment Request Entitled Surplus Property Mailing List Application

*Correction*

In notice document 02–7137, appearing on page 13634, in the issue of Monday, March 25, 2002, make the following correction:

On page 13634, in the second column, the text under the **DATES:** heading should read ''*Comments may be submitted on or before*: April 24, 2002.''.

[FR Doc. C2–7137 Filed 4–5–02; 8:45 am]

**BILLING CODE 1505–01–D**

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0006]**

### Submission for OMB Review: Comment Request Entitled GSAR Clause, 552.237–71, Qualifications of Employees

*Correction*

In notice document 02–7138 beginning on page 13634 in the issue of Monday, March 25, 2002, make the following correction:

On page 13635, in the first column, the text under the heading **DATES:** should read ''*Comments may be submitted on or before*: April 24, 2002.''

[FR Doc. C2–7138 Filed 4–5–02; 8:45 am]

**BILLING CODE 1505–01–D**

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0250]**

### Proposed Collection for Public Comments; Comment Request Entitled Zero Burden Information Collection Reports

*Correction*

In notice document 02–7139 appearing on page 13633 in the issue of Monday, March 25, 2002, make the following corrections:

1. On page 13633, in the second column, the text under the **DATES:** heading should read ''*Comment due date*: May 24, 2002.''.

2. On page 13633, in the second column, under the **FOR FURTHER INFORMATION CONTACT:** heading, in the second line, ''GAS'' should read ''GSA''.

[FR Doc. C2–7139 Filed 4–5–02; 8:45 am]

**BILLING CODE 1505–01–D**

Federal Register

Monday,
April 8, 2002

# Part II

# Department of Labor

## Office of the Secretary

## Privacy Act of 1974; Publication in Full of All Notices of Systems of Records Including Several New Systems; Publication of Proposed Routine Uses; Notice

## DEPARTMENT OF LABOR

### Office of the Secretary

### Privacy Act of 1974; Publication in Full of All Notices of Systems of Records Including Several New Systems; Publication of Proposed Routine Uses

**AGENCY:** Office of the Secretary, Labor.

**ACTION:** Notice; publication in full of all notices of systems of records, including several new systems; publication of a new universal routine use for all systems of records; publication of several proposed system-specific routine uses, as well as substantive amendments.

**SUMMARY:** This notice provides an accurate and complete text with both proposed substantive and non-substantive changes of this agency's 147 systems of records which are currently maintained under the Privacy Act of 1974. This notice also proposes one new universal routine use for all of the systems. This notice will update our last complete publication in full which appeared in the **Federal Register** on September 23, 1993. In addition to 33 new systems of records, which are being published for the first time, it will propose substantive amendments to 60 other systems which have been previously published. Twenty-nine (29) systems will be amended in a non-substantive manner. The notice deletes 31 systems.

**DATES:** Persons wishing to comment on newly published systems and on the proposed routine uses, both universal and specific, may do so by June 7, 2002.

**EFFECTIVE DATE:** Unless there is a further notice in the **Federal Register**, the new systems of records and the proposed routine uses will become effective June 27, 2002. The notices, pertaining to the 29 systems with non-substantive (administrative) changes are effective on April 8, 2002.

**ADDRESSES:** Written comments may be sent or delivered to Robert A. Shapiro, Associate Solicitor, Office of the Solicitor, Division of Legislation and Legal Counsel, U.S. Department of Labor, Room N–2428, 200 Constitution Avenue, NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Miriam McD. Miller, Co-Counsel for Administrative Law, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–2428, Washington, DC 20210; Telephone (202) 693–5500.

**SUPPLEMENTARY INFORMATION:**

**1. Background**

Pursuant to section three of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), hereinafter referred to as the Act, the Department hereby publishes notice of a new universal routine use, as well as thirty-three (33) new systems of records currently maintained pursuant to the Act. This document supplements this Department's last consolidated publication of all of its Privacy Act systems of records. On September 23, 1993, in Volume 58 at Page 49548 of the **Federal Register**, the Department published a notice containing 138 systems of records which were maintained, at that time, under the Act. That document gave notice of eleven paragraphs containing universal routine uses which applied, across the board, to all 138 systems of records, except for the two employee counseling and medical systems of records. Those eleven paragraphs were presented in the General Prefatory Statement for that document. Thereafter, seven new systems of records were established as set forth in the following five documents. These five documents were as follows: 59 FR 18156, April 15, 1994 (two new systems); 60 FR 24897, May 10, 1995 (one new system); 60 FR 31495, June 15, 1995 (one new system); 62 FR 16610, April 7, 1997 (two new systems); and 62 FR 53343, October 14, 1997 (one new system). The 33 new systems published herein will increase the total number of systems to 147 after accounting for the 31 systems which are being deleted in this notice.

In addition to the seven new systems, discussed above, the Department made amendments to its existing systems subsequent to the September 23, 1993 consolidated publication. These amendments were published in three separate documents published as follows: 59 FR 47361, September 15, 1994, 63 FR 2417, January 15, 1998, and 63 FR 25234, May 7, 1998. You should also note that amendments were made to existing systems in the same documents which established the seven new systems of records.

**2. The Current Action**

Pursuant to section three of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), the Department hereby publishes an updated consolidated publication in full for all of its 147 systems of records, including 33 new systems, currently maintained pursuant to the Privacy Act of 1974. As noted above, the Department's last consolidated publication in full appeared in the **Federal Register** on September 23, 1993, at page 49548 in Volume 58 of the **Federal Register**.

This notice also proposes one new universal routine use to be added to the Department's current list of eleven universal routine uses. These universal routine uses apply across the board to all of the Department's systems of records. The original eleven universal routine uses, being republished herein, are essentially a refined version of those universal routine uses which were published on September 23, 1993, at pages 49554–49555 in Volume 58 of the **Federal Register**.

Besides these twelve universal routine uses, both substantive and non-substantive changes have been made to certain of the system-specific routine uses which appear within the body of most of the systems.

As noted above, this notice will add 33 new systems which are being published for the first time; it amends 60 existing systems in a substantive manner, and it amends 29 existing systems in a non-substantive manner. This notice deletes 31 systems.

The following is a listing of the substantive and non-substantive additions, changes, and deletions to the various departmental systems of records. This listing will not describe extremely non-substantive revisions to the Department's existing systems of records.

The public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on the 33 new systems, and on the other substantive amendments. A report on all of the new systems and on the substantive amendments has been provided to OMB and to the Congress as required by OMB Circular A–130.

**Revisions to the Universal Routine Uses Appearing Within the General Prefatory Statement**

*A. Refinements to the Current Universal Routine Uses*

The Department is proposing certain grammatical refinements to the eleven routine uses of the records which currently appear within the General Prefatory Statement. In addition, routine use number 10, disclosure to the Office of Management and Budget (OMB), is being broadened to include all legislative matters, instead of being limited to private relief legislation. These universal routing uses apply across the board to all current systems of records, except for the two employee counseling and medical systems.

*B. A New Universal Routine Use*

The new universal routine use of the records proposed herein will be

designated as universal routine use number 12, and will appear within the General Prefatory Statement. This routine use will permit the Department to disclose the fact that an employee conduct investigation may be underway, based upon an allegation of prohibited activity, in the event of a media request, or in the event that the subject of the investigation has released information to the public.

**Government-Wide Systems by the Department of Labor**

DOL/GOVT–1, entitled *Office of Workers' Compensation Programs, Federal Employees' Compensation File,* is being amended by maintaining its covered records in an electronic format as well as in paper files. The subject of the file, as well as other parties, as specified in this notice, will be able to access information relating to the claim in either format. Ultimately, the plan is to maintain all open claim files only electronically. In addition, this system of records is revising its Routine Uses category to balance the privacy interests of those persons seeking benefits under the FECA with the benefits of providing access to these records for the purposes specified in the routine uses.

DOL/GOVT–2, entitled *Job Corps Student Records,* is being revised to rename its enrollees as students.

**Office of the Secretary (OSEC)**

DOL/OSEC–1, *Supervisor's/Team Leader's Records of Employees,* is amended by revising several of its categories so that new information can be collected such as labor relations information and requests for reasonable accommodation. For this purpose, the Category of Records and Routine Uses Category have been expanded. In addition, the system has been renamed, and the Location category has been amended.

DOL/OSEC–4, *Credit Data on Individual Debtors,* has been deleted since it is no longer needed inasmuch as this function has been taken over by the U.S. Treasury Department. Accordingly, the records have been destroyed.

DOL/OSEC–5, *High Performance Work Place Tracking Database,* has been deleted since it never became operational, and no records were ever created.

**Office of the Assistant Secretary for Administration and Management (OASAM)**

DOL/OASAM–4, *Occupational Accident/Injury/Illness Reporting System (AIIRS) File,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–5, *Rehabilitation and Counseling File,* has been amended by revising several categories in order to make the notice more descriptive.

DOL/OASAM–7, *Employee Medical Records,* has been amended by revising several categories in order to make the notice more descriptive.

DOL/OASAM–11, *Training Information System,* and DOL/OASAM–14, *Automated Position Control System,* have been transferred into new system DOL/OASAM–36, *PeoplePower,* and are therefore, deleted from this notice.

DOL/OASAM–12, *Administrative Grievance Records,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–15, *Travel and Transportation System,* has been transferred to the Office of the Chief Financial Officer, and has been renumbered as DOL/CFO–3.

DOL/OASAM–17, *Equal Employment Opportunity Complaint Files,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–19, *Negotiated Grievance Procedure and Unfair Labor Practice Files,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–20, *Personnel Investigation Records,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–22, *Civil Rights Center Citizen Discrimination Complaint Files,* has been amended to reflect a new place for the system location and a new title of the system manager. Also, the system of records is being amended to reflect additional statutory jurisdiction for the Welfare-to-Work grant program and the Workforce Investment Act.

DOL/OASAM–23, *Travel Management Center,* has been amended to reflect a new title for the system.

DOL/OASAM–24, *Privacy Act/Freedom of Information Act Requests File System,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–25, *Intergovernmental Personnel Act Assignment Records,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–26, *Frances Perkins Building Parking Management System,* is being amended with respect to the category of Records to add the Social Security Numbers of the individuals who apply for and receive parking privileges. In addition, the category for Routine Uses will be amended so that data can be disclosed by DOL to other governmental agencies to enable these agencies to compare the names of car pool members. Finally, the categories for Records and Record Source are being amended to permit other government agencies to disclose data to DOL so that DOL can compare the names of car pool members.

DOL/OASAM–27, *Employee/Contractor Identification Program,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–28, *Incident Report/Restriction Notice,* has been amended to reflect a new place for the system location and a new title of the system manager.

DOL/OASAM–29, *OASAM Employee Administrative Investigation File,* has been amended to reflect a new place for the system location and title of the system manager.

DOL/OASAM–30, *Injury Compensation System (ICS),* has been deleted because its information belongs in DOL/GOVT–1, this Department's government-wide system for processing injury claims by federal employees. That system is entitled *Office of Workers' Compensation Programs, Federal Employees Compensation File.*

DOL/OASAM–31, *DOL Flexible Workplace (Flexiplace) Programs Evaluation and Files,* has been amended to reflect that the flexiplace program has advanced from a pilot program to a permanent program. Also, the categories for Location and System Manager have been amended to reflect changes in both.

DOL/OASAM–32, *Transit Subsidy Management System,* is a new system of records to be used to validate identification of employees who request and receive a transit subsidy.

DOL/OASAM–33, *Entity Database,* is a new system of records which contains the data to complete applications, personnel and administrative forms, and to provide input to various small systems used in administrative and management of DOL employees.

DOL/OASAM–34, *DOL Fitness Association (DOLFA) Membership Files,* is a new system of records which is used to administer the Department's Fitness Center which provides exercise facilities in the building.

DOL/OASAM–35, *DOL Child Care Subsidy Programs Records,* is a new system of records which will establish and verify Departmental employees' eligibility for child care subsidies in

order for the Department to provide monetary assistance to its employees.

DOL/OASAM–36, *PeoplePower,* is a new electronic system of records which will produce official personnel actions notifications, and to store and provide access to current and historical human resource information for all of the Department's employees. It will also aid in the performance of several management functions. Former systems, DOL/OASAM–11 and DOL/OASAM–14, have been transferred into this new system.

**Office of the Administrative Law Judges (OALJs)**

DOL/OALJ–1 has been renamed the *Office of Administrative Law Judges Case Tracking System,* and its Routine Use category has been amended to state that its proceedings and court dockets records are public and are available for public inspection.

DOL/OALJ–2, entitled *Office of Administrative Law Judge Case Files,* is a new system of records for the purpose of maintaining records in the adjudication of cases and the determination of issues in hearings and appeals proceedings. Its Routine Uses category provides for public disclosure of its proceedings and decisions.

DOL/OALJ–3, entitled *Contract List,* is a new system of records for the purpose of maintaining a list of contractors to assist in managing contracts with contractors.

DOL/OALJ–4, entitled *Notification List,* is a new system of records for the purpose of providing electronic mail notifications of web site updates to the registrants in the system.

**Office of the Administrative Review Board**

DOL/ARB–1, *Administrative Review Board Appeals Files,* (formerly DOL/OAA–1) has been amended and updated to reflect the change in agency name from Office of Administrative Appeals to Administrative Review Board and to clarify the routine uses.

**Office of the American Workplace (OAW)**

This Office no longer exists, but its duties and responsibilities have been transferred into the Employment Standards Administration (ESA). In this connection, in the **Federal Register** of October 14, 1997 (62 FR 53343 at 53347), DOL/OAW–1 was renamed as DOL/ESA–45, *Investigative Files of the Office of Labor-Management Standards.*

The following four systems of the OAW are being deleted as noted below. The records for these four systems have been transferred to the National Archives and Records Administration (NARA) since they are permanent records.

DOL/OAW–2, *Lists of Airline Employees Protected Under the Rehire Program,* is being deleted because this program is inactive.

DOL/OAW–3, *Semi-Annual Lists of Hired Employees,* is being deleted because this program is inactive.

DOL/OAW–4, *Rehire Program Appellant and Inquiry Files,* is being deleted because this program has been terminated.

DOL/OAW–5, *OLMP/OSP, Redwood Employee Protection Program, Health, Welfare, and Pension Claims and Benefit Payments* (including severance benefits and benefits for salary replacement, retraining, job search and relocation) is being deleted because this program has been terminated.

**Office of the Assistant Secretary for Policy (ASP)**

DOL/ASP–1, *National Agricultural Workers Survey (NAWS) Research File, Case Tracking Files, Name Index, USDOL/ASP,* is amended by changing several categories including Location, Records, Purpose and Routine Uses. The revised Routine Uses Category will provide additional protection to the privacy interests of the participants in the study. This additional privacy protection is achieved by making several of the Universal Routine Uses, contained within the General Prefatory Statement, inapplicable to this system of records.

**Benefits Review Board (BRB)**

DOL/BRB–1, *Appeals Files—Benefits Review Board,* has been amended to reflect the new address of the system's location and to clarify the routine uses.

**Bureau of Labor Statistics (BLS)**

DOL/BLS–2, *Staff Utilization System,* is being deleted because this system of records has been closed, and its records have been destroyed.

DOL/BLS–4, *Business Research Advisory Council* and DOL/BLS–5, *Labor Research Advisory Council,* are being deleted. Information and data for all of the Department's advisory committees have been transferred to the Office of Small Business Programs (DOL/OSBP) which has established a new system of records for this purpose, entitled DOL/OSBP–2, *Department of Labor Advisory Committees Members Files.*

DOL/BLS–6, *Applicant Race and National Origin (ARNO) System, Form E–7,* has been amended to reflect a new title of the system manager.

DOL/BLS–7, *BLS Employee Conduct Investigation,* has been amended to reflect a new title of the system manager.

DOL/BLS–8, *BLS Employee ADP Training History,* is being amended to include the employee's Social Security Number, and a new title of the system manager. In addition, certain minor changes are being made.

DOL/BLS–9, *Routine Administrative Files,* is being amended by revising several categories to make the system more descriptive. These categories are Individuals Covered, Records, and Record Sources. In addition, certain non-substantive, administrative changes are being made throughout the system.

DOL/BLS–11, NIH and Boeing User ID Database, is being renamed as *Mainframe User ID Database,* and the system is being amended to reflect a new location for the system's electronic records and a new title of the system manager.

DOL/BLS–13, *National Longitudinal Survey of Youth 1979 (NLSY79) Database,* and DOL/BLS–17, *National Longitudinal Survey of Youth 1996 (NLYS96),* which are each research surveys of youth, are being expanded so that information can be received from persons who interact with the respondents.

DOL/BLS–15, *Management Research Files,* is being deleted, because the underlying project was closed down, and no records were ever created.

DOL/BLS–16, *Annual Survey of Occupational Injuries and Illnesses,* is being deleted as a Privacy Act system of records, because these records are no longer maintained or retrieved by name or by a personal identifier.

DOL/BLS–18, *Postal Square Building Parking Management Records,* is a new system which is needed to administer the parking and car pool programs at the Postal Square Building wherein the Bureau is housed.

DOL/BLS–19, *Customer Information Files,* is a new system to maintain and service the list of customers who request BLS information.

DOL/BLS–20, *Fellowship Applicants and Recipients Files,* is a new system which maintains a list of applicants and recipients of fellowship awards. These individuals are not federal employees but are assigned to work with the BLS staff and/or BLS non-public data files.

**Office of the Chief Financial Officer (CFO)**

DOL/CFO–1, *Attendance, Leave and Payroll File,* is being amended by revising the category of Records in the System to include data from the newly created DOL/OASAM–32, *Transit*

*Subsidy Management System.* It is amended by changing the category for Routine Uses, by permitting disclosure of data to other governmental agencies for the purpose of comparing transit subsidy recipients and car pool applicants. This system of records was last published on January 15, 1998 at 63 FR 2417. That publication inadvertently failed to list certain previously approved disclosures under paragraphs E. and F. of the Routine Uses Category. [An earlier publication of this system, at 62 FR 16614, on April 7, 1997, correctly contained the previously approved disclosures]. This document lists all approved disclosures. Finally, an additional routine use, permitting disclosure of information to labor organizations, is being added.

DOL/CFO–3 is a new system for the CFO, having been transferred into CFO from OASAM. It is entitled the *Travel and Transportation System,* and was formerly entitled OASAM–15.

**The Office of Disability Employment Policy (ODEP) formerly entitled the President's Committee on Employment of People With Disabilities (PCEPD)**

DOL/PCEPD–1, *Job Accommodation Network (JAN) Files,* has been redesignated as DOL/ODEP–1 because of a reorganization within the Department.

DOL/ODEP–2, *Workforce Recruitment Program (WRP) Database,* is a new system of records to maintain records on a database resource of college students with disabilities so that federal and private sector employers may be able to identify qualified employees in a variety of fields.

**Employees' Compensation Appeals Board (ECAB)**

DOL/ECAB–1, *Employees' Compensation Appeals Board Docket Records,* has been amended to reflect the new address of the system location and to clarify the routine uses.

DOL/ECAB–2, *Employees' Compensation Appeals Board Disposition Records,* has been amended to reflect the new address of the system location and to clarify the routine uses.

**Employment Standards Administration (ESA)**

DOL/ESA–2, *Office of Federal Contract Compliance Programs, Complaint Case Files,* is changed to correct name of system and to add ''class action'' to Record Source Categories.

DOL/ESA–5, *Office of Workers' Compensation Programs, Black Lung Antidiscrimination Files,* has been refined in a non-substantive manner.

DOL/ESA–6, *Office of Workers' Compensation Programs, Black Lung Benefits Claim File,* has been refined in a non-substantive manner.

DOL/ESA–12, *Office of Workers' Compensation Programs, Black Lung X-ray Interpretation File,* is being deleted because these records have been transferred into DOL/ESA–6.

DOL/ESA–15, *Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Case Files,* has been amended with respect to the category for Routine Uses. Disclosures have been both expanded and reduced by these amendments.

DOL/ESA–24, *Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Special Fund System,* has been amended with respect to the category for Routine Uses. Disclosures have been both expanded and reduced by these amendments.

DOL/ESA–25, *Office of Federal Contract Compliance Programs, Executive Management Information Systems (OFCCP/EIS),* is amended to include ''TRIS'' in the system names, to change Location, to change Categories of Individuals Covered By The System, to change Categories of Records In The System, to change Authority for Maintenance of the system, to change Purpose, to change Retrievability.

DOL/ESA–26, *Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Investigation Files,* has been amended by adding a note to the category for Routine Uses to provide that, pursuant to 5 U.S.C. 552a(b)(1), information from this system of records may be disclosed to members and staff of the Benefits Review Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

DOL/ESA–27, *Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Claimant Representatives,* has been amended by adding a note to the category for Routine Uses to provide that, pursuant to 5 U.S.C. 552a(b)(1), information from this system of records may be disclosed to members and staff of the Benefits Review Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

DOL/ESA–28, *Office of Workers' Compensation Programs, Physicians and Health Care Providers Excluded under the Longshore Act,* has been amended with respect to the category for Routine Uses. Disclosures have been both expanded and reduced by these amendments. In addition, a note has been added to the category for Routine Uses to provide that, pursuant to 5 U.S.C. 552a(b)(1), information from this system of records may be disclosed to members and staff of the Benefits Review Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

DOL/ESA–29, *Office of Workers' Compensation Programs, Physicians and Health Care Providers Excluded under the Federal Employees' Compensation Act.* The same changes are made as described above with respect to DOL/ESA–28.

DOL/ESA–30, *Office of Workers' Compensation Programs, Black Lung Automated Support Package,* has been refined in a non-substantive manner.

DOL/ESA–31, *Office of Federal Contract Compliance Programs, Time Reporting Information System (TRIS)* is being deleted because it has been merged into DOL/ESA–25, *Office of Federal Contract Compliance Programs, Management Information System (OFCCP/MIS).*

DOL/ESA–33, *Time Report Component of the Wage and Hour Investigative Support and Reporting Database (WHISARD), Compliance Officer's Weekly Report,* is amended to add ''leave records'' to the Categories of Records, add ''statute'' to Purpose, add ''investigator'' to Record Source Category, add the ''Systems Exempted'' Category which was inadvertently omitted from the previous publication.

DOL/ESA–34, *Farm Labor Contractor Registration File,* is amended to correct the name of the Florida system location, remove extraneous references in the Authority for Maintenance of the System, correct the name of the Florida storage location, correct the identity and address of system manager, and correct the identity and address of the person to whom contesting inquiries should be addressed and remove ''Social Security Number'' from the information required to make such inquiry.

DOL/ESA–35, *Farm Labor Contractor Employee Registration File,* is changed to correct the name of the Florida system location, remove extraneous references in the Authority for Maintenance of the System, correct the name of the Florida storage location, correct the identity and address of the System Manager, and correct the identity and address of the person to whom contesting inquiries should be

addressed and remove ''Social Security Number'' from the information required to make such inquiry.

DOL/ESA–36, *MSPA Civil Money Penalties in the Wage and Hour Investigative Support and Reporting Database (WHISARD),* is amended to: Delete reference to ''FLCRA'' in the title of the record; add ''District'' offices to the system locations, remove extraneous references in the Authority for Maintenance of the System; add ''District'' offices to the storage locations; correct the identity and address of the system manager; correct the identity and address for Notification Procedure and remove ''Social Security Number'' from the information required to make such inquiry; correct the identity and address for record access procedures; and remove ''social security number'' from the information required to make such inquiry; and correct the identity and address for contesting record procedures and remove ''social security number'' from the information required to make such inquiry.

DOL/ESA–37, *MSPA Public Central Registry Records Files,* is changed to remove extraneous references in the authority for maintenance of the system, to add language in the routine uses category to allow disclosure of registration information via an ''800'' telephone number required by and published in 29 CFR 500.170; correct the identity and address of system manager, correct the identity and address for contesting record procedures and remove ''Social Security Number'' from the information required to make such inquiry, and to add ''applications'' to the record source categories.

DOL/ESA–38, *Wage and Hour Regional Office Clearance List—MSPA Registration,* is amended to show that the category of records shown as ''personal identification'' means ''names, addresses and Social Security Numbers'', to remove extraneous references in the Authority for Maintenance of the System, to include ''providing historical and current compliance information to Wage and Hour National, Regional, and District offices as a purpose, correct the identity and address of system manager, and correct the identity and address for contesting record procedures and remove ''Social Security Number'' from the information required to make such inquiry.

DOL/ESA–39, *State Employment Service Clearance List—MSPA Registration,* is changed to: Remove ''Division of Labor and Industry, Baltimore, Maryland; Delaware Department of Labor, Dover, Delaware; and New York Department of Labor, Albany, New York'' from system location; to show that the category of records shown as ''personal identification'' means ''names, addresses and social security numbers''; to remove extraneous references in the Authority for Maintenance of the System; to correct the routine uses of records to show that this record will be disclosed to the Department of Labor and Employment Security, Tallahassee, Florida; New Jersey Department of Labor, Trenton, New Jersey; and Virginia Employment Commission, Richmond, Virginia; to correct the identity and address of the system manager; and to correct the identity and address for contesting record procedures and remove ''Social Security Number'' from the information required to make such inquiry.

DOL/ESA–40, *MSPA Tracer List,* is amended in Categories of Records to Delete reference to ''FLCRA'' in the title of the record, remove ''Social Security Numbers'' and add ''certificate of registration numbers'', to remove extraneous references in the authority for maintenance of the system, correct the identity and address of system manager, correct the identity and address for notification procedure and remove ''social security number'' from the information required to make such inquiry, correct the identity and address for record access procedures and remove ''Social Security Number'' from the information required to make such inquiry, and correct the identity and address for contesting record procedures and remove ''Social Security Number'' from the information required to make such inquiry.

DOL/ESA–41, *MSPA Certificate Action Records Files,* is amended to: Delete reference to ''FLCRA'' in the title of the record, remove extraneous references in the authority for maintenance of the system, add ''and maintain a record'' of persons who filed applications to the purpose, correct the identity and address of system manager, correct the identity and address for contesting record procedures and remove ''Social Security Number'' from information required to make such inquiry.

DOL/ESA–42, *Case Registration/ Investigator Form; in the Wage and Hour Investigative Reporting Database (WHISARD),* is amended to change system name, to change categories of individuals covered, to change retrievability, and to make it an exempt system.

DOL/ESA–43, *Office of Workers' Compensation Programs, Federal Employees' Compensation Act and Longshore and Harbor Workers' Compensation Act Rehabilitation Files,* has been amended with respect to the category for Routine Uses. Disclosures have been both expanded and reduced by these amendments. In addition, a note has been added to the category for Routine Uses to provide that, pursuant to 5 U.S.C. 552a(b)(1), information from this system of records may be disclosed to members and staff of the Benefits Review Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

DOL/ESA–44, *Office of Workers' Compensation Programs, Federal Employees' Compensation Act (FEC) and Longshore and Longshore and Harbor Workers' Compensation Act Rehabilitation Counselor Case Assignment, Contract Management and Performance, and Federal Employees' Compensation Act Field Nurses Files,* has been amended by the following additions: The note following the routine uses category regarding telephonic disclosure of information, which currently appears in the other ESA/OWCP Privacy Act Systems of Records, has been added and language is inserted into this note to reflect that, pursuant to 5 U.S.C. 552a(b)(1), information from this system of records is disclosed to members and staff of the Benefits Review Board, the Employees' Compensation Appeals Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

DOL/ESA–45, *Investigative Files of the Office of Labor-Management Standards (Formerly DOL/OAW–1),* has been amended to reflect a reorganization of the Office of Labor-Management Standards (OLMS); to clarify the Categories of Individuals Covered by the System; to include the Congressional Accountability Act of 1995 (CAA); to change the authority citations; to include CAA in the Purpose; to make changes in the retention schedule, and to make typographical corrections.

DOL/ESA–46, is a new system entitled, *Migrant and Seasonal Agricultural Worker Protection Act (MSPA) Ineligible Farm Labor Contractors,* which is being established in order to maintain a listing of individuals who are ineligible to engage in any activity as a farm labor contractor or farm labor contractor employee. This listing is available to the general public, upon request.

DOL/ESA–47 is a new electronic system, entitled *Youth Peddler Bulletin*

*Board*, which is being established to exchange information with law enforcement agencies about individuals and organizations that employ young children as ''door-to-door candy sellers.'' Access is available only to those enforcement agencies through the issuance of a ''password''.

DOL/ESA–48 is a new system, entitled ''*Customer Service'' component of the Wage Hour Investigative Support and Reporting Database (WHISARD)*, which is being established to provide Wage and Hour employees with an index of individuals who contact the Wage and Hour Division. This information may be used to provide assistance or to facilitate the processing of complaints.

DOL/ESA–49 is a new system, entitled *Office of Workers' Compensation Programs, Energy Employees' Occupational Illness Compensation Program Act File*, which is being established in order to adjudicate claims of current and former employees of the Department of Energy, its contractors, and predecessor agencies, and other individuals for compensation under the Energy Employees' Occupational Illness Compensation Programs Act (EEOICPA).

DOL/ESA–50 is a new system entitled *Office of Workers' Compensation Programs, Physicians and Health Care Providers Excluded under the Energy Employees' Occupational Illness Compensation Program Act*, which is being established as a companion system to DOL/ESA–49 in order to adjudicate claims of individuals for compensation under the Energy Employees' Occupational Illness Compensation Programs Act (EEOICPA).

DOL/ESA–51 is a new system entitled *OLMS Public Disclosure Request Tracking System*, which is being established to process requests made to the OLMS Public Disclosure Room, to prepare requests for payment, and to process payments.

**Employment and Training Administration (ETA)**

DOL/ETA–1, *Bureau of Apprenticeship and Training, Budget and Position Control File*, has been amended to include information from DOL/ETA–2, *Bureau of Apprenticeship and Training, Program Management Group, Budget and Position Control File*.

DOL/ETA–2 has been deleted since its records and function have been transferred into to DOL/ETA–1.

DOL/ETA–4, *Apprenticeship Management System (AMS), is being renamed Apprenticeship Information Management System (AIMS)*.

DOL/ETA–8, *Job Corps Management Information System (JCMIS) File is being renamed Job Corps Student Pay, Allotment and Management Information System (SPAMIS)*.

DOL/ETA–21, *Employment and Training Administration Advisory Committees Members Files*, has been deleted. Information and data for all of the Department's advisory committees have been transferred to the Office of Small Business Programs(SBA) which has established a new system of records for this purpose, entitled DOL/OSBP–2, *Department of Labor Advisory Committees Members Files*.

DOL/ETA–23, *Federal Committee on Apprenticeship*, has been deleted. The information is to be included in a new department-wide system DOL/OSBP–2, described above.

DOL/ETA–25, *DOL/ETA Evaluation Research Projects of the Unemployment Compensation System*, has been amended to reflect a new name, and a new system manager.

DOL/ETA–27, *Youth Opportunity Grant Program Information Files*, is a new management information system designed to facilitate the uniform compilation and analysis of programmatic data necessary for reporting, monitoring, and evaluation purposes.

**Office of Inspector General (OIG)**

DOL/OIG–1, *General Investigative Files, Case Tracking Files, and Subject/Title Index, USDOL/OIG*, has been amended to reflect the title change (to *Investigative Files, Case Tracking System, Analysis, Complaints, Inspections, and Evaluation Files*, describe the system's categories of records more completely, clarify the routine uses and reflect the number of years files are retained.

DOL/OIG–2, *Freedom of Information/Privacy Act Records*, has been amended to clarify the routine uses.

DOL/OIG–3, *Case Development Records*, has been amended to reflect its title change (to *Investigative Case Files, Case Development and Intelligence Records*), to clarify the routine uses and to reflect the number of years information is retained.

DOL/OIG–5, *Audit Information, Tracking and Reporting System US DOL/OIG*, has been amended to clarify the routine uses and to change the number of years files are retained.

**Bureau of International Labor Affairs (ILAB)**

DOL/ILAB–2, entitled *Senior Technical Assistance Register*, has been deleted since this program has ended and the records have been destroyed.

**Mine Safety and Health Administration (MSHA)**

DOL/MSHA–1, *Coal and Metal and Nonmetal Mine Accident, Injury, and Illness*, has been amended to make editorial changes and corrections to these paragraphs: system name, system location, safeguards, retention and disposal, and system manager and address.

DOL/MSHA–3, *Metal and Nonmetal Mine Safety and Health Management Information System*, has been amended to make an editorial change in the area of retention and disposal.

DOL/MSHA–10, *Discrimination Investigations*, has been amended to make editorial changes and corrections to the categories of: Categories of Records in the system, Retrievability, Safeguards, Notification Procedure, Records Source categories, and to delete information in the categories of Record Access procedures and Contesting Record procedures.

DOL/MSHA–13, *Coal Mine Respirable Dust Program*, has been amended to make editorial changes, clarify categories of records in the system, and to update the retention and disposal procedures.

DOL/MSHA–15, *Health and Safety Training and Examination Records*, is revised to add clarity to the descriptions of types, uses, and safeguard of records, and to modify the retention and disposal section of the record system.

DOL/MSHA–18, *Coal Mine Safety and Health Management Information System*, has been amended to remove references to training personnel and add information related to samples taken by inspectors.

DOL/MSHA–19, *Employee Conduct Investigations System*, is amended to make editorial changes and corrections in the categories of: Categories of Records in the System; Storage; Safeguards; and Records Access Procedures.

DOL/MSHA–20, *Civil/Criminal Investigations*, has been amended to make editorial changes and corrections to the categories of: Individuals Covered by the System, Records in the System, Authority for Maintenance of the System, Retrievability, Notification Procedure, and to delete information in categories of Record Access Procedures and Contesting Record Procedures.

DOL/MSHA–21, *Assessments and Civil Penalty Debt Collection Activity and Reporting System*, is a new system to maintain records on operating companies and individuals indebted to the U.S. Department of Labor, Mine Safety and Health Administration, for civil penalties assessed as a result of

violations of the Mine Safety and Health Act of 1977 (Mine Act).

DOL/MSHA–22, *Education Policy and Development; National Mine Health and Safety Academy Permanent Record Card*, is a new system to maintain records on Mine Safety and Health inspectors who receive training. Records are used to track training and grades.

DOL/MSHA–23, *Educational Policy and Development; Education Field Services (EFS) Activity Reporting System*, is a new system of records. The Mine Safety and Health Administration has transferred all training specialists from Coal Mine Safety and Health and Metal/Nonmetal Safety and Health to Educational Policy and Development. This new system of records has been established to track information on the training specialists with regard to the mine being visited; number of personnel contacted; activities conducted; time spent on activities; and information on time utilization for Training Specialists.

DOL/MSHA–24, *Radon Daughter Exposure*, is a new system of records for the purpose of preventing over exposure of miners to radon daughters, a form of radiation which has been documented as causing cancer in humans and is well known as a severe hazard for metal and nonmetal miners.

**Occupational Safety and Health Administration (OSHA)**

DOL/OSHA–1, *Discrimination Complaint File*, is amended by revising the categories of System Location, Individuals Covered, Authority, System Manager, Purpose and Routine Uses.

DOL/OSHA–4, *Advisory Committee Candidates' Biographies*, is being deleted. As noted above, information and data for all of the Department's advisory committees have been transferred to the Office of Small Business Programs(OSBP) which has established a new system of records for this purpose, entitled DOL/OSBP–2, *Department of Labor Advisory Committees Members Files*.

DOL/OSHA–10, *OSHA Train-the-Trainer Outreach Program*, is amended by revising several of the categories, including the name of this system to the above name.

**Pension and Welfare Benefits Administration (PWBA)**

DOL/PWBA–1, *Employee Retirement Income Security Act Advisory Council on Employee Welfare and Pension Benefit Plan*, has been deleted and is included in the Department-wide system, entitled DOL/OSBP–2.

DOL/PWBA–2, *Office of Enforcement Index Cards and Investigation Files*, has been renamed as *PWBA EnforcementManagement System* due to the elimination of the use of index cards. The system has been computerized. No other substantive changes have been made.

DOL/PWBA–3, *ERISA Coverage Correspondence Files*, has been renamed as *PWBA Correspondence Files* to reflect that the system has been expanded to several PWBA national and field office components. The categories for System Location(s) and System Manager(s) reflect these changes. The Categories of Individuals Covered has been simplified. Categories of Records, Purpose and Retention and Disposal have been expanded to better reflect the variety of documents in the system.

DOL/PWBA–4, *Inquiry Correspondence Files*, has been renamed as *Technical Assistance and Inquiry System*. The system is now in use in all PWBA offices and services are now provided via telephone as well as through correspondence. The entire notice has been adjusted to reflect the expansion of the technical assistance program and to correct the retention and disposal information.

DOL/PWBA–5, *Public Disclosure Request Tracking System*, has been amended to reflect the change in location of the system and clarify the Categories of Individuals Covered and correct the Retention and Disposal Category.

DOL/PWBA–6, entitled *PWBA Debt Collection/Management System*, has been amended to clarify the Categories of Individuals Covered and the Categories of Records in the System.

DOL/PWBA–7, entitled *Employee Conduct Investigations*, has been amended to correct the system location.

DOL/PWBA–8, entitled *PWBA Consolidated Training Record* is a new system of records which is used to identify which employees have completed certain training courses, and the number of employees awaiting training.

DOL/PWBA–9, entitled *Office of Enforcement Correspondence Tracking System* is a new system of records used to track the progress of correspondence through the Office of Enforcement.

DOL/PWBA–10, entitled *PWBA Civil Litigation Case Information System*, is a new system of records used to access information related to civil litigation case files involving investigation initiated by DOL under Title I of ERISA.

DOL/PWBA–11, entitled *PWBA Criminal Case Information System*, is a new system of records used to maintain information about the progress and/or disposition of criminal cases involving private sector employee benefit plans.

DOL/PWBA–12, entitled *Publication Hotline Requests*, is a new system of records used to process requests made to the PWBA toll-free hotline for publications.

DOL/PWBA–13, entitled *Office of Exemption Determinations ERISA Section 502(l)* Files, is a new system of records used to document the Department's response to petitioners' requests for relief from the Section 502(l) penalties assessed upon those who are found to have violated the fiduciary and prohibited transaction provisions of Part 4 Title I of ERISA.

DOL/PWBA–14, entitled *Investment Advisor Registration Data Base,* is a new system of records used to develop a listing of individuals who have status as an investment advisor under ERISA.

DOL/PWBA–15, entitled, *PWBA Inventory Management Data Base,* is a new system of records used to identify the makes and models of all PWBA owned ADP hardware, the equipment's current location within the agency and the individual to whom it is assigned.

DOL/PWBA–16, entitled, *Form 5500EZ,* is a new system of records which maintains records on individuals who have filed pension plan reporting Form 5500EZ.

**Office of Small Business Programs (OSBP)**

DOL/OSBP–2, *Department of Labor Advisory Committee Members Files,* is a new system of records which centralizes all of the advisory committees' members files which were previously maintained by the various component agencies of the Department.

**Office of the Solicitor (OSOL)**

DOL/SOL–1, *Conflict of Interest File,* has been deleted because its remaining records and function have been transferred into an enlarged DOL/SOL–15, *Solicitor's Office Litigation Files.* Older records from this system have been destroyed pursuant to the records retention schedule.

DOL/SOL–2, *Employment and Training Legal Services Litigation and Investigation File,* has been deleted, because its records and function have been transferred into an enlarged DOL/SOL–15, *Solicitor's Office Litigation Files*.

DOL/SOL–5, *Job Training Partnership Act,* has been renamed as the *Workforce Investment Act Tort Claims Files,* and has been amended to reflect that its underlying statute has been superceded, and that its system's location has been narrowed to the Offices of the Regional Solicitors.

DOL/SOL–8, *Special Litigation Files,* has been deleted because its remaining

records and function have been transferred into an enlarged DOL/SOL–15, *Solicitor's Office Litigation Files.* Older records from this system have been destroyed pursuant to the records retention schedule.

DOL/SOL–10, *Privacy Act Litigation Files,* has been deleted, because its records and function have been transferred into an enlarged DOL/SOL–15, *Solicitor's Office Litigation Files.*

DOL/SOL–11, *Division of Civil Rights Defensive Litigation Files,* has been deleted, because its records and function have been transferred into an enlarged DOL/SOL–15, *Solicitor's Office Litigation Files.*

DOL/SOL–12, *Third-Party Recovery Files,* has been deleted, because its records and function have been transferred into an enlarged DOL/SOL–15, *Solicitor's Office Litigation Files.*

DOL/SOL–14, *DOL Subpoena Tracking System,* has been deleted, because its records and function have been transferred into an enlarged DOL/SOL–15, *Solicitor's Office Litigation Files.*

DOL/SOL–15, *Solicitor's Office Litigation Files,* has been greatly enlarged in order to accept information from the six litigation systems, which have been deleted, as noted above.

DOL/SOL–16, *Solicitor's Office Directory of Senior Management,* has been deleted because these records are no longer maintained. Older records from this system have been destroyed pursuant to the record retention schedule.

DOL/SOL–17, *Solicitor's Office Equipment Files,* has been renamed and enlarged in order to contain all of the component's equipment.

**Veterans Employment and Training Administration (VETS)**

DOL/VETS–1, *Veterans' Reemployment Complaint File,* has been renamed as the *Uniformed Services Employment and Re-employment Right Act (USERRA) Complaint File.*

DOL/VETS–2, *Veterans' Preference Complaint File,* has been renamed as *Veterans' Preference Complaint File under the Veterans Equal Opportunities Act of 1998 (VEOA).* It has been amended to reflect its new function of investigating possible violations of those federal laws pertaining to veterans' preference and other special considerations related to employment with Federal agencies.

*Routine Uses of the Records*

The Department, in the General Prefatory Statement, sets forth twelve paragraphs containing routine uses of the records which apply to all systems. The first eleven routine uses are a more refined version of those universal routine uses which were published on September 23, 1993, at pages 49554–49555 of Volume 58 of the **Federal Register**. The twelfth routine use is a new use.

*Government-Wide Records*

Two systems of records are reported by the Department of Labor for all federal agencies since this Department has overall responsibility for the administration of the programs in connection with which these systems of records have been compiled. It is presumed that most, if not all, federal agencies maintain systems of records comprising a portion of the government-wide systems of records. In order to avoid duplication in reporting, the Department is reporting these systems on behalf of all agencies. The Department has control over these systems to the same extent as the Office of Personnel Management has control over systems of records containing federal employee personnel records. These systems are the Federal Employees' Compensation Act files and the Job Corps Student Records.

Signed at Washington, DC, this 19th day of March, 2002.

**Elaine L. Chao,**

*Secretary of Labor.*

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*Office of the Solicitor (OSOL)*

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**Appendix—Responsible Officials**

**General Prefatory Statement**

*A. Universal Routine Uses of the Records*

The following routine uses of the records apply to and are incorporated by reference into each system of records published below unless the text of a particular notice of a system of records indicates otherwise. These routine uses *do not* apply to DOL/OASAM–5, *Rehabilitation and Counseling File*, nor to DOL/OASAM–7, *Employee Medical Records*.

1. To disclose the records to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the agency collected the records.

2. To disclose the records in a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and that the use of such records is a purpose that is compatible with the purpose for which the agency collected the records.

3. When a record on its face, or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the agency determines by careful review that the records or information are both relevant and necessary to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity, and that the use of such records or information is for a purpose that is compatible with the purposes for which the agency collected the records.

4. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

5. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

6. To disclose to contractors, employees of contractors, consultants, grantees, and volunteers who have been engaged to assist the agency in the performance of or working on a contract, service, grant, cooperative agreement or other activity or service for the Federal Government.

**Note 1.** Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a; *see also* 5 U.S.C. 552a(m).

7. To the parent locator service of the Department of Health and Human Services or to other authorized persons defined by Pub. L. 93–647 the name and current address of an individual for the purpose of locating a parent who is not paying required child support.

8. To any source from which information is requested in the course of a law enforcement or grievance investigation, or in the course of an investigation concerning retention of an employee or other personnel action, the retention of a security clearance, the letting of a contract, the retention of a grant, or the retention of any other benefit, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

9. To a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the granting or retention of a security clearance, the letting of a contract, a suspension or debarment determination or the issuance or retention of a license, grant, or other benefit.

10. To the Office of Management and Budget during the coordination and clearance process in connection with legislative matters.

11. To the Department of the Treasury, and a debt collection agency with which the United States has contracted for collection services to recover debts owed to the United States.

12. To the news media and the public when (1) the matter under investigation has become public knowledge, (2) the Solicitor of Labor determines that disclosure is necessary to preserve confidence in the integrity of the Department or is necessary to demonstrate the accountability of Department's officers, employees, or individuals covered by this system, or (3) the Solicitor of Labor determines that there exists a legitimate public interest in the disclosure of the information, except to the extent that the Solicitor of Labor determines in any of these situations that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

*B. System Location—Flexiplace Programs*

The following paragraph applies to and is incorporated by reference into all of the Department's systems of records under the Privacy Act, within the category entitled, **SYSTEM LOCATION:**

''Pursuant to the Department of Labor's Flexiplace Programs, copies of records may be temporarily located at alternative worksites, including employees' homes or at geographically convenient satellite offices for part of the workweek. All appropriate safeguards will be taken at these sites.''

Government-Wide Records

Two systems of records are reported by the Department of Labor for all federal agencies since this Department has overall responsibility for the administration of the programs in connection with which these systems of records have been compiled. It is presumed that most, if not all, federal agencies maintain systems of records comprising a portion of the government wide systems of records. In order to avoid duplication in reporting, the Department is reporting these systems on behalf of all agencies. The Department has control over these systems to the same extent as the Office of Personnel Management has control over systems of records containing federal employee personnel records.

1. Federal Employees' Compensation Act Files: All records relating to injury or death of civilian employees or other persons entitled to benefits under the Federal Employees' Compensation Act are the records of the Office of Workers'

Compensation Programs of the Department of Labor. The Office asserts control of these records under the provisions of 5 U.S.C. 8149 and Department regulations at 20 CFR 10.10. This notice applies to copies of claim forms and other documents relating to a compensation claim maintained by the employing agency. This notice, however, does not apply to other medical or related files not created pursuant to the Federal Employees' Compensation Act which may be in the possession of an agency. This system is entitled DOL/GOVT–1, Office of Workers' Compensation Programs, Federal Employees' Compensation File.

Initial determinations on requests for access, amendment or correction of records maintained in this system of records shall be made by the OWCP district office having jurisdiction over the particular claim. In addition, requests for access to copies of records maintained by the employing agency may be directed to that agency. Administrative appeals from initial determinations denying access, amendment or correction, shall be addressed to the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, as required by 20 CFR 10.12.

2. Job Corps Student Records: All records which contain information about students during their stay in Job Corps, from entrance to placement and/or termination, are records which must be maintained by the Job Corps center. The Employment and Training Administration asserts control of these records under 29 U.S.C. 2881 *et seq.* This system is entitled DOL/GOVT–2, Job Corps Student Records.

Initial determinations concerning access, amendment or correction of this government-wide system of records shall be made by screening contractors, Job Corps Center Directors, Job Corps National or Regional Offices. Administrative appeals shall be referred to the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Special California Earthquake Co-operative Agreement

The San Francisco, California Regional Office of the Department of Labor's Office of Assistant Secretary for Administration and Management (OASAM), Region IX of OASAM, has entered into a reciprocal agreement with the U.S. Internal Revenue Service's Office of the Regional Counsel located in San Francisco. The purpose of this reciprocal agreement is to provide each with an alternative off-site location to store computer data. This back-up storage capacity will mitigate damage if an earthquake ever occurs in the San Francisco area. This agreement is based upon the fact that the respective offices of the participants are located at opposite ends of the downtown San Francisco district and the ground structure of the two areas is substantially different.

Addresses to Which Requests May Be Directed

The addresses of the various component units of the Department as well as its regional offices are contained in the Appendix annexed to this document.

In addition, the following government agencies also have Government-wide Systems of Records:

Government-Wide Systems

EEOC/GOVT–/–1—Equal Employment Opportunity Complaint Records and Appeal Records
FEMA/GOVT–1—National Defense Executive Reserve System
GSA/GOVT–2—Employment Under Commercial Activities Contracts
GSA/GOVT–3—Travel Charge Card Program
GSA/GOVT–4—Contracted Travel Services Programs
MSPB/GOVT–1—Appeal and Case Records
OGE/GOVT–1—Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records
OGE/GOVT–2—Confidential Statements of Employment and Financial Interests
OPM/GOVT–1—General Personnel Records
OPM/GOVT–2—Employee Performance File System Records
OPM/GOVT–3—Adverse Actions and Actions Based on Unacceptable Performance
OPM/GOVT–4—[Reserved]
OPM/GOVT–5—Recruiting, Examining and Placement Records
OPM/GOVT–6—Personnel Research and Test Validation Records
OPM/GOVT–7—Applicant—Race, Sex, National Origin and Disability Status Records
OPM/GOVT–8—[Reserved]
OPM/GOVT–9—Position Classification Appeals, Job Grading Appeals, and Retained Grade or Pay
OPM/GOVT–10—Employee Medical File System Records

## DOL/GOVT–1

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.

**SECURITY CLASSIFICATION:**

Most files and data are unclassified. Files and data in certain cases have Top Secret classification, but the rules concerning their maintenance and disclosure are determined by the agency, which has given the information the security classification of Top Secret.

**SYSTEM LOCATION:**

The central database for DOL/GOVT–1 is located at SUNGUARD, 600 Laurel Oak Road, Voorhees, New Jersey, 08043. Paper claim files and local databases are located at the various OWCP district offices, and in Kansas City (for imaged cases only); claim files of employees of the Central Intelligence Agency are located at that agency. Records from this system of records may be temporarily located in the office of health care providers and other individuals or entities with whom the Department contracts for such services as examination or evaluation of claimants. Copies of claim forms and other documents arising out of a job-related injury that resulted in the filing of a claim under the Federal Employees' Compensation Act (FECA), may also be maintained by the employing agency (and where the forms were transmitted to the Office of Workers' Compensation Programs (OWCP) electronically, the original forms are maintained by the employing agency). In addition, records relating to third-party claims of FECA beneficiaries are maintained in the Division of Employee Benefits, Office of the Solicitor, United States Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210–0002, in the offices of the Regional and Associate Regional Solicitors, and in various offices of the United States Postal Service, which undertakes various duties relating to third party claims pursuant to an agreement with OWCP.

Pursuant to the Department of Labor's Flexiplace Programs, copies of records may be temporarily located at alternative worksites, including employees' homes or at geographically convenient satellite offices for part of the workweek. All appropriate safeguards will be taken at these sites.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals and/or their survivors who file claims seeking benefits under the FECA by reason of injuries sustained while in the performance of duty. The FECA applies to all civilian federal employees, including various classes of persons who provide or have provided personal service to the government of the United States, and to other persons as defined by law such as state or local law enforcement officers, and their survivors, who were injured or killed while assisting in the enforcement of federal law. In addition, the FECA covers employees of the Civil Air Patrol, Peace Corps Volunteers, Job Corps students, Volunteers in Service to America, members of the National Teacher Corps, certain student employees, members of the Reserve Officers Training Corps, certain former prisoners of war, and employees of particular commissions and other agencies.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system may contain the following kinds of records: reports of injury by the employee and/or employing agency; claim forms filed by or on behalf of injured federal employees or their survivors seeking benefits under the FECA; forms authorizing medical care and treatment; other medical records and reports; bills

and other payment records; compensation payment records; formal orders for or against the payment of benefits; transcripts of hearings conducted; and any other medical, employment, or personal information submitted or gathered in connection with the claim. The system may also contain information relating to dates of birth, marriage, divorce, and death; notes of telephone conversations conducted in connection with the claim; information relating to vocational and/or medical rehabilitation plans and progress reports; records relating to court proceedings, insurance, banking and employment; articles from newspapers and other publications; information relating to other benefits (financial and otherwise) the claimant may be entitled to; and information received from various investigative agencies concerning possible violations of Federal civil or criminal law.

The system may also contain consumer credit reports on individuals indebted to the United States, information relating to the debtor's assets, liabilities, income and expenses, personal financial statements, correspondence to and from the debtor, information relating to the location of the debtor, and other records and reports relating to the implementation of the Federal Claims Collection Act (as amended), including investigative reports or administrative review matters. Individual records listed here are included in a claim file only insofar as they may be pertinent or applicable to the employee or beneficiary.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 8101 *et seq.*, 20 CFR 1.1 *et seq.*

**PURPOSE(S):**

The FECA establishes the system for processing and adjudicating claims that federal employees and other covered individuals file with the Department of Labor's OWCP, seeking monetary, medical and similar benefits for injuries or deaths sustained while in the performance of duty. The records maintained in this system are created as a result of and are necessary to this process. The records provide information and verification about the individual's employment-related injury and the resulting disabilities and/or impairments, if any, on which decisions awarding or denying benefits provided under the FECA must be based.

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

In addition to those Department-wide routine uses set forth above in the General Prefatory Statement to this document, disclosure of information from this system of records may be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is both relevant and necessary and is compatible with the purpose for which the information was collected:

a. To any attorney or other representative of a FECA beneficiary for the purpose of assisting in a claim or litigation against a third party or parties potentially liable to pay damages as a result of the FECA beneficiary's FECA-covered injury and for the purpose of administering the provisions of sections 8131–8132 of the FECA. Any such third party, or a representative acting on that third party's behalf, may be provided information or documents concerning the existence of a record and the amount and nature of compensation paid to or on behalf of the FECA beneficiary for the purpose of assisting in the resolution of the claim or litigation against that party or administering the provisions of sections 8131–8132 of the FECA.

b. To federal agencies that employed the claimant at the time of the occurrence or recurrence of the injury or occupational illness in order to verify billing, to assist in administering the FECA, to answer questions about the status of the claim, to consider rehire, retention or other actions the agency may be required to take with regard to the claim or to permit the agency to evaluate its safety and health program. Disclosure to federal agencies, including the Department of Justice, may be made where OWCP determines that such disclosure is relevant and necessary for the purpose of providing assistance in regard to asserting a defense based upon the FECA's exclusive remedy provision to an administrative claim or to litigation filed under the Federal Tort Claims Act.

c. To other federal agencies, other government or private entities and to private-sector employers as part of rehabilitation and other return-to-work programs and services available through OWCP, where the entity is considering hiring the claimant or where otherwise necessary as part of that return-to-work effort.

d. To federal, state or private rehabilitation agencies and individuals to whom the claimant has been referred for evaluation of rehabilitation and possible reemployment.

e. To physicians, pharmacies, and other health care providers for their use in treating the claimant, in conducting an examination or preparing an evaluation on behalf of OWCP and for other purposes relating to the medical management of the claim, including evaluation of and payment for charges for medical and related services and supplies.

f. To medical insurance or health and welfare plans (or their designees) that cover the claimant in instances where OWCP had paid for treatment of a medical condition that is not compensable under the FECA, or where a medical insurance plan or health and welfare plan has paid for treatment of a medical condition that may be compensable under the FECA, for the purpose of resolving the appropriate source of payment in such circumstances.

g. To labor unions and other voluntary employee associations from whom the claimant has requested assistance for the purpose of providing such assistance to the claimant.

h. To a federal, state or local agency for the purpose of obtaining information relevant to a determination concerning initial or continuing eligibility for FECA benefits, and for a determination concerning whether benefits have been or are being properly paid, including whether dual benefits that are prohibited under any applicable federal or state statute are being paid; and for the purpose of utilizing salary offset and debt collection procedures, including those actions required by the Debt Collection Act of 1982, to collect debts arising as a result of overpayments of FECA compensation and debts otherwise related to the payment of FECA benefits.

i. To the Internal Revenue Service (IRS) for the purpose of obtaining taxpayer mailing addresses for the purposes of locating a taxpayer to collect, compromise, or write-off a federal claim against such taxpayer; and informing the IRS of the discharge of a debt owed by an individual. Records from this system of records may be disclosed to the IRS for the purpose of offsetting a federal claim from any income tax refund that may be due to the debtor.

j. To the Occupational Safety and Health Administration (OSHA) for the purpose of using injury reports filed by Federal agencies pursuant to the FECA to fulfill agency injury reporting requirements. Information in this system of records may be disclosed to OSHA by employing agencies as part of any MIS system established under OSHA regulations to monitor health and safety.

k. To contractors providing services to DOL or any other federal agency or any other individual or entity specified in any of these routine uses or in the

Department's General Prefatory Statement who require the data to perform the services that they have contracted to perform, provided that those services are consistent with the routine use for which the information was disclosed to the contracting entity. Should such a disclosure be made to the contractor, the individual or entity making such disclosure shall insure that the contractor complies fully with all Privacy Act provisions, including those prohibiting unlawful disclosure of such information.

l. To the Defense Manpower Data Center—Department of Defense and the United States Postal Service to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the United States under programs administered by the DOL in order to collect the debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, or by salary or administrative offset procedures.

m. To a credit bureau for the purpose of obtaining consumer credit reports identifying the assets, liabilities, expenses, and income of a debtor in order to ascertain the debtor's ability to repay a debt incurred under the FECA, to collect the debt, or to establish a payment schedule.

n. To consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt, the amount, status and history of overdue debts, the name and address, taxpayer identification (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, may be disclosed pursuant to 5 U.S.C. 552a(b)(12)

o. To a Member of Congress or to a Congressional staff member in response to an inquiry made by an individual seeking assistance who is the subject of the record being disclosed for the purpose of providing such assistance.

p. To individuals, and their attorneys and other representatives, and government agencies, seeking to enforce a legal obligation on behalf of such individual or agency, to pay alimony and/or child support for the purpose of enforcing such an obligation, pursuant to an order of a state or local court of competent jurisdiction, including Indian tribal courts, within any State, territory or possession of the United States, or the District of Columbia or to an order of a State agency authorized to issue income withholding notices pursuant to State or local law or pursuant to the requirements of section 666(b) of title 42, United States Code, or for the purpose of denying the existence of funds subject to such legal obligation.

**Note:** Disclosure of information contained in this system of records to the subject of the record, a person who is duly authorized to act on his or her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone or by electronic means. Disclosure over the telephone or by electronic means will only be done where the requestor provides appropriate identifying information. Telephonic or electronic disclosure of information is essential to permit efficient administration and adjudication of claims under the FECA. Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records may be disclosed to members and staff of the Employees' Compensation Appeals Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

The amount, status and history of overdue debts, the name and address, taxpayer identification (SSAN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, may be disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper case files are maintained in manual files, while security case files are in locked cabinets. Automated data, including case files that have been transformed into electronic form, are stored in computer discs or magnetic tapes, which are stored in cabinets. Microfiche is stored in cabinets.

**RETRIEVABILITY:**

Files and automated data are retrieved after identification by coded file number and/or Social Security Number which is cross-referenced to employee by name, employing establishment, and date and nature of injury. Since the electronic case management files were created in 1975, these electronic files are located in District Offices which have jurisdiction over the claim, and (as noted above under ''system location''), a complete central data base is maintained at the location of the contractor. Prior to 1975, a paper index file was maintained; these records were transferred to microfiche and are located in the national office.

**SAFEGUARDS:**

Files and automated data are maintained under supervision of OWCP personnel during normal working hours—only authorized personnel, with the appropriate password, may handle, retrieve, or disclose any information contained therein. Only personnel having an appropriate security clearance may handle or process security files. After normal working hours, security files are kept in locked cabinets. Access to electronic records is controlled by password or other user identification code.

**RETENTION AND DISPOSAL:**

All case files and automated data pertaining to a claim are destroyed 15 years after the case file has become inactive. Case files that have been scanned to create electronic copies are destroyed after the copies are verified. Automated data is retained in its most current form only, however, and as information is updated, outdated information is deleted. Some related financial records are retained only in electronic form, and destroyed 6 years and 3 months after creation or receipt.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director for Federal Employees' Compensation, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Room S–3229, Washington, DC 20210–0002.

**NOTIFICATION PROCEDURE:**

An individual wishing to inquire whether this system of records contains information about him/her may write or telephone the OWCP district office that services the state in which the individual resided or worked at the time he or she believes a claim was filed. In order for the record to be located, the individual must provide his or her full name, OWCP claim number (if known), date of injury (if known), and date of birth.

**RECORD ACCESS PROCEDURES:**

Any individual seeking access to non-exempt information about a case in which he/she is a party in interest may write or telephone the OWCP district office where the case is located, or the

systems manager, and arrangements will be made to provide review of the file. Access to copies of documents maintained by the employing agency may be secured by contacting that agency's designated disclosure officials.

**CONTESTING RECORD PROCEDURES:**

Specific materials in this system have been exempted from certain Privacy Act provisions regarding the amendment of records. The section of this notice entitled ''Systems Exempted From Certain Provisions of the Act,'' indicates the kind of materials exempted, and the reasons for exempting them. Any individual requesting amendment of non-exempt records should contact the appropriate OWCP district office, or the system manager. Individuals requesting amendment of records must comply with the Department's Privacy Act regulations at 29 CFR 71.1 and 71.9, and with the regulations found at 20 CFR 10.12 (1999).

**RECORD SOURCE CATEGORIES:**

Injured employees; beneficiaries; employing Federal agencies; other Federal agencies; physicians; hospitals; clinics; suppliers of health care products and services and their agents and representatives; educational institutions; attorneys; Members of Congress; OWCP field investigations; State governments; consumer credit reports; agency investigative reports; correspondence with the debtor including personal financial statements; records relating to hearings on the debt; and other DOL systems of records.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigative material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a, provided, however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of the material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/GOVT–2**

**SYSTEM NAME:**

Job Corps Student Records.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Screening contractors; Job Corps centers and operators (which includes contract and agency centers); Job Corps National Office; Job Corps Regional Offices; Federal Records Centers.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Job Corps applicants, students, and terminees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records contain information kept on the students, such as separate running accounts of the students' general biographical data; educational training, vocational training; counseling; recreational activities; dormitory logs; health (dental, medical, mental health, and drug testing records); administrative records covering data pertaining to enrollment allowances and allotments; leave records; Student Profile (ETA–640); and Center Standards Officer's disciplinary records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Subtitle C of Title I of the Workforce Investment Act of 1998, 29 U.S.C. 2881 *et seq.*

**PURPOSE(S):**

These records are maintained to ensure that all appropriate documents of the student's stay in Job Corps (covering application to placement and/or termination) are retained and are available to those officials who have a legitimate need for the information in performing their duties and to serve the interests and needs of the students in accordance with 29 U.S.C. 2881 *et seq.*

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

These records and information in these records may be used when relevant, necessary, and appropriate:

(1) To disclose photographs and student identities, with appropriate consent, to the news media, for the purpose of promoting the merits of the program.

(2) To disclose information, giving the summary of a student's academic and vocational achievement and general biographical information, to placement and welfare agencies, prospective employers, school or training institutions to assist in the employment of a student.

(3) To disclose information to State and Federal law enforcement agencies or other government investigators to assist them in locating a student and/or his or her family.

(4) To disclose information to appropriate Federal, State, and local agencies which have law enforcement jurisdiction over students (which includes probation or parole officers); and/or the property on which the center is located.

(5) To disclose all or any information to parents/guardians regarding students under the age of 18 for performance of parental rights and responsibilities.

(6) To disclose information to Job Corps health consultants; Job Corps Center Review Board members (in appropriate disciplinary cases); State, county, and local health services personnel; family planning agencies; and physicians (public or private) to whom a student is referred for diagnosis or to receive treatment to assure continuance of proper health care, or notification and contact tracking for communicable disease control.

(7) To disclose to State and local health departments all cases of infection or disease that are required to be reported to them in accordance with state and local laws. This disclosure shall be made by the Center Director.

**Note:** Center physicians shall deal with all cases of communicable diseases in accordance with Job Corps directives based on current recommendations of the Center for Disease Control of the Department of Health and Human Services.

(8) To disclose information to State and local health departments regarding infected persons who are unwilling to notify their contacts at the center for the purpose of enabling the counseling of contacts.

(9) To disclose information to medical laboratories necessary in identifying specimens for the purpose of testing.

(10) To disclose information to social service agencies in cases of a student's termination in order to provide services such as Medicaid, housing, finance, and placement.

(11) To disclose information to the Army Finance Center, Fort Benjamin Harrison, Indiana, to pay student allowances and maintain and dispose of their pay records.

(12) To disclose information to Federal, State, and local agencies and to community-based organizations for the operation of experimental, research, demonstration, and pilot projects authorized under sections 156, 171, or 172 of the Workforce Investment Act of 1998, 29 U.S.C. 2856, 2916, or 2917, except that in the case of a research project, the researcher shall guarantee to

protect the anonymity of all staff and students involved in any presentation of the results of such study.

(13) To disclose information to contractors and agencies that operate centers or have Outreach Admissions and Placement (OA&P) issues which demonstrate a legitimate need for the information to enable them to properly administer their responsibilities in the Job Corps program.

(14) To disclose to the Selective Service system names, social security number, date of birth, and address of students, to insure registration compliance for eligible applicants applying for Job Corps training benefits.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Students' files are maintained in locked file cabinets; files are maintained on magnetic tapes, computer data base, and discs; printouts from army terminals which include payroll statistical reports.

**RETRIEVABILITY:**

Records are retrieved by name, social security number, and date of student entry.

**SAFEGUARDS:**

Records are maintained in file folders during center use; health records are placed in sealed envelopes after termination; on magnetic tapes, computer data base, or discs; and are stored in locked filing cabinets with access to those whose official duties require access.

**RETENTION AND DISPOSAL:**

Job Corps centers will maintain records of terminated students for a period of 3 years unless custodianship is extended or terminated, for administrative reasons, by the regional office. Counseling records are retained on the Job Corps center for 6 months after student's termination, after which they are destroyed. After termination, a summary or copy of the counseling record is placed in the health record.

After 3 years, centers will retire the records to the appropriate Federal Records center. Students' records are subject to destruction 75 years from the birth date of the youngest student's record contained in a GSA records retirement box, with the disposal authority being NC 369–76–2, item 59. [Note: Centers will send a copy of the SF 135–135 A (transmittal and receipt form) to the appropriate Job Corps regional office, after they have received the accession number from the appropriate Federal Records Center. In the event of a student's death, the student's entire personnel record shall be sent to the U.S. Department of Labor Job Corps National Health Office within 10 days of date of student's death.]

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Job Corps, U.S. DOL/ETA, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Requests for access of terminated student's records are to be directed to the appropriate U.S. DOL Regional Job Corps Office, or to the System Manager at the above address. Requests for current records can be directed to the appropriate center director or screening contractor.

**RECORD ACCESS PROCEDURES:**

A request for access to a record from this system shall be made in writing to the System Manager or appropriate center director, Regional Job Corps Director, or screening contractor, in accordance with rules and regulations of the Privacy Act of 1974, as amended, with the envelope and the letter clearly marked ''Privacy Act Request'', and the record sufficiently described in the letter for identification.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in this system should direct their request to the System Manager listed above, or appropriate center director, Regional Job Corps Director, or screening contractor, stating clearly and concisely what information is contested, the reasons for contesting the information, and the proposed amendment to the information sought. Details required for records identification are: (a) Full Name(s) (*i.e.*, name during enrollment); (b) Center(s) where enrolled; and (d) Date enrolled.

**RECORD SOURCE CATEGORIES:**

Outreach/screening and placement contractors; Job Corps centers; Job Corps students; employment services; parole officers; State and local law enforcement agencies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OSEC–1

**SYSTEM NAME:**

Supervisor's/Team Leader's Records of Employees.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Immediate supervisor(s)/team leader(s) and two higher supervisory levels at all facilities of the Department, as well as the national and regional personnel offices. Emergency addressee information may be kept upon the supervisor's person when appropriate.

**Note:** Requests for a reasonable accommodation are made to supervisors. The Civil Rights Center may temporarily maintain a copy of such requests and of the medical documents submitted by the employee when the Public Health Service physician completes his or her review of the request.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current employees and employees who have retired or left the office within the last twelve months.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records related to individuals while employed by the Department and which contain such information as: record of employee/supervisor discussions, supervisor(s)/team leader(s) observations, supervisory copies of officially recommended actions, reports of FTS telephone usage containing call detail information, awards, disciplinary actions, emergency addressee information, flexiplace records, reports of on-the-job accidents, injuries, illnesses, correspondence from physicians, and training requests. The system also contains records relating to requests for reasonable accommodation, and/or leave, including medical documents submitted by employees, as well as reports and records by the Public Health Service physicians who have reviewed the accommodation requests.

The system also contains labor relations materials such as performance improvement plans (PIPs), reprimands, suspensions of less than 14 days, leave restrictions and related materials.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, 1302, 2951, 4118, Reorganization Plan 6 of 1950, and the Civil Service Reform Act of 1978. The Rehabilitation Act and the American Disabilities Awareness Act.

**PURPOSE(S):**

To maintain a file for the use of supervisor(s)/team leader(s) in performing their responsibilities and to support specific personnel actions on employees.

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

A. Selected information may be disclosed at appropriate stages of adjudication to the Merit Systems Protection Board, Office of the Special Counsel, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, arbitrators, or the courts for the purposes of satisfying requirements related to investigation of prohibited personnel practices, appeals, special studies investigations of alleged EEOC discrimination practices and unfair labor practices.

B. Records relating to a request for a reasonable accommodation may be referred to the Public Health Service (PHS) or other physicians for their review and evaluation of the request.

C. Data may be disclosed to medical providers for the purpose of evaluating sick leave absences based upon illness or injury.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual files.

RETRIEVABILITY:

By name of employee.

SAFEGUARDS:

Locked storage cabinets and desks. Access limited to officials/employees on a need to know basis.

RETENTION AND DISPOSAL:

Records are maintained on current employees. Records on former employees are kept for one year, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

All supervisor(s)/team leader(s) having responsibility for performance management plans, performance standards, or ratings.

NOTIFICATION PROCEDURE:

An individual may inquire whether the system contains a record pertaining to her/him by contacting the supervisor/team leader who completes his/her performance standards and rating.

RECORD ACCESS PROCEDURES:

A request for access will be addressed to the appropriate system manager listed above. Individuals must furnish their name in order for their records to be located and identified:

CONTESTING RECORD PROCEDURES:

A petition for amendments shall be addressed to the appropriate System Manager.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual, supervisor(s)/team leader(s), agency officials, medical providers and co-workers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

None.

## DOL/OASAM–4

SYSTEM NAME:

Safety and Health Information Management System (SHIMS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

1. Safety and Health Center, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 and

2. DOL regional offices.

3. A copy of the modified CA–1/CA–2 Form used by the Office of Workers' Compensation Programs (OWCP) may be reproduced and retained in the office of the supervisor who files the form.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employees and Job Corps students involved in occupationally related accidents, injuries and illnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of on-the-job accidents, injuries, and illnesses generated as a result of filing forms CA–1, CA–2, and CA–6.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 651 *et seq.*, 29 CFR Part 1960, 5 U.S.C. 7902, DOL Secretary's Order 5–95, Executive Order 12196.

PURPOSE(S):

This system is used (a) to provide an information source for compliance with the Occupational Safety and Health Act; (b) to provide a documented record of job related accidents, injuries, and illnesses for the purpose of measuring safety and health programs' effectiveness; (c) to provide summary data of accident, injury and illness information to Departmental agencies in a number of formats for analytical purposes in establishing programs to reduce or eliminate loss producing hazards or conditions; (d) to provide summary listings of individual cases to Departmental agencies to ensure that all work-related injury/illness cases are reported through the SHIMS; and (e) to use as a reference when adjudicating tort and employee claims.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer disks, and on hard copies filed in locked file cabinets.

RETRIEVABILITY:

Records are retrieved by claimant's last name, social security number, and employee category (DOL employee or Job Corps student).

SAFEGUARDS:

Records are maintained in locked storage equipment. Computer files are accessible only to authorized users through password/user ID system.

RETENTION AND DISPOSAL:

Records are maintained for five (5) years after each report is filed with the agency. Electronic copies are maintained for five (5) years and then downloaded onto a disk.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Safety and Health Center, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the systems manager, or the servicing regional office in which they are employed. Individuals must furnish in writing the following information for their records to be located and identified:

a. Full name
b. Date of birth
c. Signature

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records should contact the appropriate office (national/regional). Individuals must furnish the following information for their records to be located:

a. Full name
b. Date of birth

c. Signature

Individuals requesting access must also comply with the Privacy Act Regulations on verification of identity and access to records (5 CFR 297.201 and 297.203).

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request information about their records should contact in writing the systems manager. Individual must furnish the following information for their records to be located:

a. Full name

b. Signature

**RECORD SOURCE CATEGORIES:**

a. The employee (or someone acting on his/her behalf).

b. Witness (if any).

c. Employing agency (supervisor or comp specialist).

d. CA–1, CA–2, CA–6, forms used by OWCP.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OASAM–5

**SYSTEM NAME:**

Employee Assistance Program (EAP) Records.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

The Employee Assistance Program (EAP), headquartered in the Safety and Health Center, Office of the Assistant Secretary for Administration and Management (OASAM), U.S. Department of Labor (DOL), 200 Constitution Avenue, NW., Washington, DC 20210, and offices of designated EAP service providers located elsewhere in the Washington metropolitan area and Department's regions.

**Note:** DOL may elect to use, under an interagency agreement or other contractual arrangement, the counseling staff of another Federal, state, or local government, or private or community organization. This system *does* not cover EAP records of DOL employees (current or former) or their family members that are maintained by other Federal agencies.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

DOL employees or their family members, who have been assessed, referred for treatment/rehabilitation or otherwise counseled regarding alcohol or drug abuse or other emotional health issues by an EAP counselor responsible for providing services to DOL employees or their family members.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system include documentation of visits to counselors designated by the agency to provide EAP services (regardless of whether the counselors are employed by the Federal, state, or local government, or by a private sector or community organization); problem assessments; counseling; recommendations and/or referrals for treatment and/or rehabilitation; client cooperation with those recommendations and/or referrals; progress; and other notes or records of discussions held with the client made by the counselor. Additionally, records in this system may include documentation of the therapeutic or rehabilitative work performed by a private therapist or a therapist at a Federal, State, local government, or private organization. If the client was referred to the EAP by a supervisor due to work performance or conduct problems, the record may also contain information regarding such matters. When the client was referred to the EAP because of a positive drug test, required by DOL's drug-free workplace plan, the record will also contain information about such tests results.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 7901, 7904; 5 U.S.C. 7361–7362; 42 U.S.C. 290dd–3; 5 CFR part 792; 42 CFR part 2; and E.O. 12564.

**PURPOSE(S):**

These records are used to document the nature and extent of the client's problem; the counseling, recommendations and/or referrals for treatment and/or rehabilitation made by the EAP; and the extent of the client's participation in, and the results of treatment or rehabilitation in community or private sector programs; and any follow-up necessary.

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

a. DOL may elect to enter into interagency agreements or other contractual arrangements with other Federal agencies, private organizations or individuals for the purpose of providing EAP services for DOL employees and their family members. Relevant records will be disclosed to these providers.

b. Except where the records are covered by the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR part 2, records and information in these records may be:

(1) Disclosed to the Department of Justice when: (A) DOL or any component thereof; or (B) any employee of the agency in his or her official capacity; or (C) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the agency collected the records.

(2) Disclosed in a proceeding before a court or adjudicative body, when: (A) DOL or any component thereof; or (B) any employee of the agency in his or her official capacity; or (C) any employee of the agency in his or her individual capacity; or (D) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and that the use of such records is a purpose that is compatible with the purpose for which the agency collected the records.

c. Where the records are covered by the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR part 2, records and information in these records may be used:

(1) To disclose, in accordance with 42 CFR 2.51, patient identifying information to medical personnel who have a need for the information about a patient for the purpose of treating a condition which poses an immediate threat to health of any person and which requires immediate medical intervention.

(2) To disclose patient identifying information to medical personnel of the Food and Drug Administration (FDA) under the circumstances set forth in 42 U.S.C. 2.51(b) *et seq.*;

(3) To disclose patient information when authorized by an order of a court of competent jurisdiction in accordance with 42 CFR 2.61;

(4) To disclose information to a Federal, State or local law enforcement authority that is directly related to a patient's commission of a crime committed on the premises of the program or against any program personnel or to a threat to commit such a crime. (See 42 CFR 2.12(a)(5));

(5) To disclose information to State or local law enforcement authorities on incidents of suspected child abuse or neglect. (See 42 CFR 2.12(c)(6)).

(6) To disclose the fact of a minor's application for treatment to the minor's parent or guardian where State law requires parental consent. (See 42 CFR 2.14(c));

(7) To disclose to a minor's parent or guardian, facts relevant to reducing a

threat to the life or physical well being of any individual, if the minor lacks capacity for rational choice (See 42 CFR 2.14(d));

(8) To disclose to a Qualified Service Organization (QSO),in accordance with 42 CFR 2.12(c)(4), that information needed by the QSO to provide services to the program;

(9) To disclose patient identifying information for the purpose of conducting scientific research under the circumstances set forth in 42 CFR 2.52;

(10) To disclose patient identifying information for audit and evaluation purposes under the circumstance set forth in 42 CFR 2.53

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are maintained in file folders.

**RETRIEVABILITY:**

These records are retrieved by the name of the individual on whom they are maintained.

**SAFEGUARDS:**

These records are maintained in locked metal file cabinets labeled confidential with access strictly limited to personnel directly responsible for the management or operation of DOL's EAP. Such access and use must be in accordance with the provisions of the Privacy Act and 42 CFR part 2.

**RETENTION AND DISPOSAL:**

Records are maintained for three (3) years after the client's last contact with the EAP, or until any relevant litigation is resolved, or any periodic evaluation reports required by the U.S. Office of Personnel Management, DOL, or other authorities are completed. Records are destroyed by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Employee Assistance Program Administrator, Safety and Health Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

An individual wishing to inquire whether this system of records contains information about him/her should submit a written request to the system manager, stating that the request is being made pursuant to the Privacy Act, and including:

His/her full name, any former name, if applicable, home address, place and approximate dates when EAP services were received, date and place of birth, and signature.

**RECORD ACCESS PROCEDURES:**

Follow the same steps described above.

**CONTESTING RECORD PROCEDURES:**

Follow the same steps described above. In addition, the written request for an amendment should include the following:

a. The precise identification of the records to be amended;

b. The identification of the specific material to be deleted, added, or changed; and

c. A statement of reasons for the request, including all available material substantiating the request.

Requests for amendment of records should include the words Privacy Act Amendment Request on both the envelope and at the top of the request letter.

**RECORDS SOURCE CATEGORIES:**

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred to the EAP by a supervisor, the staff of the EAP, other therapists or organizations providing treatment and/or rehabilitation, and other sources whom the EAP believes may have information relevant to treatment of the individual.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OASAM–7

**SYSTEM NAME:**

Employee Medical File System Records (not job related).

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

For current employees, records are located in a health unit or dispensary of the Federal Occupational Health (FOH), U.S. Public Health Service, Department of Health and Human Services, or in a health unit or dispensary of another Federal or private sector entity which provides health services, under an interagency agreement or other contractual arrangement, to DOL employees. Medical records maintained by one of the latter entities may be considered the property of the entity providing care to the DOL employee; however, records maintained by FOH are considered the property of DOL.

For former employees, most records will be located in an Employee Medical Folder (EMF) stored at the National Personnel Records Center operated by the National Archives and Records Administration (NARA). Agencies may retain some records on former employees for a limited time.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals covered are those of the following who have received voluntary employee health services provided by the agency under the authority of 5 U.S.C. 7901:

a. Current and former DOL employees as defined in 5 U.S.C. 2105.

b. DOL contract employees and other visitors (including minors and employees of other Federal agencies) who may have received emergency care from the health unit or dispensary.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system is comprised of records developed as a result of the provision of voluntary employee health services offered by the agency under the authority of 5 U.S.C. 7901. These records contain the following information:

a. Medical history and other biographical data on those employees requesting voluntary periodic health examinations.

b. Test reports and medical diagnoses based on voluntary periodic health examinations or voluntary health screening program tests (tests for single medical conditions or diseases).

c. History of complaint, diagnosis, and treatment of injuries and illnesses cared for by the health unit or dispensary.

d. Vaccination records.

**Note:** Listed below are other types of medical records which are *not* covered by this system of records. Rather, they are covered by a government-wide system of records (OPM/GOVT–10), which is managed by the U.S. Office of Personnel Management (OPM), even though the records are not in OPM's physical custody. The routine uses of such records are defined in the Privacy Act Notice for OPM/GOVT–10. Such records include:

(1). Medical records, forms, and reports completed or obtained when an individual applies for a Federal job and is subsequently employed;

(2). Medical records, forms and reports completed during employment as a condition of employment, either by the employing agency or by another State or local government entity, or a private sector entity under contract to the employing agency;

(3). Records pertaining to and resulting from the testing of the employee for use of illegal drugs under Executive Order 12564. Such records

may be retained by the agency (e.g., by the agency Medical Review Official) or by a contractor laboratory. This includes records of negative results, confirmed or unconfirmed positive test results, and documents related to the reasons for testing or other aspects of test results;

(4). Reports of on-the-job injuries and medical records, forms, and reports generated as a result of the filing of a claim for Workers Compensation, whether the claim is accepted or not. (The official compensation claim file is not covered by the OPM system; rather, it is part of DOL's Office of Workers Compensation Program (OWCP) system of records.)

(5). All other medical records, forms, and reports created on an employee during his/her period of employment, including any retained on a temporary basis and those designated for long-term retention (i.e., those retained for the entire duration of Federal service and for some period of time after), except that, records maintained by an agency dispensary are included in this system of records only when they are the result of a condition of employment or related to an on-the-job occurrence including, for example, records of the specialized health services made available to investigative personnel of the Wage-Hour Division, under interagency agreement between PHS and DOL s Employment Standards Administration.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 7901 *et seq.*, 5 CFR 293, and 5 CFR 297.

**PURPOSE(S):**

These records document the utilization and provision of voluntary employee health services authorized by 5 U.S.C. 7901.

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

The records and information in this system of records may be used as follows:

a. Disclosed to the Department of Justice when: (1) DOL or any component thereof; or (2) any employee of the agency in his or her official capacity; or (3) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the agency collected the records.

b. Disclosed in a proceeding before a court or adjudicative body, when: (1) DOL or any component thereof; or (2) any employee of the agency in his or her official capacity; or (3) any employee of the agency in his or her individual capacity; or (4) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and that the use of such records is a purpose that is compatible with the purpose for which the agency collected the records.

c. Used to refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency, concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition.

d. Disclosed to the appropriate Federal, State, or local agency responsible for investigation of an accident, communicable disease, medical condition, or injury as required by pertinent legal authority.

e. Disclosed to the OWCP information in connection with a claim for benefits filed by an employee.

f. Disclosed to contractors providing medical or health counseling services to Department of Labor employees when such contractors have a need for the information in connection with their services. This would include medical or health personnel and employee assistance program (EAP) counselors.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are stored in manual file folders.

**RETRIEVABILITY:**

These records are retrieved by the name of the individual to whom they pertain.

**SAFEGUARDS:**

Records are maintained in a locked file cabinet with access limited to personnel directly responsible for the management or operation of DOL's voluntary health services program. Such access and use must be in accordance with the provisions of the Privacy Act.

**RETENTION AND DISPOSAL:**

Records covered under OPM/GOVT–10 are retained and disposed of as required by that system. Records covered by this system are destroyed six (6) years after the date of last entry.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Safety and Health Center, Office of the Assistant Secretary for Administration and Management (OASAM), U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

a. An individual wishing to inquire whether this system of records contains information about him/her should submit a written request to the appropriate DOL system manager, stating that the request is being made pursuant to the Privacy Act, and including: His/her full name, any former name, if applicable, home address, current or last place and dates of DOL employment, date and place of birth, and signature.

b. An applicant for DOL employment or a current DOL employee wishing to inquire whether OPM's government-wide system of records contains information about him/her should initially submit a written request, as above, to the appropriate DOL system manager.

**Note:** OPM retains authority under its record management authority and under the Privacy Act to decide appeals of initial agency determinations regarding access to and amendment of material in these systems.

c. A former employee wishing to inquire whether OPM's government-wide system of records contains information about him/her should initially submit a written request, as outlined above, to the Assistant Director for Workforce and Information Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

**RECORD ACCESS PROCEDURES:**

*Follow the steps described above. Note:* When a request for access involves medical or psychological records, the system manager may advise the requester that the material will be provided only to a physician designated by the subject. Upon receipt of the designation and upon verification of the physicians identity, the records will be made available to the physician, who will have full authority to disclose those records to the subject when appropriate.

**CONTESTING RECORD PROCEDURES:**

Follow the steps described above. In addition, the written request for an amendment should include the following:

The precise identification of the records to be amended; the

identification of the specific material to be deleted, added, or changed; and a statement of the reasons for the request, including all available material substantiating the request. Requests for amendment of records should include the words ''Privacy Act Amendment Request'' on both the envelope and at the top of the request letter.

**RECORD SOURCE CATEGORIES:**

a. The individual to whom the information pertains.
b. Laboratory reports and test results.
c. Medical staff working in the health unit or dispensary who have examined, tested, or treated the individual.
d. The individual's co-workers or supervisors.
e. The individual's personal physician.
f. Other Federal employee health units.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OASAM–12

**SYSTEM NAME:**

Administrative Grievance Records.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

1. Human Resources Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; National and Regional Personnel Offices;
2. Office of the Solicitor, Washington, DC, and Regional Offices of the Solicitor.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current or former DOL employees who have filed grievances, under DOL's administrative grievance procedure in accordance with 5 CFR part 771 and DOL's implementing regulation.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains records relating to grievances filed by DOL employees under administrative grievance procedures and in accordance with 5 CFR part 771 and DOL's implementing regulation. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, fact-finder's findings and recommendations, a copy of the original decision, and related correspondence and exhibits. This system does not include files and records of any grievance filed under negotiated procedures with recognized labor organizations.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 CFR part 771.

**PURPOSE(S):**

The records are used to process grievances submitted by bargaining-unit employees for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

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

These records and information in these records may be used:
a. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.
b. To disclose information to officials of the Merit System Protection Board or the Office of Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of DOL rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as may be authorized by law.
c. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices or examination of affirmative employment programs.
d. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Not applicable.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual file.

**RETRIEVABILITY:**

These records are retrieved by the names of the individuals on whom they are maintained.

**SAFEGUARDS:**

Locked storage equipment.

**RETENTION AND DISPOSAL:**

These records are disposed of 4 years after the closing of the case.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Labor Management Relations Center, Human Resources Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals submitting grievances should be provided a copy of the record under the grievance process. They may, however, contact the personnel office where the action was processed, regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:
a. Name;
b. Approximate date of closing of the case and kind of action taken, and
c. Organizational component involved.

**RECORD ACCESS PROCEDURE:**

See Notification Procedure above.

**CONTESTING RECORD PROCEDURE:**

Contact the personnel office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified:
a. Name;
b. Approximate date of closing of the case and kind of action taken; and
c. Organizational component involved.

**RECORDS SOURCE CATEGORIES:**

Information in this system of records is provided by the following:
a. The individual on whom the record is maintained.
b. Testimony of witnesses.
c. Investigative and other employment records.
d. Decisions by Agency Officials.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Not applicable.

## DOL/OASAM–17

**SYSTEM NAME:**

Equal Employment Opportunity Complaint Files.

**Note:** Records in this system are covered in conjunction with EEOC's government-wide system EEOC/GOVT–1.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Civil Rights Center, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. The Civil Rights Center maintains the primary system of records. However, Regional Civil Rights Offices maintain copies of complete or partial

investigative reports and correspondence files, as well as settlement agreements and informal complaint forms. A portion of these complaint files are forwarded to and maintained in the Office of the Administrative Review Board (ARB).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals, classes of individuals, or representatives designated to act on behalf of employees, former employees, or applicants of the Department who have consulted with an EEO Counselor and/or who have filed a formal complaint alleging discrimination on the basis of race, color, religion, sex, national origin, disability, age, and/or any basis covered by Executive Order 11478, as amended, because of a determination, decision, action, or the non-action administered against them by a departmental official, and individuals alleging reprisal for having previously participated in the EEO process.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information and/or documents pertaining to pre-complaint processing, informal resolutions, formal allegations of discrimination, and investigations of complaints of discrimination. These records contain complainants' names, addresses, job titles and descriptions, dates of employment; agencies involved; counselor's reports; initial and supplemental allegations; letters and notices to individuals and organizations involved in the processing of the complaint; materials placed into the record to support or refute the alleged decisions; determination or actions taken; statements of witnesses; related correspondence; investigative reports, instructions on actions to be taken in order to comply with the provisions of a decision, opinions, recommendations, settlement agreements, proposed and final decisions.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 11478, as amended; Secretary's Order 2–81 and 3–96; Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e; the Equal Pay Act, as amended, 29 U.S.C. 206(d); the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621; sections 501, 504 and 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791, 794(a) and 794(d); the Civil Service Reform Act of 1978, 5 U.S.C. 1101; and 29 CFR part 1614.

**PURPOSE(S):**

These records are used to process, investigate and resolve discrimination complaints within the Department.

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

The records in the complaint file are classified in three categories: Correspondence, investigative, and transcripts. Records that are relevant and necessary may be disclosed:

1. To the responding official (RO) consistent with the instructions in EEOC's Complaint Processing Manual which provides that during the investigative process the responding official shall have access to documents in the correspondence file and the investigative file in which the official is identified and charged with discrimination or other wrong-doing. Names of and identifying information on persons other than the complainant and the RO should be deleted from copies of the documents shown to the RO. If the Department issues a final decision on the complaint rejecting the complainant's allegations against the RO, the RO does not have access to the entire complaint file. If the Department's decision concludes or implies impropriety on the part of the RO, the entire complaint file, with names and identifying information deleted where appropriate, must be made available to the RO. If the Department takes or proposes adverse action or other disciplinary action against the RO, only the records upon which the decision is based, without deletions, must be made available for his or her review.

2. To Federal agencies with jurisdiction over a complaint, including the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, and the Federal Labor Relations Authority, for investigatory, conciliation or enforcement purposes.

3. To a physician or medical official for the purpose of evaluating medical documents in complaints of discrimination on the basis of disability.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in manual and automated files.

**RETRIEVABILITY:**

Manual files are indexed by complainant's name and by the office case number. Automated files are retrieved by: Office case number; complainant's name; fiscal year; current status of complaint; region code; issue code; basis code; agency code; class action; relief code; EOS identification; Investigator identification.

**SAFEGUARDS:**

Manual records are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Automated files are controlled by means of identification numbers and passwords known only to the employees of the Civil Rights Center who are authorized to have access to such files.

**RETENTION AND DISPOSAL:**

Records are retained for a period of four years after the final disposition of a complaint, and then destroyed. An alphabetical record is kept of open complaints by name of the complainant, giving the basis of the complaint, the matter giving rise to the complaint, and the disposition.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Civil Rights Center, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals or organizations designated to act on behalf of individuals may write the system manager indicated above regarding the existence of records pertaining to them pursuant to 29 CFR 71.2. The inquirers should provide, as appropriate, their full name, the name of the employing agency and/or the agency in which the situation arose, if different than the employing agency, approximate date of filing complaint, region of complaint, complaint case number, the kind(s) of action(s) taken against them, and a notarized signature, or a notarized letter of consent when a person requests access on behalf of the individual who is the subject of the file.

**RECORD ACCESS PROCEDURES:**

Individuals or organizations designated to act on behalf of an individual wishing to gain access to records covered by the Privacy Act, shall follow the guidelines prescribed by 29 CFR part 71, summarized here under ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest information in their files may, pursuant to 29 CFR 71.9, shall write the system manager at the specified address above, reasonably identifying the record pertaining to them, the information which is being contested in that record,

the corrective action(s) being sought, and the reasons for the correction(s).

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; official documents relating to the processing of a complaint, the informal and formal allegations, appeals of departmental decisions; and respondent agency officials, employees, and other witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption provided by 5 U.S.C. 552a(k) (2), this system of records is exempted from the following provisions of the Privacy Act: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f). Information from the complaint file may be denied in anticipation of a civil action or proceeding, in instances where premature release of documents could hamper the decision-making process, where the release of personal information about another employee may result in an invasion of personal privacy, and where release of confidential statements could lead to intimidation or harassment of witnesses and impair future investigations by making it more difficult to collect similar information. Personal information about other employees that are contained in the complainant's file because of its use as comparative data such as: Medical records, place and date of birth, age, martial status, home address and telephone numbers, the substance of promotion recommendations, supervisory assessments of professional conduct and ability, may be denied to the subject when it could cause embarrassment and/or harassment to the other employees.

## DOL/OASAM–19

SYSTEM NAME:

Negotiated Grievance Procedure and Unfair Labor Practice Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A. Offices in Washington, DC: Labor Management Relations Center, Human Resources Center (OASAM) and;

B. OASAM Regional Personnel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employees who have filed grievances under negotiated grievance procedures, and DOL employees who have filed unfair labor practices charges against the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a variety of records relating to an employee grievance filed under procedures established by labor-management negotiations and unfair labor practice charges filed under the Federal Service Labor-Management Relations Statute. The Records may include information such as: Employee's name, grade, job title, employment history, arbitrator's decision or report, record of appeal to the Federal Labor Relations Authority, and a variety of employment and personnel records associated with the grievance or charge.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7121 for grievances, 5 U.S. 7116 for unfair labor practices, Federal Service Labor-Management Relations Statute and related amendments of 5 U.S.C. 5596(b) for back pay.

PURPOSE(S):

These records are used to process an employee's grievance filed under a negotiated grievance procedure or an unfair labor practice charge filed by an employee or union.

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

These records and information in these records that are relevant and necessary may be used:

a. To disclose information to officials of the Merit System Protection Board or the Office of Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of DOL rules and regulations, investigations or alleged or possible prohibited personnel practices, and such other functions as may be authorized by law.

b. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices or examination of affirmative employment programs.

c. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

d. To disclose information to the union when requested in connection with the union's representation of the DOL employee who has filed the grievance or unfair labor practice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual file.

RETRIEVABILITY:

By name and/or case file number.

SAFEGUARDS:

Locked room.

RETENTION AND DISPOSAL:

Records are destroyed 4 years after the closing of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Labor-Management Relations, Human Resources Center, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Contact system manager at above address.

RECORD ACCESS PROCEDURE:

Contact system manager at above address.

CONTESTING RECORD PROCEDURE:

Contact system manager at above address.

RECORD SOURCE CATEGORIES:

Individual employees who have filed grievances and charges, employee/supervisor interviews, investigative and employment records, and findings of arbitrators and other tribunals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption provided by 5 U.S.C. 552a(k)(2), this system of records is exempted from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), and (e)(4)(G), (H), (I) & (f). Information from the case file may be denied in anticipation of a civil action or proceeding, in instances where premature release of documents could hamper the decision-making process, where the release of personal information about another employee may result in an invasion of personal privacy, and where release of confidential statements could lead to intimidation or harassment of witnesses and impair future investigations by making it more difficult to collect similar information. Personal information about other employees that is contained in the grievant's or charging party's file because of its use as comparative data such as: medical records, place and date of birth, age, marital status, home address and telephone numbers, the substance of

promotion recommendations, supervisory assessments of professional conduct and ability, may be denied to the subject when it could cause embarrassment and/or harassment to the other employees.

**DOL/OASAM–20**

**SYSTEM NAME:**

Personnel Investigation Records.

**SECURITY CLASSIFICATION:**

None for the system. However, items or records within the system may have national defense/foreign policy classifications up through secret.

**SYSTEM LOCATION:**

Assistant Director, Executive Resources and Personnel Security Team (OASAM), U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

a. Current and former employees or applicants for employment in the Department.

b. Individuals considered for access to classified information or restricted areas and/or security determinations as contractors, experts, instructors, and consultants to Departmental programs.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Investigative files and investigative index card files which pertain to clearance investigations for Federal employment. These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for violations against the law; reports of interviews with present and former supervisors, coworkers, associates, educators, etc; reports about the qualifications of an individual for a specific position and files and index cards relating to adjudication matters; reports of inquiries with law enforcement agencies, employers, educational institutions attended; reports or action after OPM or FBI Section 8(d) Full Field Investigation; Notices of Security Investigation; and other information developed from above.

**Note:** This system does not apply to records of a personnel investigative nature that are part of the Office of Personnel Management's (OPM) Privacy Act System OPM/CENTRAL–9, Personnel Investigation Records. Access to or amendment of such records must be obtained from OPM.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 10450.

**PURPOSE(S):**

The purposes of this systems are:

a. To provide investigatory information for determination concerning compliance with Federal personnel regulations and for individual personnel determinations including suitability and fitness for Federal employment, access and security clearances, evaluations of qualifications, loyalty to the U.S. and evaluations of qualifications and suitability for performance of contractual services for the U.S. Government.

b. To document such determinations;

c. To provide information necessary for the scheduling and conduct of the required investigations;

d. To otherwise comply with mandates and Executive Order; and

These records may also be used to locate individuals for personnel research.

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

These records and information in these records may be used in disclosing relevant and necessary information:

a. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, when such agency, office, or establishment conducts an investigation of the individual for the purpose of granting a security clearance, or for the purpose of making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas.

b. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, having the responsibility to grant clearances to make a determination regarding access to classified information or restricted areas, or to evaluate qualifications, suitability, or loyalty to the United States Government, in connection with performance of a service to the Federal Government under a contract or other agreement.

c. To the intelligence agencies of the Department of Defense, the National Security Agency, the Central Intelligence Agency, and the Federal Bureau of Investigation for use in intelligence activities.

d. To Federal agencies as a data source for management information through the production of summary descriptive statistics and analytical studies in support of the functions for maintained or for related studies.

e. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

f. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guideline Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

g. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Not applicable.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in file folders and on index cards.

**RETRIEVABILITY:**

Records are retrieved by the name of the individual on whom they are maintained.

**SAFEGUARDS:**

Folders are maintained in file cabinets secured by three position combination locks. The index to the system and those records which are maintained on index cards are contained in covered and locked Wheeldex machines. All employees are required to have an appropriate security clearance before they are allowed access to the records.

**RETENTION AND DISPOSAL:**

a. Index cards which show the scheduling or completion of an investigation, and investigative files, if any, are retained for 2 years, plus the current year from the date of the most recent investigative activity. Other

index cards which show no investigative record other than the completion of a clear National Agency Check or a clear National Agency Check Inquiry, and where no investigative file folder exists, are retained for two years plus the current year.

b. Reports of action after OPM or FBI section 8(d) background investigation are retained for the life of the investigative file.

c. Notices of Security Investigations are retained for 20 years.

All records are destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Services Center, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager in writing. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Date of birth

c. Signature

d. Any available information regarding the type of record involved.

e. The category of covered individuals under which the requester believes he or she fits.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the system manager in writing. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Date of birth

c. Signature

d. Any available information regarding the type of record involved.

e. The category of covered individuals under which the requester believes he or she fits.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their non-exempt records should contact the system manager in writing. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Date of birth

c. Signature

d. Any available information regarding the type of record involved.

e. The category of covered individuals under which the requester believes he or she fits.

RECORD SOURCE CATEGORIES:

Information contained in the system was obtained from the following categories of sources:

a. Applications and other personnel and security forms furnished by the individual;

b. Investigative and other record material furnished by Federal agencies;

c. Notices of personnel actions furnished by Federal agencies;

d. By personal investigation or written inquiry from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system may contain the following types of information:

a. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about would:

1. Reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be in confidence; or

2. Reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

b. For all the above reasons the Department hereby exempts this system from the following provisions of the Privacy Act: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f).

**DOL/OASAM–22**

SYSTEM NAME:

Civil Rights Center Discrimination Complaint Case Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Civil Rights Center, OASAM, U.S. Department of Labor, Constitution Avenue, NW., Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, classes of individuals, or representatives designated to act on behave of individuals filing complaints against recipients of DOL financial assistance, DOL conducted programs, or State or local governments that exercise responsibilities, regulate, or administer services, programs, or activities in all programs, services, and regulatory activities relating to labor and the workforce alleging discrimination on the basis of race, color, national origin, age, disability, sex, religion, citizenship, political affiliation or belief, citizenship, participation in a Workforce Investment Act (WIA) Title-I program or activity, and/or any basis covered by Executive Order 13160, or retaliation for having filed a discrimination complaint, furnishing information, or assisting or participating in any manner in an investigation, hearing or any other activity related to the administration of Federal law requiring equal opportunity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complainants' statements of alleged discrimination, respondents' statements, witnesses' statements, names and addresses of complainants and respondents, personal, employment or program participation information, medical records, conciliation and settlement agreements, related correspondence, initial and final determinations, other records related to investigations of discrimination complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d to 2000d–4; secs. 504 and 508(d) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794(a) and 794(d); the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681; sec. 645–255 of the Social Security Act, 42 U.S.C. 603(a)(5); sec. 167 of the Job Training Partnership Act, as amended, 29 U.S.C. 1577; sec. 188 of the Workforce Investment Act of 1998; 29 U.S.C. 2938, the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*; Executive Order 13160; Secretary's Order 4–2000; 29 CFR parts 31, 32, 33, 34, 36 and 37, and 28 CFR part 35.

PURPOSE(S):

To maintain records on individuals who have filed a complaint with, or to investigate and resolve discrimination complaints filed with the Department of Labor against (1) recipients of financial assistance from the Department, (2) Department of Labor conducted programs or activities and (3) components of State and local

governments that exercise responsibilities, regulate, or administer services, programs, or activities in all programs, services, and regulatory activities relating to labor and the workforce.

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

Records that are relevant and necessary may be disclosed:

a. To the Equal Employment Opportunity Commission, Department of Justice, Federal Mediation and Conciliation Service, when relevant to matters within the jurisdiction of those agencies over a complaint, for investigatory, conciliation, enforcement, or litigation purposes.

b. To organizations which are recipients of Federal financial assistance and against whom complaints in an administrative or judicial proceeding are filed to the extent necessary to effectively represent themselves, provided that the privacy of persons not a party to the dispute is protected.

c. To the Equal Employment Opportunity Commission, the Department of Justice, the Department of Health and Human Services, and other Federal entities having responsibility for processing and resolving complaints, coordinating civil rights activities and/or preparing reports to Congress under authorities indicated in this particular notice.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are maintained in manual and automated files.

**RETRIEVABILITY:**

These records are retrieved by various combinations of office case numbers, complainant's name, fiscal year, current status of complaint, state, basis code, and program code.

**SAFEGUARDS:**

Manual records are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Automated files are controlled by means of identification numbers and passwords.

**RETENTION AND DISPOSAL:**

Manual records are retained for a period of three years after the final disposition of a complaint. They are then retired to the Federal Records Center for two additional years, and then destroyed. Complaints are maintained in the automated file for two years, after which they are stored on disc or tape for three additional years and then destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Civil Rights Center, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Pursuant to 29 CFR part 71 individuals requesting information or assistance, or making inquiries regarding the existence of records pertaining to them should write the system manager at the address above. Inquiries should include the name of the inquirer, complaint case number, approximate date of filing, if the case number is unknown, name of respondent, last known status of the complaint, and signature. When a request is submitted by mail, the signature of the requester shall be notarized.

**RECORD ACCESS PROCEDURES:**

An individual or organization representing an individual(s), wishing to gain access to these records shall follow the guidelines set forth under notification procedures summarized above and Departmental regulations at 29 CFR part 71.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest information in their files may, pursuant to 29 CFR part 71, write the system manager at the specified address above, reasonably identifying the record pertaining to them, the information which is being contested in that record, the corrective action(s) being sought, and the reason(s) for the correction(s).

**RECORD SOURCE CATEGORIES:**

Individual complainants; respondent officials, employees, and witnesses; interrogatories; recipient files and records; and physicians' and other medical service providers' records.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISION OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/OASAM–23**

**SYSTEM NAME:**

Travel Management Center.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

This system of records is located in the travel agency under contract with this Department and in the administrative offices of Department of Labor component agencies.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals for whom travel is being arranged by the contractor.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records include traveler's profile which contains name of individual, social security number, home and office telephones, agency's name, address, and telephone number, air travel preference, rental car identification number and preference of car, hotel preference, current passport and/or visa number, personal credit card numbers, and additional information; travel authorization and monthly reports from travel agent(s) showing charges to individuals, balances, and other types of account analyses.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 711; interpret or apply 31 U.S.C. 3511, 3512, and 3523.

**PURPOSE(S):**

To assemble in one system information to enable travel agents who are under contract to the Federal Government to issue and account for travel provided to individuals.

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

In addition to the routine uses listed in the general prefatory statement:

a. To disclose information to a credit card company for billing purposes.

b. To disclose information to a Federal agency for accumulating reporting data and monitoring the system.

c. To disclose information to the agency by the contractor in the form of

itemized statements of invoices, and reports of all transactions including refunds and adjustments to enable audits of charges to the Government.

d. To disclose credit card information, phone numbers, addresses, etc., to airlines, hotels, car rentals companies and other travel affiliated companies for the purpose of serving the client.

e. To disclose personal credit card information to hotels and car rental companies for the purpose of guaranteeing reservations.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file cabinets. Computer records within a computer and attached equipment.

**RETRIEVABILITY:**

By name and/or social security number of traveler.

**SAFEGUARDS:**

Records stored in lockable file cabinets or secured rooms. Computerized records protected by password system and electronic signaturing. Information released only to authorized officials on a need-to-know basis.

**RETENTION AND DISPOSAL:**

Records kept by the Department and/or the travel agency are held for 3 years and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Budget, Office of the Assistant Secretary for Administration and Management, Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries should be mailed or presented to the system manager noted at the address listed above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager at the address listed above.

**CONTESTING RECORD PROCEDURES:**

A petition for amendment shall be addressed to the System Manager.

**RECORD SOURCE CATEGORIES:**

Individual, employees, travel authorization, credit card companies.

**EXEMPTION FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OASAM–24

**SYSTEM NAME:**

Privacy Act/Freedom of Information Act Requests File System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

A. Departmental Offices in Washington, DC

B. Regional offices of the Department.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have submitted Privacy Act and Freedom Of Information Act requests under (5 U.S.C. 552a and 552).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains initial requests under the Acts, responses, and related documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Privacy Act of 1974 (5 U.S.C. 552a); the Freedom of Information Act (5 U.S.C. 552); and 5 U.S.C. 301).

**PURPOSE(S):**

This system of records is maintained for various reasons as follows:

a. To process individuals' requests made under the Privacy Act and the Freedom of Information Act.

b. To provide a record of communications between the requester and the agency.

c. To ensure that all relevant, necessary and accurate data are available to support any process for appeal.

d. To provide a legal document to support any process for appeal.

e. To prepare the annual reports to OMB and Congress as required by the Privacy and Freedom of Information Acts.

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

These records, and information in these records, may be used:

a. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

b. To disclose information to Federal agencies (e.g., Department of Justice) in order to obtain advice and recommendation concerning matters on which the agency has specialized experience or particular competence, for use in making required determinations under the Freedom of Information Act or the Privacy Act of 1974.

c. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), where necessary to obtain information relevant to a decision concerning a Privacy Act, Freedom of Information Act request.

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

e. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

f. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulation, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

g. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination complaints in the Federal sector, examination of Federal Affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. l of 1978.

h. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are maintained in file folders.

**RETRIEVABILITY:**

These records are retrieved by name of individual making request and by date of request.

**SAFEGUARDS:**

These records are located in lockable metal filing cabinets with access limited to personnel whose duties require access.

**RETENTION AND DISPOSAL:**

Destroyed two years after response date if no denial was involved. Destroyed five years after response date if denial of records was involved. If there is an appeal to the Solicitor of Labor, the records are destroyed six years after final agency determination or 3 years after final court adjudication, whichever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

Head of agencies or component units within the Department who have custody of the records. (See the appropriate Agency Official in the listing in the Appendix to this document.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the appropriate office or region where their original Privacy Act or Freedom of Information Act request was sent, or where they received responses to such requests.

**RECORD ACCESS PROCEDURE:**

A request for access shall be addressed to each facility to which the requester has submitted a Freedom of Information Act or Privacy Act request.

**Note:** Individuals must furnish the following information for their records to be located and identified:

a. Name

b. Approximate dates of Privacy Act/FOIA Act correspondence between the Department of Labor and the individual.

**CONTESTING RECORD PROCEDURES:**

A petition for amendment shall be addressed to the System Manager listed above.

**RECORD SOURCE CATEGORIES:**

Information in this system of records comes from: The individual requester; official documents, agency officials, and other Federal agencies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Department of Labor has claimed exemptions from several of its other systems of records under 5 U.S.C. 552a(k) (1), (2), (3), (5), and (6). During the course of a PA/FOIA action, exempt materials from those other systems may become part of the case record in this system. To the extent that copies of exempt records from those other systems are entered into these PA/FOIA case records, the Department has claimed the same exemptions for the records as they have in the original primary system of records of which they are a part.

## DOL/OASAM–25

**SYSTEM NAME:**

Intergovernmental Personnel Act Assignment Records.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

A. In Washington, DC: OASAM, Human Resources Center

B. OASAM Regional Personnel Offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current or former State or local government agency or educational institution employees, employees of Indian tribal governments, or other organizations who have completed or are presently on an assignment in a DOL agency under the provisions of IPA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records consist of a copy of the individual's IPA agreement between a DOL agency and a State or local government, educational institution, Indian tribal government, or other organization; biographical and background information about the assignees.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Intergovernmental Personnel Act of 1970. (5 U.S.C. 3371 through 3376).

**PURPOSE(S):**

These records are maintained to document and track mobility assignments under IPA.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Not applicable.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in file folders.

**RETRIEVABILITY:**

By the name of the individual.

**SAFEGUARDS:**

Files are maintained in an area with limited access.

**RETENTION AND DISPOSAL:**

Records are retained for a period of three years following the completion of the assignment.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Human Resource Services Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wanting to inquire whether this system contains information about them should contact the servicing personnel office.

**RECORD ACCESS PROCEDURES:**

Contact the servicing personnel office.

**CONTESTING RECORD PROCEDURES:**

Contact the servicing personnel office.

**RECORDS SOURCE CATEGORIES:**

Information provided by the assignee and by officials in DOL agencies, State and local governments, educational institutions, Indian tribal governments and other organizations where the assignee is employed.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Not applicable.

## DOL/OASAM–26

**SYSTEM NAME:**

Frances Perkins Building Parking Management System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Facilities Management, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals assigned or applying for assignment of parking privileges in the Frances Perkins Building, Washington, DC.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system includes: name, office building and room number, office telephone number, employing agency, home address, federal service computation date, handicap certification, automobile license number, make and year of car, permit

numbers (if assigned parking privileges), category of assignment, and office location in/out of zone of special consideration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To maintain records on individuals who are assigned or applying for assignment of parking privileges in the Frances Perkins Building.

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

Disclosure of information may be made to other government agencies to compare names of car pool members. (For verification, the names of car pool members, their office telephone number and permit numbers will be displayed within the Frances Perkins Building.) Applications for disabled parking shall be disclosed to the PHS for medical review and approval. The names of car pool members, permit number, agency and office telephone numbers will be provided to the management contractor for the sale of permits.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files are stored in a local, three drawer file cabinet. Computer records are stored in a personal computer with a password control.

RETRIEVABILITY:

Records are filed and retrieved by name or permit number.

SAFEGUARDS:

Access to and use of these records is limited to personnel whose official duties require access. Automated data in personal computer are password protected. Written application data are placed in file cabinets.

RETENTION AND DISPOSAL:

Records are retained while the assignments are current and are destroyed after the completion of each parking reallocation cycle.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Facilities Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Access to these records may be obtained by request in writing to: Director, Office of Facilities Management, 200 Constitution Avenue, NW, Washington, DC 20210.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records should contact the appropriate office listed in the notification procedure section. Individuals must furnish the name or permit number for the record they wish to access.

CONTESTING RECORDS PROCEDURES:

Individuals wishing to request amendment of the records should contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORDS SOURCE CATEGORIES:

Information comes from the individuals to whom the information pertains. Also, other government agencies may provide information to the Department.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OASAM–27

SYSTEM NAME:

Employee/Contractor Identification Program.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management (OASAM), Business Operations Center (BOC), Administrative Services Center (ASC), Customer Service, 200 Constitution Avenue, NW, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual DOL employees and individual employees of contractors doing business with DOL.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records which contain individual identifiers plus a photographic image of DOL employees and DOL contract employees.

AUTHORITY OF MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To maintain records on the identification of persons to be rightfully admitted to DOL facilities.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

Automated records are stored on the hard drive of a computer and manual records are stored in a secure file cabinet.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

RETRIEVABILITY:

Records are retrieved by the employee's or contractor's last name or social security number and agency.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Customer Service, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above.

RECORD ACCESS PROCEDURE:

Individuals requesting access must comply with Privacy Act regulations on verification of identity and access to records. (See 29 CFR part 71.)

CONTESTING RECORD PROCEDURE:

Same as notification procedure above, except individuals desiring to contest or amend information maintained in the system should direct their written request to the system manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual DOL employees and individual employees of contractors doing business with DOL.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OASAM–28

SYSTEM NAME:

Incident Report/Restriction Notice.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management (OASAM), Business Operations Center (BOC), Office of Facilities Management (OFM), Division of Security, 200 Constitution Avenue NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Complainants, Witnesses and Suspects.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records which contain information on incidents that occurred in the Frances Perkins Building. Information includes name, agency and date of incident.

**AUTHORITY OF MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

Records provide a means of identifying security problems thereby making it possible to better utilize security resources.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:**

**STORAGE:**

Manual files in a cabinet housed in a secured room.

**RETENTION AND DISPOSAL:**

Records are maintained seven years, at which time they are destroyed.

**RETRIEVABILITY:**

Records are filed and retrieved by names.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Division of Security and Emergency Preparedness, U.S. Department of Labor, OASAM/ BOC/ OFM, 200 constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above.

**RECORD ACCESS PROCEDURE:**

Individuals wishing to request access to information about them should contact the system manager indicated above.

**CONTESTING RECORD PROCEDURE:**

Same as notification procedure above, except individuals desiring to contest or amend information maintained in the system should direct their written request to the system manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

**RECORD SOURCE CATEGORIES:**

Sources of information contained in this system are from individuals, DOL records, Federal Protective Service records and FBI records.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OASAM–29

**SYSTEM NAME:**

OASAM Employee Administrative Investigation File.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Offices within the Office of the Assistant Secretary for Administration and Management at the National Office and in each of the Regional Offices in addition to all OASAM client agencies in the National Office and in the regions.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

OASAM employees and the Business Operations Center client agency personnel against whom allegations of misconduct have been made.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Investigative report(s), sworn affidavits, written statements, time and attendance records, earnings and leave statements, applications for leave, notifications of personnel actions, travel vouchers, 171's, certificates of eligible, performance appraisals, interviews and other data gathered from involved parties and organizations which are associated with the case.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

To maintain records on investigations of allegations of misconduct.

**ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USERS:**

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are stored in file cabinets.

**RETRIEVABILITY:**

By name or case file number.

**SAFEGUARDS:**

Files are maintained in locked file cabinets with access only to those with a need to know the information to perform their duties.

**RETENTION AND DISPOSAL:**

Records are retained for four years following the date either: (a) They are referred to the OIG; (b) they are transferred to OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance; or (c) it is determined that the allegation was without sufficient merit to warrant further action, after which they are destroyed by burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Human Resources Services Center, 200 Constitution Avenue, NW., Washington, DC 20210, and appropriate Regional Personnel Officers.

**NOTIFICATION PROCEDURE:**

Inquiries should be mailed or presented to the system manager noted at the address listed above.

**RECORDS ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified: Name; approximate date of the investigation.

**CONTESTING RECORD PROCEDURES:**

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 29 CFR Part 71.

**RECORD SOURCE CATEGORIES:**

Hotline complaints through the Office of the Inspector General's hotline or through the General Accounting Office; incident reports submitted by employees or members of the general public; statements by subject and fellow

employees; and other investigative reports.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/OASAM–30

SYSTEM NAME:

Injury Compensation System (ICS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

A. Offices in Washington, DC: Safety and Health Center, OASAM, and

B. OASAM Regional Personnel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current/former employees of the Department of Labor and current/former Job Corps Center students who file, or who have filed on their behalf, workers' compensation claims for traumatic injury, occupational disease, recurrence of disability, and death.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information relating to a DOL employee's/Job Corps Center student's claim for compensation filed under procedures established by the Office of Worker's Compensation Programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Employees' Compensation Act, as amended (codified in 5 U.S.C. 8101 *et seq.*), and to related regulations in Title 20, Code of Federal Regulations (CFR), part 10; The Occupational Safety and Health Act of 1970 (Pub. L. 91–596), Executive Order 12196; Occupational Safety and Health Programs for Federal Employees, and 29 CFR part 1960.

PURPOSE(S):

The records are used as a reference, by agency officials, to track and monitor DOL employees and/or Job Corps Center students who receive continuation of pay and/or FECA compensation benefits.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual and automated files.

RETRIEVABILITY:

Manual files are indexed by agency/region. Automated files are retrieved by: Agency/region code, case number, claimant's name, fiscal year.

SAFEGUARDS:

Manual files are maintained in locked file cabinets under supervision of Office of Safety and Health personnel. Confidential passwords are required for access to automated records.

RETENTION AND DISPOSAL:

Records are maintained in the ICS system for 5 years.

SYSTEM MANAGER(S) ADDRESS:

Director, Office of Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Requests, including name, date of injury, agency name, and case file number, if known, should be addressed to the system manager listed above, at the office where the record is located.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name and address.

CONTESTING RECORD PROCEDURES:

Not applicable.

RECORD SOURCE CATEGORIES:

Records in this system contain information extracted from OWCP/payroll data files/tapes.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OASAM–31

SYSTEM NAME:

DOL Flexible Workplace (Flexiplace) Programs Evaluation and Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

DOL/OASAM/Office of Human Resources, Office of Human Resource Systems and with each employee's supervisor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL participants in Flexiplace Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include program participants, position title and grade, office location, and address of alternate work site. Records, also include survey information obtained during the individual's participation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

These records are used for statistical reporting and evaluation of the DOL Flexiplace Program, and are not used in any way for making any determination about an identifiable individual.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual files and on computer disks.

RETRIEVABILITY:

Records are retrieved by individual(s) name(s).

SAFEGUARDS:

Records are maintained on secure computer systems and can only be retrieved with the proper access code. Access to the manual files is limited to authorized users.

RETENTION AND DISPOSAL:

The database will be retained without individual identifiers (which will be

deleted from the files) for statistical purposes only.

**SYSTEM MANAGER(S) AND ADDRESS:**

U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Office of Human Resources, Office of Human Resource Systems, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the systems manager listed above. Individuals must furnish the following information for their records to be located and identified: Name, GS grade and series, organizational unit.

**RECORDS ACCESS PROCEDURES:**

Individuals wishing to request access to records pertaining to them should contact the systems manager. Individuals must furnish the following information for their records to be located and identified: Name, GS grade and series, organizational unit.

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to contest information in their files may write to the system manager at the specified address above, reasonably identify the records pertaining to them, the information which is being contested in those records, the corrective action(s) being sought, and the reasons for the correction(s).

**RECORD SOURCE CATEGORIES:**

Individual participants and their supervisors.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Not applicable.

## DOL/OASAM–32

**SYSTEM NAME:**

Transit Subsidy Management System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Financial Management Services Center, Office of the Assistant Secretary for Administration and Management (OASAM), 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All DOL employees who apply for Transit Subsidy benefits.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records contain information on DOL employees, such as name, social security number, organization (code), office location, and employment status.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

To maintain records on the Transit Subsidy Program.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files are retained by the Financial Management Services Center, in a file cabinet. Computer records are stored in a database server located in a secure area accessible only by encoded security cards.Machine readable version of the records is kept in a secure microcomputer (server) database.

**RETRIEVABILITY:**

Records are filed and retrieved by name or Social Security Number.

**SAFEGUARDS:**

Records can be accessed only through the use of passwords given to authorized DOL employees by the Database Administrator on a need to know basis.

**RETENTION AND DISPOSAL:**

Records are retained for three years and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Business Operations Center, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC, 20210.

**NOTIFICATION PROCEDURES:**

Inquiries should be mailed or presented to the system manager noted at the address listed above.

**RECORD ACCESS PROCEDURES**

A request for access shall be addressed to the system manager at the address listed above.

**CONTESTING RECORDS PROCEDURES:**

A petition for amendments shall be addressed to the System Manager and must meet the requirements of the DOL Privacy Act regulations at 29 CFR 71.

**RECORD SOURCE CATEGORIES:**

Information contained in this system is from the DOL Payroll System and the applicant.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OASAM–33

**SYSTEM NAME:**

Entity Database.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management (OASAM), Information Technology Center (ITC), 200 Constitution Avenue, NW., Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

DOL employees and contract employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records contain information on DOL employees, such as name, social security number, organization (code), pay plan, series, title, address, badge number, agency, cost center, phone number.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

The data is used to complete applications, personnel and administrative forms, and provide input to various small systems used in administration and management of DOL employees.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer records are stored in a database server located in a secure area accessible only by encoded security cards. Access to records, forms, applications, processes, and information

is controlled by System Managers. The Entity database is not accessible by any individual user. Machine readable version of the records are kept in a secure microcomputer (server) database.

RETRIEVABILITY:

Specific records may be retrieved by name, SSN, organization, grade.

SAFEGUARDS:

Records are protected at both the machine (server) level and data level. Records can be accessed only through the use of passwords given to authorized DOL employees by the Database Administrator on a need to know basis. Access to specific data elements is further controlled by a need to know basis.

RETENTION AND DISPOSAL:

The data is updated daily or on an as required basis. Earlier data are overwritten.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information Technology Center, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

NOTIFICATION PROCEDURES:

Inquiries should be mailed or presented to the system manager noted at the address listed above.

RECORD ACCESS PROCEDURES

A request for access shall be addressed to the appropriate system manager listed above.

CONTESTING RECORDS PROCEDURES:

A petition for amendments shall be addressed to the System Manager and must meet the requirements of the DOL Privacy Act regulation at 29 CFR part 71.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the DOL Payroll System and information supplied by the applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OASAM–34

SYSTEM NAME:

DOL Fitness Association (DOLFA) Membership Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Fitness Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOLFA members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain information on members, such as name, medical information required with a membership application, and attendance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

Records are used to determine eligibility for membership, emergency contact numbers, and statistical utilization of the Fitness Center.

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

Non-medical information collected from applicants for DOLFA membership shall be subject to those universal routine uses listed in the General Prefatory Statement to this document. In addition, relevant and necessary non-medical information may be disclosed to the current members of the DOLFA Board of Directors, and to the professional fitness specialists employed by DOLFA in the performance of their responsibilities. Medical information collected from applicants for DOLFA membership may be disclosed to the professional fitness specialists employed by DOLFA in the performance of their responsibilities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in locking file cabinets, and in computer files.

RETRIEVABILITY:

Records may be retrieved by name.

SAFEGUARDS:

Records can be accessed only during normal business hours and are maintained in a locked room at all other times. Access is limited to personnel (including current members of the DOLFA Board of Directors) who are directly responsible for the management and/or operation of the Frances Perkins Building Fitness Center. Such access and use must be in accordance with the provisions of the Privacy Act.

RETENTION AND DISPOSAL:

Records are destroyed five years after a member terminates membership in DOLFA.

SYSTEM MANAGER(S) AND ADDRESS:

Team Leader, Health and Fitness Team, Safety and Health Center, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

NOTIFICATION PROCEDURES:

An individual wishing to inquire whether this system of records contains information about him/her should submit a written request to the system manager, stating that the request is being made pursuant to the Privacy Act, and including: His/her full name, any former name, if applicable, home address, and approximate dates of membership in DOLFA, and DOLFA membership number, date and place of birth, and signature.

RECORD ACCESS PROCEDURES:

Follow the steps described above.

CONTESTING RECORDS PROCEDURES:

The written request for an amendment should include the following: The precise identification of the records to be amended; the identification of the specific material to be deleted, added, or changed; and a statement of reasons for the request, including all available material substantiating the request. Requests for amendment of records should include the words ''Privacy Act Amendment Request'' on both the envelope and at the top of the request letter.

RECORD SOURCE CATEGORIES:

Members.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OASAM–35

SYSTEM NAME:

DOL Child Care Subsidy Program Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

DOL/OASAM/Worklife Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of Labor who apply for child care subsidies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms for the child care subsidy containing personal information, including employee (parent) name, grade, home and work addresses, telephone numbers, total family income, sources and amounts of State/County/Local subsidies, names of children on whose behalf the parent is

applying for the child care subsidy, children's Social Security Numbers, children's dates of birth; information on child care providers used, including name, address, provider license number and State where issued, tuition cost, and provider tax identification number; and copies of earnings and leave statements and IRS Form 1040 and 1040A for verification purposes.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Pub. L. 106–58, sec. 643 and E.O. 9397.

**PURPOSE(S):**

To establish and verify DOL employees' eligibility for child care subsidies in order for DOL to provide monetary assistance to its employees.

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

None, except for those universal routine uses set forth in the General Prefatory Statement to this document.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information may be collected on paper or electronically and may be stored as paper forms or on computers.

**RETRIEVABILITY:**

By name.

**SAFEGUARDS:**

When not in use by an authorized person, paper records are stored in lockable file cabinets or secured rooms. Electronic records are protected by the use of passwords.

**RETENTION AND DISPOSAL:**

Records are destroyed after three years.

**SYSTEM MANAGER(S) AND ADDRESS:**

U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Human Resources Center, Worklife Center, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager listed above. Individuals must furnish their full name and address.

**RECORDS ACCESS PROCEDURE:**

Individuals wishing to request access to records pertaining to them should contact the system manager.

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to contest information in their files may write to the system manager at the address above, reasonably identify the records pertaining to them, the information that is being contested in those records, the corrective action(s) being sought, and the reasons for the correction(s).

**RECORD SOURCE CATEGORIES:**

DOL employees who apply for the child care subsidy program.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OASAM–36

**SYSTEM NAME:**

PeoplePower.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management (OASAM), People Power Team, 200 Constitution Avenue, NW., Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

DOL employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records contain information on DOL employees, such as name, social security number, organization (code), pay plan, series, title, address, badge number, agency, cost center, phone number, and benefits data, and information necessary to produce reports required by OPM and DOL. Also, it contains records of training received by individual employees for cost or no cost training. In addition, the records contain internal reports submitted to prepare Departmental budget and employment reports. These reports include information such as job title, grade, location, name and social security number.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

The data is used to produce official personnel actions notifications (SF–50, SF–52), and to store and provide access to current and historical human resource information for all of the Department's employees. A further purpose is to administer training, to manage budgets with regard to employee positions, to produce analytical reports, and to automate workflow within the human resources offices.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer records are stored in a database server located in a secure area accessible only by encoded security cards. Access to records, forms, applications, processes, and information is controlled by System Manager. Machine readable version of the records are kept in a secure microcomputer (server) database.

**RETRIEVABILITY:**

Specific records may be retrieved by name, organization, grade.

**SAFEGUARDS:**

Records are protected at both the machine (server) level and data level. Records can be accessed only through the use of passwords given to authorized DOL employees by the Database Administrator on a need to know basis. Access to specific data elements is further controlled by a need to know basis. Each component's database is only accessible by that component's responsible personnel office in either the national or regional office. Likewise, the 9 DOL budget offices in the national office, in conjunction with the 14 nationwide human resources offices, can access their own component agency's database.

**RETENTION AND DISPOSAL:**

Records may be retained indefinitely as a basis for longitudinal work history statistical studies. Other records are retained for varying periods of time in accordance with the National Archives and Records Administration records schedule.

**SYSTEM MANAGER(S) AND ADDRESS:**

Project Director, People Power Team, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC, 20210.

**NOTIFICATION PROCEDURES:**

Inquiries should be mailed or presented to the system manager noted at the address listed above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager listed above.

**CONTESTING RECORDS PROCEDURES:**

A petition for amendments shall be addressed to the System Manager and must meet the requirements of the DOL Privacy Act regulation at 29 CFR part 71.

**RECORD SOURCE CATEGORIES:**

Information contained in this system is obtained from the DOL Payroll System and information supplied by the applicant.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/OALJ–1**

**SYSTEM NAME:**

Office of Administrative Law Judges Case Tracking System (CTS).

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Office of Administrative Law Judges (OALJ), 800 K St., NW., Washington, DC 20001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Claimants, complainants, respondents, and other party litigants in cases before the OALJ for hearing and decision.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records that contain information and pertinent data gathered from case files and court filings, necessary to hear and decide cases.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Administrative Procedure Act, 5 U.S.C. 553, 554, 556, 557, 571 et seq.; Age Discrimination Act of 1975, 42 U.S.C. 6103; 29 CFR part 34; Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.; 29 CFR part 34; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–1; 29 CFR part 31; Clean Air Act, 42 U.S.C. 7622; 29 CFR part 24; Comprehensive Employment and Training Act, 29 U.S.C. 801–999 (Supp. V 1981); 20 CFR part 676 (1990); Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9610; 29 CFR part 24; Contract Disputes Act, 41 U.S.C. 601 et seq.; 41 CFR part 29–60; 48 CFR 2933.203.70; Contract Work Hours and Safety Standards Act, 40 U.S.C. 327 et seq.; 29 CFR part 6; Copeland Act, 40 U.S.C. 276c; 29 CFR part 6; Davis-Bacon Act, as amended, 40 U.S.C. 276a–276a–7; 29 CFR part 6; Debt Collection Act of 1982, 31 U.S.C. 3711(f); 29 CFR part 20; Title IX of the Education Amendments of 1972, 20 U.S.C. 1682; 29 CFR part 34; Employee Polygraph Protection Act of 1988, 29 U.S.C. 2005; 29 CFR part 801, subpart E; Employee Retirement Income Security Act of 1974, 29 U.S.C. 1132 and 1135; 29 CFR parts 2560 and 2570; Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851; 29 CFR part 24; Equal Access to Justice Act, 5 U.S.C. 504; 29 CFR part 16; Executive Order No. 11,246, as amended, 3 CFR 339 (1964–1965 Comp.); reprinted in 42 U.S.C. 2000e app.; 41 CFR parts 60–1 and 60–30; Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 211(d); 29 CFR part 530, subpart E; Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 214(c); 29 CFR part 525; Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 216(e); 29 CFR part 580; Title IV of the Federal Mine Safety and Health Act of 1977, as amended, 33 U.S.C. 901 et seq.; 20 CFR parts 410, 718, 725 and 727; Federal Unemployment Tax Act, 26 U.S.C. 3303(b)(3), 3304(c); Federal Unemployment Tax Act (addressing agreements under the Trade Act of 1974, as amended), 26 U.S.C. 3302(c)(3); 20 CFR part 617; Federal Water Pollution Control Act, 33 U.S.C. 1367; 29 CFR part 24; Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(H), 1184 and 1186; 29 CFR part 501, subpart C; Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(H), 1182, 1184, 1188, 1288(c); 20 CFR part 655; Immigration and Nationality Act, as amended, 8 U.S.C. 1182(a)(5)(A); 20 CFR part 656; Job Training Partnership Act, 29 U.S.C. 1576; 20 CFR part 627; Labor-Management Reporting & Disclosure Act of 1959, 5 U.S.C. 7120; 29 CFR part 458; Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq. (and its extensions Defense Base Act, Outer Continental Shelf Lands Act, District of Columbia Workmen's Compensation Act, 36 DC Code 501 et seq.; Nonappropriated Fund Instrumentalities Act); 20 CFR parts 701, 702 and 704; McNamara-O'Hara Service Contract Act, as amended, 41 U.S.C. 351 et seq.; 29 CFR part 6; Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1813, 1853; 29 CFR part 500, subpart F; National Apprenticeship Act, 29 U.S.C. 50; 29 CFR parts 29 and 30; Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3803; 29 CFR part 22; sec. 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793; 41 CFR part 60–741, subpart B; sec. 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; 29 CFR part 32; Reorganization Plan No. 14 of 1950; and 29 CFR part 6; Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges, 29 CFR part 18; Safe Drinking Water Act, 42 U.S.C. 300j–9(i); 29 CFR part 24; Single Audit Act of 1984, 31 U.S.C. 7505; OMB Circular Nos. A–128 and A–110; 29 CFR part 96, subpart 96.6; Social Security Act, 42 U.S.C. 503; 20 CFR part 601; Solid Waste Disposal Act, 42 U.S.C. 6971; 29 CFR part 24; Surface Transportation Assistance Act, 49 U.S.C. 31105; 29 CFR part 1978; Toxic Substances Control Act, 15 U.S.C. 2622; 29 CFR part 24; Vietnam Era Veterans Readjustment Assistance Act, as amended, 38 U.S.C. 4211, 4212; 41 CFR part 60–250, subpart B; Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.; 20 CFR part 658; Walsh-Healey Public Contracts Act, as amended, 41 U.S.C. 38; 41 CFR part 50–203; Workforce Investment Act of 1998, 29 U.S.C. 2801 et seq.; other statutes, executive orders and regulations providing for an administrative law judge hearing as they may become applicable in the future.

**PURPOSE(S):**

To maintain the court docket for administrative law judge adjudications. The records and information in the case tracking system are used as the court docket system in administrative law judge hearings conducted pursuant to 5 U.S.C. 552, 553, 554, 556 and 557 and/or a variety of particular statutes and Executive Orders. The purpose of the system is to facilitate the processing of cases and determination of issues in hearings and appeals proceedings.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting this agency in further development and continuing maintenance of the system, or hearing-related functions.

Since the administrative law judges proceedings conducted by the Office of Administrative Law Judges are public, court docket records are available for public inspection.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer system.

**RETRIEVABILITY:**

Retrieval by Case Number. Other searchable fields such as name of party, are available.

**SAFEGUARDS:**

Access is limited to authorized users.

**RETENTION AND DISPOSAL:**

Records are deleted fifty years after the appeal process has been completed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Program Operations, U.S. Department of Labor, Office of Administrative Law Judges (OALJ), 800 K St., NW., Washington, DC 20001.

**NOTIFICATION PROCEDURES:**

Inquiries regarding the existence of records should be in the form of a written, signed request to the above address.

**RECORD ACCESS PROCEDURES:**

As in notification procedures.

**CONTESTING RECORD PROCEDURES:**

As in notification procedures.

**RECORD SOURCE CATEGORIES:**

Office of Administrative Law Judge Case Files.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/OALJ–2**

**SYSTEM NAME:**

Office of Administrative Law Judge Case Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Unassigned case files are maintained by the Chief Administrative Law Judge or a District Chief Administrative Law Judge. Assigned case files are maintained by the presiding administrative law judge. Files may be located in the National Office, U.S. Department of Labor, Office of Administrative Law Judges (OALJ), 800 K St., NW, Washington, DC 20001, or in District offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Claimants, complainants, respondents, and other party litigants in cases referred to OALJ for hearing and decision.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records may contain claim files, determinations and referral letters from the agency with initial claim development or investigatory responsibility; documents proffered as evidence; pleadings, motions and other submissions by litigants; administrative law judge orders, and decisions and orders; the hearing transcript; and other documents and information necessary to hear and decide cases.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Administrative Procedure Act, 5 U.S.C. 553, 554, 556, 557, 571 et seq.; Age Discrimination Act of 1975, 42 U.S.C. 6103; 29 CFR part 34; Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.; 29 CFR part 34; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–1; 29 CFR part 31; Clean Air Act, 42 U.S.C. 7622; 29 CFR part 24; Comprehensive Employment and Training Act, 29 U.S.C. 801–999 (Supp. V 1981); 20 CFR part 676 (1990); Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9610; 29 CFR part 24; Contract Disputes Act, 41 U.S.C. 601 et seq.; 41 CFR part 29–60; 48 CFR 2933.203.70; Contract Work Hours and Safety Standards Act, 40 U.S.C. 327 et seq.; 29 CFR part 6; Copeland Act, 40 U.S.C. 276c; 29 CFR part 6; Davis-Bacon Act, as amended, 40 U.S.C. 276a–276a–7; 29 CFR part 6; Debt Collection Act of 1982, 31 U.S.C. 3711(f); 29 CFR part 20; Title IX of the Education Amendments of 1972, 20 U.S.C. 1682; 29 CFR part 34; Employee Polygraph Protection Act of 1988, 29 U.S.C. 2005; 29 CFR part 801, subpart E; Employee Retirement Income Security Act of 1974, 29 U.S.C. 1132 and 1135; 29 CFR parts 2560 and 2570; Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851; 29 CFR part 24; Equal Access to Justice Act, 5 U.S.C. 504; 29 CFR part 16; Executive Order No. 11,246, as amended, 3 CFR 339 (1964–1965 Comp.); reprinted in 42 U.S.C. 2000e app.; 41 CFR parts 60–1 and 60–30; Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 211(d); 29 CFR part 530, subpart E; Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 214(c); 29 CFR part 525; Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 216(e); 29 CFR part 580; Title IV of the Federal Mine Safety and Health Act of 1977, as amended, 33 U.S.C. 901 et seq.; 20 CFR parts 410, 718, 725 and 727; Federal Unemployment Tax Act, 26 U.S.C. 3303(b)(3), 3304(c); Federal Unemployment Tax Act (addressing agreements under the Trade Act of 1974, as amended), 26 U.S.C. 3302(c)(3); 20 CFR part 617; Federal Water Pollution Control Act, 33 U.S.C. 1367; 29 CFR part 24; Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(H), 1184 and 1186; 29 CFR part 501, subpart C; Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(H), 1182, 1184, 1188, 1288(c); 20 CFR part 655; Immigration and Nationality Act, as amended, 8 U.S.C. 1182(a)(5)(A); 20 CFR part 656; Job Training Partnership Act, 29 U.S.C. 1576; 20 CFR part 627; Labor-Management Reporting & Disclosure Act of 1959, 5 U.S.C. 7120; 29 CFR part 458; Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq. (and its extensions Defense Base Act, Outer Continental Shelf Lands Act, District of Columbia Workmen's Compensation Act, 36 DC Code 501 et seq.; Nonappropriated Fund Instrumentalities Act); 20 CFR parts 701, 702 and 704; McNamara-O'Hara Service Contract Act, as amended, 41 U.S.C. 351 et seq.; 29 CFR part 6; Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1813, 1853; 29 CFR part 500, subpart F; National Apprenticeship Act, 29 U.S.C. 50; 29 CFR parts 29 and 30; Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3803; 29 CFR part 22; Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793; 41 CFR part 60–741, subpart B; sec. 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; 29 CFR part 32; Reorganization Plan No. 14 of 1950; and 29 CFR part 6; Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges, 29 CFR part 18; Safe Drinking Water Act, 42 U.S.C. 300j–9(i); 29 CFR part 24; Single Audit Act of 1984, 31 U.S.C. 7505; OMB Circular Nos. A–128 and A–110; 29 CFR part 96, subpart 96.6; Social Security Act, 42 U.S.C. 503; 20 CFR part 601; Solid Waste Disposal Act, 42 U.S.C. 6971; 29 CFR part 24; Surface Transportation Assistance Act, 49 U.S.C. 31105; 29 CFR part 1978; Toxic Substances Control Act, 15 U.S.C. 2622; 29 CFR part 24; Vietnam Era Veterans Readjustment Assistance Act, as amended, 38 U.S.C. 4211, 4212; 41 CFR part 60–250, subpart B; Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.; 20 CFR part 658; Walsh-Healey Public Contracts Act, as amended, 41 U.S.C. 38; 41 CFR part 50–203; Workforce Investment Act of 1998, 29 U.S.C. 2801 et seq.; other statutes, executive orders and regulations providing for an administrative law judge hearing as they may become applicable in the future.

**PURPOSE(S):**

To maintain the court records for public administrative-adjudicative

hearings. These records and information in these records are used as the court record in administrative law judge hearings conducted pursuant to 5 U.S.C. 552, 553, 554, 556 and 557 and/or a variety of particular statutes and Executive Orders. The purpose of the system is the adjudication of cases and determination of issues in hearings and appeals proceedings.

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

When necessary, information from the case files may be disclosed to individuals in other matters pending before the Office of Administrative Law Judges. Information may be disclosed to contractors for hearing-related functions.

Since the administrative law judges proceedings conducted by the Office of Administrative Law Judges are public, case files are available for public inspection under the Freedom of Information Act, 5 U.S.C. 552. Administrative law judge and Administrative Review Board decisions are posted on the Internet at *www.oalj.dol.gov,* see 5 U.S.C. 552(a)(2)(A) and (E), and may be distributed to publishers.

See also routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records are maintained in file folders. Electronic versions of ALJ orders and decisions are also stored in electronic media.

**RETRIEVABILITY:**

Retrieval By Case Number.

**SAFEGUARDS:**

Paper records are maintained in filing cabinets to which only authorized personnel have access. Computer records have security limiting access to authorized users. Most records, however, are public court documents available for inspection under the Freedom of Information Act, 5 U.S.C. 552.

**RETENTION AND DISPOSAL:**

In cases where OALJ is the official custodian, inactive case files are retained for three years before being sent to a Federal Records Center. The Federal Records Center retains the files for an additional fifteen years before they are authorized for destruction, except for certain cases designated as precedent setting, which become permanent records. In cases where OALJ is not the official custodian, for example matters relating to Black Lung and Longshore (and extensions) cases, the official file is transferred to the appropriate federal custodial agency. When a case is appealed, the case file is forwarded to the appropriate administrative appellate agency, such as the Benefits Review Board, or the Administrative Review Board.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Program Operations, U.S. Department of Labor, Office of Administrative Law Judges (OALJ), 800 K St., NW, Washington, DC 20001.

**NOTIFICATION PROCEDURES:**

Inquiries regarding the existence of records should be in the form of a written, signed request to the above address.

**RECORD ACCESS PROCEDURES:**

As in notification procedures.

**CONTESTING RECORD PROCEDURES:**

As in notification procedures.

**RECORD SOURCE CATEGORIES:**

Records may include information submitted by the agency with initial claims development or investigatory responsibility, claimants, complainants, respondents, and other parties to the case, amicus curiae, administrative law judges involved in case, the court reporter, and in the case of remanded cases, the administrative-appellate body or federal court.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OALJ–3

**SYSTEM NAME:**

Contract list.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

U.S. Department of Labor, Office of Administrative Law Judges (OALJ), 800 K St., NW, Washington, DC 20001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Contractors.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names, addresses and other contact information regarding contractors.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Administrative Procedure Act, 5 U.S.C. 553, 554, 556, 557, 571 et seq.; Department of Labor Acquisition Regulation, 48 CFR Chapter 29; Department of Labor Manual Series, Chapter 2–800.

**PURPOSE(S):**

To maintain a contractor list to assist in managing agency contracts with contractors.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files and computer disk.

**RETRIEVABILITY:**

By contractor's name.

**SAFEGUARDS:**

Access limited to agency personnel who manage the contractors. Routine computer precautions limiting access to authorized users.

**RETENTION AND DISPOSAL:**

Records are maintained for three years after the contract relationship between the contractor and the Office of Administrative Law Judges has ended, and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Program Operations, U.S. Department of Labor, Office of Administrative Law Judges (OALJ), 800 K St., NW, Washington, DC 20001.

**NOTIFICATION PROCEDURES:**

Inquiries regarding the existence of records should be in the form of a written, signed request to the above address.

**RECORD ACCESS PROCEDURES:**

As in notification procedures.

**CONTESTING RECORD PROCEDURES:**

As in notification procedures.

**RECORD SOURCE CATEGORIES:**

Contract applications.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None

**DOL/OALJ–4**

**SYSTEM NAME:**

Notification List.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

U.S. Department of Labor, Office of Administrative Law Judges (OALJ), 800 K St., NW, Washington, DC 20001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Registrants for e-mail notifications of web site updates.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names and e-mail addresses of registrants.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Administrative Procedure Act, 5 U.S.C. 553, 554, 556, 557, 571 et seq.

**PURPOSE(S):**

To provide e-mail notifications of web site updates to registrants.

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

None, except for those uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING , RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer disk.

**RETRIEVABILITY:**

By name or e-mail address.

**SAFEGUARDS:**

Access limited to agency personnel who manage the web site. Routine computer precautions limiting access to authorized users.

**RETENTION AND DISPOSAL:**

Records are maintained until the registrant asks to be removed from the notification list, or the e-mail address expires, and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Program Operations, U.S. Department of Labor, Office of Administrative Law Judges (OALJ), 800 K St., NW, Washington, DC 20001.

**NOTIFICATION PROCEDURES:**

Inquiries regarding the existence of records should be in the form of a written, signed request to the above address.

**RECORD ACCESS PROCEDURES:**

As in notification procedures.

**CONTESTING RECORD PROCEDURES:**

As in notification procedures.

**RECORD SOURCE CATEGORIES:**

Web site users.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None

**DOL/ARB–1**

**SYSTEM NAME:**

Administrative Review Board Appeals Files-DOL ARB–1.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Administrative Review Board, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Parties in cases which are before the Secretary, Deputy Secretary or other deciding officials of the Department and for which ARB is assigned responsibility.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information and decisions assembled in case files pertaining to proceedings relating to administrative adjudications of orders and decisions issued by Departmental officials and Administrative Law Judges.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Surface Transportation Assistance Act of 1982, 49 U.S.C. app. 2305 (1988); Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851 (1988); Clean Air Act, 42 U.S.C. 7622 (1988); Water Pollution Control Act, 33 U.S.C. 1367 (1988); Solid Waste Disposal Act, 42 U.S.C. 6971(a) (1988); Safe Drinking Water Act, 42 U.S.C. 300j–9(I) (1988); Toxic Substances Control Act, 15 U.S.C. 2622 (1988); Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9610 (1988); Comprehensive Employment and Training Act, as amended, 29 U.S.C. 801–999 (Supp. V 1981); Job Training Partnership Act, 29 U.S.C. 1501–1781 (1988); The Workforce Investment Act of 1998, 29 U.S.C. 2801 et seq., Davis-Bacon Act, 40 U.S.C. 270a (1994); McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 351–358 (1988); Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1813(b), 1853(b) (1988); Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 907(j) (1988); Walsh-Healey Public Contracts Act, as amended, 41 U.S.C. 35–45 (1988); Age Discrimination Act of 1975, 42 U.S.C. 6101–6107 (1988); Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 601–605 (1988); Contract Work Hours and Safety Standards Act, 40 U.S.C. 327–332 (1988); Title IX of the Education Amendments of 1972, 20 U.S.C. 1681–1686 (1988); Employee Polygraph Protection Act of 1988, 29 U.S.C. 2001–2009 (1988); Equal Access to Justice Act, 5 U.S.C. 504 (1988); Executive Order No. 11,246, as amended, 3 CFR 339 (1964–1965 Comp.) reprinted in 42 U.S.C. 2000e app. at 28–31 (1988); Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 203(m) and (t), 211(d), 214(c) (1988); Federal Unemployment Tax Act, 26 U.S.C. 3304; Immigration Reform and Control Act of 1986, 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), 1188 (1988); National Apprenticeship Act, 29 U.S.C. 50 (1988); Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801–3812 (1988); Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793, 794 (1988); Social Security Act, 42 U.S.C. 503 (Supp. V 1987); Single Audit Act of 1984, 31 U.S.C. 7500–7507 (1988); Trade Act of 1974, as amended, 26 U.S.C. 3302; Vietnam Era Veterans Readjustment Assistance Act, as amended, 38 U.S.C. 4212 (1988); and any laws enacted after May 3,1996, which by statute, law or regulation provide for final decisions by the Secretary of Labor upon appeal or review of decisions or recommended decisions of ALJs.

**PURPOSE(S):**

The records are maintained for use in adjudication of cases before the ARB.

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

Disclosures may be made to District Courts or Courts of Appeals that are relevant to appeals from ARB decisions. ARB decisions are published on the ARB web-site by using a link to the Internet web-site maintained by the Office of Administrative Law Judges (ALJs) where the decisions are published.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, REMAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Maintained in manual form in file folders and containers, and with case

tracking information in a computer system.

RETRIEVABILITY:

Indexed by name of complainant, respondent, and docket number.

SAFEGUARD

Kept in offices which are locked during non-work hours. Computer data are protected by use of a password.

RETENTION AND DISPOSAL:

After the ARB function is completed, case records are returned to Office of Administrative Law Judges or to the other originating office, except for Davis-Bacon or Service Contract Act cases which are retained at the Board. A file containing copies of decisions, orders and ARB correspondence related to the case is retained in the office files for ten years, and thereafter sent to the National Archives and Records Administration (NARA) for permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, Administrative Review Board, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Inquiries regarding records should be in the form of a written, signed request to the above address.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

Records include information submitted by claimants, respondents, other parties in the case, Administrative Law Judges, government representatives and the deciding official.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ASP–1

SYSTEM NAME:

National Agricultural Workers Survey (NAWS) Research File.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The NAWS Sponsor, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; the office of the System Manager, currently Aguirre International, 480 East 4th Avenue, Unit A, San Mateo, CA 94401–3349; and in two locations of the NAWS Co-Sponsor, the National Institute for Occupational Safety and Health (NIOSH): (1) The Division of Surveillance, Health Hazard Evaluations, and Field Studies, NIOSH, 4676 Columbia Drive, Cincinnati, Ohio 45226, and (2) The Division of Safety Research, NIOSH, 1095 Willowdale Road—mail stop 180-p, Morgantown, West Virginia 26505.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

The respondents in the National Agricultural Workers Survey. These will be randomly selected individuals who are engaged in crop activities. There will be approximately 4,000 individuals per year included in the file.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain records of the employment history and living conditions of crop workers and their families. It will also contain information about the wages, working conditions and recruitment procedures, and health and occupational injury experienced by crop workers. The records will contain the names, and addresses of the respondents in the NAWS. All of this data will have been obtained in a personal interview with the respondents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To gather and analyze farm worker data on all demographic, employment, wage and working conditions, health, safety, educational, social service, and housing issues. The demographic characteristics of farmworkers have been gathered by the federal government continuously throughout the postwar period. Until 1987 they were gathered by the Current Population Survey through a supplement and then elaborated by USDA's Economic Research Service (ERS). In 1987, the OASP/DOL assumed the responsibility to carry out this national survey, initially to accomplish the mandate of the Immigration Reform and Control Act of 1986 to measure the supply of the farm labor during fiscal years 1990 through 1993. Along with the task of carrying out the labor supply estimate assigned to OASP came the responsibility and the associated resources of the traditional survey on farmworkers.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document with the following limitations: The Routine Uses listed at paragraphs 3, 4, 7, 8, 9, and 11 in the General Prefatory Statement to this document are not applicable to this system of records. The records also may be disclosed where required by law.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In the initial stages the information will be stored on interview questionnaires which will be handled by Aguirre International of San Mateo California. This company will transfer the questionnaires as quickly as possible to their San Mateo Offices where they will be kept in locked filing cabinets. The information will be entered onto computer and stored on computer tape by the System Manager, currently Aguirre International, the System Sponsor OASP/DOL and by the System Co-Sponsor NIOSH.

RETRIEVABILITY:

By names of respondents.

SAFEGUARDS:

The practice and procedure of the Assistant Secretary for Policy prohibits the transfer of any record filed with a personal identifier to any location outside of the contractors' (currently Aguirre International) premises. At all the other system locations, including OASP/DOL, only files without personal identifiers will be stored. At all locations, files will be maintained with secure password protection.

RETENTION AND DISPOSAL:

Names will be removed from the records and destroyed not later than four years after the collection of the data.

SYSTEM MANAGER(S) AND ADDRESS:

The NAWS Sponsor, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; the System Manager, currently Aguirre International, 480 East 4th Avenue, Unit A, San Mateo, CA, 94401–3349; and the NAWS Co-Sponsor, the National Institute for Occupational Safety and Health (NIOSH): (1) The Division of Surveillance, Health Hazard Evaluations, and Field Studies, NIOSH, 4676 Columbia Drive, Cincinnati, Ohio 45226, and (2) The Division of Safety Research, NIOSH, 1095 Willowdale

Road—mail stop 180-p, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact OASP/DOL. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Year of interview

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their own records should contact OASP/DOL and comply with the requirements of the DOL regulation at 29 CFR part 71.2.

CONTESTING RECORD PROCEDURES:

To seek amendment of record procedures individuals should direct their requests to OASP/DOL.

RECORD SOURCE CATEGORIES:

The information in this system will be received from respondents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

## DOL/BRB–1

SYSTEM NAME:

Appeals Files—Benefits Review Board (BRB).

SYSTEM LOCATION:

Benefits Review Board, 200 Constitution Avenue, NW, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parties involved in appeals proceedings before the Benefits Review Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information assembled in case files pertaining to appeals to the Benefits Review Board with respect to claims of employees for benefits under the Longshoremen's and Harbor Workers Compensation Act as amended, and its extensions and the Federal Coal Mine Health and Safety Act, as amended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(a) 30 U.S.C. 901–62 (1982) (b) 33 U.S.C. 901–50 (1982) (c) 42 U.S.C. 1651–54 (1982) (d) 36 DC Code 501–04 (1973) (e) 43 U.S.C. 1331–43 (1982) (f) 5 U.S.C. 8171–73 (1982) (g) 42 U.S.C. 1701–17 (1982)

PURPOSE(S):

Records are maintained for use in adjudication of appeals.

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

Disclosure outside the Department of Labor may be made to federal courts. BRB decisions are sent to commercial publishing companies for publication, and are also placed on the BRB's Internet Web site.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders with data maintained in a computerized case tracking system.

RETRIEVABILITY:

By Benefits Review Board docket number, ALJ number, and claimant's name.

SAFEGUARDS:

Maintained in offices which are locked after normal work hours.

RETENTION AND DISPOSAL:

Case materials returned to the Office of Workers' Compensation Programs, Employment Standards Administration, Department of Labor after completion of Benefits Review Board functions. Copies of the case decision are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Clerk of the Board, Benefits Review Board, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

A written and signed request to the System Manager stating that the requester seeks information concerning records pertaining to him is required.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Records in the system include information submitted by the claimants, employers, carriers, and other persons involved in the appeals proceedings, as well as by the Government.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/BLS–3

SYSTEM NAME:

Regional Office Staff Utilization File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records stored on computer at The National Institutes of Health, Bethesda, MD. Access and maintenance is generally by remote terminal in the Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Regional Office (R.O.) BLS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Staff utilization and travel expenditures data: Name, Social Security Number, pay period, hours worked and units accomplished by PAS code for functions such as personal visit, telephone collection, training, and costs for transportation and subsistence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To capture and electronically enter time distribution data into the DOL Time Distribution and Accounting Systems. To provide BLS managers a means of monitoring regional staff hours worked per unit and travel expenditures on assigned functions and tasks.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes and disks.

RETRIEVABILITY:

Retrievable by a data field, including name and Social Security Number.

SAFEGUARDS:

Only authorized employees have access to tapes/disks, to the programs, and to the Regions' backup documents.

RETENTION AND DISPOSAL:

Cumulative file is retained by fiscal year. Original input documents are retained for 4 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Field Collection Activities, Postal Square Building, 2

Massachusetts Ave. NE, Washington, DC 20212.

NOTIFICATION PROCEDURE:

Mail all inquiries or present in writing to System Manager at above address. Give name, and dates of employment.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

The ''Staff Utilization Report'' (Form SO–1) from each individual R.O. employee who fills it out each pay period, (in place of the DL 1–291, ''Project Reporting Form'') and SF–1012 (Travel Voucher).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/BLS–6

SYSTEM NAME:

Applicant Race and National Origin (ARNO) System. Form E 618.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Labor Statistics, Postal Square Building, 2 Massachusetts Ave. N.E., Washington, DC 20212.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Job applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

DOL Form E 618, Applicant race and National origin data. Records contain: Name, SSN, grade, title of position, location of position, race, occupational code, date received, ARNO Code, title of announcement, number of announcement, authorization number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To comply with the data collection requirements of the Luevano V. Devine decree (November 19, 1981) for applicants. See Civil Service Action Number 79–0271, 93 Federal Rules Decisions 68.

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

The reports are sent to the Office of Personnel Management (OPM) to develop statistical reports on the number and race of applicants.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disk packs.

RETRIEVABILITY:

Retrievable by any element, including name and SSN.

SAFEGUARDS:

Only authorized employees have access.

RETENTION AND DISPOSAL:

Cumulative file is retained by fiscal year until all analysis is completed, then it is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer, Division of Human Resources and Organization Management, Postal Square Building, 2 Massachusetts Ave. N.E., Washington, DC 20212.

NOTIFICATION PROCEDURE:

Requests should be submitted to above address.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

Individual job applicants who complete Form E 618, Applicant Race and National Origin Questionnaire.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/BLS–7

SYSTEM NAME:

BLS Employee Conduct Investigation.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Labor Statistics, National Office and eight Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

BLS employee(s) against whom any allegations of misconduct, illegal acts, conflicts of interest, etc., have been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization and other information relating to the individual involved. It also contains investigative report(s) associated with the case, including interviews and other data gathered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To investigate allegations of problems, misconduct, illegal acts, and conflicts of interest.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in file folders in metal cabinets.

RETRIEVABILITY:

By name or case file number.

SAFEGUARDS:

The files are maintained in locked file cabinets with access only to those with a need to know the information to perform their duties.

RETENTION AND DISPOSAL:

Records are retained for four years following the date either: (a) They are referred to the OIG; (b) they are transferred to OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance; or (c) it is determined that the allegation was without sufficient merit to warrant further action, after which they are destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer, Division of Human Resources and Organization Management, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212, and appropriate Regional Offices.

NOTIFICATION PROCEDURE:

Inquiries should be mailed or presented to the system manager noted at the address listed above.

RECORD ACCESS PROCEDURES:

As noted in notification procedure.

CONTESTING RECORD PROCEDURES:

As noted in notification procedure.

RECORD SOURCE CATEGORIES:

Individuals, supervisors, hotline complaints through the Office of the

Inspector General's hotline; hotline complaints through the General Accounting Office's hotline system; incident reports submitted by employees; interview reports and investigative reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/BLS–8

SYSTEM NAME:

BLS Employee ADP Training History.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Labor Statistics, National Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

BLS employees who take training under BLS's ADP training contract.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, employee Social Security Number, employee organization, course taken, course start date, course end date, total hours for course, indication whether or not the course was completed, and cost of the course for this student to the student's organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The records are maintained to enable BLS to allocate costs of training to appropriate organization within BLS and to enable employees' managers and employees to determine what courses employees have taken.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The paper records are stored in file folders in metal cabinets. Machine-readable versions of the records are kept in a microcomputer database.

RETRIEVABILITY:

Filed and retrieved by course title or other identifying codes such as course number. Also, filed and retrieved by the name or Social Security Number of employee attending course.

SAFEGUARDS:

The files are maintained in locked file cabinets with access only to those with a need to know the information to perform their duties. Access to machine readable data will be limited to those with a need to know.

RETENTION AND DISPOSAL:

Destroy when 5 years old or when superseded or obsolete, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Technology Measurement and Strategic Initiatives, Room 5110, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

NOTIFICATION PROCEDURE:

Inquiries should be mailed or presented to the system manager noted at the address noted above.

RECORD ACCESS PROCEDURES:

As noted in notification procedure.

CONTESTING RECORD PROCEDURES:

As noted in notification procedure.

RECORD SOURCE CATEGORIES:

Application for Training forms such as DL–101 or other application forms BLS may designate. Certificates of course completion and BLS management information system records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/BLS–9

SYSTEM NAMES:

Routine Administrative Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Labor Statistics, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

BLS employees, BLS contractors, and visitors for longer than 30 days.

CATEGORIES OF RECORDS IN THE SYSTEM:

Several groups of records exist: records containing tuition information, contractor ID card records, cardkey security records, Polaroid ID card records, DAS separations database records, imprest fund records, visitor control records, PSB Phone system records, facility service requests records, Sprint telephone card records transit subsidy records, government credit card records, and printing and duplications records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To record and track routine administrative data, to maintain security, to manage the facility, to plan expenditures, to maintain an employee locator system, and to process fund reimbursement vouchers.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on file server with tape backup capabilities and on personal computer hard drives with floppy disk backup. Manual files are stored in a secured area in locked file cabinets.

RETRIEVABILITY:

By individual's name and Social Security Number.

SAFEGUARDS:

Authorized personnel only. File servers and personal computers are

located in secured rooms. Passwords are necessary to access records. Access levels are created within automated systems to restrict unauthorized access to system utilities.

RETENTION AND DISPOSAL:

All records are temporary, usually one to four years, and disposal is based on BLS records disposition schedule N1–257–88–1 and the National Archives and Records Administration (NARA) General Records Schedule (GRS) Numbers 1–4, 6, 11–13, and 18.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Records Management and General Services, Division of Administrative Services, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

NOTIFICATION PROCEDURE:

Mail all inquiries or present in writing to System Manager at above address.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

BLS Form OA–189, OA–193, DL 1–101, DL 1–107, OAM–165, OA–185, SO–68, and from individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/BLS–10

SYSTEM NAME:

Commissioner's Correspondence Control System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Labor Statistics, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals from whom correspondence is received in the Commissioner's Office of the Bureau of Labor Statistics.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about correspondence and the originators including the name of the sender, the subject of the correspondence, the name of the individual and office instructed to prepare a response, a control number, dates, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To record the receipt of correspondence, to monitor the handling of correspondence, and to facilitate a timely response to correspondence.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic file server with backup tapes.

RETRIEVABILITY:

Name, control number, office assigned response, dates.

SAFEGUARDS:

Access by authorized personnel only. Passwords are used.

RETENTION AND DISPOSAL:

Dispose when 5 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Management Systems, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

NOTIFICATION PROCEDURE:

Inquiries should be mailed or presented to the system manager noted at the address listed above.

RECORD ACCESS PROCEDURES:

As noted in notification procedure.

CONTESTING RECORD PROCEDURES:

As noted in notification procedure.

RECORD SOURCE CATEGORIES:

Correspondents and correspondence received in the Commissioner's Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/BLS–11

SYSTEM NAME:

Mainframe User ID Database.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Electronic records stored on computer at SunGard Computer Center, Voorhees, NJ and the National Institutes of Health, Bethesda, MD. Access and maintenance occur by remote terminal in the Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212. Paper copy kept at above address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

BLS employees, BLS contractors, state agencies employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name, ID to access system, office address and phone number, and account number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301

PURPOSE(S):

To assign and maintain ID numbers to use NIH and Boeing mainframe computers, to locate mainframe users and to run an accounting program.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Online in mainframe computer and paper copies.

RETRIEVABILITY:

By any of the fields listed under Categories of Records in the System.

SAFEGUARDS:

Access by authorized personnel only. Passwords are necessary for electronic retrieval. Paper files maintained in locked office.

RETENTION AND DISPOSAL:

Reviewed at the beginning of each fiscal year to delete inactive IDs from the previous year. Data files identified for transfer to the National Archives will be transferred as specified.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Technology and Network Management, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

NOTIFICATION PROCEDURE:

Mail all inquiries or present in writing to System Manager at above address.

RECORD ACCESS PROCEDURES:

As in notification process.

**CONTESTING RECORD PROCEDURES:**

As in notification process.

**RECORD SOURCE CATEGORIES:**

Individuals concerned.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/BLS–12

**SYSTEM NAME:**

Employee Acknowledgement Letter Control System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Bureau of Labor Statistics, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

BLS employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records include name, office address, telephone number, supervisor's name, last day of individual's first pay period, region, cost center, date acknowledgement was signed.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

Used by BLS to monitor whether employees have signed the acknowledgement letter regarding the safeguarding of confidential information.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic file server with backup tapes. Paper files of the signed letters are also maintained.

**RETRIEVABILITY:**

Name, date signed, Social Security Number, regional office.

**SAFEGUARDS:**

Access by authorized personnel only. Passwords are used for electronic system. Paper files are kept in an office which is locked after working hours.

**RETENTION AND DISPOSAL:**

Destroy 3 years after employee is transferred or released from government service.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Division of Management Systems, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

**NOTIFICATION PROCEDURE:**

Inquiries should be mailed or presented to the system manager noted at the address noted above.

**RECORD ACCESS PROCEDURES:**

As noted in notification procedure.

**CONTESTING RECORD PROCEDURES:**

As noted in notification procedure.

**RECORD SOURCE CATEGORIES:**

Employees who signed acknowledgement letters.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/BLS–13

**SYSTEM NAME:**

National Longitudinal Survey of Youth 1979 (NLSY79) Database.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

National Opinion Research Center (NORC), University of Chicago, 1155 E. 60th Street, Chicago, IL 60637.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

A sample of the general population who were ages 14–21 on December 31, 1978 (referred to as respondents), with over representation of blacks, Hispanics, poor whites, and persons serving in the military.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records include, but are not limited to, name, Social Security Number, control number, marital history, education, job history, unemployment history, military service, training history, fertility/family planning, child health history, alcohol use, drug use, reported police contacts, anti-social behavior, assets and income, school records, Government assistance program participation, childhood residence, child development outcomes, expectations, history of parent/child relationship, time use, time spent on child care and household chores, immigration history, and Armed Services Vocational Aptitude Battery scores.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. Sec. 2.

**PURPOSE(S):**

To serve a variety of policy-related research interests concerning the labor market problems of youth. Data are used for studies such as (but not limited to): Diffusion of useful information on labor, examination of employment and training programs, understanding labor markets, guiding military manpower and measuring the effect of military service, analysis of social indicators and measuring parental and child inputs and outcomes.

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

The Bureau of Labor Statistics may release records to the National Opinion Research Center (NORC) and/or Ohio State University to compile data which are not individually identifiable for use by the general public and Federal agencies who are conducting labor force research. Under written agreement to protect the confidentiality and security of identifying information, BLS may provide potentially identifying geographic information to researchers to conduct specific research projects which further the mission and functions of BLS. The records also may be disclosed where required by law. Items 3, 4, 7, 8, 9, 10, and 11 listed in the General Prefatory Statement to this document are not applicable to this system of records.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Files are stored electronically and on paper.

**RETRIEVABILITY:**

Name or Control Number.

**SAFEGUARDS:**

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files.

**RETENTION AND DISPOSAL:**

Permanent. Transfer a copy of the data files, together with the documentation, to the National Archives when the data are made available to the public.

**SYSTEM MANAGER(S) AND ADDRESS:**

Program Manager, NLS Youth 1979 Cohort Study, Office of Employment

and Unemployment Statistics, Room 4945, Postal Square Building, 2 Massachusetts Ave., NE, Washington, DC 20212.

NOTIFICATION PROCEDURE:

Mail, or present in writing, all inquiries to the System Manager at the above address.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

Individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/BLS–14**

SYSTEM NAME:

BLS Behavioral Science Research Laboratory Project Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bureau of Labor Statistics, National Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual respondents who participate in studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include respondent's name, name of study, biographic/personal information on the respondent, and test results and observations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 2.

PURPOSE(S):

Biographic/personal information is used by BLS to select participants for studies. Test results and observations are used by BLS to better understand the behavioral and psychological processes of individuals, as they reflect on the accuracy of BLS information collections.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document with the following limitations: The Routine Uses listed at paragraphs 3, 4, 7, 8, 9, and 11 in the General Prefatory Statement to this document are not applicable to this system of records. The records also may be disclosed where required by law.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files, and some electronic files stored on magnetic disks and/or video tapes.

RETRIEVABILITY:

Respondent name and study title.

SAFEGUARDS:

Available to authorized personnel only. Files are kept in locked offices.

RETENTION AND DISPOSAL:

One to three years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Behavioral Sciences Research Center, Office of Research and Evaluation, Postal Square Building, 2 Massachusetts Ave., NE, Washington, DC 20212.

NOTIFICATION PROCEDURE:

Mail all inquiries or present in writing to System Manager at above address.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

Individual respondents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/BLS–17**

SYSTEM NAME:

National Longitudinal Survey of Youth 1997 (NLSY97) Database.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Opinion Research Center (NORC), University of Chicago, 1155 E. 60th Street, Chicago, IL 60637.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A sample of the general population who were ages 12–16 on December 31, 1996 (referred to as respondents), with over representation of blacks, Hispanics, and disabled students.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include, but are not limited to, name, Social Security Number, control number, marital history, education, job history, unemployment history, military service, training history, fertility/family planning, child health history, alcohol use, drug use, reported police contacts, anti-social behavior, assets and income, school records, Government assistance program participation, childhood residence, child development outcomes, expectations, history of parent/child relationship, time use, time spent on child care and household chores, immigration history, and Armed Services Vocational Aptitude Battery scores.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. Sec. 2.

PURPOSE(S):

To serve a variety of policy-related research interests concerning the school-to-work transition and the labor market problems of youth. Data are used for studies such as (but not limited to): diffusion of useful information on labor, examination of employment and training programs, understanding labor markets, analysis of social indicators, measuring parental and child input and outcomes, norming the Department of Defense Armed Services Vocational Aptitude Battery in its computerized adaptive form, and creation of norms for the Department of Defense Interest Measure.

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

The Bureau of Labor Statistics may release records to the National Opinion Research Center (NORC) and/or Ohio State University to compile data which are not individually identifiable for use by the general public and Federal agencies who are conducting labor force research. Under written agreement to protect the confidentiality and security of identifying information, BLS may provide potentially identifying geographic information to researchers to conduct specific research projects which further the mission and functions of BLS. The records also may be disclosed where required by law. Items 3, 4, 7, 8, 9, 10, and 11 listed in the General Prefatory Statement to this document are not applicable to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Files are stored electronically and on paper.

**RETRIEVABILITY:**

Name or Control Number.

**SAFEGUARDS:**

Access by authorized personnel only. Computer security safeguards are used for electronically stored data, and locked locations for paper files.

**RETENTION AND DISPOSAL:**

Permanent. Transfer a copy of the data files, together with the documentation, to the National Archives when the data are made available to the public.

**SYSTEM MANAGER(S) AND ADDRESS:**

Program Manager, NLS Youth 1997 Cohort Study, Office of Employment and Unemployment Statistics, Postal Square Building, 2 Massachusetts Ave., NE, Washington, DC 20212.

**NOTIFICATION PROCEDURE:**

Mail, or present in writing, all inquiries to the System Manager at the above address.

**RECORD ACCESS PROCEDURES:**

As in notification procedure.

**CONTESTING RECORD PROCEDURES:**

As in notification procedure.

**RECORD SOURCE CATEGORIES:**

Individuals concerned.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/BLS–18

**SYSTEM NAME:**

Postal Square Building Parking Management Records.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Bureau of Labor Statistics, Postal Square Building, 2 Massachusetts, Ave. NE, Washington, DC 20212.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals assigned or applying for assignment of parking privileges in the Postal Square Building, Washington, DC.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system includes the following information on all individuals assigned or applying for parking privileges in the Postal Square Building: Name of driver and rider(s); office building and room number; office telephone number; employing agency home address including city, State and zip code; federal service computation date; handicap certification; automobile license numbers, make and year of car, permit number (if assigned parking privileges); category of assignments, and estimated times of arrival and departure, office location; and whether the applicant is in or out of the zone of special consideration.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

The information is used by the Bureau of Labor Statistics in the administration of the Postal Square Building parking and car pool programs.

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

Disclosure of information may be made to other government agencies to compare names of car pool members. For verification and, as a service to car pool seekers, the name of each driver and rider and permit number; his or her office telephone number and address; and his or her home city, state and zip code, will be displayed within BLS facilities and on automated information systems including the Intranet. Information may be provided to other applicants or listed members of the carpool, their supervisors, or their administrative personnel/timekeepers in order to confirm information provided on the application.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files are stored in a locked file cabinet. Computer records are stored on diskettes, on personal computer hard drives, and on the BLS wide-area network.

**RETRIEVABILITY:**

Records may be filed and retrieved by name or permit number or other information in the System as needed.

**SAFEGUARDS:**

Access to and use of these records is limited to personnel whose official duties require access. The information in automated systems is protected from unauthorized access. Written application data are placed in locked file cabinets.

**RETENTION AND DISPOSAL:**

Paper records and the database are destroyed three (3) months after the return of the credentials to the issuing office.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Division of Administrative Services, 2 Massachusetts Ave., NE., Washington, DC 20212.

**NOTIFICATION PROCEDURE:**

Access to these records may be obtained by request in writing to: Chief, Division of Administrative Services, 2 Massachusetts Ave., NE., Washington, DC 20212.

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to records should contact the appropriate office listed in the notification procedure section. Individuals must furnish the name for the record they wish to access.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of the records should contact the official at the address specified under notification procedures above and reasonably identify the record and specify the information to be contested.

**RECORD SOURCE CATEGORIES:**

Individuals concerned and from information provided by parking applicants on Form DL 1–127, Application for Parking Assignment and OA–205 BLS Application for Parking Permit.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT**

None.

## DOL/BLS–19

**SYSTEM NAME:**

Customer Information Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Offices in the Bureau of Labor Statistics (BLS) at the National Office and in each of the BLS Regional Offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals (customers) requesting BLS information.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information necessary to satisfy customer requests and enhance service

to customers. Depending on the nature of the request, may include (but is not limited to) name, title, occupation, mailing address, telephone and fax numbers, Internet Protocol (I.P.) addresses, material requested, consent forms, E-Mail addresses and dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To enhance customer service by improving the availability of BLS information on automated systems; to facilitate sending information about new data products to customers with corresponding interests; to provide usage statistics associated with the BLS public access Internet site, and to provide a frame from which to select an unbiased sample of customers for customer service surveys. Maintaining the names, addresses, etc. of customers requesting BLS data/publications will enable BLS to streamline the process for handling subsequent customer inquiries and requests by eliminating duplicative gathering of mailing information. Internet Protocol (IP) addresses will be used only to calculate general usage statistics; the addresses themselves will be discarded.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

By name, telephone or fax number (including the telephone number from which the customer dials), or other identifying information in the System.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files.

RETENTION AND DISPOSAL:

Current customer information service files are updated as required and are destroyed when three (3) months old or when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner for Publications and Special Studies, Postal Square Building, 2 Massachusetts Ave., NE, Washington, DC 20212.

Associate Commissioner for Field Operations, Postal Square Building, 2 Massachusetts Ave., NE, Washington, DC 20212.

Chief, Division of Data Dissemination Systems, Postal Square Building, 2 Massachusetts Ave., NE., Washington, DC 20212.

NOTIFICATION PROCEDURE:

Mail, or present in writing, all inquiries to the System Managers at the above addresses.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

Individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/BLS–20**

SYSTEM NAME:

Fellowship Applicants and Recipients Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Offices in the Bureau of Labor Statistics (BLS) National Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and recipients of fellowship awards (e.g., Fellows in the American Statistical Association/National Science Foundation/BLS Fellowship Program), who are not Federal employees but are assigned to work with BLS staff and/or BLS non-public data files.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the individual's name, Social Security Number, school transcripts, work address and telephone number, home address and telephone number, and biographical information; applications, research proposals, and related papers; test results, and other documents such as correspondence with the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To assure that the appropriate records on fellowship awards are maintained and are available for official use.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and on paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data, and locked locations for paper files.

RETENTION AND DISPOSAL:

These records are permanent. Records are transferred to the Federal Records Center when five (5) years old. They are offered to NARA in ten (10) year blocks, when the most recent record is twenty (20) years old.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner for Survey Methods Research, Postal Square Building, 2 Massachusetts Ave. NE, Washington, DC 20212.

NOTIFICATION PROCEDURE:

Mail, or present in writing, all inquiries to the System Manager at the above address.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

Individuals concerned; from references, the Education Testing Service, educational institutions supplying transcripts, review records; and administrative data developed during the selection process and/or award tenure.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/OCFO–1**

**SYSTEM NAME:**

Attendance, Leave, and Payroll File.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

A. All Departmental component offices in Washington DC.

B. All Departmental component offices in the Regions and Areas.

C. Timekeepers.

D. Offices of the Chief Financial Officer.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Department of Labor employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, social security number and employee number, grade, step, and salary, transit subsidies, organization (code), retirement or FICA data as applicable. Federal, State, and local tax deductions, as appropriate. IRS tax lien data, commercial garnishment, child support, authorization forms for savings bond and charity deductions; authorization forms for regular and optional government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data, military leave data, pay differentials, authorization forms for labor union dues deductions, allotments by type and amount, Thrift Savings Plan contributions, financial institution code and employee account number, leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement, disability, sick, transferred, donated, and without pay), time and attendance records, including flexitime log sheets indicating number of regular, overtime, holiday, Sunday, and other hours worked, pay period number and ending date, cost of living allowances, co-owner and/or beneficiary of bonds, marital status, number of dependents, mailing address, ''Notification of Personnel Action'', and claims by the employee for overtime, for back wages and for waivers. Consumer credit reports of individuals indebted to the United States, correspondence to and from the debtor, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements and other information such as the nature, amount and history of a debt owed by an individual covered by this system, and other records and reports relating to the implementation of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, including any investigative reports or administrative review matters. The individual records listed herein are included only as pertinent or applicable to the individual employee.

**Note:** Sign-in and sign-out records are filed chronologically and are not part of this system.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 66(A).

**PURPOSE(S):**

In compliance with principles and standards prescribed by the Comptroller General, this system manages the Department of Labor's compensation and benefits processing, accounting, and reporting. The system provides control procedures and systems to assure the complete and timely processing of input documents and output reports necessary to update and maintain the Department's Interactive Payroll System.

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

A. In addition to the general prefatory routine uses, transmittal of data to the U.S. Treasury to effect issuance of paychecks or electronic fund transfers (EFT) to employees and distribution of pay according to employee directions for savings bonds, allotments to financial institutions, and other authorized purposes. Transmittal of Thrift Savings Plan data to the Thrift Savings Board to effect contributions to the Thrift Savings Plan. Tax withholding data sent to the Internal Revenue Service and appropriate State and local taxing authorities, FICA deductions to the Social Security Administration, information concerning dues deductions to labor unions, withholdings for health insurance to insurance carriers and the Office of Personnel Management, charity deductions to agents of charitable institutions, annual W–2 statements to taxing authorities and the individual, and transmittal of computer tape data to appropriate State and local governments for their benefits matching projects. Transmittal of employee's name, social security number, salary history to state unemployment insurance agencies in order to facilitate the processing of state unemployment insurance claims for DOL employees.

B. Pursuant to section 13 of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, the name, Social Security Number, address(es), telephone number(s), and nature, amount and history of the debt of a current or former employee may be disclosed to private collection agencies for the purpose of collecting or compromising a debt existing in this system.

C. Department of Justice and General Accounting Office: Information may be forwarded to the General Accounting Office and/or the Department of Justice as prescribed in the Joint Federal Claims Collection Standards (4 CFR Chapter II). When debtors fail to make payment through normal collection routines, the files are analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation.

D. Other Federal Agencies:

Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States.

E. Internal Revenue Service:

(1) Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer.

(2) Records from this system of records may be disclosed to the Internal Revenue Service for the purpose of offsetting a Federal claim from any income tax refund that may be due to the debtor.

(3) Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual.

F. Records from this system of records may be disclosed to the Defense Manpower Data Center—Department of Defense and the United States Postal Service to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the United States Government under certain programs administered by the United States Department of Labor in order to collect debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, or by salary or administrative offset procedures.

G. The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support

Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform law, Pub. L. 104–193).

H. A record from this system of records, reflecting the employee's transit subsidy, may be disclosed to other governmental agencies for purposes of comparing transit subsidy recipients and car pool applicants.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

The amount, status, and history of overdue debts; the name and address, taxpayer identification number (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual and machine-readable files.

**RETRIEVABILITY:**

By name and SSN.

**SAFEGUARDS:**

Personnel screening and locked storage equipment.

**RETENTION AND DISPOSAL:**

Retained for fifty-six (56) years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Accounting and Payment Services, Office of the Chief Financial Officer, Department of Labor, 200 Constitution Ave, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries should be mailed or presented to the system manager noted at the addresses listed above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish their name and address for their records to be located and identified:

a. Name and address.

**CONTESTING RECORD PROCEDURES:**

A petition for amendment shall be addressed to the System Manager.

**RECORD SOURCE CATEGORIES:**

Employees, supervisors, timekeepers, official personnel records, the IRS, consumer credit reports, personal financial statements, correspondence with the debtor, records relating to hearings on the debt, and from other DOL systems of records.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OCFO–2

**SYSTEM NAME:**

Department of Labor Accounting and Related Systems.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

A. All Departmental component offices in Washington DC:

B. All Departmental component offices in the Regions and the Areas.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All persons who receive or who owe a payment from agency/regional financial offices. Persons receiving payments include, but are not limited to: Employees, vendors, travelers on official business, grantees, contractors, consultants, and recipients of loans and scholarships. Persons owing monies include, but are not limited, to persons who have been overpaid and who owe DOL a refund and persons who have received from DOL goods or services for which there is a charge or fee (e.g., Freedom of Information Act requesters).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, identification number (Taxpayer Identification Number or other identifying number), address, purpose of payment, accounting classification, amount to be paid, and amount paid.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

These records are an integral part of the accounting systems at principal operating components, agency regional offices and specific area locations. The records are used to keep track of all payments to individuals, exclusive of salaries and wages, based upon prior entry into the systems of the official commitment and obligation of government funds. When an individual is to repay funds advanced as a loan or scholarship, etc., the records will be used to establish a receivable record and to track repayment status. In event of an overpayment to an individual, the record is used to establish a receivable record for recovery of the amount claimed. The records are also used internally to develop reports to the Internal Revenue Service and applicable state and local taxing officials of taxable income. This is a Department-wide notice of payment and collection activities at all locations listed under system locations.

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

A. Transmittal of the records to the U.S. Treasury to effect issuance of payments to payees.

B. Pursuant to section 13 of the Debt Collection Act of 1982, the name, address(es), telephone number(s), social security number, and nature, amount and history of debts of an individual may be disclosed to private debt collection agencies for the purpose of collecting or compromising a debt existing in this system.

C. Information may be forwarded to the Department of Justice as prescribed in the Joint Federal Claims Collection Standards (4 CFR Chapter II) for the purpose of determining the feasibility of enforced collection, by referring the cases to the Department of Justice for litigation.

D. Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets.

E. Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write off a Federal claim against the taxpayer.

F. Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual.

H. Information will be disclosed:

1. To credit card companies for billing purposes;

2. To other Federal agencies for travel management purposes;

3. To airlines, hotels, car rental companies and other travel related companies for the purpose of serving the traveler. This information will

generally include the name, phone number, addresses, charge card information and itineraries.

4. To state and local taxing officials informing them of taxable income.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

The amount, status, and history of overdue debts; the name and address, taxpayer identification number (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

**Note:** Debts incurred by use of the official travel charge card are personal and the charge card company may report account information to credit collection and reporting agencies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file cabinets. Computer records within a computer, its attached equipment or some magnetic form.

**RETRIEVABILITY:**

This varies according to the particular operating accounting system within the Operating Division, Agency and Regional Office. Usually the hard copy document is retrieved by name within accounting classification. Computer records may be retrieved by social security number and voucher number or on any field in the record.

**SAFEGUARDS:**

Records stored in lockable file cabinets or secured rooms. Computerized records protected by password system.

**RETENTION AND DISPOSAL:**

Records are purged from automated files once the accounting purpose has been served; printed copy and manual documents are retained and disposed of after six years and three months. Generally, on the accounting side, information is kept until at least the employee has left the Department, and perhaps longer, until all existing activity for the employee is closed out. Generally, on the payroll side, the information stays on the Master Employee Record until the retirement has been reconciled for the year in which the employee has left.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Accounting and Payment Services, Office of the Chief Financial Officer, Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries should be mailed or presented to the system manager noted at the address listed above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager at the address listed above.

**CONTESTING RECORD PROCEDURES:**

A petition for amendment shall be addressed to the System Manager.

**RECORD SOURCE CATEGORIES:**

Individuals, employees, other DOL systems, other Federal agencies, consumer reporting agencies, credit card companies, government contractors, state and local law enforcement.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/OCFO–3**

**SYSTEM NAME:**

Travel and Transportation System

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

A. All component offices in Washington DC

B. Regional and area offices of the components.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals who travel in an official capacity for the Department of Labor.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Various records are created and maintained in support of official travel. The forms or succeeding forms may include the following:

DL 1–33 Travel Authorization
SF 1038 Advance of Funds Application and Account
SF 1012 Travel Voucher
DL 1–2024 Request and Authorization for Exception From Standard Contract Terms for City-Pair Service
DL 1–289 Request for Approval of GSA Vehicle Option or Exemption
DL 1–473 Employment Agreement for Transfers Within the Continental U.S.
DL 1–474 Employment Agreement for Persons Assigned to Posts Outside the Continental U.S.
DL–1–2030 Estimated PCS Travel and Transportation Data for Travel Authorization DL–1–2031 Claim Form for Payment of Relocation Income Tax Allowance
DL–1–2032 Covered Taxable Reimbursements
DL–1–2033R Withholding Tax Allowance, Summary of Transactions, Withholding of Taxes, and W–2 Reporting
DL 1–472 Employee Application for Reimbursement of Expenses Incurred in Sale or Purchase (or both) of Residence Upon Change of Official Station
SF 1164 Claim for Reimbursement for Expenditures on Official Business
DL 1–101 Training Authorization and Evaluation Form
DL 1–478 Administrative Exception to Travel Claim
DL 1–423 Expense Record for Temporary Quarters
SF 1169 Government Transportation Request (will be phased out within next 5 years)

Telephone charge cards.

As a result of travel, individuals may become indebted to the Government. Records used to cure these claims include: consumer credit reports, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements, and other information such as the nature, amount and history of the debt, and other records and reports relating to the implementation of the Debt Collection Act of 1982, including any investigative reports or administrative review matters.

Individuals expecting to travel at least two times per year are required to have charge cards provided by Government contract. Besides the application for such cards, records created include transaction, payment and account status data.

Travel arrangement services are also available by Government contract. Records include traveler's profile containing name of individual, social security number, home and office telephones, agency's name, address, and telephone number, air travel preference, rental car identification number and preference of car, hotel preference, current passport and/or visa number, personal credit card numbers, and additional information; travel authorization; and monthly reports from travel agent(s) showing charges to individuals, balances, and other types of

account analyses. Permanent change of station travel arrangements may include information about real estate and movement of household goods. To provide more efficient processing of travel documents, travel document processing software will be used by employees to record travel planning information, expenses incurred, traveler/employer identification information (SSN, and other identifying information used in conjunction with the purposes of the software), user ID's, passwords, electronic signatures, routing lists and other information used by the system to track and process travel documentation.

Vendors and contractors provide to the Department itemized statements of invoices, and reports of transactions including refunds and adjustments to enable audits of charges to the Government.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

41 CFR part 101–7 (Federal Travel Regulations); interpret or apply 31 U.S.C. 3511, 3512, and 3523; 31 U.S.C. 3711 et seq. (Debt Collection Act of 1982); section 206 of Executive Order 11222 (May 8, 1965); 5 CFR 735.207 (Office of Personnel Management Regulations).

**PURPOSE(S):**

To facilitate performance of official Government travel by documenting the authorization of travel; payment of advances; payment of claims, invoices, vouchers, judgments; debts created by advance payments and overpayments; provision and use of government contractor-issued charge cards; and to make travel arrangements.

Data received from a charge card company under government contract will be used to perform responsibilities under section 206 of Executive Order 11222 (May 8, 1965) and 5 CFR 735.207 (Office of Personnel Management Regulations) concerning requirements for employees to pay their just financial obligations in a proper and timely manner. Reports will also be monitored to insure that the charge cards are used only in the course of official travel as required by the contract. Data will also be analyzed to permit more efficient and cost effective travel planning and management, including negotiated costs of transportation, lodging, subsistence and related services.

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

A. Transmittal of data to the U.S. Treasury to effect issuance of checks and Electronic Funds Transfer (EFT) payments to payees.

B. Information may be forwarded to the Department of Justice as prescribed in the Joint Federal Claims Collection Standards (4 CFR Chapter II). When debtors fail to make payment through normal collection routines, the files are analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation.

C. Pursuant to sections 5 and 10 of the Debt Collection Act of 1982, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal Agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States.

D. Information contained in the system of records may be disclosed to the Internal Revenue Service to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write off a Federal claim against the taxpayer.

E. Information may be disclosed to the Internal Revenue Service concerning the discharge of an indebtedness owed by an individual, or other taxable benefits received by the employee.

F. Information will be disclosed:

1. To credit card companies for billing purposes.

2. To Departmental and other Federal agencies such as GSA for travel management purposes.

3. To airlines, hotels, car rental companies, travel management centers and other travel related companies for the purpose of serving the traveler. This information will generally include the name, phone number, addresses, charge card information and itineraries.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

The amount, status, and history of overdue debts; the name and address, taxpayer identification number (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

**Note:** Debts incurred by use of the official travel charge card are personal and the charge card company may report account information to credit collection and reporting agencies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file cabinets. Computer records within a computer and attached equipment.

**RETRIEVABILITY:**

Filed by name and/or social security number of traveler or by travel document number at each location.

**SAFEGUARDS:**

Records stored in lockable file cabinets or secured rooms. Computerized records protected by password system. Information released only to authorized officials on a need-to-know basis.

**RETENTION AND DISPOSAL:**

Records are held for 6 years or until audit whichever is sooner and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Office of the Chief Financial Officer, Division of Planning and Internal Control, Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries from individuals should be addressed to the appropriate agency's administrative office for which they traveled.

**RECORDS ACCESS PROCEDURES:**

Requests from individuals should be addressed to the appropriate Department of Labor agency's administrative office for which they traveled. Individuals must furnish their full name and the authorizing agency component for their records to be located and identified.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of their records should contact the appropriate Department of Labor administrative office of which they traveled. Individuals must furnish their full name and the name of the authorizing agency, including duty station where they were employed when traveling if applicable.

**RECORD SOURCE CATEGORIES:**

Individuals, employees, other Federal agencies, consumer reporting agencies, credit card companies, government contractors, state and local law enforcement.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/ODEP–1**

**SYSTEM NAME:**

Job Accommodation Network (JAN) Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Job Accommodation Network, West Virginia University, P.O. Box 6080, Morgantown, West Virginia, 26505–6080.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals with disabilities, employers and the general public who request information through the JAN system.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Caller's name, address, telephone number, type of disability, functional limitations caused by the disability, accommodations discussed, type of firm or organization for whom the caller works, and anecdotal information recorded by the human factors consultant.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301

**PURPOSE(S):**

This system provides technical assistance to businesses and to individuals for the purpose of making job accommodations for individuals with disabilities. It also makes possible the sharing of information about job accommodations. The JAN system compiles a comprehensive resource data bank for job accommodations currently available. Finally, the system provides technical assistance to employers on how to comply with the Americans with Disabilities Act (ADA).

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, relevant information may be disclosed to employers for the purpose of hiring individuals with disabilities and/or for enabling the employers to accommodate employees with disabilities.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer disks.

**SAFEGUARDS:**

The data is stored on computer disk, stored in a secure central file server.

**RETRIEVABILITY:**

Records are retrieved by caller's name, state, and job interest category.

**RETENTION AND DISPOSAL:**

Data is maintained permanently on the file server with access by program personnel only.

**SYSTEM MANAGER(S) AND ADDRESS:**

The systems manager is the Project Director of the Job Accommodations Network, West Virginia University, P.O. Box 6080, Morgantown, WV 26506–6080.

**NOTIFICATION PROCEDURE:**

Mail all inquiries or present in writing to the Office of Disability Employment Policy, 1331 F Street, NW, DC 20004 or to the Freedom of Information Act/Privacy Act Coordinator, at U.S. Department of Labor/Office of Disability Employment Policy, 200 Constitution Avenue., NW, Washington, DC 20210.

**RECORDS ACCESS PROCEDURES:**

Individuals wishing to gain access shall write to Assistant Secretary for Disability Employment Policy at the above addresses.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest information in their files may write to the system manager at the specified address above, reasonably identify the records pertaining to them, the information which is being contested in those records, the corrective action(s) being sought, and the reasons for the correction(s).

**RECORD SOURCE CATEGORIES:**

Individual participants in the JAN system.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/ODEP–2**

**SYSTEM NAME:**

Workforce Recruitment Program (WRP) Database.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Disability Employment Policy, U.S. Department of Labor, 1331 F Street, NW, Third Floor, Washington, DC 20004.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

College students with disabilities who have interviewed with a WRP recruiter on a college campus.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Student's name, address, telephone number, e-mail address, college, major, credits earned, degree sought, job preference categories, job location preference, type of disability, job accommodation information, recruiter's summary of student's interview.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

To provide federal and private sector employers a database resource of college students with disabilities from which to identify qualified temporary and permanent employees in a variety of fields.

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

In addition to those universal routine uses, listed in the General Prefatory Statement to this document, relevant information concerning student interviewees may be disclosed to interested federal and private sector employers. Disability information concerning interviewees is disclosed to interested federal employers but not to private sector employers.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

CD–ROMs.

**SAFEGUARDS:**

The data is stored on CD–ROMs and stored on program manager's hard drive.

**RETRIEVABILITY:**

Records are retrieved by student's name, state, or job interest category.

**RETENTION AND DISPOSAL:**

Data is maintained indefinitely on CD–ROMs and on the project manager's hard drive. Paper files are maintained by the project manager and destroyed after one year.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system manager is the WRP Project Manager, Office of Disability Employment Policy, 1331 F Street, NW, Third Floor, Washington, DC 20004.

NOTIFICATION PROCEDURE:

Mail all inquiries or present in writing to the Office of Disability Employment Policy, 1331 F Street, NW, Third Floor, Washington, DC, 20004.

RECORDS ACCESS PROCEDURES:

Individuals wishing to gain access shall write to the Office of Disability Employment Policy at the above address.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

College students with disabilities who have participated in an interview with a WRP recruiter.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/ECAB–01**

SYSTEM NAME:

Employees' Compensation Appeals Board Docket Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Labor, Employees' Compensation Appeals Board, 200 Constitution Avenue, NW, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former or current Federal employees appealing final decisions of the Office of Workers' Compensation Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents pertaining to appeals of final decisions rendered by the Office of Workers' Compensation Programs arising under the Federal Employees Compensation Act, including incoming and outgoing correspondence, a summary of processing transactions, pleadings, motions, orders, and final disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8101 et seq.

PURPOSE(S):

To maintain records of appeals and track appeals through processing and disposition operations.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, ECAB decisions are sent for publication to the U.S. Government Printing Office (GPO) and are available on ECAB's Internet web-site.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual hard copy form in file folders; summary data maintained in computer based case tracking system.

RETRIEVABILITY:

Indexed by ECAB Docket case number, can be cross-referenced to individual's name.

SAFEGUARDS:

Manual Docket records are maintained in a separate file room with access restricted to ECAB employees and which is locked during non-work hours.

RETENTION AND DISPOSAL:

Manual Docket records are retired to the National Records Center after three years; they are destroyed after 20 years. Historical computer records are stored permanently on diskette in a locked cabinet.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, Employees' Compensation Appeals Board, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Inquiries regarding records should be in the form of a written, signed request to the System Manager at the above address and should specify the ECAB Docket number.

RECORD ACCESS PROCEDURES:

Information or assistance regarding access to ECAB Docket records may be obtained by contacting the Clerk of the Board, Employees' Compensation Appeals Board, 200 Constitution Avenue, NW, Washington, DC 20210.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest their records should notify the System Manager in writing.

RECORD SOURCE CATEGORIES:

Records in this system contain information supplied by the appellant and Government officials involved in the appeals proceedings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Not applicable.

**DOL/ECAB–02**

SYSTEM NAME:

Employees' Compensation Appeals Board Disposition Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Labor, Employees' Compensation Appeals Board, 200 Constitution Avenue, NW, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former or current Federal employees who appealed final decisions of the Office of Workers' Compensation Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Final decisions and/or orders determining appeals of benefits claims under the Federal Employees' Compensation Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8101 et seq.

PURPOSE(S):

To maintain formal records of appeal dispositions determined by the Employees' Compensation Appeals Board.

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

Board final decisions and/or orders are public documents and are accessible to interested persons. Precedent setting decisions are sent to the U.S. Government Printing Office (GPO) for publication in an annual Volume, which is available for sale from the GPO, and deposited in over 500 Federal Depository Libraries throughout the country.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Recent decisions are maintained in hard copy form in binders in the ECAB library; older decisions are published in bound volumes. Published volumes are also on deposit in designated Federal Depository Libraries, and on the ECAB'S Internet Website.

RETRIEVABILITY:

Published decisions are indexed by appellant's last name, by category of medical condition and legal issue, by

ECAB Docket number and by ECAB Volume number and page. Unpublished decisions are indexed by ECAB Docket number, and can be cross-referenced to appellant's name.

**SAFEGUARDS:**

Access to ECAB Library and Decision Files is by request and available during regular office hours.

**RETENTION AND DISPOSAL:**

Records are retained permanently.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chairman, Employees' Compensation Appeals Board, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries should be in the form of a written, signed request to the System Manager at the above address and should specify the ECAB Docket number, name of appellant and approximate date of disposition. Alternatively, if disposition is known to be a published decision, inquiry should specify the Volume and page number.

**RECORD ACCESS PROCEDURES:**

Information or assistance regarding access to ECAB Disposition Records may be obtained by contacting the Clerk of the Board, Employees' Compensation Appeals Board, 200 Constitution Avenue, NW, Washington, DC.

**CONTESTING RECORD PROCEDURES:**

Appellants who wish to contest their Disposition Records should notify the System Manager in writing.

**RECORD SOURCE CATEGORIES:**

Records in this system are composed of formal, final decisions and/or orders of the Employees' Compensation Appeals Board.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/ESA–2

**SYSTEM NAME:**

Office of Federal Contract Compliance Programs Complaint Case Files.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Federal Contract Compliance Programs (OFFCP), 200 Constitution Avenue, NW, Washington, DC 20210, and OFCCP Regional and District Offices (see the Appendix to this document for addresses).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals, classes of individuals or representatives authorized to act on behalf of individuals or classes of individuals who have filed complaints of discrimination.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Medical records, investigative reports and materials, complaints, contract coverage information, employment applications, time and attendance records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793.

**PURPOSE(S):**

To maintain information that is used to investigate and to resolve complaints of discrimination filed by individuals under Executive Order 11246, as amended; the Veteran Era Veterans' Readjustment Assistance Act of 1974, amended, 38 U.S.C. 4212; and section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793.

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

These records and information in these records may be disclosed to:

(1) The Equal Employment Opportunity Commission, Department of Justice, or other Federal, State or local agencies with jurisdiction over a complaint, when relevant and necessary for investigatory, conciliation or enforcement purposes;

(2) To Federal contractors and subcontractors against whom a complaint is filed, including providing a copy of the complaint or a summary for purposes of notice;

(3) A physician or medical provider records or information for the purpose of evaluating the complaint or medical records in cases involving complaints of discrimination on the basis of disability;

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Power files/Magnetic tape/Manual files.

**RETRIEVABILITY:**

By name or OFCCP control number.

**SAFEGUARDS:**

Locked files and computer access codes.

**RETENTION AND DISPOSAL:**

Active files retained 2–3 years from date of closure, referred to a Federal Records Center for an additional 4 years then they are destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Assistant Secretary for Federal Contract Compliance, 200 Constitution Avenue, NW, Washington, DC 20210; Regional Directors for OFCCP, see The Appendix to this document for addresses.

**NOTIFICATION PROCEDURE:**

Individuals, wishing to inquire whether this system of records contains information about them, should contact the appropriate system manager. Such person should provide his or her full name, date of birth, and signature.

**RECORD ACCESS PROCEDURES:**

An individual or organization representing an individual wishing to gain access to records shall follow guidelines set forth under the notification procedures summarized above.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest information in their files may write the appropriate system manager at the specified address, reasonably identifying the record pertaining to them, the information which is being contested in that record, the corrective action(s) being sought, and the reason for the correction(s).

**RECORD SOURCE CATEGORIES:**

Individual and class action complainants, employers, co-workers, witnesses, State rehabilitation agencies, physicians, and other health care providers.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system contains complaints and investigative files compiled during the course of complaint investigations and compliance reviews. In accordance with paragraph (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), these files have been exempted from subsections (c)(3),(d),(e)(1), (e)(4)(G),(H), and (I) and (f) of the Act. The disclosure of information contained in these files may in some circumstances discourage non-management persons who have knowledge of facts and circumstances pertinent to charges from giving statements or cooperating in investigations. In addition, disclosure of

medical records contained in these files may adversely affect the health of individuals without guidance of a responsible physician.

**DOL/ESA–5**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Black Lung Antidiscrimination Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, Department of Labor Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals filing complaints against employers on account of discharge or other acts of discrimination by reason of pneumoconiosis disease.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual correspondence, investigative records, employment records, payroll records, medical reports, any other documents or reports pertaining to an individual's work history, education, medical condition or hiring practices of the employer.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

30 U.S.C. 938.

**PURPOSE(S):**

To maintain records that are used to process complaints against employers who discharge or otherwise discriminate against individuals because they suffer from pneumoconiosis disease.

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

Disclosure of file content may be made to any party in interest to the complaint, including the coal company, the claimant, medical providers, and legal representatives of any party for purposes related to the complaint.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Not applicable.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files.

**RETRIEVABILITY:**

Coal miner's name and social security number.

**SAFEGUARDS:**

Files located in restricted area of a Federal building under guard by security officers.

**RETENTION AND DISPOSAL:**

Files are destroyed 10 years after case is closed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the above address. Individuals must furnish their name, address and signature.

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to their records should contact the system manager at the above address. Individuals must furnish their name, address and signature.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of any record should contact the system manager at the above address. Individuals must furnish their name, address and signature.

**RECORD SOURCE CATEGORIES:**

Individuals, employers, medical providers and investigators.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Not applicable.

**DOL/ESA–6**

**SYSTEM NAME: OFFICE OF WORKERS' COMPENSATION, BLACK LUNG**

Benefits Claim File.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, Department of Labor Building, 200 Constitution Avenue, NW, Washington, DC 20210, and district offices (see addresses in the Appendix to this document).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals filing claims for black lung (pneumoconiosis) benefits under the provisions of Black Lung Benefits Act, as amended, including miners, and their surviving spouses, children, dependent parents and siblings.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personal (name, date of birth, social security number, claim type, miner's date of death), medical, and financial. Information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal, under the authorizing legislation and related Acts. This record also contains investigative records and the work product of the Department of Labor and other governmental personnel and consultants involved in the investigations. If the individual has received benefits to which he or she is not entitled, the system may contain consumer credit reports correspondence to and from the debtor, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements, and other information such as the nature, amount and history of a claim filed by an individual covered by this system, and other records and reports relating to the implementation of the Debt Collection Act of 1982 including any investigative records or administrative review matters. The individual records listed herein are included only as pertinent to the individual claimant.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

**PURPOSE(S):**

To maintain records that are used to process all aspects of claims for black lung (pneumoconiosis) benefits under the provisions of the Black Lung Benefits Act, as amended, including claims filed by miners and their surviving spouses, children, dependent parents and siblings. These records are also used to process the recoupment of overpayments under the Act.

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

In addition to those universal routine uses listed in the General Prefatory Statement of this document, disclosure of relevant and necessary information may be made to the following:

a. Mine operators (and/or any party providing the operator with benefits insurance) who have been determined potentially liable for the claim at any time after the filing of a claim for Black Lung Benefits for the purpose of determining liability for payment.

b. State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act.

c. Doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services.

d. Representatives of the claimant for the purpose of processing the claim, responsible operator and program representation on contested issues.

e. Labor unions and other voluntary employee associations of which the claimant is a member for the purpose of assisting the member.

f. Contractors providing automated data processing services to the Department of Labor, or to any agency or entity to whom release is authorized, where the contractor is providing a service relating to the purpose for which the information can be released.

g. Federal, state or local agencies if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits, including whether benefits have been or are being paid improperly; whether dual benefits prohibited under any federal or state law are being paid; and including salary offset and debt collection procedures, including any action required by the Debt Collection Act of 1982.

h. Debt collection agency that DOL has contracted for collection services to recover indebtedness owed to the United States.

i. Internal Revenue Service for the purpose of obtaining taxpayer mailing addresses in order to locate such taxpayers to collect, compromise, or write-off a Federal claim against the taxpayer; discharging an indebtedness owed by an individual.

j. Credit Bureaus for the purpose of receiving consumer credit reports identifying the assets, liabilities, income and expenses of a debtor to ascertain the debtor's ability to pay a debt and to establish a payment schedule.

**Note:** Disclosure to a claimant or a person who is duly authorized to act on the claimant's or beneficiary's behalf, of information contained in the file may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information to OWCP personnel. Telephonic disclosure of information is essential to allow OWCP to efficiently perform its functions in adjudicating and servicing claims.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

The amount, status and history of overdue debts; the name and address, taxpayer identification (SSAN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by the Fair Credit Reporting Act (15 U.S.C. 1681a(f), or in accordance with the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(e) for the purpose of encouraging the repayment of an overdue debt.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Case file documents, both original and copies, in manual files.

**RETRIEVABILITY:**

Coal miner's name, social security number, and claimant's social security number different from miner's.

**SAFEGUARDS:**

Files are located in the restricted area of a Federal building under guard by security officers.

**RETENTION AND DISPOSAL:**

Approved claims files are destroyed 10 years after death of last beneficiary. Denied claims are destroyed 30 years after final denial.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, Room C–3520, 200 Constitution Avenue, NW, Washington, DC 20210, and district office directors (see addresses in the Appendix to this document).

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the above address, or district office directors. (See addresses in the Appendix to this document.) Individuals must furnish claimant's name, and signature.

**RECORD ACCESS PROCEDURE:**

Individuals wishing to request access to non-exempt records should contact the appropriate office listed in the Notification Procedure section. The individual must furnish his or her name, signature and address.

**CONTESTING RECORD PROCEDURES:**

Specific materials in this system have been exempted from Privacy Act provisions (5 U.S.C. 552a(d)), regarding access to records. The section of this notice titled ''Systems Exempted from Certain Provisions of the Act'' indicates the kinds of materials exempted from access and the reasons for exempting them from access. Individuals wishing to request amendment of any non-exempt records should contact the appropriate office listed in the Notification Procedure section.

Individuals must furnish their name, address and signature.

**RECORD SOURCE CATEGORIES:**

Individuals, organizations, and investigators.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/ESA–15**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Case Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, Washington, DC 20210, and district offices of the Office of Workers' Compensation Programs set forth in the Appendix to this document.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees injured or killed while working in private industry who are covered by the provisions of the Longshore and Harbor Workers' Compensation Act, the Non-Appropriated Fund Instrumentalities Act, the Defense Base Act, the War Hazards Act, and the DC Workers' Compensation Act, referred to collectively herein as the Longshore and Harbor Workers' Compensation Act (LHWCA).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system may contain the following kinds of records: reports of injury by the employee and/or employing agency; claim forms filed by or on behalf of injured employees covered under the LHWCA or their survivors seeking benefits under the LHWCA; forms authorizing medical care and treatment; other medical records and reports; bills and other payments records; compensation payments records (including section 8(f) payment records); section 8(f) applications filed by the employer; formal orders for or against the payment of benefits; transcripts of hearings conducted; and any other medical employer or personal information submitted or gathered in connection with the claim. The system may also contain information relating to dates of birth, marriage, divorce, and death, notes of telephone conversations conducted in connection with the claim; information relating to vocational and/or medical rehabilitation plans and progress reports; records relating to court proceedings, insurance, banking, and employment; articles from newspapers and insurance, banking and employment; articles from newspapers and other publications; information relating to other benefits (financial and otherwise) the claimant or employer may be entitled to; and information received from various investigative agencies concerning possible violations of Federal civil or criminal law.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

33 U.S.C. 901 et seq. (20 CFR parts 701 et seq.); 36 DC Code 501 et seq.; 42 U.S.C. 1651 et seq.; 43 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.

**PURPOSE(S):**

To maintain records on the actions of insurance carriers, employers, and injured workers with respect to injuries reported under the Longshore and Harbor Workers' Compensation Act and related Acts, to ensure that eligible claimants receive appropriate benefits as provided by the Act.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of information from this system of records may also be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is compatible with the purpose for which the information was collected:

a. The employer or its representatives, including third-party administrators, and/or any party providing the employer with workers' compensation insurance coverage since the employer and insurance carrier are parties-in-interest to all actions on a case, for the purpose of assisting in the litigation of the claim, at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness.

b. Doctors, pharmacies, and other health care providers for the purpose of treating the claimant, conducting medical examinations, physical rehabilitation or other services or obtaining medical evaluations.

c. Public or private rehabilitation agencies to whom the injured worker has been referred for vocational rehabilitation services so that they may properly evaluate the injured worker's experience, physical limitations and future employment capabilities.

d. Federal, state and local agencies conducting similar or related investigations to verify whether prohibited dual benefits were provided, whether benefits have been or are being paid properly, including whether dual benefits prohibited by federal law are being paid; salary offset and debt collection procedures including those actions required by the Debt Collection Act of 1982.

e. Labor unions and other voluntary associations from which the claimant has requested assistance in connection with the processing of the LHWCA claim.

f. Attorneys or other persons authorized to represent the interests of the LHWCA claimant in connection with a claim for benefits under the LHWCA, and/or a LHWCA beneficiary in connection with a claim for damages filed against a third party.

g. Internal Revenue Service for the purpose of obtaining taxpayer mailing addresses in order to locate a taxpayer to collect, compromise, or write-off a Federal claim against such taxpayer; discharging an indebtedness owed by an individual.

h. Trust funds that have demonstrated to the OWCP a right to a lien under 33 U.S.C. 917, for the purpose of permitting the trust funds to identify potential entitlement to payments upon which the trust funds may execute the lien.

**Note:** Disclosure of information contained in the file to the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

**Note:** Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records is disclosed to members and staff of the Office of Administrative Law Judges, the Benefits Review Board, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Case files are maintained in manual files and magnetic tapes.

**RETRIEVABILITY:**

Case files are retrieved after identification by coded file number, which is cross-referenced to injured worker by name.

**SAFEGUARDS:**

Files are maintained under supervision of OWCP personnel during normal working hours. Files and magnetic tapes are maintained in locked offices after normal working hours. Confidential passwords are required for access to automated records.

**RETENTION AND DISPOSAL:**

Time retained varies by type of case, ranging from lost-time disability cases, in which records are destroyed 20 years after the case is closed, to other cases where the last possible beneficiary has died, in which the records are destroyed 6 years and 3 months after the death of such beneficiary. ''No Lost Time'' cases are destroyed three years after the end of the fiscal year during which the related report was received.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director for Longshore and Harbor Workers' Compensation, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; and District Directors at the district offices set forth in the Appendix.

**NOTIFICATION PROCEDURE:**

Requests, including name, date of injury, employer at time of injury, and case file number, if known, should be addressed to the system manager listed above, at the office where the case is located.

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to records should contact the system manager indicated above.

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to contest the contents of a record should contact the appropriate System Manager.

**RECORD SOURCE CATEGORIES:**

Information is obtained from injured employees, their qualified dependents, employers, insurance carriers, physicians, medical facilities, educational institutions, attorneys, and State, Federal, and private vocational rehabilitation agencies.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/ESA–24**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Special Fund System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons receiving compensation and related benefits under the Longshore and Harbor Workers' Compensation Act, the Non-Appropriated Fund Instrumentalities Act, the Defense Base Act, the War Hazards Act, and the DC Workers' Compensation Act, referred to collectively herein as the Longshore and Harbor Workers' Compensation Act (LHWCA).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Medical and vocational rehabilitation reports, bills, vouchers and records of payment for compensation and related benefits, statements of employment status, and formal orders for payment of compensation, and U.S. Treasury Records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

33 U.S.C. 901 et seq. (20 CFR parts 701 et seq.); 36 DC Code 501 et seq.; 42 U.S.C. 1651 et seq.; 43 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.;

**PURPOSE(S):**

This system provides a record of payments to claimants, their qualified dependents, or providers of services to claimants from the Special Fund established pursuant to Section 44 of the Act.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of information from this system of records may also be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is compatible with the purpose for which the information was collected:

a. The employer or employer's representatives, including third-party administrators, and/or any party providing the employer with workers' compensation insurance coverage since the employer and insurance carrier are parties-in-interest to all actions on a case, for the purpose of assisting in the litigation of the claim, at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness.

b. Doctors, pharmacies, and other health care providers for the purpose of treating the claimant, conducting medical examinations, physical rehabilitation or other services or obtaining medical evaluations.

c. Public or private rehabilitation agencies to whom the injured worker has been referred for vocational rehabilitation services so that they may properly evaluate the injured worker's experience, physical limitations and future employment capabilities.

d. Federal, state and local agencies conducting similar or related investigations to verify whether prohibited dual benefits were provided, whether benefits have been or are being paid properly, including whether dual benefits prohibited by federal law are being paid; salary offset and debt collection procedures including those actions required by the Debt Collection Act of 1982.

e. Labor unions and other voluntary associations from which the claimant has requested assistance with the processing of the LHWCA claim.

f. Internal Revenue Service for the purpose of obtaining taxpayer mailing addresses in order to locate such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer; discharging an indebtedness owed by an individual.

g. Trust funds that have demonstrated to the OWCP a right to a lien under 33 U.S.C. 917, for the purpose of permitting the trust funds to identify potential entitlement to payments upon which the trust funds may execute the lien.

h. To individuals, and their attorneys and other representatives, and government agencies, seeking to enforce a legal obligation on behalf of such individual, to pay alimony and/or child support, for the purpose of enforcing such an obligation, pursuant to an order of a state or local court of competent jurisdiction, including Indian tribal courts, within any State, territory or possession of the United States, or the District of Columbia or to an order of a State agency authorized to issue income withholding notices pursuant to State or local law or pursuant to the requirements of section 666(b) of title 42, United States Code, or for the purpose of denying the existence of funds subject to such legal obligation.

**Note:** Disclosure of information contained in the file to the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

**Note:** Information from this system of records is disclosed to members and staff of the Office of Administrative Law Judges, the Benefits Review Board, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Case files are maintained in manual files and magnetic tapes.

**RETRIEVABILITY:**

Case files are retrieved by social security number, which is cross-referenced to injured worker by name.

**SAFEGUARDS:**

Files are maintained under supervision of OWCP personnel during normal working hours. Confidential passwords are required for access to automated records. Files and magnetic tapes are in Federal office building.

**RETENTION AND DISPOSAL:**

Files are destroyed 7 years after last payment is made.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director for Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Requests, including name and case number, if known, should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records should contact the System Manager indicated above.

CONTESTING RECORD PROCEDURE:

Individuals wishing to contest the contents of a record should contact the System Manager indicated above.

RECORD SOURCE CATEGORIES:

The system obtains information from injured employees, their qualified dependents, employers, insurance carriers, physicians, medical facilities, educational institutions, attorneys, and State, Federal, and private vocational rehabilitation agencies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ESA–25

SYSTEM NAME:

Office of Federal Contract Compliance Programs, Executive Management Information System (OFCCP/EIS) which includes the Case Management System (CMS), and Time Reporting Information System (TRIS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

OFCCP, Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; Ten Regional Offices, see the Appendix to this document for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing complaints of employment discrimination by Federal Contractors and Compliance Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of hours utilized to perform OFCCP program responsibilities. Listing of complaints filed by individuals alleging employment and listing of hours utilized to perform OFCCP program responsibilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 2012; section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793.

PURPOSE(S):

The Case Management System is the data entry portion of OFCCP's core case management and management information system. OFCCP Executive Information System (OFEIS) makes up the reporting side of the total system. The Office of Contract Compliance Programs Case Management System (OFCMS) provides the umbrella under which numerous applications can be accessed. The purposes of the systems are: To track and monitor by means of an automated data base complaint investigations of employment discrimination by Federal contractors. To provide OFCCP Managers with a viable means of tracking the number of hours used in performing OFCCP program responsibilities. To track the number of hours utilized by compliance officers in performing their assigned program duties and responsibilities.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Manual files for working copies of source documents and magnetic tapes and disks for central computer processing.

RETRIEVABILITY:

By the name of the complainant, OFCCP control number, contractor establishment name and number. By identification numbers assigned to each compliance officer.

SAFEGUARDS:

Files are locked except during working hours, and only authorized personnel have access to files. Computer systems are restricted to authorized operators and each subsystem has multiple layers of password protection depending upon sensitivity of data.

RETENTION AND DISPOSAL:

Inactive records retained in system for two years from last date of action on record before being purged to history files where they are stored for three years. Transfer to NARA and destroy five years after transfer.

SYSTEM MANAGER(S) AND ADDRESS:

Director, OFCCP, Room C–3325, 200 Constitution Avenue, NW, Washington, DC 20210; Regional Directors for OFCCP, see Appendix I to this document for Addresses.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager or the Regional Office servicing the state where they are employed (see list of the Regional Office addresses in Appendix). Such person should provide his or her full name, date of birth, and signature.

RECORD ACCESS PROCEDURES:

A request for access shall be mailed or presented to the appropriate system manager at the address listed above. Individuals must furnish the following information for their records to be identified: (a) Name and (b) verification of identity as required by the regulations implementing the Privacy Act of 1974, at 29 CFR 71.2.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest information in their files may write the appropriate system manager at the specified address, reasonably identifying the records pertaining to them, the information which is being contested in that record, the corrective action(s) being sought, and the reason for the correction(s). See also 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

OFCCP personnel working in district and regional offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of the source would be held in confidence.

## DOL/ESA–26

SYSTEM NAME:

Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Investigation Files.

SECURITY CLASSIFICATION:

None.

**SYSTEM LOCATION:**

Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, Washington, DC 20210, and district offices of the Office of Workers' Compensation Programs set forth in the Appendix to this document.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals filing claims for workers' compensation benefits under the Longshore and Harbor Workers' Compensation Act, the Non-Appropriated Fund Instrumentalities Act, the Defense Base Act, the War Hazards Act, and the DC Workers' Compensation Act, referred to collectively herein as the Longshore and Harbor Workers' Compensation Act (LHWCA); individuals providing medical and other services to the Division; employees of insurance companies and of medical and other services providers to claimants; and other persons suspected of violations of law under the Act, including related civil and criminal provisions.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records which contain information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal, under the LHWCA. This system also contains the work product of the Department of Labor and other government personnel and consultants involved in the investigations.

**AUTHORITY FOR MAINTENANCE OF SYSTEM:**

33 U.S.C. 901 et seq. (20 CFR parts 701 et seq.); 36 DC Code 501 et seq.; 42 U.S.C. 1651 et seq.; 43 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.

**PURPOSE(S):**

To maintain records for the purpose of assisting in determinations of possible violations of Federal law, whether civil or criminal, in connection with reported injuries under the LHWCA.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of relevant and necessary information from this system of records may also be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is compatible with the purpose for which the information was collected: Internal Revenue Service, for the purpose of obtaining taxpayer mailing addresses in order to locate a taxpayer to collect, compromise, or write-off a Federal claim against such taxpayer; discharging an indebtedness owed by an individual.

**Note:** Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records is disclosed to members and staff of the Office of Administrative Law Judges, the Benefits Review Board, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in manual files.

**RETRIEVABILITY:**

Records are retrieved by name of individual being investigated.

**SAFEGUARDS:**

Files are maintained under the supervision of OWCP personnel and access is provided only to authorized personnel.

**RETENTION AND DISPOSAL:**

Time retained varies by type of compensation case involved, and the investigative file is retained according to the same schedule as the particular compensation case to which it relates. For example, if the investigative file is about a lost-time case, it is transferred to the Federal Records Center 2 years after the related compensation case is closed, and destroyed 20 years after the case is closed. If the investigative file is about a death case, it is retained in the office as long as there are qualified dependents, and destroyed 6 years, 3 months after final closing. ''No Lost Time cases are destroyed three years after the end of the fiscal year during which the related report was received.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director for Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Washington, DC 20210, and District Directors in the district offices of the Office of Workers' Compensation Programs set forth in the Appendix to this document.

**NOTIFICATION PROCEDURE:**

Requests, including name of individual being investigated, should be addressed to the System Manager.

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to records should contact the System Manager indicated above.

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to contest the contents of a record should contact the System Manager.

**RECORD SOURCE CATEGORIES:**

Records are from Division claim and payment files (DOL/ESA–15 and DOL/ESA–24) and from employees, insurers, service providers; and information received from parties leading to the opening of an investigation, or from interviews held during the course of an investigation.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/ESA–27**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Claimant Representatives.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, Washington, DC 20210, and district offices of the Office of Workers' Compensation Programs set forth in the Appendix to this document.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals alleged to have violated the provisions of the Longshore and Harbor Workers' Compensation Act and

its implementing regulations relating to representation of claimants/beneficiaries before the Department of Labor, those found to have committed such violations and who have been disqualified, and those who are investigated but not disqualified. This system would also cover those persons who have been reinstated as qualified claimant representatives.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in the system will consist of information such as the representative's name and address, the names and addresses of affected claimants/beneficiaries, copies of relevant documents obtained from claimant/beneficiary files relating to the issue of representation; all documents received or created as a result of the investigation of and/or hearing on the alleged violation of the Longshore Act and/or its regulations relating to representation, including investigations conducted by the DOL Office of Inspector General or other agency; and copies of documents notifying the representative and other interested persons of the disqualification.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 931(b)(2)(B).

**PURPOSE(S):**

These records contain information on activities—including billing— relating to representation of claimants/beneficiaries, including documents relating to the debarment of representatives under other Federal or state programs.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of relevant and necessary information from this system of records may also be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is compatible with the purpose for which the information was collected:

a. A claimant/beneficiary for the purpose of informing him/her that his/her representative has been disqualified from further representation under the Longshore Act.

b. Employers, insurance carriers, state bar disciplinary authorities, and the general public, for the purpose of providing information concerning the qualification of person(s) to act as a claimant representative under the Act.

c. Federal, state or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision relating to debarment actions.

**Note:** Disclosure of information contained in the file of the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records is disclosed to members and staff of the Office of Administrative Law Judges, the Benefits Review Board, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THIS SYSTEM:**

**STORAGE:**

The information collected in connection with complaints is kept in manual files.

**RETRIEVABILITY:**

The records are retrieved by the name of the representative.

**SAFEGUARDS:**

Records are stored in locked file cabinets.

**RETENTION AND DISPOSAL:**

File is retained in the office for three years after the debarment action is final and then transferred to the Federal Records Center, and destroyed thirty years after the debarment action is final. Where the period of exclusion is defined as a set period of time, the file will be retained two years after the period of exclusion expires (or the individual is otherwise reinstated), then transferred to the Federal Records Center, and destroyed thirty years after the debarment action is final.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director for Longshore and Harbor Workers' Compensation Act, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Washington, DC 20210, and District Directors in district offices set forth in the Appendix.

**NOTIFICATION PROCEDURE:**

Requests, including name, date of injury, employer at the time of injury, and case file number, if known, should be addressed to the appropriate system manager indicated above.

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to records should contact the appropriate system manager listed above.

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to contest the contents of a record should contact the System Manager.

**RECORD SOURCE CATEGORIES:**

Information in this system is obtained from employees, employers, insurance carriers, members of the public, agency investigative reports, and from other DOL systems of records.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/ESA–28

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Physicians and Health Care Providers Excluded under the Longshore Act.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, Washington, DC 20210, and district offices of the Office of Workers' Compensation Programs set forth in the Appendix to this document.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Providers of medical goods and services, including physicians, hospitals, and providers of medical support services or supplies excluded or considered for exclusion from payment under the Longshore Act, 33 U.S.C. 907(c).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Copies of letters, lists, and documents from Federal and state agencies concerning the administrative debarment of providers from participation in programs providing benefits similar to those of the Longshore and Harbor Workers' Compensation Act and their reinstatement; materials concerning possible fraud or abuse which could lead to exclusion of a provider; documents relative to reinstatement of providers; materials concerning the conviction of providers for fraudulent activities in connection with any Federal or state program for which payments are made to providers for similar medical services; all letters, memoranda, and other documents regarding the consideration of a provider's exclusion, the actual exclusion, or reinstatement under the provisions of 20 CFR 702.431 et seq.; copies of all documents in a claimant's file relating to medical care and/or treatment, including bills for such services; as well as letters, memoranda, and other documents obtained during investigations, hearings, and other administrative proceedings concerning exclusion for fraud or abuse, as well as reinstatement, and recommendations and decisions; lists of excluded providers released by the OWCP.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901, 907(c).

**PURPOSE(S):**

To maintain records to determine the propriety of instituting debarment actions under the Longshore Act. These records also provide information on treatment, billing and other aspects of a medical provider's actions, and/or documentation relating to the debarment of the medical care provider under another Federal or state program.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of information from this system of records may be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is compatible with the purpose for which the information is collected:

a. Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, and any other entities or individuals, for the purpose of identifying an excluded or reinstated provider, to ensure that authorization is not issued nor payment made to an excluded provider, and for the purpose of providing notice that a formerly excluded provider has been reinstated.

b. Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, and any other entities or individuals, for the purpose of obtaining information necessary to ensure that the list of excluded providers is correct, useful, and updated, as appropriate, and for the purpose of obtaining information relevant to a Departmental decision regarding a debarment action. This routine use encompasses the disclosure of such information which will enable the Department to properly verify the identity of a provider, to identify the nature of a violation, and the penalty imposed for such violation.

**Note:** Disclosure of information contained in the file to the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

**Note:** Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records is disclosed to members and staff of the Benefits Review Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THIS SYSTEM:**

**STORAGE:**

The records are in manual files, magnetic tapes or other computer storage media, or on computer printouts.

**RETRIEVABILITY:**

Material is maintained by the name of the provider.

**SAFEGUARDS:**

Material in the possession of the Office of Workers' Compensation Programs and its contractors will be, when not in use, kept in closed file cabinets, appropriate lockers and storage areas, etc.

**RETENTION AND DISPOSAL:**

File is retained in the office for three years after the debarment action is final and then transferred to the Federal Records Center, and destroyed thirty years after the debarment action is final. Where the period of exclusion is defined as a set period of time, the file will be retained two years after the period of exclusion expires (or the individual is otherwise reinstated), then transferred to the Federal Records Center, and destroyed thirty years after the debarment action is final.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director for Longshore and Harbor Workers' Compensation Act, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Washington, DC 20210, and District Directors in the district offices set forth in the Appendix to this document.

**NOTIFICATION PROCEDURE:**

An individual wishing to inquire whether this system of records contains information about him/her may write the system manager at the address above. In order for the record to be located, the individual must provide his or her full name, date of birth, and signature.

**RECORD ACCESS PROCEDURE:**

Any individual seeking access to non-exempt information about a record within this system of records may write the appropriate system manager, and arrangements will be made to provide review of the file. In order for the record to be located, the individual must provide his or her full name, date of birth, and signature.

**CONTESTING RECORD PROCEDURE:**

Specific materials in this system have been exempted from certain Privacy Act provisions regarding the amendment of records. The section of this notice entitled ''Systems Exempted from Certain Provisions of the Act'' indicates the kind of materials exempted, and the reasons for exempting them. Any individual requesting amendment of non-exempt records should contact the appropriate system manager. In order for the record to be located, the

individual must provide his or her full name, date of birth, and signature. Individuals requesting amendment of records must comply with the Department's Privacy Act regulations at 29 CFR 71.1 and 71.9.

**RECORD SOURCE CATEGORIES:**

Information in this system is obtained from Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, any other entities or individuals, public documents, and newspapers, as well as from other Department of Labor systems of records.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/ESA–29**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Physicians and Health Care Providers Excluded under the Federal Employees' Compensation Act.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

The Division of Federal Employees' Compensation, Office of Workers' Compensation Programs, Washington, DC 20210, and district offices of the Office of Workers' Compensation Programs set forth in the Appendix to this document.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Providers of medical goods and services, including physicians, hospitals, and providers of medical support services or supplies excluded or considered for exclusion from payment under the Federal Employees' Compensation Act for fraud or abuse (20 CFR 10.815–826).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Copies of letters, lists and documents from Federal and state agencies concerning the administrative debarment of providers from participation in programs providing benefits similar to those of the Federal Employees' Compensation Act and their reinstatement; materials concerning possible fraud or abuse which could lead to exclusion of a provider; documents relative to reinstatement of providers, materials concerning the conviction of providers for fraudulent activities in connection with any Federal or state program for which payments are made to providers for similar medical services; all letters, memoranda, and other documents regarding the consideration of a provider's exclusion, the actual exclusion, or reinstatement under the provisions of 20 CFR 10.815–826; copies of all documents in a claim file relating to medical care and/or treatment including bills for such services, as well as letters, memoranda, and other documents obtained during investigations, hearings and other administrative proceedings concerning exclusion for fraud or abuse, as well as reinstatement, along with recommendations and decisions; lists of excluded providers released by the OWCP.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Employees' Compensation Act (5 U.S.C. 8101 et seq.), and Title 20 CFR part 10.

**PURPOSE(S):**

To maintain records to determine the propriety of instituting debarment actions under the Federal Employees' Compensation Act. These records also provide information on treatment, billing and other aspects of a medical provider's actions, and/or documentation relating to the debarment of the medical care provider under another Federal or state program.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of information from this system of records may be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is compatible with the purpose for which the information is collected:

a. Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, and any other entities or individuals, for the purpose of identifying an excluded or reinstated provider, to ensure that authorization is not issued nor payment made to an excluded provider, and for the purpose of providing notice that a formerly excluded provider has been reinstated.

b. Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, and any other entities or individuals, for the purpose of obtaining information necessary to ensure that the list of excluded providers is correct, useful, and updated, as appropriate, and for the purpose of obtaining information relevant to a Departmental decision regarding a debarment action. This routine use encompasses the disclosure of such information that will enable the Department to properly verify the identity of a provider, to identify the nature of a violation, and the penalty imposed for such violation.

**Note:** Disclosure of information contained in the file to the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

**Note:** Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records is disclosed to members and staff of the Employees' Compensation Appeals Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THIS SYSTEM:**

**STORAGE:**

The records are in manual files, magnetic tapes or other computer storage media, or on computer printouts.

**RETRIEVABILITY:**

Material is maintained either by the name of the provider, a case citation, or date of release.

**SAFEGUARDS:**

Material in the possession of the Office of Workers' Compensation Programs and its contractors will be, when not in use, kept in closed file cabinets, appropriate lockers and storage areas, etc.

**RETENTION AND DISPOSAL:**

File is retained in the office for three years after the debarment action is final and then transferred to the Federal Records Center, and destroyed thirty years after the debarment action is final. Where the period of exclusion is defined as a set period of time, the file will be retained two years after the period of exclusion expires (or the individual is otherwise reinstated), then transferred to the Federal Records Center, and destroyed thirty years after the debarment action is final.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director for Federal Employees' Compensation, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Washington, DC 20210, and the District Directors of the district offices set forth in the Appendix to this document.

**NOTIFICATION PROCEDURE:**

An individual wishing to inquire whether this system of records contains information about him/her may write the appropriate system manager at the address above. In order for the record to be located, the individual must provide his or her full name, date of birth, and signature.

**RECORD ACCESS PROCEDURE:**

Any individual seeking access to non-exempt information about a record within this system of records may write the OWCP district office where the case is located, or the system manager, and arrangements will be made to provide review of the file. In order for the record to be located, the individual must provide his or her full name, date of birth, and signature.

**CONTESTING RECORD PROCEDURE:**

Specific materials in this system have been exempted from certain Privacy Act provisions regarding the amendment of records. The section of this notice Entitled ''Systems Exempted from Certain Provisions of the Act'' indicates the kind of materials exempted, and the reasons for exempting them. Any individual requesting amendment of non-exempt records should contact the appropriate the system manager. Individuals requesting amendment of records must comply with the Department's Privacy Act regulations at 29 CFR 71.1 and 71.9.

**RECORD SOURCE CATEGORIES:**

Information in this system is obtained from Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, any other entities or individuals, public documents, and newspapers, as well as from other Department of Labor systems of records.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material compiled for law enforcement purposes which is maintained in the investigation files of the Office of Workers' Compensation Programs, is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. 552a. The disclosure of information contained in civil investigative files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the investigation. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to, informants and witnesses, and their respective families, and the well being of investigative personnel and their families.

**DOL/ESA–30**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Black Lung Automated Support Package.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, U.S. Department of Labor Building, 200 Constitution Ave., NW, Washington, DC 20210, and district offices (see addresses in the Appendix to this document).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals filing claims for black lung benefits; claimants receiving benefits; dependents of claimants and beneficiaries; medical providers; attorneys representing claimants; coal mine operators (workers' compensation insurance carriers).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records included are personal (name, date of birth, SSN, claim type, miner's date of death); demographic (state, county, city, congressional district, zip code); mine employment history; medical records; initial determination; conference results; hearing results; medical and disability payment history; accounting information including data on debts owed to the United States; Social Security Administration black lung benefits data; state workers' compensation claim and benefits data; coal mine operator names, addresses, states of operation and histories of insurance coverage; and medical service providers names, addresses, license numbers, medical specialties, tax identifications and payment histories.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

**PURPOSE(S):**

To maintain data on claimants, beneficiaries and their dependents; attorneys representing claimants; medical service providers; coal mine operators and insurance carriers. Provide means of automated payment of medical and disability benefits. Maintain a history of medical bills submitted by beneficiaries and medical service providers. Maintain a history of disability benefit payments made to beneficiaries and medical benefit payments made to beneficiaries and medical service providers. Maintain program accounting information including information on debts owed to the United States. Provide a means for the automatic recoupment of overpayments made to beneficiaries and medical service providers.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document , disclosure of relevant and necessary information may be made to the following:

a. Mine operators (and/or any party providing the operator with workers' compensation insurance) who have been determined potentially liable for the claim at any time after the filing of a notice of injury or claim related to such injury or occupational illness, for the purpose of determining liability for payment.

b. State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act.

c. Doctors and medical services providers for the purpose of obtaining

medical evaluations, physical rehabilitation or other services.

d. Other Federal agencies conducting scientific research concerning the incidence and prevention of black lung disease.

e. Legal representatives, or person authorized to act on behalf of the claimant, responsible operator and program representation on contested issues.

f. Labor unions and other voluntary employee associations of which the claimant is a member for the purpose of exercising an interest in claims of members as part of their service to the members.

g. Contractors providing automated data processing services to the Department of Labor, or to any agency or entity to whom release is authorized, where the contractor is providing a service relating to the purpose for which the information can be released.

h. Federal, state or local agencies if necessary to obtain information relevant to a Department decision concerning the determination of initial or continuing eligibility for program benefits, whether benefits have been or are being paid improperly, including whether dual benefits prohibited under any federal or state law are being paid; and salary offset and debt collection procedures, including any action required by the Debt Collection Act of 1982, 31 U.S.C. 3711.

i. Debt collection agency that DOL has contracted for collection services to recover indebtedness owed to the United States.

j. Internal Revenue Service for the purpose of obtaining taxpayer mailing addresses in order to locate taxpayers to collect, compromise, or write-off a Federal claim against the taxpayer; discharging an indebtedness owed by an individual.

k. Credit Bureaus for the purpose of receiving consumer credit reports identifying the assets, liabilities, income and expenses of a debtor to ascertain the debtor's ability to pay a debt and to establish a payment schedule.

**Note:** Disclosure of information contained in the file to the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

The amount, status and history of overdue debts; the name and address, taxpayer identification (SSAN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f); or in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f) for the purpose of encouraging the repayment of an overdue debt.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Magnetic media. Medical bills and supporting medical reports transferred to microfilm and magnetic media.

**RETRIEVABILITY:**

Coal miner's name and social security number; medical provider number; coal mine operator number; insurance carrier number.

**SAFEGUARDS:**

Files secured in a guarded facility; teleprocessing access protected by restrictions on access to equipment and through use of encrypted passwords.

**RETENTION AND DISPOSAL:**

Electronic file data has permanent retention. Claimant and benefit master file data will be transferred to magnetic tape and transmitted to NARA every ten years. This data (which includes both open and closed cases) will not be made available to the public until 90 years after transfer to NARA due to Privacy Act restrictions.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Division of Coal Mine Workers' Compensation, U.S. Department of Labor, Room C–3520, 200 Constitution Ave., NW, Washington, DC 20210, and district office director (see addresses in The Appendix to this document).

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the above address or district office director (see addresses in the Appendix to this document). Individuals must furnish their name, address, and signature.

**RECORD ACCESS PROCEDURES:**

Individuals wishing to access any records should contact the appropriate office listed in the Notification Procedure section. Individuals must furnish their name, address and signature.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of any non-exempt records should contact the appropriate office listed in the Notification Procedure section. Individuals must furnish their name, address, and signature.

**RECORD SOURCE CATEGORIES:**

Individuals, and organizations.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Investigatory portion of system exempted from certain provisions of the ACT: In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for civil law enforcement purposes, which is maintained in this system's files of the Office of Workers' Compensation Programs of the Employment Standards Administration, is exempt from paragraphs (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families.

**DOL/ESA–32**

**SYSTEM NAME:**

ESA, Employee Conduct Investigations.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

The Employment Standards Administration National Office.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Subjects of complaints and/or investigations covered under the authority delegated to the Branch of

Management Review and Internal Control.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, organization and other information relating to the individual involved. It also contains investigative report(s) associated with the case, including interviews and other confidential data gathered.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C.301.

**PURPOSE(S):**

To investigate allegations of misconduct.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records are stored in file folders in metal cabinets.

**RETRIEVABILITY:**

By name of the subject of the complaint or the case file number.

**SAFEGUARDS:**

The files are maintained in locked file cabinets with access only to those with a need to know the information to perform their duties.

**RETENTION AND DISPOSAL:**

Records are retained for four years following the date either: (a) They are referred to the OIG; (b) they are transferred to OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance; or (c) it is determined that the allegation was without sufficient merit to warrant further action, after which they are destroyed by burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Branch of Management Review and Internal Management Control, 200 Constitution Ave., NW, Room N–4414, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquires should be mailed or presented to the system manager noted at the address noted above.

**RECORD ACCESS PROCEDURE:**

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified: Name; approximate date of the investigation; and individuals requesting access must also comply with the Privacy Act regulations regarding verification of identity to records at 29 CFR 71.2.

**CONTESTING RECORD PROCEDURES:**

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 29 CFR 71.2.

**RECORD SOURCE CATEGORIES:**

Hotline complaints through the Office of the Inspector General's hotline; hotline complaints through the General Accounting Office's hotline system, personnel records; incident reports submitted by other employees; investigative reports, and individuals.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/ESA–33

**SYSTEM NAME:**

''Time Report'' Component of the Wage and Hour Investigative Support and Reporting Database (WHISARD)

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Wage and Hour National Office (NO), Regional Offices (RO), and District Offices (DO). See the Appendix to this document for the addresses.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Wage and Hour Division Investigators, Assistants, and Supervisors.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Listing of hours worked distributed among the various programs Activities; leave records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

To provide Wage and Hour District Directors a method of monitoring the activities of Investigators by providing a daily record of Investigator activities including expenditure of hours by case, Act, non-case activity, and a record of leave taken.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Printed copies of these records are maintained in file cabinets and in an electronic file database in the NO.

**RETRIEVABILITY:**

By name of Investigator, assistant, and supervisor.

**SAFEGUARDS:**

Files are locked except during working hours. Only authorized personnel have access to files. Electronic files are protected by the use of passwords by authorized persons.

**RETENTION AND DISPOSAL:**

Printed forms generated by the WHISARD system will be retained in Wage and Hour DOs (see Records Disposal Schedule #NN–168–43, items 1a and 1b). Database information will be captured on tape at the end of each fiscal year and retained for 25 years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Wage and Hour Division, Frances Perkins Building, 200 Constitution Avenue, NW, Washington DC 20210; Regional Administrators Wage and Hour Division (see the Appendix of this document for addresses).

**NOTIFICATION PROCEDURES:**

Individuals wishing to make inquiries regarding this system should contact the system manager, or the regional office servicing the state where they are employed (see the Appendix of this document for addresses).

RECORD ACCESS PROCEDURES:

Individuals wishing to request these records should contact the appropriate system manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest or amend any nonexempt system should direct their request to the system manager listed in the Appendix. In addition, the request should state clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment sought for the information. See 29 CFR part 71.

RECORD SOURCE CATEGORIES:

Individual investigators, assistants and supervisors, Wage and Hour investigator personnel working in District Offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/ESA–34**

SYSTEM NAME:

Farm Labor Contractor Registration File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

All Wage and Hour Regional Offices and the Florida Department of Labor & Employment Security, Agricultural Programs Section located in Tallahassee, Florida.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and holders of Farm Labor Contractor Certificates of Registration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, which contain personal identification, fingerprints, FBI records, insurance records, court and police records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

PURPOSE(S):

To maintain a record of applicants for and holders of Farm Labor Contractor Certificates of Registration. Records are used to determine eligibility for issuance of a certificate of registration and for determining compliance with MSPA.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, relevant and necessary information may be disclosed to the system manager of DOL/ESA–37, MSPA Public Central Register Records File, for the purpose of preparing its list.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in letter size manual files, computer discs and computer printouts. Records are stored in metal file cabinets in Wage and Hour Regional Offices and in the office of the Florida Department of Labor & Employment Security, Agricultural Programs Section, located in Tallahassee, Florida.

RETRIEVABILITY:

Indexed by the name of the applicant/holder.

SAFEGUARDS:

Accessible only to persons engaged in the administration of the program and there is screening to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records must be retained for a period of five years from the date of last certificate of action, and then destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, and Regional Administrator for Wage and Hour of relevant Regional Offices.

NOTIFICATION PROCEDURE:

To System Manager(s) at above address.

RECORD ACCESS PROCEDURES:

Write to System Manager(s) indicated above.

CONTESTING RECORD PROCEDURES:

Address inquiries to Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, and Regional Administrator for Wage and Hour of relevant Regional Offices. Such inquiries should include the full name of the requester.

RECORD SOURCE CATEGORIES:

The applicant, insurance companies, FBI, court and police records, and from investigations conducted by DOL.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/ESA–35**

SYSTEM NAME:

Farm Labor Contractor Employee Registration File.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

All Wage and Hour Regional Offices and the Florida Department of Labor & Employment Security, Agricultural Programs Section located in Tallahassee, Florida.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and holders of Farm Labor Contractor Employee Certificates of Registration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records which contain personal identification, fingerprints, FBI records, insurance records, court and police records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

PURPOSE(S):

To maintain a record of applicants for and holders of Farm Labor Contractor Employee Certificates of Registration. Records are used to determine eligibility for issuance of a certificate of registration and for determining compliance with MSPA.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, relevant and necessary information may be disclosed to the system manager of DOL/ESA–37, MSPA Public Central Register Records File, for the purpose of preparing its list.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in letter size manual files, computer discs and computer

printouts. Records are stored in metal file cabinets in Wage and Hour Regional Offices and in the office of the Florida Department of Labor & Employment Security, Agricultural Programs Section, located in Tallahassee, Florida.

**RETRIEVABILITY:**

Indexed by the name of the applicant/holder.

**SAFEGUARDS:**

Accessible only to persons engaged in the administration of the program and there is screening to prevent unauthorized disclosure.

**RETENTION AND DISPOSAL:**

Records must be retained for a period of five years from the date of last certificate of action, and then destroyed when no longer needed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, and Regional Administrator for Wage and Hour of relevant Regional Offices.

**NOTIFICATION PROCEDURE:**

Write to System Manager(s) indicated above.

**RECORD ACCESS PROCEDURES:**

Write to appropriate System Manager indicated above.

**CONTESTING RECORD PROCEDURES:**

Address inquiries to Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, and Regional Administrator for Wage and Hour of relevant Regional Offices. Such inquiries should include the full name of the requester.

**RECORD SOURCE CATEGORIES:**

The applicant, insurance companies, FBI, court and police records, and from investigations conducted by DOL.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/ESA–36

**SYSTEM NAME:**

MSPA Civil Money Penalties in the Wage Hour Investigative Support and Reporting Database (WHISARD).

**SECURITY CLASSIFICATION:**

None.

## DOL/ESA–36

**SYSTEM NAME:**

MSPA Civil Money Penalties in the Wage Hour Investigative Support and Reporting Database (WHISARD).

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Wage and Hour National Office (NO), Regional Offices (RO) and District Offices (DO), see The Appendix of this document for addresses.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All persons investigated and assessed civil money penalties (CMPs) under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names, addresses, Social Security numbers, complaint information, employer information, employer/employee interviews, payroll information, housing and/or vehicle inspection reports, outcome of investigation, notification of determination to assess a CMP, hearing requests and/or subsequent legal documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

**PURPOSE(S):**

To maintain records on persons assessed MSPA CMPs and all actions connected therewith.

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

None, except for those routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE OF CONSUMER REPORT AGENCIES:**

Not applicable.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM**

**STORAGE:**

Original records are stored in Wage and Hour offices. These records and other information are also maintained in an electronic file database in these offices.

**RETRIEVABILITY:**

Records are retrieved by employer name, Employer Identification Number, case file number or Act violated.

**SAFEGUARDS:**

Only authorized personnel have access by use of passwords to information stored on the database.

Original records are securely stored in Wage and Hour Regional Offices.

**RETENTION AND DISPOSAL:**

1. Electronic records are electronically archived; data tapes are retained for 25 years.

2. Printed information generated by this system and retained in a Wage-Hour office will be disposed of as follows: Printed information, concerning cases where violations were found, is disposed of 12 years after the date the case is closed. For cases where no violation were found, printed information is disposed of three years after the closing date.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Wage and Hour Division, Room S–3502, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Individuals wishing to make inquiries regarding this system should contact the system manager, or the regional office that services the state in which they are located (see list of the regional office addresses in the Appendix of this document). Inquiries should include the full name of the requester and the date and amount of assessment.

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to these records should contact the appropriate regional office listed in the Appendix.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest or amend any records should direct their request to the appropriate regional office listed in the Appendix. Such inquiries should include the full name of the requester and the date and amount of assessment.

**RECORD SOURCE CATEGORIES:**

The subject of the investigation, employer(s), employee(s) (present and/or former), insurance companies, other government agencies, court documents, and previous investigations (if applicable).

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/ESA–37

**SYSTEM NAME:**

MSPA Public Central Registry Records File.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Wage and Hour National Office (NO), Regional Offices (RO) and District

Offices (DO), see the Appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Holders of Farm Labor Contractor and Farm Labor Contractor Employee Certificates of Registration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records which contain the name, address, certificate of registration number, authorization to transport, house, or drive (if any), and effective and expiration dates of holders of Farm Labor Contractor and Farm Labor Contractor Employee Certificates of Registration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

PURPOSE(S):

To maintain a record of holders of Farm Labor Contractor and Farm Labor Contractor Employee Certificates of Registration.

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

In addition to the routine uses listed in the General Prefatory Statement to this document, a public central registry of all persons issued certificates of registration is maintained by name and address which is available to anyone, upon request, as required by the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), as amended (Section 402). Alternatively, section 500.170 of 29 CFR Part 500 provides that requests for registry information may be made by telephone by calling a toll-free number (listed). This registry is the source for providing that information.

DISCLOSURE OF CONSUMER REPORT AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Original records are stored in the Wage and Hour Regional Offices. These records are also maintained in an electronic file Database in the DOL NO.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number (or Employer Identification Number), or Farm Labor Contractor Registration Number.

SAFEGUARDS:

Only authorized personnel have access by use of passwords to information stored on the database.

Original records are securely stored in Wage and Hour Regional Offices.

RETENTION AND DISPOSAL:

1. Electronic records are updated on a real-time basis. Expired certificate records are electronically archived daily. Data tapes are retained for 25 years.

2. Printed information generated by the certificates program and retained in a Wage-Hour office will be disposed of 5 years after the date of last certificate action.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Wage and Hour Division, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Individuals wishing to make inquiries regarding this system should contact the system manager, or the regional office that services the state in which they are located (see list of the regional office addresses in the Appendix).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to these records should contact the appropriate regional office listed in the Appendix.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or amend any records should direct their request to the appropriate regional office listed in the Appendix. Such inquiries should include the full name of the requester and the date and amount of assessment.

RECORD SOURCE CATEGORIES:

Farm labor contractor and farm labor contractor employee applications and certificates of registration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ESA–38

SYSTEM NAME:

Wage and Hour Regional Office Clearance List—MSPA Registration

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Wage and Hour National Office (NO), Regional Offices (RO) and District Offices (DO), see the Appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Farm labor contractors and farm labor contractor employees who may not currently meet eligibility requirements, as stated in the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) for issuance of a certificate of registration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing names, addresses, and social security numbers, outstanding unpaid CMPs under MSPA, injunctions, convictions, deportations, and previous actions to deny or revoke a certificate of registration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

PURPOSE(S):

To provide a list of persons who may not meet eligibility requirements for issuance of a farm labor contractor or farm labor contractor employee Certificate of Registration to be used as a reference document for screening incoming applications by Wage and Hour Regional Offices and to provide historical and current compliance information to Wage and Hour National, Regional, and District Offices.

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

None except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE OF CONSUMER REPORT AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Original records are stored in the Wage and Hour Regional Offices. These records are also maintained in an electronic file Database in the DOL National Office.

RETRIEVABILITY:

Records are retrieved by name or Social Security number (or Employer Identification Number).

SAFEGUARDS:

Only authorized personnel have access by use of passwords to information stored on the database.

Original records are securely stored in Wage and Hour Regional Offices.

RETENTION AND DISPOSAL:

1. Electronic records are updated on a real-time basis. Data tapes are retained for 25 years.

2. Printed information retained in Wage-Hour offices will be disposed of 5

years after the date of the last certifice action.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Wage and Hour Division, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Individuals wishing to make inquiries regarding this system should write to the system manager, or the regional office that services the state in which they are located (see list of the regional office addresses in the Appendix of this document).

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to these records should write to the appropriate office listed in the Appendix. Accessible only to persons engaged in the administration of the program.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest or amend any record procedures should write to the system manager listed in the Appendix. The request should state clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment sought for the information.

**RECORD SOURCE CATEGORIES:**

Insurance companies, FBI, court and police records, previous actions to deny or revoke certificates of registration, and from investigations conducted by DOL and subsequent legal documents following such investigations.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/ESA–39

**SYSTEM NAME:**

State Employment Service Clearance List—MSPA Registration

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

The Department of Labor & Employment Security, Tallahassee, Florida; New Jersey Department of Labor, Trenton, New Jersey; Virginia Employment Commission, Richmond, Virginia; Wage and Hour National Office (NO), Regional Offices (RO) and District Offices (DO), see the Appendix of this document for addresses of the Wage and Hour offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Farm labor contractors and farm labor contractor employees who may not currently meet eligibility requirements, as stated in the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), for issuance of a certificate of registration.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records contain names, addresses, and Social Security numbers.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

**PURPOSE(S):**

To provide a list of persons who may not meet eligibility requirements for issuance of a farm labor contractor or farm labor contractor employee Certificate of Registration to be used as a reference document for screening incoming applications by the Department of Labor and Employment Security, Tallahassee, Florida; New Jersey Department of Labor, Trenton, New Jersey; and Virginia Employment Commission, Richmond, Virginia.

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

None except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE OF CONSUMER REPORT AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM**

**STORAGE:**

Electronic data is stored on computer disc.

**RETRIEVABILITY:**

Records are retrieved by name or by Social Security Number.

**SAFEGUARDS:**

This is accessible only to persons engaged in the administration of the program and there is screening to prevent unauthorized disclosure.

**RETENTION AND DISPOSAL:**

Electronic records are updated on a monthly basis. Data tapes are retained for 25 years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Wage and Hour Division, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Write to System Manager(s) indicated above.

**RECORD ACCESS PROCEDURES:**

Write to System Manager(s) indicated above.

**CONTESTING RECORD PROCEDURES:**

Write to System Manager(s) indicated above.

**RECORD SOURCE CATEGORIES:**

Wage and Hour Clearance List—MSPA Registration.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/ESA–40

**SYSTEM NAME:**

MSPA Tracer List.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

The Wage and Hour National Office.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Farm labor contractors, farm labor contractor employees, agricultural employers, and housing providers who have been investigated under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records containing names, addresses, and Certificate of Registration numbers of persons investigated under MSPA; location and scope of investigation, period covered and results of investigations conducted.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

**PURPOSE(S):**

To provide a written compliance history of persons who have been investigated under MSPA and the results of those investigations as a reference document for Wage and Hour investigators to determine knowledge of the Act by the person being investigated and whether previous violations are ongoing.

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

None except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE OF CONSUMER REPORT AGENCIES:**

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Records are stored on computer media at the Wage and Hour National Office.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Electronic data is stored on computer disc. This is accessible only to persons engaged in the administration of the program and there is screening to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Electronic records are updated on a monthly basis. Data tapes are retained for 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Wage and Hour Division, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Write to System Manager(s) indicated above.

RECORD ACCESS PROCEDURES:

Write to System Manager(s) indicated above.

CONTESTING RECORD PROCEDURES:

Write to System Manager(s) indicated above.

RECORD SOURCE CATEGORIES:

The person investigated, employers, employees, insurance companies, FBI, court and police records, and from investigations conducted by DOL and subsequent legal documents following such investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a provided, however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

## DOL/ESA–41

SYSTEM NAME:

MSPA Certificate Action Record Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Wage and Hour National Office and Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and holders of Farm Labor Contractor/Farm Labor Contractor Employee Certificates of Registration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, fingerprints, FBI records, insurance records, court and police records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

PURPOSE(S):

To maintain a record of persons whose applications for or previously issued Farm Labor Contractor/Farm Labor Contractor Employee Certificates of Registration have been denied or revoked and all subsequent actions connected therewith.

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

None except for these routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in metal file cabinets and computer media in the Wage and Hour National Office. Computer media are stored in the Wage and Hour National Office and Regional Offices.

RETRIEVABILITY:

By the name of the applicant/holder.

SAFEGUARDS:

Accessible only to persons engaged in the administration of the program and there is screening to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records must be retained for a period of five years from the expiration date of a certificate of registration or from the date an application is received where no certificate has been issued.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Write to System Manager at above address.

RECORD ACCESS PROCEDURES:

Write to System Manager indicated above.

CONTESTING RECORD PROCEDURES:

Write to Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210. Such inquiries should include the full name of the requester.

RECORD SOURCE CATEGORIES:

Applicants, individuals, insurance companies, FBI, court and police records, and from investigations conducted by DOL.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

## DOL/ESA–42

SYSTEM NAME:

Case Registration/Investigator Assignment Form; in the Wage and Hour Investigative Support and Reporting Database (WHISARD).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Wage and Hour National Office (NO), Regional Offices (RO), and District Offices (DO); see the Appendix of this document for addresses.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Wage and Hour Investigators.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records containing name and address, case investigation number, investigation program, investigating office, prior history of investigations, and investigating officer.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

To provide Wage and Hour DOs with a record of employers currently undergoing investigation by Wage and Hour within the jurisdiction of that particular DO. Used to record the initial scheduling of an investigation, assignment to an Investigator and subsequent actions.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE OF CONSUMER REPORT AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Maintained in the DOL NO in electronic file Database.

**RETRIEVABILITY:**

By name of employer, by North American Industrial Code (NAIC) and/or Employer Identification Number (EIN).

**SAFEGUARDS:**

Only authorized personnel have access to files. Files locked in office at close of business day. Electronic file protected by password.

**RETENTION AND DISPOSAL:**

Printed investigation forms generated by the WHISARD system will be retained in the investigative files of Wage and Hour District Offices (see Records Disposal Schedule #NN–168–43, items 1a and 1b.) Database information will be captured on tape at the end of each fiscal year and will be retained for 25 years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Wage and Hour Division, Room S–3502, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Individuals wishing to make inquiries regarding this system should contact the system manager, or the regional office servicing the state where they are employed (see list of the regional office addresses in the Appendix of this document).

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to these records should contact the appropriate office listed in the Appendix.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest or amend any nonexempt records should direct their request to the disclosure officer listed in the Appendix. In addition, the request should state clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment sought for the information.

**RECORD SOURCE CATEGORIES:**

Complainants, employers, and Wage and Hour personnel.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

## DOL/ESA–43

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Federal Employees' Compensation Act and Longshore and Harbor Workers' Compensation Act Rehabilitation Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Rehabilitation files are located in the Federal Employees' Compensation (FEC) and Longshore and Harbor Workers' Compensation (Longshore) District Offices where the OWCP case file is located. See the Appendix to this document for District Office addresses. Copies of claim forms and other documents arising out of a job-related injury that resulted in the filing of a claim under the FECA may also be maintained by the employing agency (and where the forms were transmitted to the OWCP electronically, the original forms are maintained by the agency).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The rehabilitation records cover either individuals covered by the Federal Employees' Compensation Act (FECA) for injuries on the job, or individuals covered by the Longshore and Harbor Workers' Compensation Act (LHWCA), and related acts. See DOL/GOVT–1 for further explanation of employees covered by the FECA, and DOL/ESA–15 for those covered by the LHWCA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records found in the FECA or Longshore case file (see DOL/GOVT–1 and DOL/ESA–15), notes on telephone calls and interviews with rehabilitation counselors, claimants, potential employers, physicians and others who have been contacted as part of the rehabilitation process, notes created by the rehabilitation specialist and the rehabilitation counselor concerning the rehabilitation process relating to the claimant proposed and/or approved rehabilitation plans, and reports submitted in connection with the plans. These records also contain information about covered employees' entitlement to wage-loss compensation benefits and entitlement to medical benefits and treatment, and contain information about medical and vocational testing, rehabilitation plans and the documentation supporting such plans. The records may also include other information relating to the vocational rehabilitation process under the relevant statute.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 8101 et seq.; 33 U.S.C. 901, et seq.; 36 DC Code 501 et seq.; 42 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.

**PURPOSE(S):**

These records are maintained to provide information and verification about the covered employees' work-related injuries and the vocational rehabilitation process.

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

In addition to those universal routine uses listed in the General Prefatory

Statement to this document, disclosure of information from this system of records may be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is compatible with the purpose for which the information is collected:

a. Rehabilitation agencies, counselors, screeners, physicians and medical providers, and other persons or entities, for the purpose of providing rehabilitation services to injured workers under the FECA or LHWCA.

b. The worker's former employer or its representatives, including third-party administrators, and where appropriate the employer's insurance carrier, for the purpose of paying compensation benefits, including medical expenses, and the cost of the rehabilitation services provided to the injured worker.

c. Employers, including federal agencies, which may consider returning the worker to employment, or to hiring such worker as a result of the return-to-work effort conducted by OWCP during the rehabilitation process.

d. Labor unions and other voluntary employee associations from whom the claimant has requested assistance with claims processing and adjudication and other services.

**Note:** Disclosure of information contained in the file to the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

**Note:** Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records is disclosed to members and staff of the Benefits Review Board, the Employees' Compensation Appeals Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Case files are maintained in manual files, security case files in locked cabinets, and FECA or LHWCA management information system information, chargeback file and other automated data are stored on computer discs or magnetic tapes which are stored in cabinets.

**RETRIEVABILITY:**

Files and automated data are retrieved after identification by coded file number, which is cross-referenced to employee by name.

**SAFEGUARDS:**

Files and automated data are maintained under supervision of OWCP personnel during normal working hours—only authorized personnel may handle or disclose any information contained therein. Only personnel having security clearance may handle or process security files. After normal working hours, security files are kept in locked cabinets. All files and data are maintained in guarded Federal buildings.

**RETENTION AND DISPOSAL:**

All rehabilitation files are merged with the FECA or Longshore case file (see DOL/GOVT–1 or DOL/ESA–15) at the conclusion of the rehabilitation effort and are retained consistent with the retention schedule for the case files.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Division of Planning, Policy and Standards, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

An individual wishing to inquire whether this system of records contains information about him or her may write or telephone the OWCP District Office which services the State in which the individual resided or worked at the time the individual thinks he or she filed a claim, or the system manager. In order for a record to be located, the individual must provide his or her full name, FEC or LHWCA case number (if known), date of injury (if known), and date of birth.

**RECORD ACCESS PROCEDURE:**

Individuals wishing to request access to records should contact the appropriate office listed in the Notification Procedure section, or the system manager. Individuals must furnish their name, the claim number and signature.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of any records should contact the appropriate office listed in the Notification Procedure section, or the system manager. Individuals must furnish their name, the claim number and signature. Any individual requesting amendment of records must comply with the Department's Privacy Act regulations at 29 CFR 71.1 and 71.9.

**RECORD SOURCE CATEGORIES:**

Claimants, claim forms, medical reports, correspondence, investigative reports, employment reports; Federal and state agency records, any other record or document pertaining to a claimant or his dependent as it relates to the claimant's age, education, work history, marital history or medical condition; notes on telephone conversations conducted by the rehabilitation specialist or counselor with employers, medical providers and others.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/ESA–44**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Federal Employees' Compensation Act (FEC) and Longshore and Harbor Workers' Compensation Act Rehabilitation Counselor Case Assignment, Contract Management and Performance Files and FEC Field Nurses.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Files concerning rehabilitation counselors are located in the Federal Employees' Compensation (FEC) and Longshore and Harbor Workers' Compensation (Longshore) District Offices where the counselor is certified. Files for FEC field nurses are found in FEC district offices. See the Appendix to this document for District Office addresses. Copies of claim forms and other documents arising out of a job-related injury that resulted in the filing of a claim under the FECA may also be maintained by the employing agency (and where the forms were transmitted to the OWCP electronically, the original forms are maintained by the agency).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The rehabilitation counselor/nurse files cover individuals who have entered into a contract with the Office of Workers' Compensation Programs to provide rehabilitation counselor or nursing services under the Federal Employees' Compensation Act (FECA) and/or the Longshore and Harbor Workers' Compensation Act (LHWCA).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names, addresses and information on qualifications of rehabilitation counselors/nurses certified by and under contract with OWCP to provide rehabilitation services to injured workers under the FECA and LHWCA or field nurse services under FECA. In addition there are records compiled and maintained by the rehabilitation specialist or the OWCP staff nurse, concerning the assignment of rehabilitation/field nurse cases to the counselor/nurse and the performance of the counselor/nurse in fulfilling the duties under the contract with OWCP.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

These records are maintained to provide information about the rehabilitation counselor or field nurse, including the name, address, telephone number, counselor/nurse status, skill codes, number of referrals, status of referrals and notes. These notes can include evaluation of performance and other matters concerning performance of the contract.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**Note:** Disclosure of information contained in the file to the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

**Note:** Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records may be disclosed to members and staff of the Benefits Review Board, the Employees' Compensation Appeals Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department who have a need for the record in the performance of their duties.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records are maintained in electronic form within the OWCP rehabilitation data system, or staff nurse monitoring system and in hard copy records maintained in the OWCP district office. Records are principally stored by district office in electronic form, accessed by appropriate codes. Hard copy records may be maintained in the district office in locked cabinets.

**RETRIEVABILITY:**

Files and automated data are retrieved by the name of the counselor/nurse through the database and/or files maintained in the appropriate OWCP district office.

**SAFEGUARDS:**

Files and automated data are maintained under supervision of OWCP personnel during normal working hours—only authorized personnel may handle or disclose any information contained therein. Only personnel having appropriate authorization, including security codes, may access the electronic files and only the rehabilitation specialists or staff nurses who monitor contract performance and actions in individual claims, as well as the appropriate supervisors and managers in the district office and the national office, may access the files.

**RETENTION AND DISPOSAL:**

All case files and automated data pertaining to the OWCP rehabilitation counselors/nurses are maintained for two years following the termination of the contract.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Division of Planning, Policy and Standards, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

An individual wishing to inquire whether this system of records contains information about him or her may write or telephone the appropriate OWCP District Office for the geographic region for which that individual contracted to provide services. In order for a record to be located, the individual must provide his or her full name and date of birth.

**RECORD ACCESS PROCEDURE:**

Individuals wishing to request access to records should contact the appropriate office listed in the Notification Procedure section, or the system manager. Individuals must furnish their name, the claim number and signature.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of any records should contact the appropriate office listed in the Notification Procedure section, or the system manager.

**RECORD SOURCE CATEGORIES:**

Rehabilitation Counselors, Field Nurses, Other Individuals, correspondence, investigative reports, Federal and state agency records, any other record or document pertaining to a contract.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/ESA–45

**SYSTEM NAME:**

Investigative Files of the Office of Labor-Management Standards.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

The field offices of the Office of Labor-Management Standards.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Union officials and other individuals investigated or interviewed in connection with investigations carried out pursuant to the Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401 et. seq.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records compiled in connection with investigations conducted under the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), and under the standards of conduct provisions of the Civil Service Reform Act of 1978 (CSRA) and Foreign Service Act of 1980 (FSA), and the Congressional Accountability Act of 1995 (CAA) and the implementing regulations at 29 CFR part 458.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 401 et seq., 5 U.S.C. 7120, 22 U.S.C. 4117, 2 U.S.C. 1351 (a)(1), 29 CFR part 458.

**PURPOSE(S):**

Records are compiled in connection with enforcement of the LMRDA and the standards of conduct provisions of the CSRA and FSA and CAA and the implementing regulations at 29 CFR part 458.

**ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEMS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Records may be disclosed to interested persons or officials as provided for in section 601(a) of the Labor-Management Reporting and Disclosure Act, 29 U.S.C. 521(a). See

also, routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and manual and computer indices.

RETRIEVABILITY:

By name of union, union officials, individuals investigated, business organizations, labor relations consultants, and other individuals and organizations deemed significant.

SAFEGUARDS:

These records are normally maintained in secured file cabinets with access strictly limited to only those employees of the agency who need such information as part of their official duties. A charge-out system is employed to restrict and monitor withdrawal of records from the files.

RETENTION AND DISPOSAL:

Records pertaining to open investigations are retained in the OLMS field offices. Closed files are retained in field offices for two years after which they are retired to Federal Records Centers. FRC will destroy files after eight calendar years of storage (ten years after closure of case).

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Labor-Management Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the systems manager. Individuals must furnish the following information for their records to be located and identified: Name, date of birth, union or business affiliation.

RECORDS ACCESS PROCEDURE:

Individuals wishing to request access to records pertaining to them should contact the systems manager. Individuals must furnish the following information for their records to be located or identified: Name, date of birth, and union or business affiliation.

CONTESTING RECORD PROCEDURE

Individuals wishing to contest information in their files may write to the system manager at the specified address above, reasonably identify the records pertaining to them, the information which is being contested in those records, the corrective action(s) being sought, and the reasons for the corrections(s).

RECORD SOURCE CATEGORIES:

Labor unions, union members, union officials and employees, employers, labor relations consultants, and other individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

To the extent this system of records is maintained for criminal law enforcement purposes, it is exempt pursuant to 5 U.S.C. 552a (j)(2) from all provisions of the Privacy Act except the following: 5 U.S.C. 552a (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), and (11), and (i). In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for civil law enforcement purposes is exempt for subsections (c)(3); (d); (e)(1), (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individuals, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence. Exemption under 5 U.S.C. 552a(j)(2) and (k)(2) of information within this system of records is necessary to undertake the investigative and enforcement responsibilities of OLMS, to prevent individuals from frustrating the investigatory process, to prevent subjects of investigation from escaping prosecution or avoiding civil enforcement, to prevent disclosure of investigative techniques, to protect the confidentiality of witnesses and informants, and to protect the safety and well-being of witnesses, informants, and law enforcement personnel, and their families.

## DOL/ESA–46

SYSTEM NAME:

Migrant and Seasonal Agricultural Worker Protection Act (MSPA) Ineligible Farm Labor Contractors.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Wage and Hour National Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose Farm Labor Contractor or Farm Labor Contractor Employee Certificate of Registration has been revoked or whose application for such certificate has been denied and such action has become a final and unappealable Order of the Secretary of Labor.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing the names and addresses of persons whose certificates of registration have been revoked or whose application for a certificate of registration have been denied.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Migrant and Seasonal Agricultural Worker Protection Act, as amended (MSPA), 29 U.S.C. 1801 et seq.

PURPOSES:

To provide a written listing of individuals who may not legally engage in any activity as a farm labor contractor or farm labor contractor employee.

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

This listing is mailed upon request to the General Public.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in all Wage and Hour Regional Offices, some Wage and Hour District Offices and the Wage and Hour National Office.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Records are maintained under the supervision of Wage and Hour personnel.

RETENTION AND DISPOSAL:

Record is updated and replaced on a monthly basis. These records are destroyed after they have been replaced and are no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Wage and Hour Division, 200 Constitution Avenue, NW,

Washington, DC 20210, and Regional Administrator for Wage and Hour of relevant Regional Offices.

**NOTIFICATION PROCEDURE:**

Write to Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, or appropriate Regional Administrator for Wage and Hour.

**RECORD ACCESS PROCEDURES:**

Write to Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, or to the appropriate Regional Administrator for Wage and Hour.

**CONTESTING RECORD PROCEDURES:**

Write to Administrator, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, or to the appropriate Regional Administrator for Wage and Hour. Such inquiries should include the full name of the requester.

**RECORD SOURCE CATEGORIES:**

The sources for records in the system include information furnished by the applicant.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/ESA–47**

**SYSTEM NAME:**

Youth Peddler Bulletin Board.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

All Wage and Hour Division's Regional and District Offices and the National Office.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employers, crew chiefs who recruit minors for door-to-door sales, and/or drivers who transport minors to sell candy or other goods.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records containing the names and addresses of companies and/or individuals subject to state or Federal child labor laws. Information on the location and scope of any current or prior investigations; information concerning criminal investigations—including subpoenas, injunctions or agreements involving crew chiefs or drivers of youth peddlers; synopses of recruiting advertisements, or itineraries of activities; information concerning products being sold and location of manufacturers and/or warehouses used to store these materials; registration of vehicles used to transport youth crews; and State and local licenses.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 201 et seq.; and 5 U.S.C. 301.

**PURPOSE(S):**

To assemble into one system, information concerning the investigative histories of crew chiefs/drivers who may have recruited/transported minor-workers for the purpose of selling materials door-to-door that may result in a violation of Federal or State child labor laws.

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

Pertinent information may be disclosed to the appropriate Federal, State, or local agency for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, in connection with a potential or actual child labor violation.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Not applicable.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are stored manually and on computer media in all Wage and Hour Regional and District offices, and the Wage and Hour National Office.

**RETRIEVABILITY:**

Records are retrieved by the names of door-to-door sales crew chiefs and drivers and/or employers.

**SAFEGUARDS:**

These records are kept manually and electronically and may only be accessed by entering a password that will be provided to persons engaged in the administration of the program.

**RETENTION AND DISPOSAL:**

The electronic records will be transferred to the master data base (CD/disc) file after one year. The textual records (which include printouts, correspondence, fax copies, and reports) will be maintained for two years. Both the electronic and textual records will be destroyed when they are no longer needed for program purposes.

**SYSTEM MANAGER(S) AND ADDRESS:**

Child Labor and Special Employment Team Leader, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Write to the Child Labor and Special Employment Team Leader, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, and Regional Administrators for Wage and Hour of relevant Regional and District Offices. Such inquiries should include the full name of the requestor and/or the legal name of the company.

**RECORDS ACCESS PROCEDURE:**

Write to the Child Labor and Special Employment Team Leader, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, or appropriate Regional Administrator for Wage and Hour. Such inquiries should include the full name of the requestor and/or the legal name of the company.

**CONTESTING RECORD PROCEDURES:**

Write to the Child Labor and Special Employment Team Leader, Wage and Hour Division, 200 Constitution Avenue, NW, Washington, DC 20210, and Regional Administrator for Wage and Hour of relevant Regional and District Offices. Such inquiries should include the full name of the requestor and/or the legal name of the company.

**RECORD SOURCE CATEGORIES:**

Crew chiefs/drivers, employees, court and police records, and records of investigations conducted by the U.S. Department of Labor and the State Departments of Labor and any subsequent legal documents created following such investigations.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/ESA–48**

**SYSTEM NAME:**

''Customer Service component'' of the Wage Hour Investigative Support and Reporting Database (WHISARD).

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Wage and Hour National Office (NO), Regional Offices (RO) and District Offices (DO), see The Appendix of this document for addresses.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons who contact the Wage and Hour Division for technical assistance or to file a complaint.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

''Browse Customer List'' records containing last name, first name, phone number, address, city, complaint status, case identification number, WH employee name, and contact priority.

''Employee Contact Information'' records containing home address, phone numbers, fax number, e-mail address and certain information about the individual's complaint.

''Employee Work Information'' records containing certain employment and payroll information about the individual's complaint.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 29 U.S.C. 201 et seq.

**PURPOSE(S):**

To provide Wage and Hour NO, ROS and DOs with an index of individuals who contact the Wage and Hour Division. This information may be used to provide assistance or facilitate the processing of a complaint.

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

In addition to the routine uses listed in the General Prefatory Statement to this document, relevant information may be provided to other government agencies for law enforcement purposes.

**DISCLOSURE OF CONSUMER REPORT AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Maintained in an electronic file Database in the DOL National Office.

**RETRIEVABILITY:**

By name of the individual.

**SAFEGUARDS:**

Only authorized personnel have access by use of passwords to this on-line transactional system and its database.

**RETENTION AND DISPOSAL:**

Printed investigation forms generated by the WHISARD system will be retained in the investigative files of Wage and Hour District Offices (see Records Disposal Schedule #NN–168–43, items 1a and 1b which provides as follows: Printed information, concerning cases where violations were found, is disposed of 12 years after the date the case is closed. For cases where no violation were found, printed information is disposed of three years after the closing date. Database information will be captured on tape at the end of each fiscal year and retained for 25 years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Wage and Hour Division, Room S–3502, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Individuals wishing to make inquiries regarding this system should contact the system manager, or the regional office servicing the state where they are employed (see list of the regional office addresses in the Appendix of this document).

**RECORD ACCESS PROCEDURES:**

Individuals wishing to request access to these records should contact the appropriate office listed in the Appendix.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest or amend any records should direct their request to the appropriate system manager. In addition, the request should state clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment sought for the information.

**RECORD SOURCE CATEGORIES:**

Complainants, employers, and Wage and Hour personnel.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/ESA–49**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Energy Employees Occupational Illness Compensation Program Act File.

**SECURITY CLASSIFICATION:**

Most files and data are unclassified. Files and data in certain cases have Top Secret classification, but the rules concerning their maintenance and disclosure are determined by the agency that has given the information the security classification of Top Secret.

**SYSTEM LOCATION:**

U.S. Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210, and district offices located throughout the United States.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals or their survivors who claim benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). These individuals include, but are not limited to, federal employees or survivors of federal employees; employees or survivors of employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors; and members of the armed forces.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system may contain the following kinds of records: Claim forms filed by or on behalf of injured individuals or their survivors seeking benefits under the EEOICPA; reports by the employee and/or the U.S. Department of Energy; employment records; exposure records; safety records or other incident reports; dose reconstruction records; workers' or family members contemporaneous diaries, journals, or other notes; forms authorizing medical care and treatment; other medical records and reports; bills and other payment records; compensation payment records; formal orders for or against the payment of benefits; transcripts of hearings conducted; and any other medical, employment, or personal information submitted or gathered in connection with the claim. The system may also contain information relating to dates of birth, marriage, divorce, and death; notes of telephone conversations conducted in connection with the claim; information relating to vocational and/or medical rehabilitation plans and progress reports; records relating to court proceedings, insurance, banking and employment; articles from newspapers and other publications; information relating to other benefits (financial and otherwise) the claimant may be entitled to, including previously

filed claims; and information received from various investigative agencies concerning possible violations of Federal civil or criminal law.

The system may also contain consumer credit reports on individuals indebted to the United States, information relating to the debtor's assets, liabilities, income and expenses, personal financial statements, correspondence to and from the debtor, information relating to the location of the debtor, and other records and reports relating to the implementation of the Federal Claims Collection Act (as amended), including investigative reports or administrative review matters. Individual records listed here are included in a claim file only insofar as they may be pertinent or applicable to the individual claiming benefits.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Energy Employees Occupational Illness Compensation Program Act, Title XXXVI of Pub. L. 106–398, October 30, 2000, 114 Stat. 1654.

**PURPOSE(S):**

To maintain records on individuals who file claims under the Energy Employees Occupational Illness Compensation Program Act, which establishes a program for compensating certain individuals for covered illnesses related to exposure to beryllium, cancers related to exposure to radiation, and chronic silicosis. These records provide information and verification about individual claimants' covered illnesses on which may be based any entitlement to medical treatment, compensation and survivors' benefits, under the EEOICPA and certain other statutes.

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

In addition to those Department-wide routine uses set forth above in the General Prefatory Statement to this document, disclosure of information from this system of records may be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is both relevant and necessary and is compatible with the purpose for which the information was collected:

a. To any attorney or other representative of an EEOICPA beneficiary for the purpose of assisting in a claim or litigation against a third party or parties potentially liable to pay damages as a result of the beneficiary's compensable condition, and for the purpose of administering the provisions of sections 3641–3642 of the EEOICPA. Any such third party, or a representative acting on that third party's behalf, may be provided information or documents concerning the existence of a record and the amount and nature of compensation paid to or on behalf of the beneficiary for the purpose of assisting in the resolution of the claim or litigation against that party or administering the provisions of sections 3641–3642 of the EEOICPA.

b. To the Department of Energy, its contractors and subcontractors, and federal agencies that employed the employee at the time of the alleged exposure of the employee, and to other entities that may possess relevant information, to assist in administering the EEOICPA, to answer questions about the status of the claim, to consider other actions the agency may be required to take with regard to the claim, or to permit the agency to evaluate its safety and health program. Disclosure to federal agencies, including the Department of Justice, may be made where OWCP determines that such disclosure is relevant and necessary for the purpose of providing assistance in regard to asserting a defense based upon the EEOICPA's exclusive remedy provision to an administrative claim or to litigation filed under the Federal Tort Claims Act.

c. To the personnel, contractors, grantees, and cooperative agreement holders of the Department of Energy, the Department of Health and Human Services, the Department of Justice, and other federal agencies designated by the President to implement the federal compensation program established by the EEOICPA, for the purpose of assisting in the adjudication or processing of a claim under that Act.

d. To physicians, pharmacies, and other health care providers for their use in treating the claimant, in conducting an examination or preparing an evaluation on behalf of OWCP and for other purposes relating to the medical management of the claim, including evaluation of and payment for charges for medical and related services and supplies.

e. To medical insurance or health and welfare plans (or their designees) that cover the claimant in instances where OWCP had paid for treatment of a medical condition that is not compensable under the EEOICPA, or where a medical insurance plan or health and welfare plan has paid for treatment of a medical condition that may be compensable under the EEOICPA, for the purpose of resolving the appropriate source of payment in such circumstances.

f. To a federal, state or local agency for the purpose of obtaining information relevant to a determination concerning initial or continuing eligibility for EEOICPA benefits, and for a determination concerning whether benefits have been or are being properly paid, including whether dual benefits that are prohibited under any applicable federal or state statute are being paid; and for the purpose of utilizing salary offset and debt collection procedures, including those actions required by the Debt Collection Act of 1982, to collect debts arising as a result of overpayments of EEOICPA compensation and debts otherwise related to the payment of EEOICPA benefits.

g. To the Internal Revenue Service (IRS) for the purpose of obtaining taxpayer mailing addresses for the purposes of locating a taxpayer to collect, compromise, or write-off a federal claim against such taxpayer; and informing the IRS of the discharge of a debt owed by an individual. Records from this system of records may be disclosed to the IRS for the purpose of offsetting a federal claim from any income tax refund that may be due to the debtor.

h. Where an investigation, settlement of claims, or the preparation and conduct of litigation is undertaken, a record may be disclosed to (1) a person representing the United States or the Department of Labor in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and assistants; and (3) a witness, potential witness, or their representatives and assistants, and to any other person who possesses information pertaining to the matter, when such disclosure is necessary for the conduct of the investigation, settlement, or litigation, or is necessary to obtain information or testimony relevant to the matter.

i. To the Defense Manpower Data Center—Department of Defense and the United States Postal Service to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the United States under programs administered by the DOL in order to collect the debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, or by salary or administrative offset procedures.

j. To a credit bureau for the purpose of obtaining consumer credit reports identifying the assets, liabilities,

expenses, and income of a debtor in order to ascertain the debtor's ability to repay a debt incurred under the FECA, to collect the debt, or to establish a payment schedule.

k. The amount, status and history of overdue debts, the name and address, taxpayer identification (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, may be disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

l. To individuals, and their attorneys and other representatives, and government agencies, seeking to enforce a legal obligation on behalf of such individual or agency, to pay alimony and/or child support for the purpose of enforcing such an obligation, pursuant to an order of a state or local court of competent jurisdiction, including Indian tribal courts, within any State, territory or possession of the United States, or the District of Columbia or to an order of a State agency authorized to issue income withholding notices pursuant to State or local law or pursuant to the requirements of section 666(b) of title 42, United States Code, or for the purpose of denying the existence of funds subject to such legal obligation.

m. To the spouse, children, parents, grandchildren, or grandparents of deceased employees who may be covered under the EEOICPA to enable them to determine their eligibility for benefits under the EEOICPA, and to inform them of decisions regarding benefit eligibility, so that they have the opportunity to take action to protect any rights they may have as potentially eligible beneficiaries.

**Note:** Disclosure of information contained in this system of records to the subject of the record, a person who is duly authorized to act on his or her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone or by electronic means. Disclosure over the telephone or by electronic means will only be done where the requestor provides appropriate identifying information. Telephonic or electronic disclosure of information is essential to permit efficient administration and adjudication of claims under the EEOICPA.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

The amount, status and history of overdue debts, the name and address, taxpayer identification (SSAN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, may be disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or in accordance with section 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper case files are maintained in filing cabinets. Automated data, including case files that have been transformed into electronic form, are stored in computer discs or magnetic tapes, which are stored in cabinets. Microfiche is stored in cabinets.

**RETRIEVABILITY:**

Files and automated data are retrieved after identification by coded file number and/or Social Security Number which is cross-referenced to employee by name, employer and/or contractor, and date and nature of injury.

**SAFEGUARDS:**

Files and automated data are maintained under supervision of OWCP personnel during normal working hours—only authorized personnel, with the appropriate password, may handle, retrieve, or disclose any information contained therein. Access to electronic records is controlled by password or other user identification code.

**RETENTION AND DISPOSAL:**

All case files and automated data pertaining to a claim are destroyed 15 years after the case file has become inactive. Paper files that have been scanned to create electronic copies are destroyed after the copies are verified. Automated data is retained in its most current form only, however, and as information is updated, outdated information is deleted. Some related financial records are retained only in electronic form, and destroyed 6 years and 3 months after creation or receipt.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

An individual wishing to inquire whether this system of records contains information about him/her may write or telephone the OWCP district office that services the state in which the individual resided or worked at the time he or she believes a claim was filed. In order for the record to be located, the individual must provide his or her full name, OWCP claim number (if known), date of injury (if known), and date of birth.

**RECORD ACCESS PROCEDURES:**

Any individual seeking access to non-exempt information about a case in which he/she is a party in interest may write or telephone the OWCP district office where the case is located, or the systems manager.

**CONTESTING RECORD PROCEDURES:**

Any individual requesting amendment of non-exempt records should contact the appropriate OWCP district office, or the system manager. Individuals requesting amendment of records must comply with the Department's Privacy Act regulations at 29 CFR 71.1 and 71.9.

**RECORD SOURCE CATEGORIES:**

Injured employees who are the subjects of the record, their family members and beneficiaries; employing Federal agencies; State governments, State agencies, and other Federal agencies; State and Federal workers' compensation offices; physicians and other medical professionals; hospitals; clinics; medical laboratories; suppliers of health care products and services and their agents and representatives; educational institutions; attorneys; Members of Congress; OWCP field investigations; consumer credit reports; investigative reports; correspondence with the debtor including personal financial statements; records relating to hearings on the debt; and other DOL systems of records.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigative material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a, provided, however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of the material would reveal the identity of a source who furnished information to the Government under an

express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/ESA–50**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Physicians and Health Care Providers Excluded under the Energy Employees Occupational Illness Compensation Program Act.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Providers of medical goods and services, including physicians, hospitals, and providers of medical support services or supplies excluded or considered for exclusion from payment under the Energy Employees Occupational Illness Compensation Program Act for fraud or abuse (20 CFR 30.715–30.726, or as updated).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Copies of letters, lists and documents from Federal and state agencies concerning the administrative debarment of providers from participation in programs providing benefits similar to those of the Energy Employees Occupational Illness Compensation Program Act and their reinstatement; materials concerning possible fraud or abuse which could lead to exclusion of a provider; documents relative to reinstatement of providers, materials concerning the conviction of providers for fraudulent activities in connection with any Federal or state program for which payments are made to providers for similar medical services; all letters, memoranda, and other documents regarding the consideration of a provider's exclusion, the actual exclusion, or reinstatement under the provisions of 20 CFR 30.715–30.726 (or as updated); copies of all documents in a claim file relating to medical care and/or treatment including bills for such services, as well as letters, memoranda, and other documents obtained during investigations, hearings and other administrative proceedings concerning exclusion for fraud or abuse, as well as reinstatement, along with recommendations and decisions; lists of excluded providers released by the OWCP.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Energy Employees Occupational Illness Compensation Program Act, Title XXXVI of Pub. L. 106–398, October 30, 2000, 114 Stat. 1654.

**PURPOSE(S):**

To maintain records in order to determine the propriety of instituting debarment actions under the Energy Employees Occupational Illness Compensation Program Act. These records also provide information on treatment, billing and other aspects of a medical provider's actions, and/or documentation relating to the debarment of the medical care provider under another Federal or state program.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of information from this system of records may be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is compatible with the purpose for which the information is collected:

a. Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, and any other entities or individuals, for the purpose of identifying an excluded or reinstated provider, to ensure that authorization is not issued nor payment made to an excluded provider, and for the purpose of providing notice that a formerly excluded provider has been reinstated.

b. Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, and any other entities or individuals, for the purpose of obtaining information necessary to ensure that the list of excluded providers is correct, useful, and updated, as appropriate, and for the purpose of obtaining information relevant to a Departmental decision regarding a debarment action. This routine use encompasses the disclosure of such information that will enable the Department to properly verify the identity of a provider, to identify the nature of a violation, and the penalty imposed for such violation.

**Note:** Disclosure of information contained in the file to the claimant, a person who is duly authorized to act on his/her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone. Disclosure over the telephone will only be done where the requestor provides appropriate identifying information. Telephonic disclosure of information is essential to permit efficient administration and adjudication of claims.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THIS SYSTEM:**

**STORAGE:**

The records are in manual files, magnetic tapes or other computer storage media, or on computer printouts.

**RETRIEVABILITY:**

Material is retrieved either by the name of the provider, a case citation, or date of release.

**SAFEGUARDS:**

Files and automated data are maintained under supervision of OWCP personnel during normal working hours—only authorized personnel, with the appropriate password, may handle, retrieve, or disclose any information contained therein. Access to electronic records is controlled by password or other user identification code.

**RETENTION AND DISPOSAL:**

File is retained in the office for three years after the debarment action is final and then transferred to the Federal Records Center, and destroyed thirty years after the debarment action is final. Where the period of exclusion is defined as a set period of time, the file will be retained two years after the period of exclusion expires (or the individual is otherwise reinstated), then transferred to the Federal Records Center, and destroyed thirty years after the debarment action is final.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Workers' Compensation Programs, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

An individual wishing to inquire whether this system of records contains information about him/her may write the system manager at the address above. In order for the record to be located, the individual must provide his or her full name, date of birth, and signature.

RECORD ACCESS PROCEDURE:

Any individual seeking access to non-exempt information about a record within this system of records may write the system manager, and arrangements will be made to provide review of the file. In order for the record to be located, the individual must provide his or her full name, date of birth, and signature.

CONTESTING RECORD PROCEDURE:

Any individual requesting amendment of non-exempt records should contact the system manager. Individuals requesting amendment of records must comply with the Department's Privacy Act regulations at 29 CFR 71.1 and 71.9.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from Federal, state or local government agencies, state licensing boards, professional organizations, claimants, patients, employers, insurance companies, any other entities or individuals, public documents, and newspapers, as well as from other Department of Labor systems of records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material compiled for law enforcement purposes which is maintained in the investigation files of the Office of Workers' Compensation Programs, is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. 552a. The disclosure of information contained in civil investigative files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the investigation. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to, informants and witnesses, and their respective families, and the well being of investigative personnel and their families.

## DOL/ESA–51

SYSTEM NAME:

OLMS Public Disclosure Request Tracking System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Labor, Employment Standards Administration, Office of Labor-Management Standards, Division of Reports, Disclosure and Audits, U.S. Department of Labor, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data regarding the request for copies of annual financial reports, information reports, and constitution and bylaws filed with the Department of Labor by labor unions in accordance with the public disclosure provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). Data includes individual requester's name, title (optional), organization (optional), street address, city, state, zip code, telephone number (optional), fax number (optional), e-mail address (optional), user name, and password; type of request (walk-in, telephone, mail, Internet, or fax); date of request; copying and certification charges; name and amount on requester's check; the name and LM Number of the labor union for which information has been requested; and the documents requested.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

29 U.S.C. 435.

PURPOSE(S):

These records are used by authorized OLMS disclosure personnel to process requests made to the OLMS Public Disclosure Room, prepare requests for payments, and process payments.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer storage.

RETRIEVABILITY:

By individual name, organization name, address, control number, or request date.

SAFEGUARDS:

Computer system is password protected and accessible only to personnel creating and maintaining the database.

RETENTION AND DISPOSAL:

The data is deleted after one year or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Reports, Disclosure and Audits, Employment Standards Administration, Office of Labor-Management Standards, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish their full names for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Individuals requesting access must also comply with U.S. Department of Labor Privacy Act regulations on verification of identity at 29 CFR 71.2.

CONTESTING RECORD PROCEDURES:

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Individuals requesting documents from the OLMS Public Disclosure Room, and OLMS employees processing the request.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ETA–1

SYSTEM NAME:

Office of Apprenticeship Training, Employer and Labor Services (OATELS), Bureau of Apprenticeship and Training, Budget and Position Control File.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Employment and Training Administration (ETA), Office of Apprenticeship Training, Employer and Labor Services (OATELS), Bureau of Apprenticeship and Training (BAT), Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Federal employees currently employed by OATELS/BAT.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personal records concerning grades and salaries.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEMS:**

5 U.S.C. 301

**PURPOSE(S):**

For ready access in preparing management reports as required by the Employment and Training Administration, and controlling OATELS/BAT FTE Ceiling (Full Time Equivalent) employment.

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

None, except for those routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Kardex Files.

**RETRIEVABILITY:**

By region, budget position number, and name of employee, on a manual basis.

**SAFEGUARDS:**

Access to and use of these records are limited to those persons whose official duties require such access.

**RETENTION AND DISPOSAL:**

Retained indefinitely for employment reference requests on former employees.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Office of Apprenticeship Training, Employer and Labor Services (OATELS), Bureau of Apprenticeship and Training (BAT), Employment and Training Administration, Frances Perkins Building, 200 Constitution Avenue, NW, Washington DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals seeking information concerning the existence of records or the contents of records on himself/herself should furnish a written request to the Administrator, Office of Apprenticeship Training, Employer and Labor Services (OATELS), Bureau of Apprenticeship and Training (BAT), Employment and Training Administration, Frances Perkins Building, 200 Constitution Avenue, NW., Washington DC 20210. The following information is needed for the records to be located:

a. Full name

b. Date of birth

**RECORD ACCESS PROCEDURES:**

See Notification procedure above.

**CONTESTING RECORD PROCEDURE:**

See Notification procedure above.

**RECORD SOURCE CATEGORIES:**

Personal records, including SF-Form 50.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Not applicable.

## DOL/ETA–4

**SYSTEM NAME:**

Apprenticeship Information Management System (AIMS).

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services (OATELS), Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Apprentices/Trainees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The categories of records include the following identifying information on apprentices/trainees: Social security number, ATR Code, program number, State Code, DOT Code, Job Title, name, birth date, sex, ethnic code, Veteran code, accession date, previous experience date, expected completion date, and apprenticeship school link.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The National Apprenticeship Act, also referred to as the Fitzgerald Act, 29 U.S.C. 50.

**PURPOSE(S):**

Records of individual apprentice/trainee and apprenticeship/trainee program sponsors are used for the operation and management of the apprenticeship system of training.

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

Statistical records may be disclosed to SOICC (State Occupational Information Coordinating Committee) as basis for skill needs projection; to AFL-CIO, Joint Apprenticeship Committees and Nonjoint Apprenticeship Committees, and other apprenticeship sponsors to determine an assessment of skill needs and provide program information; to provide program information for State Apprenticeship Agencies(SACs) and other State/Federal agencies concerned with apprenticeship/training needs; to community organizations such as the Urban League, and the Opportunities Industrialization Centers, to utilize apprenticeship information in planning.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Direct Access Storage Devices (DASD); manual files. Magnetic tape is used for archived information.

**RETRIEVABILITY:**

Records are retrieved by the social security number of the apprentice/trainee by program type.

**SAFEGUARDS:**

Two levels of individual passwords for entry to the system. Locked computer room. Manual system: Locked file cabinet. During work hours, records are accessible only to authorized personnel.

**RETENTION AND DISPOSAL:**

Retain for five years and then destroy. Inactive programs are stored on magnetic tape and archived from online AMS file. Inactive and completed apprentices are maintained on tape indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Office of Apprenticeship Training, Employer and Labor Services (OATELS), Bureau of Apprenticeship and Training, Employment and Training Administration, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals seeking information concerning the existence of apprenticeship records or the contents of records on himself/herself should furnish a written request to the Administrator, Office of Apprenticeship Training, Employer and Labor Services (OATELS), Bureau of Apprenticeship and Training (BAT), Employment and Training Administration, Frances Perkins Building, 200 Constitution

Avenue, NW, Washington, DC 20210. The following information is needed for records to be located:

a. Full Name

b. Date of Birth

RECORD ACCESS PROCEDURES:

Individuals can request access to any record pertaining to himself/herself by mailing a request to the Administrator listed above under ''Notification Procedure.''

CONTESTING RECORD PROCEDURE:

Individuals desiring to contest or amend information maintained in this system should direct their written request to the Administrator listed in ''Notification Procedure'' above. The request to amend should state clearly and concisely what information is being contested, the reasons for contesting, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Apprentice/trainee and also Program Sponsor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ETA–7

SYSTEM NAME:

Employer Application and Attestation File for Permanent and Temporary Alien Workers.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

ETA, Office of Workforce Security (OWS), Division of Foreign Labor Certifications, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210; ETA Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employers who file labor certification applications, labor condition applications, or labor attestations to employ one or more alien workers on a permanent or temporary basis. The alien may be known or unknown.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employers' names, addresses, type and size of businesses, production data, number of workers needed in certain cases, offer of employment terms to known or unknown aliens, and background and qualifications of certain aliens, along with resumes and applications of U.S. workers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(H)(i), and (ii), 1184(c),1182(m) and (n), 1182(a)(5)(a), 1188, and 1288. Section 122 of Pub. L. 101–649. 8 CFR 214.2(h).

PURPOSE(S):

To maintain a record of applicants and actions taken by ETA on requests to employ alien workers.

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

Case files developed in processing labor certification applications, labor condition applications, or labor attestations, are released to the employers which filed such applications, their representatives, and to named alien beneficiaries or their representatives, if requested, to review ETA actions in connection with appeals of denials before the Office of Administrative Law Judges and Federal Courts; to participating agencies such as the DOL Office of Inspector General, Employment Standards Administration, INS, and Department of State in connection with administering and enforcing related immigration laws and regulations; and to the Office of Administrative Law Judges and Federal Courts in connection with appeals of denials of labor certification requests, labor condition applications, and labor attestations.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Manual and/or computerized files are stored in the national office, and each of the ETA Regional Offices.

RETRIEVABILITY:

Records are maintained on all applications for alien employment certification labor condition applications, and labor attestations filed by case number and employer names. Partial data elements from each case file are stored on the computer and may be accessed by employer or in certain cases, by the named alien beneficiary.

SAFEGUARDS:

Access to records provided only to authorized personnel. The computerized data has a double security access: (1) Initial password entry to the local area network; and (2) restricted access to alien certification data is given only to those employees with a need to know the data in performing their official duties.

RETENTION AND DISPOSAL:

Generally retain case file in office for two years, then transfer to a records center for destruction after three additional years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Foreign Labor Certifications, U.S. Office of Workforce Security, ETA, 200 Constitution Avenue, NW, Washington, DC 20210, and each Regional Administrator or Associate Regional Administrator of the ETA in the Regional Offices.

NOTIFICATION PROCEDURE:

Inquiries concerning this system can be directed to the System Manager listed above. The appropriate addresses for the Regional Offices are listed under the section ''Responsible Officials'' included in this notice.

RECORD ACCESS PROCEDURES:

Individuals can request access to any personal record by mailing a request to the appropriate System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals wanting to contest or amend information maintained in this system should direct their written request to the appropriate System Manager listed above. The request to amend should state clearly and concisely what information is being contested, the reasons for contesting, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information comes from labor certification applications, labor condition applications, and labor attestations completed by employers. Certain information is furnished by named alien beneficiaries of labor certification applications, State Employment Security agencies, and the resumes and applications of U.S. workers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ETA–8

SYSTEM NAME:

Job Corps Student Pay, Allotment and Management Information System (SPAMIS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Job Corps Data Center (JCDC), Building 5159, 205 6th Street, San Marcos, Texas 78666 (and Job Corps Centers).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Job Corps students and Job Corps terminees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personal information about the student: Pre-enrollment status, number of months enrolled in school, home address, family status and income; characteristics, such as age, race/ethnic group, sex; summarization of basic education and vocational training received in Job Corps; and initial Placement status (entry into employment, school, military service, or other status) after separation from the Program.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Subtitle C of Title I of the Workforce Investment Act of 1998, 29 U.S.C. 2882 *et seq.*

**PURPOSE(S):**

These records are maintained to pay students and track student academic and vocational outcomes and achievements. This information is used for reporting center/contractor performance that includes enrollment information, performance outcomes while enrolled and placement information after separation.

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

These records and information in these records may be used when relevant, necessary and appropriate:

(1) To disclose photographs and student identities to the news media for the purpose of promoting the merits of the program.

(2) To disclose information of a student's academic and vocational achievement and general biographical information, to placement and welfare agencies, respective employers, school or training institutions to assist in the employment of a student. Categories of users:

(1) Job Corps Center staff and operators/contractors;

(2) Outreach, Admissions and Placement staff and contractors;

(3) Support Contractors;

(4) Federal staff at the regional and national levels; and

**Note:** Selective Service System to ensure that males over 18 years of age are registered.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Magnetic disk and magnetic tape.

**RETRIEVABILITY:**

Social Security Number or name and center enrolled.

**SAFEGUARDS:**

Access to files is limited to designated data processing staff (programmers/analysts) and is restricted by User ID and Passwords. Tape backups to these files are temporarily stored in a physically secure vault in a secure building. Later these backup tape files are transferred to a physically secure off site climate controlled records storage area.

**RETENTION AND DISPOSAL:**

During enrollment, the official record of Job Corps students is maintained in the student record section of the center of enrollment. The official record copy of these documents is filed in the Terminated Students Record folders, which are maintained at the Job Corps Center where a student was enrolled for at least three (3) but no more than four (4) years after termination. After this, the records are retired to the Regional Federal Records Center where they are kept 75 years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Job Corps U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Letter to System Manager in accordance with 29 CFR Part 71, giving the following information about the Job Corps student or terminee:

Full Name, Social Security Number (if available), Job Corps center at which enrolled (if available), dates of enrollment and separation, if known.

**RECORD ACCESS PROCEDURES:**

Individuals can request access to any record pertaining to himself/herself by mailing a request to the System Manager listed above under ''Notification Procedure.''

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in this system should direct their written request to the System Manager listed in ''Notification Procedure'' above. The request to amend should state clearly and concisely what information is being contested, the reasons for contesting, and the proposed amendment to the information sought. Documentation should be provided supporting any requests for amending records.

**RECORD SOURCE CATEGORIES:**

Job Corps students, Outreach, Admissions and Placement Contractors; Support Contractors, and Job Corps Centers.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/ETA–15**

**SYSTEM NAME:**

DOL/ETA Evaluation, Research, Pilot or Demonstration Contractors' Project Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Individual contractors' and subcontractors' project worksites and the Office of Policy and Research (OPR), ETA.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Participants in programs of the Job Training Partnership Act (JTPA), Workforce Investment Act (WIA) and other research, pilot or demonstration projects.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in the system may include characteristics of program participants, description of program activities, services received by participants, program outcomes and participant follow-up information obtained after the completion of the program.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Job Training Partnership Act, Title IV; Workforce Investment Act of 1998, secs. 156, 171, and 172; Social Security Act, secs. 441 and 908. (29 U.S.C. 1731–1735; 29 U.S.C. 2856, 2916, and 2917; and 42 U.S.C. 841 and 1108; respectively.

**PURPOSE(S):**

The purpose of this system is to provide necessary information for statutorily-required and other evaluations of Employment and Training Administration (ETA) programs, evaluations of ETA-sponsored pilot and demonstration programs, and other statistical and research studies of employment and training program and policy issues. These records are used solely for statistical research or evaluation and are not used in any way for making any determination about an identifiable individual.

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

Records may be disclosed to other Federal, State and local government agencies in order to facilitate the collection of additional data necessary for statistical and evaluation purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape and disks by the U.S. Bureau of the Census and various contractors.

RETRIEVABILITY:

Records are retrieved by name or social security number, and by a variety of other unique identifiers that have been created for a specific study.

SAFEGUARDS:

Records are maintained on secure computer systems and can only be retrieved with the proper access code.

RETENTION AND DISPOSAL:

Records which are individually identified are retained by the contractors for one to five years, then the identifiers are destroyed. After the conclusion of the studies the records are retired to the Federal Records Center and are destroyed after being retained by the Records Center for 20 years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Policy and Research, Employment and Training Administration, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Address inquiries to the Administrator, Office of Policy and Research, Employment and Training Administration, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210.

RECORD ACCESS PROCEDURES:

Individuals wishing access to a record should contact the System Manager indicated in the notification procedures section above. Individuals requesting access to records must comply with the Department's Privacy Act regulations on verification of identity and access to records.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to records should contact the System Manager indicated in the notification procedures section.

RECORD SOURCE CATEGORIES:

Individual participants, and Federal, State, and local Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ETA–16

SYSTEM NAME:

Employment and Training Administration Investigatory File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Special Program Services Unit, Employment and Training Administration, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210, and each of the Employment and Training Administration regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants, contractors, subcontractors, grantees, members of the general public, ETA employees, who are alleged violators of ETA laws and regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of alleged and confirmed problems, abuses or deficiencies relative to the administration of programs and operations of the agency, and of possible violations of Federal law whether civil or criminal; reports on resolution of criminal or conduct violations, and information relating to investigations and possible violations of ETA administered programs and projects; incident reports, hotline complaints, and investigative memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Job Training Partnership Act (JTPA) (29 U.S.C. 1501 et seq.); Workforce Investment Act, 29 U.S.C. 2801 et seq.

PURPOSE(S):

To ensure that all appropriate records of problems, abuses or deficiencies relative to the administration of programs and operations of the agency are retained and are available to agency, Departmental, or other Federal officials having a need for the information to support actions taken based on the records.

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

The records and information in this system that are relevant and necessary may be used to disclose pertinent information to states, Workforce Investment Boards, and other DOL-funded grantees as necessary to enforce ETA rules and regulations; and other uses noted in the prefatory statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Case files are maintained in manual files and certain information from those manual files, e.g., case number, names and social security numbers, description of allegations, etc., are maintained in a computerized format on the local area network.

RETRIEVABILITY:

The manual case files are indexed by case number. Automated records are retrieved by case number, case name, or subject.

SAFEGUARDS:

Direct access to the manual case files is restricted to authorized staff members with a need to know the information in the performance of their official duties and responsibilities. Automated records can be accessed only through use of confidential procedures and passwords by authorized staff.

RETENTION AND DISPOSAL:

The records containing information or allegations which do not relate to a specific investigation are retained for 5 years after the case is closed, and are then destroyed by shredding. The records containing information or allegations that do result in a specific investigation are placed in an inactive file when the case is closed and destroyed, by shredding, after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Financial and Administrative Management, 200 Constitution Ave., NW, Washington, DC 20210; and each Regional Administrator or Associate Regional Administrator of the ETA in the regional offices.

NOTIFICATION PROCEDURE:

Inquiries concerning this system can be directed to: System Manager, U.S. Department of Labor, Employment and Training Administration, Office of Financial and Administrative Management, 200 Constitution Avenue, NW, Washington, DC 20210 or to the appropriate ETA Regional Administrator or Associate Regional Administrator in the regional cities

listed in the Appendix to this notice. Such inquiries should include the full name of the requester, name and address of the organization, service delivery area, and the ETA-administered program or project.

**RECORD ACCESS PROCEDURES:**

Individuals can request access to any record pertaining to himself/herself by mailing a request to the appropriate System Manager listed above under ''Notification Procedure.'' Such inquiries should include the full name of the requester, name and address of the organization, service delivery area, and the ETA-administered program or project.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in this system should direct their written request, containing specific details of personal and professional data indicated, to the appropriate System Manager listed in ''Notification Procedure'' above. The request should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

**RECORD SOURCE CATEGORIES:**

Individuals, program sponsors, contractors, grantees, complainants, witnesses, Office of the Inspector General and other Federal, State and local government records.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/ETA–20

**SYSTEM NAME:**

Federal Bonding Program, Bondee Certification Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Punch Card Processing Co., 6875 New Hampshire Ave., Takoma Park, MD. 20012, and the McLaughlin Co., Suite 514, 2000 L St., NW, Washington, DC 20038.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

State Employment Service applicants who are eligible and need bonding to get a job.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personal (name, SSN, employer name), employment data (DOT and SIC codes), employer data (address, city, State, ZIP code), amount of bond (expressed in $500 units), cost of bond (expressed in units), effective date of bond, and termination date of bond.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Job Training Partnership Act, Title IV, Part D (29 U.S.C. 1731–1735); and the Workforce Investment Act of 1998(WIA)(29 U.S.C. 2801 et seq.).

**PURPOSE(S):**

The purpose of these records is to provide information to the DOL project officer on the activities of the contracted project—the Federal Bonding Program. These records are used solely for statistical information and not used in any way for making any determination about an identifiable individual.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Disk Operated System (DOS) and printout.

**RETRIEVABILITY:**

Retrieved by assigned bond number.

**SAFEGUARDS:**

Locked in cabinets in offices of Federal, State, and private buildings.

**RETENTION AND DISPOSAL:**

States and regions dispose of data 3 years and older; The Punch Card Processing Co. keeps master DOS of all bondees prior to 1980.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Office of Policy Research, Frances Perkins Building, 200 Constitution Ave. NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Address inquiry to the System Manager at 200 Constitution Ave., NW, Washington, DC, 20210 as indicated above.

**RECORD ACCESS PROCEDURES:**

Individuals can request access to any record pertaining to himself/herself by mailing a request to the System Manager listed above under ''Notification Procedure.''

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to contest or amend information maintained in this system should direct their written request to the System Manager at the address shown in ''Notification Procedure'' above. The request to amend or contest should state clearly and concisely what information is being contested, the reasons for contesting, and the proposed amendment to the information sought.

**RECORD SOURCE CATEGORIES:**

State Job Service files, applicants for the bond and bonded employee's employer.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/ETA–22

**SYSTEM NAME:**

ETA Employee Conduct Investigations.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Offices in the Employment and Training Administration at the National Office and in each of the regional offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

ETA employee(s) against whom any allegation of misconduct, illegal acts, conflicts of interests, etc., has been made.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, organization and other information relating to the individual

involved; investigative report(s), including interviews and other data gathered.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, 7301, and Executive Order 11222.

**PURPOSE(S):**

To ensure that all appropriate records of problems, misconduct, illegal acts, conflicts of interest, etc., are maintained to document actions taken in each case.

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

None, except for the prefatory routine uses.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Case files are maintained in manual files and certain information from those manual files, e.g., case number, names and social security numbers, description of allegations, etc., are maintained in a computerized format on the local area network.

**RETRIEVABILITY:**

The manual case files are indexed by name and case number. Automated records are retrieved by case number, case name, or subject.

**SAFEGUARDS:**

Direct access to the manual case files is restricted to authorized staff members with a need to know the information in the performance of their official duties and responsibilities. Automated records can be accessed only through use of confidential procedures and passwords by authorized staff.

**RETENTION AND DISPOSAL:**

Records are retained for four years following the date either: (a) They are referred to the OIG; (b) they are transferred to OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance; or (c) it is determined that the allegation was without sufficient merit to warrant further action, after which they are destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Office of Financial and Administrative Management, 200 Constitution Ave., NW, Washington, DC 20210, and each Regional Administrator or Associate Regional Administrator in the Employment and Training Administration regional offices.

**NOTIFICATION PROCEDURE:**

Inquiries concerning this system can be directed to the Administrator, Office of Financial and Administrative Management, at the address listed above under ''System Manager(s) and Address'', or to the appropriate Regional Administrator or Associate Regional Administrator listed under Responsible Officials contained at the end of these notices. Such inquiries should include full name, agency, organization, and office component of the requester.

**RECORD ACCESS PROCEDURES:**

Individuals can request access to any record pertaining to himself/herself by mailing a request to the System Manager listed above under ''Notification Procedure.'' Such inquiries should include full name, agency, organization, and office component of the requester.

**CONTESTING RECORD PROCEDURES:**

Individuals wanting to contest or amend information maintained in this system should direct their written request, containing the data elements listed above, to the System Manager listed above in ''Notification Procedure.'' The request to amend should state clearly and concisely what information is being contested, the reasons for contesting, and the proposed amendment to the information sought.

**RECORD SOURCE CATEGORIES:**

Individuals, hotline complaints through the Office of the Inspector General's hotline; hotline complaints through the General Accounting Office's hotline system; incident reports submitted by employees; investigative reports and interviews.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/ETA–24**

**SYSTEM NAME:**

Contracting and Grant Officer Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Employment and Training Administration, Office of Grants and Contracts Management, Office of Financial and Administrative Services, and Assistant Secretary for Administration and Management, Division of Federal Assistance and Contract Services, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Present and former contracting and grant officers.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, Social Security Number, job title and grade, qualifications, training and experience, request for appointment as Contracting/Grant Officer, Certification of Appointment, copy of Certificate of Appointment, and other correspondence and documents relating to the individual's qualifications therefor.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

40 U.S.C. 486; Department of Labor Acquisition Regulations 2901.6; Department of Labor Manual Series 2–800.

**PURPOSE(S):**

To ascertain an individual's qualifications to be appointed as a contracting/grant officer; to determine if limitations on procurement authority are appropriate; to complete Certificate of Appointment.

**ROUTINE USES OF RECORD MAINTAINED IN THE SYSTEMS, INCLUDING CATEGORIES AND USERS AND THE PURPOSES OF SUCH USES:**

A. *Disclosure to Office of Government Ethics:*

A record from a system of records may be disclosed, as a routine use, to the Office of Government Ethics for any purposes consistent with that office's mission, including the compilation of statistical data.

B. *Disclosure to a Board of Contract Appeals, GAO or any other entity hearing a contractor's protest or dispute:*

A record from a system of records may be disclosed, as a routine use, to the United States General Accounting Office, to a Board of Contract Appeals, or the Claims Court in bid protest cases or contract dispute cases involving procurement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed by Contracting/Grant Officer Number and Name.

SAFEGUARDS:

Records are maintained in a secured, locked file cabinet accessible to the authorized personnel having need for the information in the performance of their duties.

RETENTION AND DISPOSAL:

All documents relating to and reflecting the designation of Contracting/Grant Officers and terminations of such designations, are destroyed 6 years after termination of appointment.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Federal Assistance, U.S. Department of Labor, ETA, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Requests for information may be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to System Manager. Written requests should contain the full name, current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

Documentation should be provided supporting any requests for amending records.

RECORD SOURCE CATEGORIES:

The contract/grant officer's Certification of Appointment and background information on education, SF–171, and specific information on procurement authorities delegated.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ETA–25

SYSTEM NAME:

DOL/ETA Evaluation Research Projects of the Unemployment Compensation System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Either in ETA or at an individual contractor's worksite.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employer or employee covered under a State unemployment compensation law.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains Claimant (Employee) records, Employer contribution records, and Employee wage records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Social Security Act, Sections 303(a)(1), 303(a)(6), and 906, (42 U.S.C. 503(a)(1), 503(a)(6), 902, 1106); 5 U.S.C. 8506(b).

PURPOSE(S):

These records are used for researching and evaluating the unemployment compensation and other programs for which ETA is responsible and are not used for any purpose other than that specified under agreement with the State from which the records were obtained. These records are not used in any way for making any determination affecting an identifiable individual's entitlement to unemployment compensation.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape and disks by ETA and various contractors.

RETRIEVABILITY:

Records may be retrieved by individual identifiers; specifically, by name, social security account number, or employer identification number.

SAFEGUARDS:

Records are maintained on secure computer systems and can only be retrieved with the proper access code.

RETENTION AND DISPOSAL:

Records are retained by ETA or its contractor until the end of each project. At the conclusion of each project, the records obtained from the State are returned to the State from which they were obtained, or maintained by ETA without potentially identifying information.

SYSTEM MANAGER(S) AND ADDRESSES:

Administrator, Office of Workforce Security (OWS), Employment and Training Administration, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Address inquiries to the Administrator, Office of Workforce Security, Employment and Training Administration, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

RECORD ACCESS PROCEDURES:

Individuals wishing access to a record should contact the office indicated in the notification procedure section. Individuals requesting access to records must comply with the Privacy Act regulations on verification of identity and access to records.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to records should contact the office indicated in the notification procedures section.

RECORD SOURCE CATEGORIES:

State records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ETA–26

SYSTEM NAME:

Standardized Program Information Report (SPIR).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Database management contractor's work site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Terminees from Titles IIA (including Older Workers Set-aside), IIC, and III of the Job Training Partnership Act (JTPA); and enrollees who have completed programs/services under the Workforce Investment Act of 1998, Title I (29 U.S.C. 2801 et seq.).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include the Social Security number and various characteristics of each participant, the description of program activities and services they received, and program

outcome and participant follow-up information obtained after completion of the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

JTPA Section 165(c)(2)(29 U.S.C. 1575(c)(2)); and the Workforce Investment Act of (29 U.S.C. 2801 et seq.).

PURPOSE(S):

To maintain a management information system designed to facilitate the uniform compilation and analysis of programmatic data necessary for reporting, monitoring and evaluation purposes. These records are not used for making determinations about identifiable individuals.

The system will:

(1) Generate statistical reports that will present detailed information on the characteristics of program participants, program activities and outcomes. These data will be reported at the national, state and local levels; and will allow the Department to respond to a variety of requests for specific information regarding the scope of services and the nature of employment that JTPA is providing to its clients.

(2) Provide information that will enable the Department to evaluate the program at different levels (nationally, or at a regional, State or local level) and to provide feedback to States and localities on such evaluations.

(3) Provide a suitable national database to enable the Department to provide technical guidance to local programs in establishing performance goals for their service providers.

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

Disclosure to State and local JTPA organizations those records that are relevant and necessary to allow for comparative self-analysis of their programs' performance.

Disclosure to researchers and public interest groups those records that are relevant and necessary to evaluate the effectiveness of the overall program and its various training components in serving different subgroups of the eligible population.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape and disks at the database management contractor's work site.

RETRIEVABILITY:

Primarily by name or participant characteristic. Occasionally by Social Security Number.

SAFEGUARDS:

Records are maintained on a secure computer system and can only be retrieved with the proper access code. Public access files and files used for analysis outside the database manager's computer system will be purged of participant identifiers and records will be sufficiently aggregated to prevent identification of any individual.

RETENTION AND DISPOSAL:

Data files will be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Workforce Security, Employment and Training Administration, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Address inquiries to the Administrator, Office of Workforce Security, Employment and Training Administration, 200 Constitution Avenue, NW, Washington, DC 20210.

RECORD ACCESS PROCEDURES:

Individuals wishing assess to a record should contact the office indicated in the notification procedure above. Individuals requesting access to records must comply with the Department of Labor's Privacy Act regulations on verification of identity and access to records.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to records should contact the office indicated in the notification procedures section.

RECORD SOURCE CATEGORIES:

Individual participant, State and local JTPA program offices.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/ETA–27

SYSTEM NAME:

Youth Opportunity Grant Program Information Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Database management contractor's work site.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Enrollees in Youth Opportunity Grant programs funded under Section 169 of the Workforce Investment Act of 1998 (WIA) (29 U.S.C. 2914).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include the Social Security number and various characteristics of each participant, the description of program activities and services they received, and program outcome and participant follow-up information obtained after completion of the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)

PURPOSE(S):

To maintain a management information system designed to facilitate the uniform compilation and analysis of programmatic data necessary for reporting, monitoring and evaluation purposes. These records are not used for making determinations about identifiable individuals.

The system will:

(1) Generate statistical reports that will present detailed information on the aggregate characteristics of program participants, program activities and outcomes. These data will be reported at the national and grantee levels; and will allow the Department to respond to a variety of requests for specific information regarding the scope of services and the nature of employment that Youth Opportunity Grants are providing to their enrollees.

(2) Provide information that will enable the Department to monitor the program at different levels (nationally, or at the grantee level) and to provide feedback to localities on their progress in implementing their grants.

(3) Provide a suitable national database to enable the Department to provide technical guidance to local programs in establishing performance goals for their service providers.

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

Disclosure to Youth Opportunity Grantees those records that are relevant and necessary to allow for comparative self-analysis of their programs' performance.

Disclosure to researchers and public interest groups those records that are relevant and necessary to evaluate the effectiveness of the overall program and its various training components in serving different subgroups of the eligible population.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Not applicable.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING , RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained on magnetic tape and disks at the database management contractor's work site.

**RETRIEVABILITY:**

Primarily by participant characteristics; Social Security Number, and geographic site codes.

**SAFEGUARDS:**

Records are maintained on a secure computer system and can only be retrieved with the proper access code. Public access files and files used for analysis outside the database manager's computer system will be purged of participant identifiers. Published tables will be sufficiently aggregated to prevent identification of any individual.

**RETENTION AND DISPOSAL:**

Data files will be retained indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator, Office of Youth Services, Employment and Training Administration, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Address inquiries to the Administrator, Office of Youth Services, Employment and Training Administration, 200 Constitution Avenue, NW, Washington, DC 20210.

**RECORD ACCESS PROCEDURES:**

Individuals wishing assess to information contained in this system should contact the office indicated in the notification procedure above. Individuals requesting access to files must comply with the Department of Labor's Privacy Act regulations on verification of identity and access to records.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment to records should contact the office indicated in the notification procedures section.

**RECORD SOURCE CATEGORIES:**

Individual participant, Youth Opportunity Grantees.

**SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/OIG–1**

**SYSTEM NAME:**

Investigative Files, Case Tracking System, Analysis, Complaints, Inspections, and Evaluation Files, USDOL/OIG.

**SECURITY CLASSIFICATION:**

Not applicable.

**SYSTEM LOCATION:**

Office of Inspector General, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 and in the OIG regional and field offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

DOL employees, applicants, contractors, subcontractors, grantees, subgrantees, claimants, complainants, individuals threatening DOL employees or the Secretary of Labor, alleged violators of Labor laws and regulations, union officers, trustees, employers, individuals investigated and interviewed, and individuals filing claims for entitlement or benefits under laws administered by the Department of Labor, individuals providing medical and other services to OWCP, employees of insurance companies and of medical and other services provided to OWCP, and other persons suspected of violations of law and related administrative, civil and criminal provisions.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains records related to administrative, civil and criminal investigations, complaints, inspections, and evaluations which include: Statements and other information from subjects, targets, witnesses and complainants; material from governmental investigatory or law enforcement organizations (federal, state, local or international) and intelligence information; information of criminal, civil or administrative referrals and/or results of investigations; investigative notes and investigative reports; summary information for indexing and cross referencing; reports and associated materials filed with DOL or other government agencies from, for example, medical providers, grantees, contractors, employers or insurance companies; other evidence and background material existing in any form (i.e. audio or video tape, photographs, computer tapes, disks or compact disks).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. App. 3 (IG Act); 5 U.S.C. 8101 et seq. (FECA); Health Insurance Portability and Accountability Act, Pub. L. 104–191; 5 U.S.C. 8401 et seq. (FERSA); 8 U.S.C. 1101 et seq. (IRCA); 18 U.S.C. 874 (Anti Kickback Act); 29 U.S.C. 49 et seq. (Wagner-Peyser Act); 29 U.S.C. 101 et seq. (LMRA); 29 U.S.C. 201 et seq. (FLSA); 29 U.S.C. 401 et seq. (LMRDA); 29 U.S.C. 651 et seq. (OSHA); 29 U.S.C. 793 et seq. (Rehabilitation Act); 29 U.S.C. 1001 et seq. (ERISA); 29 U.S.C. 1501 et seq. (JTPA); 29 U.S.C. 2801 et seq. (Workforce Investment Act of 1998); 30 U.S.C. 801 et seq. (MSHA); 30 U.S.C. 901 et seq. Black Lung); 31 U.S.C. 3701 et seq. (False Claims Act); 31 U.S.C. 3801 et seq. (Program Fraud Civil Remedies Act); 33 U.S.C. 901 et seq. (Longshore Compensation Act and extension); 40 U.S.C. 276a5 (Davis Bacon); 40 U.S.C. 276c (Copeland Act); 41 U.S.C. 35 et seq. (Walsh-Healey); 41 U.S.C. 351 et seq. (Service Contract Act); Title 18, United States Code (Criminal Code); and Secretary's Order 2–90, dated January 31, 1990 concerning the authorization and organization of the Office of Inspector General in the Department of Labor.

**PURPOSE(S):**

This system is established and maintained to fulfill the purposes of the Inspector General Act of 1978 and to fulfill the responsibilities assigned by that Act concerning investigative activities and the complaints and other information from which investigations, inspections, and evaluations develop. The OIG initiates investigations and evaluations of individuals, inspections and evaluations of entities and programs, maintains information received and developed in this system during the time the investigation, inspection or evaluation is performed, and after each investigation, inspection or evaluation is completed. This system is the repository of all information developed during the course of investigations, inspections, and evaluations. OIG also receives many complaints via its Hotline and other sources. These complaints are reviewed for investigative merit and can be referred for a full investigation, for program agency action, or no action.

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

A. Referral to federal, state, local and foreign investigative and/or prosecutive authorities. A record from a system of records, which indicates either by itself or in combination with other information within the agency's possession, a violation or potential violation of law, whether civil, criminal or administrative and whether arising

by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed as a routine use, to the appropriate federal, foreign, state or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

B. Introduction to a grand jury. A record from a system of records may be disclosed, as a routine use, to a grand jury agent pursuant either to a federal or state grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

C. Referral to federal, state, local or professional licensing boards. A record from a system of records may be disclosed, as a routine use, to any governmental, professional or licensing authority when such record reflects on qualifications, either moral, educational or vocational, of an individual seeking to be licensed or to maintain a license.

D. Disclosure to contractor, grantee or other direct or indirect recipient of federal funds to allow such entity to effect corrective action in the agency's best interest. A record from a system of records may be disclosed, as a routine use, to any direct or indirect recipient of federal funds where such record reflects inadequacies with a recipient's personnel, and disclosure of the record is made to permit a recipient to take corrective action beneficial to the Government.

E. Disclosure to any source, either private or governmental, to the extent necessary to solicit information relevant to any investigation, audit, or evaluation. A record from a system of records may be disclosed, as a routine use, to any source, either private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of an investigation, audit, or evaluation.

F. Disclosure to any domestic or foreign governmental agencies for personnel or other action. A record from a system of records may be disclosed, as a routine use, to a federal, state, local, foreign or international agency, for their use in connection with such entity's assignment, hiring or retention of an individual, issuance of a security clearance, reporting of an investigation of an individual, letting of a contract or issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to such agency's decision on the matter.

G. Disclosure to a board of contract appeals, GAO or any other entity hearing a contractor protest or dispute. A record from a system of records may be disclosed, as a routine use, to the United States General Accounting Office, to a board of contract appeals, or to the Court of Federal Claims in bid protest cases or contract dispute cases involving procurement.

H. Disclosure to domestic or foreign governmental law enforcement agency in order to obtain information relevant to an OIG or DOL decision. A record from a system of records may be disclosed, as a routine use, to a domestic or foreign governmental agency maintaining civil, criminal or other relevant information, in order to obtain information relevant to an OIG or DOL decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit, or which may be relevant to an OIG or DOL investigation, audit, or evaluation.

I. Disclosure to OMB or DOJ regarding Freedom of Information Act and Privacy Act advice. Information from a system of records may be disclosed, as a routine use, to the Office of Management and Budget or the Department of Justice in order to obtain advice regarding statutory and other requirements under the Freedom of Information Act or Privacy Act.

J. Disclosure pursuant to the receipt of a valid subpoena. A record from a system of records may be disclosed, as a routine use, in response to a facially valid subpoena for the record. Disclosure may also be made when a subpoena or order is signed by a judge from a court of competent jurisdiction.

K. Disclosure to Treasury and DOJ in pursuance of an *ex parte* court order to obtain taxpayer information from the IRS. A record from a system of records may be disclosed, as a routine use, to the Department of Treasury and the Department of Justice when the OIG seeks an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.

L. Disclosure to a consumer reporting agency in order to obtain relevant investigatory information. A record from a system of records may be disclosed, as a routine use, to a ''consumer reporting agency'' as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purposes of obtaining information in the course of an investigation, audit, or evaluations.

M. Disclosure in accordance with computer matching guidelines. A record may be disclosed to a federal, state, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by those agencies, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to the agencies and their components. This routine use does not provide unrestricted access to records for such law enforcement and related anti-fraud activities; each request for disclosure will be considered in light of the applicable legal and administrative requirements for the performance of a computer matching program or procedure.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:**

The information is maintained in a variety of mediums including paper, magnetic tapes or discs, and optical digital data discs. The records are maintained in limited access areas during duty hours and in locked offices at all other times.

**RETRIEVABILITY:**

The written case records are indexed by case number. Automated records are retrieved by case number, case name, subject, cross referenced item or, batch retrieval applications.

**SAFEGUARDS:**

Direct access is restricted to authorized staff members of the OIG, their attorneys, or contractor employees on a need-to-know basis. Automated records can be accessed only through use of confidential procedures and passwords.

**RETENTION AND DISPOSAL:**

Closed files relating to a specific investigation are destroyed after ten years. Closed files containing information of an investigative nature but not relating to a specific investigation are destroyed after five years. Closed inspection and evaluation case files are destroyed after five years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Inspector General for Investigations and the Assistant Inspector General for Communications,

Inspections, and Evaluations, Office of Inspector General, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries concerning this system of records can be directed to: Disclosure Officer, Office of Inspector General, U.S. Department of Labor, Room S1303, 200 Constitution Avenue, NW, Washington, DC 20210. Inquiries must comply with the requirements in 29 CFR part 71.

**RECORD ACCESS PROCEDURE:**

Individuals can request access to any record pertaining to him/her by mailing a request to the Disclosure Officer listed above and in accordance with 29 CFR part 71.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should direct their request to the Disclosure Officer listed in ''Notification Procedure,'' above.

In addition, the request should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. See 29 CFR part 71.

**RECORD SOURCE CATEGORIES:**

The information contained in this system is received from individual complaints, witnesses, interviews conducted during investigations, Federal, state and local government records, individual or company records, claim and payment files, employer medical records, insurance records, court records, articles from publications, published financial data, corporate information, bank information, telephone data, insurers, service providers, other law enforcement organizations, grantees, subgrantees, contractors and subcontractors.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Secretary of Labor has promulgated regulations which exempt information contained in this system of records from various provisions of the Privacy Act depending upon the purpose for which the information was gathered and for which it will be used. The various law enforcement purposes and the reasons for the exemptions are as follows:

(a) *Criminal Law Enforcement:* In accordance with 5 U.S.C. 552a(j)(2) information compiled for this purpose is exempt from all of the provisions of the Act except the following sections: (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11), and (i). This material is exempt because the disclosure and other requirements of the Act would substantially compromise the efficacy and integrity of OIG operations in a number of ways. Indeed, disclosure of even the existence of these files would be problematic. Disclosure could enable suspects to take action to prevent detection of criminal activities, conceal evidence, or escape prosecution. Required disclosure of information contained in this system could lead to the intimidation of, or harm to, informants, witnesses and their respective families or OIG personnel and their families. Disclosure could invade the privacy of individuals other than subjects and disclose their identity when confidentiality was promised or impliedly promised to them. Disclosure could interfere with the integrity of information which would otherwise be privileged, (*see, e.g.,* 5 U.S.C. 552(b)(5)), and which could interfere with other important law enforcement concerns: (*see, e.g.*, 5 U.S.C. 552 (b)(7)).

The requirement that only relevant and necessary information be included in a criminal investigative file is contrary to investigative practice which requires a full and complete inquiry and exhaustion of all potential sources of information. See, 5 U.S.C. 552a(e)(1).

Similarly, maintaining only those records which are accurate, relevant, timely and complete and which assure fairness in a determination is contrary to established investigative techniques. See, 5 U.S.C. 552a(e)(5). Requiring investigators to obtain information to the greatest extent practicable directly from the subject individual would be counterproductive to performance of clandestine criminal investigation. See, U.S.C. 552a(e)(2). Finally, providing notice to an individual interviewed of the authority of the interviewer, the purpose to which the information provided may be used, the routine uses of that information and the effect upon the individual should he/she choose not to provide the information sought could discourage the free flow of information in a criminal law enforcement inquiry. 5 U.S.C. 552a(e)(3).

(b) *Other Law Enforcement:* In accordance with 5 U.S.C. 552a(k)(2), investigatory material compiled for law enforcement purposes (to the extent it is not already exempted by 5 U.S.C. 552a(j)(2)), is exempted from the following provisions of the ACT: (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). This material is exempt because the disclosure and other requirements of the Act could substantially compromise the efficacy and integrity of OIG operations. Disclosure could invade the privacy of other individuals and disclose their identity when they were expressly promised confidentiality. Disclosure could interfere with the integrity of information which would otherwise be subject to privileges, *see, e.g.,* 5 U.S.C. 552(b)(5), and which could interfere with other important law enforcement concerns. *See, e.g.,* 5 U.S.C. 552(b)(7).

(c) *Protective Services:* In accordance with 5 U.S.C. 552(k)(3) investigatory material maintained in connection with assisting the U.S. Secret Service to provide protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056 is exempt from the following sections of the ACT: (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). This material is exempt in order to enable the OIG to continue its support of the Secret Service without compromising the effectiveness of either agency's activities.

(d) *Contract Investigations:* In accordance with 5 U.S.C. 552a(k)(5), investigatory material compiled solely for the purpose of determining integrity, suitability, eligibility, qualifications, or employment for a DOL contract is exempt from the following sections of the ACT: (c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f). This exemption was obtained in order to protect from disclosure the identity of a confidential source when an express promise of confidentiality has been given in order to obtain information from sources who would otherwise be unwilling to provide necessary information.

**DOL/OIG–2**

**SYSTEM NAME:**

Freedom of Information/Privacy Act Records.

**SECURITY CLASSIFICATION:**

Not applicable.

**SYSTEM LOCATION:**

Freedom of Information/Privacy Acts Disclosure Office, Office of Inspector General, U. S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons who request disclosure of records pursuant to the Freedom of Information Act, persons who request access to or correction of records pertaining to themselves contained in the Office of Inspector General's systems of records pursuant to the Privacy Act; where applicable, persons about whom records have been requested or about whom information is contained in requested records; and persons representing those identified above.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains (a) copies of all correspondence and internal memorandums related to the Freedom of Information Act and Privacy Act requests, and related records necessary to the processing of such requests; (b) copies of all documents relevant to appeals and lawsuits under the Freedom of Information and Privacy Acts.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Freedom of Information Act, 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a and 29 CFR parts 70 and 71.

**PURPOSE(S):**

This system of records is maintained in order to reflect, accurately, the identity of requesters, the substance of each request, the responses made by the OIG and in order to comply with the reporting and accounting requirements of the Freedom of Information and Privacy Acts. Materials within this system also reflect the reasons for the disclosure and/or denial of requests or portions of requests and any further action on requests which may be appealed and/or litigated.

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

A. Referral to federal, state, local and foreign investigative and/or prosecutive authorities. A record from a system of records, which indicates either by itself or in combination with other information within the agency's possession a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed as a routine use to the appropriate federal, foreign, state or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

B. Introduction to a grand jury. A record from a system of records may be disclosed, as a routine use, to a grand jury agent pursuant either to a federal or state grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

C. Referral to federal, state, local or professional licensing boards. A record from a system of records may be disclosed, as a routine use, to any governmental, professional or licensing authority when such record reflects on qualifications, either moral, educational or vocational, of an individual seeking to be licensed or to maintain a license.

D. Disclosure to contractor, grantee or other direct recipient of federal funds to allow such entity to effect corrective action in agency's best interest. A record from a system of records may be disclosed, as a routine use, to any direct or indirect recipient of federal funds where such record reflects serious inadequacies with a recipient's personnel, and disclosure of the record is made to permit a recipient to take corrective action beneficial to the Government.

E. Disclosure to any source, either private or governmental, to the extent necessary to solicit information relevant to any investigation, audit or inspection. A record from a system of records may be disclosed, as a routine use, to any source, either private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of an investigation, audit, or evaluation.

F. Disclosure to any domestic or foreign governmental agencies for personnel or other action. A record from a system of records may be disclosed, as a routine use, to a federal, state, local, foreign or international agency, for their use in connection with such entity's assignment, hiring or retention of an individual, issuance of a security clearance, reporting of an investigation of an individual, letting of a contract or issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to such agency's decision on the matter.

G. Disclosure to a board of contract appeals, GAO or any other entity hearing a contractor protest or dispute. A record from a system of records may be disclosed, as a routine use, to the United States General Accounting Office, to a board of contract appeals, or to the claims court in bid protest cases or contract dispute cases involving procurement.

H. Disclosure to domestic or foreign governmental law enforcement agency in order to obtain information relevant to an OIG or DOL decision. A record from a system of records may be disclosed, as a routine use, to a domestic or foreign governmental agency maintaining civil, criminal or other relevant information, in order to obtain information relevant to a OIG or DOL decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit, or which may be relevant to an OIG or DOL investigation, audit, or evaluation.

I. Disclosure to OMB or DOJ regarding Freedom of Information Act and Privacy Act advice. Information from a system of records may be disclosed, as a routine use, to the Office of Management and Budget or the Department of Justice in order to obtain advice regarding statutory and other requirements under the Freedom of Information Act or Privacy Act.

J. Disclosure pursuant to the receipt of a valid subpoena. A record from a system of records may be disclosed, as a routine use, in response to a facially valid subpoena for the record. Disclosure may also be made when a subpoena or order is signed by a judge from a court of competent jurisdiction.

K. Disclosure to Treasury and DOJ in pursuance of an *ex parte* court order to obtain taxpayer information from the IRS. A record from a system of records may be disclosed, as a routine use, to the Department of Treasury and the Department of Justice when the OIG seeks an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.

L. Disclosure to a consumer reporting agency in order to obtain relevant investigatory information. A record from a system of records may be disclosed, as a routine use, to a ''consumer reporting agency'' as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purposes of obtaining information in the course of an investigation, audit, or evaluation.

M. Disclosure in accordance with computer matching laws, regulations and/or guidelines. A record may be disclosed to a federal, state, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by those agencies, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to the agencies and their components. This routine use does not provide unrestricted access to records for such law enforcement and related anti-fraud activities; each request for disclosure will be considered in light the applicable legal and administrative requirements for the performance of a computer matching program or procedure.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records in this system are maintained in a variety of mediums including paper, magnetic tapes or discs, and optical digital data discs.

**RETRIEVABILITY:**

A record is retrieved by the name of the individual, the case file numbers or by other subject matter covered by the request.

**SAFEGUARDS:**

This system of records is maintained at OIG Headquarters which is located in a building protected by twenty-four hour guard service. The system is kept in locked storage when not in use and is accessible only on a need to know basis. Offices containing records are restricted to authorized personnel only. Automated data can only be accessed with a password by authorized users.

**RETENTION AND DISPOSAL:**

These records are destroyed six years after final agency determination or 3 years after final court adjudication, whichever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

Disclosure Officer, Office of Inspector General, U.S. Department of Labor, Room S1303, 200 Constitution Avenue, NW., Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries concerning this system can be directed to: Disclosure Officer, Office of Inspector General, 200 Constitution Avenue, NW., Washington, DC 20210. Inquiries must comply with the requirements in 29 CFR part 71.

**RECORD ACCESS PROCEDURES:**

Individuals can request access to any record pertaining to him/her by mailing a request to the Disclosure Officer listed above under 29 CFR 71.2.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should direct their written request to the Disclosure Officer listed in ''Notification Procedure'' above. In addition, the request should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. See 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

The information contained in this system is received from the persons or entities making requests, the systems of records searched to respond to requests, and other agencies referring requests for access or correction of records originating in the Office of Inspector General.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Some records obtained and stored in this system originate from other systems of records and have been exempted under the provisions of the Freedom of Information/Privacy Acts to the same extent as the systems of records from which they were obtained.

**DOL/OIG–3**

**SYSTEM NAME:**

Investigative Case Files, Case Development and Intelligence Records.

**SECURITY CLASSIFICATION:**

Not applicable.

**SYSTEM LOCATION:**

Office of Inspector General, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 and in the OIG regional and field offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals or entities known or suspected of being involved in or associated with criminal activity, labor racketeering, or other violation of law or regulation and associates of those individuals.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system of records contains materials related to criminal and civil investigations, intelligence and other background information based on reasonable suspicion of criminal activity; statements and other material from subjects and witnesses; information from government investigatory or law enforcement organizations and projects (federal, state, local or international); investigative notes and reports; summary information for indexing and cross-referencing; other evidence and background materials existing in any form (e.g. audio or video tape, photographs, computer tapes or disks).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. App 3; the Act of March 4, 1913 (37 Stat. 736) 29 U.S.C. 551; Secretary's Order 2–90, dated January 31, 1990 concerning the authorization and organization of the Office of Inspector General at the Department; and the Omnibus Crime Control Act of 1984; and 28 CFR 23.1.

**PURPOSE(S):**

This system of records is maintained as a repository for: (1) Records created as a result of targeting, surveys and projects for the development of cases and investigations for the Office of Investigations and for the Office of Labor Racketeering; (2) intelligence information concerning individuals identified as potential violators of criminal, labor and labor-related laws and other individuals associated with them; and (3) for other research and analysis to share with other law enforcement organizations if in compliance with 28 CFR 23.1.

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

A. Referral to federal, state, local and foreign investigative and/or prosecutive authorities. A record from a system of records, which indicates either by itself or in combination with other information within the agency's possession a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed as a routine use, to the appropriate federal, foreign, state or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

B. Introduction to a grand jury. A record from a system of records may be disclosed, as a routine use, to a grand jury agent pursuant either to a federal or state grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

C. Referral to federal, state, local or professional licensing boards. A record from a system of records may be disclosed, as a routine use, to any governmental, professional or licensing authority when such record reflects on qualifications, either moral, educational or vocational, of an individual seeking to be licensed or to maintain a license.

D. Disclosure to contractor, grantee or other indirect recipient of federal funds to allow such entity to effect corrective action in agency's best interest. A record from a system of records may be

disclosed, as a routine use, to any direct or indirect recipient of federal funds where such record reflects serious inadequacies with a recipient's personnel, and disclosure of the record is made to permit a recipient to take corrective action beneficial to the Government.

E. Disclosure to any source, either private or governmental, to the extent necessary to solicit information relevant to any investigation, audit or inspection. A record from a system of records may be disclosed, as a routine use, to any source, either private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of an investigation, audit, or evaluation.

F. Disclosure to any domestic or foreign governmental agencies for personnel or other action. A record from a system of records may be disclosed, as a routine use, to a federal, state, local, foreign or international agency, for their use in connection with such entity's assignment, hiring or retention of an individual, issuance of a security clearance, reporting of an investigation of an individual, letting of a contract or issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to such agency's decision on the matter.

G. Disclosure to a board of contract appeals, GAO or any other entity hearing a contractor protest or dispute. A record from a system of records may be disclosed, as a routine use, to the United States General Accounting Office, to a board of contract appeals, or to the claims court in bid protest cases or contract dispute cases involving procurement.

H. Disclosure to domestic or foreign governmental law enforcement agency in order to obtain information relevant to an OIG or DOL decision. A record from a system of records may be disclosed, as a routine use, to a domestic or foreign governmental agency maintaining civil, criminal or other relevant enforcement information, or other pertinent information, in order to obtain information relevant to an OIG or DOL decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit, or which may be relevant to an OIG or DOL investigation, audit, or evaluation.

I. Disclosure to OMB or DOJ regarding Freedom of Information Act and Privacy Act advice. Information from a system of records may be disclosed, as a routine use, to the Office of Management and Budget or the Department of Justice in order to obtain advice regarding statutory or other requirements under the Freedom of Information Act or Privacy Act.

J. Disclosure pursuant to the receipt of a valid subpoena. A record from a system of records may be disclosed, as a routine use, in response to a facially valid subpoena for the record. Disclosure may also be made when a subpoena or order is signed by a judge from a court of competent jurisdiction.

K. Disclosure to Treasury and DOJ in pursuance of an *ex parte* court order to obtain taxpayer information from the IRS. A record from a system of records may be disclosed, as a routine use, to the Department of Treasury and the Department of Justice when the OIG seeks an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.

L. Disclosure to a consumer reporting agency in order to obtain relevant investigatory information. A record from a system of records may be disclosed, as a routine use, to a ''consumer reporting agency'' as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purposes of obtaining information in the course of an investigation, audit, or evaluation.

M. Disclosure in accordance with computer matching laws, regulations and/or guidelines. A record may be disclosed to a federal, state, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by those agencies, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to the agencies and their components. This routine use does not provide unrestricted access to records for such law enforcement and related anti-fraud activities; each request for disclosure will be considered in light of the applicable legal and administrative requirements for the performance of a computer matching program or procedure.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records are stored on a variety of mediums including paper, magnetic tapes or discs, and/or optical digital data discs.

**RETRIEVABILITY:**

Retrievable by name of individual subject, other personal identifiers and other non-personal elements.

**SAFEGUARDS:**

Available on an official need-to-know basis and kept in locked storage when not in use. Offices containing records are restricted to authorized personnel only. Any automated data can only be accessed by a password from a authorized user. Computer terminals with access are away from general staff and housed in locked offices.

**RETENTION AND DISPOSAL:**

Closed Labor Racketeering case files are retired to the Federal Records Center and retained for 20 years. All other cases are destroyed 10 years after the files are closed. Intelligence information maintained in electronic files are reviewed every 5 years for relevance and importance. Information deemed obsolete or otherwise unreliable is deleted after 5 years. Electronic information for which accuracy of information and reliability of source cannot be confirmed is deleted after 1 year. Electronic Information collected for which reliability of source and reasonable suspicion of criminal activity has been confirmed and linked to long term, known organized crime activity can be kept in excess of 5 years. All records are destroyed 20 years after cut off date.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Inspector General for Investigations, OIG/DOL, 200 Constitution Avenue, NW., Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries concerning this system can be directed to: Disclosure Officer, OIG, 200 Constitution Avenue, NW., Washington, DC 20210. Inquiries must comply with the requirements in 29 CFR part 71.

**RECORD ACCESS PROCEDURE:**

Individuals can request access to any record pertaining to him/her by mailing a request to the Disclosure Officer listed above and in accordance with 29 CFR 71.2.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should direct their request to the Disclosure Officer listed in 29 CFR part 71. In addition, the request should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed

amendment sought for the information. See 29 CFR part 71.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Secretary of Labor has promulgated regulations which exempt information contained in this system of records from various provisions of the Privacy Act depending upon the purpose for which the information was gathered and for which it will be used. The various law enforcement purposes and the reasons for the exemptions are as follow:

(a) *Criminal Law Enforcement:* Information compiled for this purpose is exempt from all of the provisions of the Act except the following sections: (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i). This material is exempt because the disclosure and other requirements of the Act would substantially compromise the efficacy and integrity of OIG operations in a number of ways. Indeed, disclosure of even the existence of these files would be problematic.

Disclosure could enable suspects to take action to prevent detection of criminal activities, conceal evidence, or escape prosecution. Required disclosure of information contained in this system could lead to the intimidation of, or harm to, informants, witnesses and their respective families or OIG personnel and their families.

Disclosure could invade the privacy of individuals other than subjects and disclose their identity when confidentiality was promised to them. Disclosures from these files could interfere with the integrity of other information which would otherwise be privileged, *see, e.g.,* 5 U.S.C. 552(b)(5) and which could interfere with other important law enforcement concerns, *see, e.g.,* 5 U.S.C. 552(b)(7).

The requirement that only relevant and necessary information be included in a criminal investigative file is contrary to good investigative practices which require a full and complete inquiry and exhaustion of all potential sources of information. 5 U.S.C. 552a(e)(1). Similarly, maintaining only those records which are accurate, relevant, timely and complete and which assure fairness in a determination is contrary to established investigative techniques. 5 U.S.C. 552a(e)(5). Requiring investigators to obtain information to the greatest extent practicable directly from the subject individual would be counterproductive to performance of a clandestine criminal investigation. 5 U.S.C. 552a(e)(2). Finally, providing notice to an individual interviewed of the authority of the interviewer, the purpose to which the information provided may be used, the routine uses of that information and the effect upon the individual should he choose not to provide the information sought could discourage the free flow of information in a criminal law enforcement inquiry. 5 U.S.C. 552a(e)(3).

(b) *Other Law Enforcement:* In accordance with 5 U.S.C. 552a(k)(2), investigatory material compiled for law enforcement purposes (to the extent it is not already exempted by 5 U.S.C. 552a(j)(2)), is exempted from the following provisions of the Act: (c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f). This material is exempt because the disclosure and other requirements of the act could substantially compromise the efficacy and integrity of OIG operations. Disclosure could invade the privacy of other individuals and disclose their identity when they were expressly promised confidentiality.

Disclosure could interfere with the integrity of information which would otherwise be subject to privileges, *see, e.g.,* 5 U.S.C. 552(b)(5), and which could interfere with other important law enforcement concerns. *See, e.g.,* 5 U.S.C. 552(b)(7).

**DOL/OIG–5**

**SYSTEM NAME:**

Audit Information, Tracking and Reporting System US DOL/OIG.

**SECURITY CLASSIFICATION:**

Not applicable.

**SYSTEM LOCATION:**

Office of Inspector General, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210 and the OIG regional and field offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Auditors, certain administrative support staff, and contractors of the Office of Inspector General.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records or information contained in the system may include: (1) Employee or OIG contractor; (2) social security number; (3) grade/step; (4) training; (5) audit and investigative case tracking data (e.g. audit/project/report number, program, findings, results, etc.); (6) other statistical information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Pub. L. 95–452, 5 U.S.C. App. 3, Inspector General Act of 1978. Secretary's Order 2–90 dated January 31, 1990 establishing the Office of Inspector General at the Department of Labor.

**PURPOSE(S):**

This system is maintained in order to act as a management information system for OIG audit projects and personnel and to assist in the accurate and timely maintenance of information.

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

A. Referral to federal, state, local and foreign investigative and/or prosecutive authorities. A record from a system of records, which indicates either by itself or in combination with other information within the agency's possession a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed as a routine use, to the appropriate federal, foreign, state or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

B. Introduction to a grand jury. A record from a system of records may be disclosed, as a routine use, to a grand jury agent pursuant either to a federal or state grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

C. Referral to federal, state, local or professional licensing boards. A record from a system of records may be disclosed, as a routine use, to any governmental, professional or licensing authority when such record reflects on qualifications, either moral, educational or vocational, of an individual seeking to be licensed or to maintain a license.

D. Disclosure to contractor, grantee or other direct recipient of federal funds to allow such entity to effect corrective action in the agency's best interest. A record from a system of records may be disclosed, as a routine use, to any direct or indirect recipient of federal funds where such record reflects inadequacies with a recipient's personnel, and disclosure of the record is made to permit a recipient to take corrective action beneficial to the Government.

E. Disclosure to any source, either private or governmental, to the extent necessary to solicit information relevant

to any investigation, audit or evaluation. A record from a system of records may be disclosed, as a routine use, to any source, either private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of an investigation, audit, or evaluation.

F. Disclosure to any domestic or foreign governmental agencies for personnel or other action. A record from a system of records may be disclosed, as a routine use, to a federal, state, local, foreign or international agency, for their use in connection with such entity's assignment, hiring or retention of an individual, issuance of a security clearance, reporting of an investigation of an individual, letting of a contract or issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to such agency's decision on the matter.

G. Disclosure to a board of contract appeals, GAO or any other entity hearing a contractor protest or dispute. A record from a system of records may be disclosed, as a routine use, to the United States General Accounting Office, to a board of contract appeals, or to the claims court in bid protest cases or contract dispute cases involving procurement.

H. Disclosure to domestic or foreign governmental law enforcement agency in order to obtain information relevant to an OIG or DOL decision. A record from a system of records may be disclosed, as a routine use, to a domestic or foreign governmental agency maintaining civil, criminal or other relevant information, in order to obtain information relevant to a OIG or DOL decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit, or which may be relevant to an OIG or DOL investigation, audit, or evaluation.

I. Disclosure to OMB or DOJ regarding Freedom of Information Act and Privacy Act advice. Information from a system of records may be disclosed, as a routine use, to the Office of Management and Budget or the Department of Justice in order to obtain advice regarding statutory and other requirements under the Freedom of Information Act or Privacy Act.

J. Disclosure pursuant to the receipt of a valid subpoena. A record from a system of records may be disclosed, as a routine use, in response to a facially valid subpoena for the record. Disclosure may also be made when a subpoena or order is signed by a judge from a court of competent jurisdiction.

K. Disclosure to Treasury and DOJ in pursuance of an *ex parte* court order to obtain taxpayer information from the IRS. A record from a system of records may be disclosed, as a routine use, to the Department of Treasury and the Department of Justice when the OIG seeks an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.

L. Disclosure to a consumer reporting agency in order to obtain relevant investigatory information. A record from a system of records may be disclosed, as a routine use, to a ''consumer reporting agency'' as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purposes of obtaining information in the course of an investigation, audit, or evaluation.

M. Disclosure in accordance with computer matching laws, regulations and/or guidelines. A record may be disclosed to a federal, state, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by those agencies, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to the agencies and their components. This routine use does not provide unrestricted access to records for such law enforcement and related anti-fraud activities; each request for disclosure will be considered in light of the applicable legal and administrative requirements for the performance of a computer matching program or procedure.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records are stored on a variety of mediums including paper, magnetic tapes or discs, and optical digital data discs.

**RETRIEVABILITY:**

Records are retrieved by computer using individual name(s) or project/case name.

**SAFEGUARDS:**

Direct access is restricted to authorized staff members and contractors of the OIG. Automated records can be accessed only through use of confidential procedures and passwords by authorized personnel in both OIG Headquarters and regional and field offices.

**RETENTION AND DISPOSAL:**

Closed files are destroyed after three years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Inspector General for Audit, 200 Constitution Avenue, NW., Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries concerning this system can be directed to: Disclosure Officer, Office of Inspector General, 200 constitution Avenue, NW., Washington, DC 20210. Inquiries must comply with the requirements in 29 CFR part 71.

**RECORDS SOURCE CATEGORIES:**

Official personnel folders; other personnel documents, activity supervisors, audit/investigation report standard forms.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Secretary of Labor has promulgated regulations which exempt information contained in this system of records from various provisions of the Privacy Act depending upon the purpose for which the information was gathered and for which it will be used.

The various law enforcement purposes and the reasons for the exemptions are as follow:

(a) *Criminal Law Enforcement:* Information compiled for this purpose is exempt from all of the provisions of the Act except the following sections: (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i). This material is exempt because the disclosure and other requirements of the Act would substantially compromise the efficacy and integrity of OIG operations in a number of ways. Indeed, disclosure of even the existence of these files would be problematic. Disclosure could enable suspects to take action to prevent detection of criminal activities, conceal evidence, or escape prosecution.

Required disclosure of information contained in this system could lead to the intimidation of, or harm to, informants, witnesses and their respective families or OIG personnel and their families.

Disclosure could invade the privacy of individuals other than subjects and disclose their identity when confidentiality was promised to them. Disclosures from these files could interfere with the integrity of other information which would otherwise be privileged, *see, e.g.,* 5 U.S.C. 552(b)(5), and which could interfere with other

important law enforcement concerns, *see, e.g.,* 5 U.S.C. 552(b)(7).

The requirement that only relevant and necessary information be included in a criminal investigative file is contrary to good investigative practices which require a full and complete inquiry and exhaustion of all potential sources of information. 5 U.S.C. 552a(e)(1). Similarly, maintaining only those records which are accurate, relevant, timely and complete and which assure fairness in a determination is contrary to established investigative techniques.

*5 U.S.C. 552a(e)(5).* Requiring investigators to obtain information to the greatest extent practicable directly from the subject individual would be counterproductive to performance of a clandestine criminal investigation. 5 U.S.C. 552a(e)(2). Finally providing notice to an individual interviewed of: The authority of the interviewer, the purpose to which the information provided may be used, the routine uses of that information and the effect upon the individual should he choose not to provide the information sought could discourage the free flow of information in a criminal law enforcement inquiry. 5 U.S.C. 552a(e)(3).

(b) *Other Law Enforcement:* In accordance with 5 U.S.C. 552a(k)(2), investigatory material compiled for law enforcement purposes (to the extent it is not already exempted by 5 U.S.C. 552a(j)(2)), is exempted from the following provisions of the ACT: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). This material is exempt because the disclosure and other requirements of the Act could substantially compromise the efficacy and integrity of OIG operations. Disclosure could invade the privacy of other individuals and disclose their identity when they were expressly promised confidentiality. Disclosure could interfere with the integrity of information which would otherwise be subject to privileges, *see, e.g.,* 5 U.S.C. 552(b)(5), and which could interfere with other important law enforcement concerns. *See, e.g.,* 5 U.S.C. 552(b)(7).

(c) *Protective Services:* In accordance with 5 U.S.C. 552a(k)(3) investigatory material maintained in connection with assisting the U.S. Secret Service to provide protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056 is exempt from the following section of the ACT: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). This material is exempt in order to enable the OIG to continue its support of the Secret Service without compromising the effectiveness of either agency's activities.

(d) *Contract Investigations:* In accordance with 5 U.S.C. 552a(k)(5), investigatory material compiled solely for the purpose of determining integrity, suitability, eligibility, or qualifications for a DOL contract is exempt from the following sections of the ACT: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f). This exemption was obtained in order to protect from disclosure the identity of a confidential source when an express promise of confidentiality has been given in order to obtain information from sources who would otherwise be unwilling to provide necessary information.

**DOL/ILAB–1**

**SYSTEM NAME:**

Arbitrators/Experts/Consultant Candidates' Biographies.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. National Administrative Office, U.S. Department of Labor, Bureau of International Labor Affairs, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who applied, are nominated or are selected to serve as arbitrators, experts, advisors, consultants, contractors or similar positions for the U.S. National Administrative Office or the Secretariat for the North American Agreement on Labor Cooperation (NAALC), the supplemental agreement on labor issues to the North American Free Trade Agreement (NAFTA).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Application and nomination letters; resumes, biographical sketches, curriculum vitae, and other related documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

North American Agreement on Labor Cooperation Articles 23, 28, and 30; 58 FR 69410; and 5 U.S.C. 301.

**PURPOSE(S):**

These records are established when individuals nominate themselves or are recommended for appointments as arbitrators, experts, consultants, contractors, advisory committee members or similar positions with the U.S. National Administrative Office or the Secretariat for the NAALC. The records are used by the Deputy Under Secretary of Labor for International Affairs to make selections or recommendations as appropriate to the Secretary of Labor or Executive Director of the Secretariat for appointment.

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

None, except for those uses listed in the General Prefatory Statement to this document.

**DISCLOSURES TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files and computer disk.

**RETRIEVABILITY:**

By Nominee's name and by selected skills categories.

**SAFEGUARDS:**

Locked storage equipment and personnel screening.

**RETENTION AND DISPOSAL:**

a. Advisory committee members, arbitrators, contractors, consultants, and experts: Permanent transfer to National Archives three (3) years after expiration of term of service.

b. Nominees not selected: destroy files when five (5) years old.

**SYSTEM MANAGER(S) AND ADDRESS:**

Secretary, U.S. National Administrative Office, U.S. Department of Labor, Bureau of International Labor Affairs, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Individuals wishing to gain access to records should contact the system manager at the **SYSTEM LOCATION** above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name;

b. Approximate date for investigation;

c. Individuals requesting access must also comply with the Privacy Act regulations regarding verification of the identity to records at 29 CFR 71.2.

**CONTESTING RECORDS PROCEDURES:**

A petition for amendments shall be addressed to the System Manager and must meet the requirements of 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Nominations submitted by individuals within the system, other

individuals and organizations and by government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Not applicable.

## DOL/MSHA–1

SYSTEM NAME:

Coal and Metal and Nonmetal Mine Accident, Injury, and Illness.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of Labor, Mine Safety and Health Administration, Program Evaluation and Information Resources, PO Box 25367, Denver CO 80225–0367.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual workers in the coal and metal and nonmetal mining industries.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain accident, injury, and occupational illness data which includes the mine name and identification number; date, time, and place of occurrence; type and description of accident; and name and social security number of injured miner. For 1978 and subsequent years, only the last four digits of the social security number are in the records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 813.

PURPOSE(S):

To maintain data to provide MSHA timely information for making decisions on improving safety and health programs, improving education and training efforts, and establishing priorities in technical assistance activities in the mining industry. The primary uses of the records are (a) to determine probable cause of accidents, injuries, and illnesses and (b) to provide a statistical analytic data base for allocation of MSHA and other resources to reduce occupational injuries and illnesses.

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

In addition to those universal routine uses listed in the general prefatory statement, disclosures may be made to a federal agency which has requested information relevant or necessary to research for mine safety and health under appropriate security procedures.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual—file folders; Computer—magnetic media.

RETRIEVABILITY:

Indexed and filed by mine identification number and date of accident and injury occurrence or illness diagnosis. Accessed by mine identification, date of accident and the last four digits of the social security number of individual(s) involved.

SAFEGUARDS:

Computer safeguards and procedures developed by MSHA under GSA Circular E–34. Appropriate reports are marked with the Privacy Act warning. Only authorized personnel have access to files.

RETENTION AND DISPOSAL:

MSHA Forms 7000–1, Mine Accident, Injury, and Illness Report, are retained for 6 years after year of record and then destroyed. Microfiche copies of these documents are retained by the Office of Injury and Employment Information permanently. Records in magnetic media are transferred to NARA as permanent records immediately after each annual close-out.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Injury and Employment Information, Program Evaluation and Information Resources, PO Box 25367, Denver, CO 80225–0367.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

RECORD ACCESS PROCEDURES:

To see your records, write the System Manager and describe specifically as possible the records sought and furnish the following information:

a. Full name
b. Date of birth
c. Signature

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name
b. Date of birth
c. Signature

RECORD SOURCE CATEGORIES:

Mine operators including independent contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/MSHA–3

SYSTEM NAME:

Metal and Nonmetal Mine Safety and Health Management Information System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

(1) Office of the Administrator for Metal and Nonmetal Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Virginia 22203.

(2) Substantially all Metal and Nonmetal Mine Safety and Health Offices listed in the appendix. (See the Appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Metal and Nonmetal enforcement personnel and key officials who conduct inspection/investigation activities at surface and underground mines.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains records on metal and nonmetal mine safety and health activities which include mine and mill locations, metal and nonmetal mine inspection personnel time and activity, inspections, citations and orders against operators, sampling data on personal exposure of non-identified miners and MSHA personnel to radiation, dust, noise and other contaminants, and comprehensive health surveys on individual operations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 557a, 668; 30 U.S.C. 811, 813, 814.

PURPOSE(S):

Records are maintained in order to (a) determine workload, work scheduling and performance of mine inspection personnel; (b) maintain records on violations of health and safety standards and regulations; (c) determine contaminant exposure level; and (d) maintain employment data at metal and nonmetal mines, e.g. number or workers, etc.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure may be made (a) to the National Institute of Occupational Safety and Health and the Environmental Protection Agency to determine

contaminant exposure levels; (b) to state agencies to maintain records on violations of health and safety standards and regulations, as well as to determine contaminant exposure levels; (c) to unions and company officials to determine contaminant exposure levels; (d) to individuals requesting information on mines or mine exposure.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer-Information from source documents to remote disk storage to host disk storage, with final storage on magnetic tape. Manual—8 × 10½ inch reports and forms in standard file cabinets.

**RETRIEVABILITY:**

Computerized and manual records are indexed by mine identification number for operator and by Authorized Representative and Right of Entry number for MSHA personnel.

**SAFEGUARDS:**

Computer safeguards and procedures developed by MSHA under GSA Circular E–34. Manual-Locked file cabinets. During working hours records are accessible only to authorized personnel.

**RETENTION AND DISPOSAL:**

Computer databases are updated from source documents daily, weekly and monthly. The active computer database contains data for the most recent 5 years. This data is transferred to the historical database when it is 5 years old. The historical database is retained indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrative Officer, Metal and Nonmetal Mine Safety and Health, 4015 Wilson Blvd., Arlington, Virginia 22203.

**NOTIFICATION PROCEDURE:**

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

**RECORD ACCESS PROCEDURES:**

To see your records, write the System Manager and describe as specifically as possible the records sought and furnish the following information:

a. Full name
b. Date of birth
c. Signature

**CONTESTING RECORD PROCEDURES:**

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name
b. Date of birth
c. Signature

**RECORD SOURCE CATEGORIES:**

MSHA inspection personnel and individual mine operators.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT**

None.

**DOL/MSHA–10**

**SYSTEM NAME:**

Discrimination Investigations.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of the Administrator for Coal Mine Safety and Health and Office of the Administrator for Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203 and all Coal and Metal and Nonmetal Mine Safety and Health district offices (see the Appendix for addresses).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals alleged to have been discriminated against in violation of the Federal Mine Safety and Health Act of 1977 and the Coal Mine Health and Safety Act of 1969.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, address, telephone number, social security number, occupation, place of employment, other identifying data, and allegation information concerning complainants, mine operators, witnesses, and third party sources. This material includes interviews and other data gathered by the investigator.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

30 U.S.C. 815(c).

**PURPOSE(S):**

Records are maintained to determine validity and gravity of allegations and the amount of civil penalty assessment.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

In manila file folders and computerized tracking system.

**RETRIEVABILITY:**

Records are retrieved by case number; complainant's/respondent's name; company name; mine name, identification number (I.D.), or address.

**SAFEGUARDS:**

Maintained in locked file cabinets and secured computer system.

**RETENTION AND DISPOSAL:**

Retained for 3 years, then transferred to a Federal Records Center where they are retained for 15 years, then destroyed except for cases involving health issues. For those cases involving health issues retain for 3 years, then transferred to a Federal Records Center where they are retained for 27 years, then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator for Coal Mine Safety Health, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203; Administrator for Metal and Nonmetal Mine Safety and Health, same address as above.

**NOTIFICATION PROCEDURE:**

Inquiries regarding the existence of records should be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

**RECORDS ACCESS PROCEDURES:**

To see your records, write the appropriate System Manager and describe as specifically as possible the records being sought and furnish the following information:

a. Full name.
b. Date of birth.
c. Signature.

**CONTESTING RECORD PROCEDURES:**

Individuals requesting amendment to the record should contact the appropriate System Manager and furnish the following information:

a. Full name.
b. Date of birth.
c. Signature.

**RECORD SOURCE CATEGORIES:**

Individuals alleging discrimination, mine operators, witnesses, and third party sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/MSHA–13

SYSTEM NAME:

Coal Mine Respirable Dust Program.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Coal Mine Safety and Health, MSHA, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Virginia 22203, and substantially all Coal Mine Safety and Health Offices listed in the Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual coal miners for whom personal dust samples have been submitted for analysis prior to 1981, miners with evidence of the development of coal workers' pneumoconiosis (black lung disease) as defined under 30 CFR part 90 after 1981.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain data such as the mine identification, including mine name and company name, mine entity number (specific location in the mine where samples were taken), occupation and social security number of individual sampled (pre 1981 date) and of 30 CFR part 90 miner (after 1980), date sampled, concentration of respirable dust measured in the miner's work environment, tons of material produced during sampling shift, and sampling time, and social security number of the certified person taking the sample.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 813(a), 842.

PURPOSE(S):

To maintain records to determine compliance with the mandatory respirable coal mine dust standards.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of relevant records may be made (1) to the U.S. Department of Health and Human Services in accordance with provisions of Pub. L. 91–173 as amended by Pub. L. 95–164; (2) to mine operators to furnish information relevant to the respirable dust program as it applies to their operations as required by the law; (3) to appropriate Federal, State, local or foreign agency for research purposes, for enforcing or implementing a statute, rule, regulation, order or license; (4) to labor, industry and academic organizations to monitor dust concentration and compliance trends.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Historical data on magnetic tape and current data on computer disk.

RETRIEVABILITY:

Indexed by mine identification number, and social security number for individual coal miners sampled prior to 1981 and for all 30 CFR part 90 miners after 1980. This information is available on computer printouts.

SAFEGUARDS:

Access limited to authorized personnel in regard to computerized data. Sampling data and other manual records for part 90 miners are stored in locked steel cabinets with access being granted only to duly authorized personnel. Sample results for other than 30 CFR part 90 miners are kept in regular file cabinets. No other manual records are identifiable.

RETENTION AND DISPOSAL:

Maintain magnetic tapes indefinitely. Transfer to FARC operator/inspector dust data cards when 3 years old and destroy when 10 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Health, Coal Mine Safety and Health, MSHA, 4015 Wilson Blvd., Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

RECORDS ACCESS PROCEDURES:

To see your records, for samples collected prior to 1981 and for 30 CFR part 90 miners after 1980 write the System Manager and describe specifically as possible the records sought and furnish the following information:

a. Full name
b. Date of birth
c. Social Security number
d. Signature

CONTESTING RECORD PROCEDURES:

To see your records, write the System Manager and describe specifically as possible the records sought and furnish the following information:

a. Full name
b. Date of birth
c. Social Security number
d. Signature

RECORD SOURCE CATEGORIES:

Mine operators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/MSHA–15

SYSTEM NAME:

Health and Safety Training and Examination Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Qualification and Certification Unit, Educational Policy and Development, Mine Safety and Health Administration, PO Box 25367 (DFC), Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Miners, mining industry personnel, State and Federal employees who have taken MSHA approved training courses to attain skills to become qualified and certified to complete mining tasks.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain mine ID number, training course codes, instructor's name, date of training, name and social security number of persons who have taken training and examinations to become qualified and/or certified.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 825, 877(i), 952.

**PURPOSE(S):**

The primary uses of the records are to (a) maintain records of training and examination of individual miners, mining industry personnel, and State and Federal employees who have taken MSHA approved training courses; (b) issue qualification and/or certification cards to individuals who become qualified or certified under the law, as appropriate; (c) issue qualification cards to instructors authorized to teach MSHA approved training courses; (d) provide information to monitor and expand safety training programs; (e) verify that individuals have completed required training; (f) report training data in various formats for a variety of uses, particularly, reporting to Congress, publication.

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

Disclosures may be made (a) to mine operators requesting information to verify training required by law; (b) to labor organizations requesting information on training status of its members; (c) to mine operators' associations which require training for policy and programming utilization; (d) to appropriate Federal, State, tribal governments, local or foreign agencies responsible for investigating or prosecuting the violation of, or for enforcing or implementing, a statute, rule, regulation, order or license.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Training documents are microfilmed; then, they are entered into computer files.

**RETRIEVABILITY:**

Computerized records are indexed and accessed by mine identification and individual social security numbers. Microfilm records are retrieved on basis of cycle number, social security number, mine identification numbers, date and course examination. (Note: Records have the individual names but do not contain addresses. The social security number is used by MSHA for retrievals because the file contains many individuals with the same names, and there is no way to know which records belong to which individual by using name only.)

**SAFEGUARDS:**

Computer safeguards and procedures developed by MSHA under GSA Circular E–34. Reports are marked with the appropriate Privacy Act warning. During working hours only authorized personnel have access to files.

**RETENTION AND DISPOSAL:**

Training documents are destroyed when 3 years old. Microfilm is destroyed when 50 years old.

Computer files are updated as changes occur and used to verify information.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Qualification and Certification Unit, Educational Policy and Development, PO Box 25367 (DFC), Denver, Colorado 80225.

**NOTIFICATION PROCEDURE:**

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

**RECORD ACCESS PROCEDURES:**

To see your records, write the System Manager and describe specifically as possible the records sought and furnish the following information:

a. Full name
b. Social Security number
c. Signature
d. Address

**CONTESTING RECORD PROCEDURES:**

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name
b. Social Security number
c. Signature
d. Type of Record to be amended
e. Address

**RECORD SOURCE CATEGORIES:**

Training records are received from instructors, mining industry, and MSHA training personnel.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/MSHA–18**

**SYSTEM NAME:**

Coal Mine Safety and Health Management Information System.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

(1) Office of the Administrator for Coal Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203; (2) Coal Mine Safety and Health district and field offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Coal Mine Safety and Health enforcement personnel and key officials at surface and underground installations.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information on mine status and characteristics; key mine officials; inspections; violations; sampling information; Coal Mine Safety and Health enforcement personnel; and time utilization for Coal Mine Safety and Health enforcement personnel.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 557a, 668; 30 U.S.C. 811, 813, 814.

**PURPOSE(S):**

To maintain information on (a) status of mining operations; (b) identification of key mine officials; (c) inspections of mines; (d) citations and orders issued for violation of the Mine Act and 30 CFR; (e) information on samples taken by inspectors; and (f) time utilization for Coal Mine Safety and Health enforcement personnel. Disclosure outside the Department of Labor may be made to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of, or for enforcing or implementing, a statute, rule, regulation, order or license.

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

None except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files: Magnetic tape and disk units.

**RETENTION AND DISPOSAL:**

Inspection reports and related documents are destroyed after 10 years. Other source documents are destroyed when no longer needed. Active database is retained for 2 complete fiscal years; then moved to the historical database or magnetic tape. Historical database and magnetic tapes are retained indefinitely.

RETRIEVABILITY:

By mine identification number for key mine officials; by Authorized Representative number, organization number, inspection event number, and violation number for enforcement personnel.

SAFEGUARDS:

Access limited to authorized personnel in regard to computerized data. Manual records on Coal Mine Safety and Health enforcement personnel are kept in locked file cabinets. Manual records on mine status and characteristics, key mine officials, inspections, violations, and time utilization for Coal Mine Safety and Health enforcement personnel are kept in regular file cabinets.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator for Coal Mine Safety and Health, MSHA, Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

RECORD ACCESS PROCEDURES:

To see your records, write the System Manager and describe specifically as possible the records sought and furnish the following information:

a. Full name
b. Date of birth
c. Social Security number
d. Signature

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name
b. Date of birth
c. Social Security number
d. Signature

RECORDS SOURCE CATEGORIES:

Coal Mine Safety and Health personnel submit inspection, time utilization, violation, sampling, and other enforcement information in accordance with prescribed procedures.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/MSHA–19

SYSTEM NAME:

Employee Conduct Investigations.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Mine Safety and Health Administration, Administration and Management, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Virginia 22203.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any MSHA employee against whom any allegation of serious misconduct, illegal acts, conflict of interest, etc. has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization, allegation and other pertinent information relating to the individual involved, as well as the investigative report associated with the case, including interviews and other data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 7301, Executive Order 11222.

PURPOSE(S):

The primary use of the records is to determine facts and circumstances relative to allegations.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records are maintained in manila folders which are stored in locked file cabinets. Computer records are maintained in a password controlled, computerized tracking system.

RETRIEVABILITY:

By name or by file number.

SAFEGUARDS:

Maintained in locked file cabinets and password controlled computer system.

RETENTION AND DISPOSAL:

Records are retained for four years following the date either: (a) They are referred to the OIG; (b) they are transferred to OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance; or (c) it is determined that the allegation was without sufficient merit to warrant further action, after which they are destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration and Management, MSHA, 4015 Wilson Blvd. Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requestor seeks information concerning records pertaining to him/her is required.

RECORD ACCESS PROCEDURES:

To see records, an individual must provide the request in writing to the System Manager. It must be as specific as possible and the following information must be furnished:

a. Full name.
b. Date of birth.
c. Signature.

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name.
b. Date of birth.
c. Signature.

RECORD SOURCE CATEGORIES:

Individual employees and officials of MSHA and any others alleging misconduct.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(g), (h), and (i); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/MSHA–20

SYSTEM NAME:

Civil/Criminal Investigations.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of the Administrator for Coal Mine Safety and Health and Office of the Administrator for Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203 and all Coal and Metal and Nonmetal Mine Safety and Health district offices (see the Appendix for addresses).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who allegedly, knowingly or willfully, committed violations of the Federal Mine Safety and Health Act of 1977 (Mine Act) and the Coal Mine Health and Safety Act of 1969 (Coal Act); individuals who have been criminally prosecuted for such violations; and individuals who have been civilly assessed a monetary penalty for violations of the 1977 Mine Act or 1969 Coal Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, address, telephone number, social security number, occupation, place of employment, and other identifying data along with allegation information of miners, mine operators, and other individuals. Interviews and other data gathered by the investigator.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

30 U.S.C. 820.

**PURPOSE(S):**

Records are maintained to determine validity and gravity of allegations and the amount of civil penalty assessment or referral for possible criminal prosecution.

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

None, except for those universal routine uses listed in the General Prefatory Statement of this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

In manila file folders and computerized tracking system.

**RETRIEVABILITY:**

Records are filed by case number; agent's name; company name; mine name, identification number (I.D.) or address.

**SAFEGUARDS:**

Maintained in locked file cabinets and secured computer system.

**RETENTION AND DISPOSAL:**

Retained for 3 years, then transferred to a Federal Records Center where they are retained for 15 years, then destroyed except for cases involving health issues. For those cases involving health issues retain for 3 years, then transferred to a Federal Records Center where they are retained for 27 years, then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrator for Coal Mine Safety Health, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203; Administrator for Metal and Nonmetal Mine Safety and Health, same address as above.

**NOTIFICATION PROCEDURE:**

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

**RECORDS ACCESS PROCEDURES:**

To see your records, write the System Manager and describe as specifically as possible the records being sought and furnish the following information:

a. Full name
b. Date of birth
c. Signature

**CONTESTING RECORD PROCEDURES:**

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name
b. Date of birth
c. Signature

**RECORD SOURCE CATEGORIES:**

Miners and mine operators, MSHA investigators and other individuals.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

In accordance with 5 U.S.C. 552a(j)(2), investigatory material in this system of records compiled for criminal law enforcement purposes is exempt from subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), of 5 U.S.C. 552a.

**DOL/MSHA–21**

**SYSTEM NAME:**

Assessments and Civil Penalty Debt Collection Activity and Reporting System

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Assessments, Civil Penalty Compliance Office, Mine Safety and Health Administration (MSHA), U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who were cited for committing violations of the Federal Mine Safety and Health Act of 1977 (Mine Act) and mandatory safety and health standards which resulted in their indebtedness to the United States in the form of a civil penalty.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Consumer credit reports, Case files, payment installment plans, bankruptcy case files, Employee Identification Numbers file (EIN), Treasury cross-servicing files, Treasury offset files, financial adjustment files, Assessments Management Information System.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 3701, 3711–12, 3716–19, 3720A–E, 7701. (Debt Collection Improvement Act of 1996); 30 U.S.C. 815 and 820.

**PURPOSE(S):**

The system provides information on individuals who are indebted to the Department of Labor, Mine Safety and Health Administration, for the purpose of assessing penalties, determining the collection of debts, and taking appropriate actions to collect or otherwise resolve the debts.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer files on Local Area Network (LAN) and PCS.

RETRIEVABILITY:

By mine identification number; Employee Identification Number, Name, MSHA case number, or Social Security Number (SSN).

SAFEGUARDS:

Access to computerized data is limited to authorized personnel through use of encrypted passwords. Manual records in Office of Assessments are kept in locked file cabinets or restricted areas. During working hours only authorized personnel have access to files.

RETENTION AND DISPOSAL:

Source documents are retained until case is closed and retired to the appropriate Federal Records Center for 10 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Assessment, Department of Labor, Mine Safety and Health Administration, Office of Assessments, 4015 Wilson Boulevard, Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

RECORD ACCESS PROCEDURES:

To see records, write the System Manager and describe specifically as possible the records sought and furnish the following information:

a. Full name
b. Signature

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name
b. Signature
c. The specific problem

RECORD SOURCE CATEGORIES:

Information is obtained from Office of Assessments, Civil Penalty Compliance Office, Credit Reporting Bureaus, Dun and Bradstreet Reporting, Consumer credit reports, Case files, payment installment plans, bankruptcy case files, Employee Identification Numbers file (EIS), Treasury cross-servicing files, Treasury offset files, financial adjustment files, and the Assessments Management Information System.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/MSHA–22

SYSTEM NAME:

Education Policy and Development; National Mine Health and Safety Academy Permanent Record Card.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Superintendent, National Mine Health and Safety Academy, Mine Safety and Health Administration, U.S. Department of Labor, 1301 Airport Road, Beaver, West Virginia 25813.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mine Safety and Health Administration personnel and other students receiving training at the Mine Health and Safety Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student grade transcripts. (Records reflecting courses and grades received)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 557(a), 30 U.S.C. 952.

PURPOSE(S):

To maintain records on Mine Safety and Health inspectors to assure that proper training is received as required under the Federal mine Safety and Health Act of 1977, Public Law 91–173, as amended by Public Law 95–164, Sec. 502 c.(1) (2) (3). Records are used by students and supervisors to track training and grades.

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

Disclosures may be made to (1) appropriate Federal, State, local agencies when students transfer from one agency to another; (2) colleges that accept training received at the Academy for transferable credit hours; (3) supervisors of students who request transcripts on employees to assure that proper training has been received or completed.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By Social Security Number or name of the student.

SAFEGUARDS:

Manual records on Academy training personnel and students are kept in locked file cabinets.

RETENTION AND DISPOSAL:

Instructor grade sheets are destroyed after 3 years. Academy Permanent Records Cards (Transcripts) are retained for 50 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director for Educational Policy and Development, Mine Safety and Health, Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

RECORD ACCESS PROCEDURES:

To see records, write the System Manager and describe specifically as possible the records sought and furnish the following information:

a. Full name
b. Address
c. Signature

CONTESTING RECORD PROCEDURES:

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name
b. Address
c. Signature
d. The specific problem

RECORD SOURCE CATEGORIES:

Educational Policy and Development, National Mine Health and Safety instructors and students.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/MSHA–23**

**SYSTEM NAME:**

Education Policy and Development; Education Field Services (EFS) Activity Reporting System.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

(1) Office of the Director for Educational Policy and Development, Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203;

(2) Educational Field Services for Educational Policy and Development, Mine Safety and Health, U.S. Department of Labor, Airport Road, Beaver, West Virginia;

(3) Educational Field Services for Educational Policy and Development, Mine Safety and Health, U.S. Department of Labor, P.O. Box 25367, Denver Federal Center, Denver, Colorado 80225.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Educational Policy and Development, Educational Field Services training personnel.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information on mine ID's visited; number of personnel contacted; activities conducted; time spent on activities; name; AR/RE Authorized Representative number (AR) or Right of entry number (RE) number; organization code; and information on time utilization for Training Specialists.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 557(a)

**PURPOSE(S):**

(1) To determine the workload and work scheduling; (2) To assist in budgeting and staffing of education and training specialists; (3) To assess training needs of MSHA personnel and industry personnel; and (4) To assist management in the monitoring of training activities conducted by EFS Training Specialists.

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

None except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files, and computer files.

**RETRIEVABILITY:**

By mine identification number; Authorized Representative/Right of Entry Representative number; organization code.

**SAFEGUARDS:**

Access limited to authorized personnel in regard to computerized data. Manual records on Education Policy and Development training personnel are kept in locked file cabinets.

Computer safeguards and procedures developed by contractors under GSA Circular E–34. Reports are marked with a Privacy Act warning. During working hours only authorized personnel have access to files.

**RETENTION AND DISPOSAL:**

Paper records are destroyed when 3 years old. Computer records are maintained permanently for historical purposes.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director for Educational Policy and Development, Mine Safety and Health, Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203.

**NOTIFICATION PROCEDURE:**

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required.

**RECORD ACCESS PROCEDURES:**

To see records, write the System Manager and describe as specifically as possible the records sought and furnish the following information:

a. Full name
b. AR/RE number
c. Address
d. Signature

**CONTESTING RECORD PROCEDURES:**

Individuals requesting amendment to the record should contact the System Manager and furnish the following information:

a. Full name
b. AR/RE number
c. Signature
d. The specific problem.

**RECORD SOURCE CATEGORIES:**

Educational Policy and Development, Educational Field Services personnel.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/MSHA–24**

**SYSTEM NAME:**

Radon Daughter Exposure.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Division of Health, Office of the Administrator for Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals for whom mine operators were required to calculate and record radon daughter exposure in the previous calendar year.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Mine I.D. number, mine name, section, township, range, county, and state of mine location, operator, and time period, individual's name, social security number, current year's radon daughter exposure and cumulative radon daughter exposure in working level months (WLM).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

30 U.S.C. 811, 961

**PURPOSE(S):**

To document exposure of miners to radon daughters, a form of radiation which has been proven to cause cancer in humans and is well known as a severe hazard for metal and nonmetal miners. The exposure limit is an *annual* limit which requires careful documentation to ensure that no miner is overexposed.

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

None, except for those routine uses listed in the General Prefatory Statement of this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files.

**RETRIEVABILITY:**

By year, mine name, mine operator, and individual name.

SAFEGUARDS:

Manual records are kept in locked file cabinets. During working hours records are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Retained until individual would have turned 75 years old or until 10 years after known death of individual.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Health, Administrator for Metal and Nonmetal Mine Safety and Health, same address as above.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required or a letter signed by the individual or his estate authorizing the requester to obtain the information. (As per 30 CFR 57.5040 and ANSI N13.8–1973 ''Radiation Protection in Uranium Mines.'')

RECORDS ACCESS PROCEDURES:

To see your records, write the System Manager and describe as specifically as possible the records sought and furnish the following information:

a. Full name
b. Address
c. Signature

CONTESTING RECORD PROCEDURES:

To see your records, write the System Manager and describe as specifically as possible the records sought and furnish the following information:

a. Full name
b. Address
c. Signature

RECORD SOURCE CATEGORIES:

Mine operators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OSHA–1

SYSTEM NAME:

Discrimination Complaint File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National and Regional Offices of the Occupational Safety and Health Administration; see the Appendix to this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints alleging discrimination against them by their employers for exercising safety and health rights. Complainants may file pursuant to section 11(c) of the Occupational Safety and Health Act (29 U.S.C. 651–678), section 405 of the Surface Transportation Assistance Act (49 U.S.C. 31105 et seq.), section 211 of the Asbestos Hazard Emergency Response Act (15 U.S.C. 2601) or section of the International Safe Container Act (46 U.S.C. 1501 et seq.). Complaints are also filed pursuant to those additional statutes listed below under the category entitled Authority for Maintenance of the System. Employees who are covered by the statutes listed below may file complaints alleging discrimination on the basis of protected activity relating to environmental laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, social security number, occupation, place of employment, and other identifying data along with the type of allegation. This material includes interviews and other data gathered by the investigator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11(c) of the Occupational Safety and Health Act (29 U.S.C. 651–678); sec. 405 of the Surface Transportation Assistance Act (49 U.S.C. 31105); sec. 211 of the Asbestos Hazard Emergency Response Act (15 U.S.C. 2601 et seq.); sec. 7 of the International Safe Container Act (46 U.S.C. 1501 et seq.); the Safe Drinking Water Act (42 U.S.C. 300j–9(i)); the Water Pollution Control Act (33 U.S.C. 1367); the Toxic Substances Control Act (15 U.S.C. 2622); the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 29 U.S.C. 42121; the Solid Waste Disposal Act (42 U.S.C. 6971); the Clean Air Act (42 U.S.C. 7622); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9610); and the Energy Reorganization Act of 1974 (42 U.S.C. 5851).

PURPOSE(S):

The records are used to support investigative materials discovered or created during investigation of violations of the health and safety statutes and the environmental statutes listed in the category in this notice for Authority. The records also are used as the basis of statistical reports on such activity by regional administrators, investigators, and their supervisors in the Occupational Safety and Health Administration.

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

A. With respect to the first four statutes listed under the Authority category, disclosure of the gravamen of a complaint, as well as the name of the complainant, may be made to the employer, so that the complaint can proceed to a resolution.

B. With respect to the eight remaining statutes listed under the Authority category, disclosure of a copy of the actual written complaint by the complainant, may be made to the employer so that the complaint can proceed to a resolution.

C. With respect to complaints under the Energy Reorganization Act (ERA), disclosure of a copy of the actual written complaint by the complainant, may be made to the United States Nuclear Regulatory Agency, as mandated by the ERA.

D. With respect to complaints under the environmental statutes, disclosure of a copy of the actual written complaint by the complainant, may be made to the United States Environmental Protection Agency (EPA), as mandated by this Department's regulation, 29 CFR Part 24.

E. With respect to complaints under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, disclosure of a copy of the actual written complaint by the complainant, may be made to the Federal Aviation Administration, as is mandated by the Act.

F. All of the above five disclosures are in addition to those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By complainant's name or case identification number.

SAFEGUARDS:

Locked storage equipment and personnel screening.

RETENTION AND DISPOSAL:

Destroy five years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of 11(c) Programs in the National Office and Regional Administrators at addresses in the Appendix.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the appropriate system location.

**RECORD ACCESS PROCEDURE:**

Individuals wishing to gain access to non-exempt records should contact the system manager at the appropriate system location.

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to request amendment of any non-exempt records should contact the system manager at the system location listed above.

**RECORD SOURCE CATEGORIES:**

Individual complainants who filed allegation(s) of discrimination by employer(s) against employee(s) who have exercised job safety and health responsibilities; information compiled in connection with investigations. Also employers, employees and witnesses.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/OSHA–6

**SYSTEM NAME:**

Program Activity File.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Management Data Systems, Occupational Safety and Health Administration, Room N–3661, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Compliance Safety and Health Officers of the Occupational Safety and Health Administration.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Time sheets/logs documenting compliance safety and health officers' activities covering inspections, monitoring and other compliance-related data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Occupational Safety and Health Act of 1970 (29 U.S.C. 651–678).

**PURPOSE(S):**

These records are maintained to document the amount of time spent by OSHA compliance safety and health officers on their various compliance-related activities. The data compiled from the time sheets are used to analyze program activity by producing such activity measures as time spent on each of various types of compliance-related activities; the data are used by key agency officials to assist in measuring the effectiveness of OSHA's enforcement activities.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Magnetic media.

**RETRIEVABILITY:**

By compliance safety and health officer identifying number or by inspection/investigation number.

**SAFEGUARDS:**

Computer file accessible only through password system available only to authorized personnel.

**RETENTION AND DISPOSAL:**

Data files maintained indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Management Data Systems, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the system location listed above.

**RECORD ACCESS PROCEDURE:**

Individuals wishing to gain access to records should contact the system manager at the system location listed above.

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to request amendment of any record should contact the system manager at the system location listed above.

**RECORD SOURCE CATEGORIES:**

Compliance safety and health officers'/investigators' time logs.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Not applicable.

## DOL/OSHA–9

**SYSTEM NAME:**

OSHA Compliance Safety and Health Officer Training Record.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Regional offices of the Occupational Safety and Health Administration; see the Appendix for addresses.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Compliance Safety and Health Officers of the Occupational Safety and Health Administration.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records reflecting training courses and programs completed by Compliance Safety and Health Officers of the Occupational Safety and Health Administration.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Occupational Safety and Health Act of 1970 (29 U.S.C. 651–678).

**PURPOSE(S):**

These records are used to determine which Compliance Safety and Health Officers have completed required training and which need added training. They are used to analyze individual training needs and to assess overall needs for training in upcoming periods; used by Regional Administrators for planning and budgetary purposes.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name of individual Compliance Safety and Health Officer.

SAFEGUARDS:

Locked file cabinets.

RETENTION AND DISPOSAL:

Upon termination of employment of a Compliance Safety and Health Officer, or upon transfer to another job.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Administrator at address in the Appendix where system is located.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the appropriate system location listed above.

RECORD ACCESS PROCEDURE:

Individuals wishing to gain access to records should contact the system manager at the system location listed above.

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of any records should contact the system manager at the system location listed above.

RECORD SOURCE CATEGORIES:

Official personnel folders; certificates of training; individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Not applicable.

## DOL/OSHA–10

SYSTEM NAME:

OSHA Outreach Training Program.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Training and Education, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authorized OSHA Outreach Training Program trainers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each trainer's file contains the following information: Trainer's name, title, ID number, company name, address, telephone number, fax number, and the most recent date the individual completed an OSHA construction and/or general industry Outreach course. Files also contain the end date of outreach classes taught by the trainer, the type of training conducted, and the date that OSHA student course completion cards were sent to the trainer by OSHA. Manual files contain documentation submitted by the trainer which includes topics covered, students taught, and a copy of the letter sent to the trainer for that class.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act of 1970 (29 U.S.C. 651–678); 5 U.S.C. 501.

PURPOSE(S):

To maintain, efficiently and accurately, information on OSHA authorized outreach trainers.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and Automated Data Processing (ADP) Files.

RETRIEVABILITY:

Records in the manual system of records are retrieved by the date that the training class was held and by the name of the authorized OSHA outreach trainer.

Records in the ADP system are retrieved by the name of the OSHA authorized outreach trainer or by the trainer's system assigned I.D. number.

SAFEGUARDS:

Locked file cabinets for manual files; computer file accessible through password system available only to authorized OSHA personnel.

RETENTION AND DISPOSAL:

Manual system—retained 5 years, then destroyed; ADP system—retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Training and Educational Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the system location listed above. Name, address, and date authorized as trainer should be provided.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access should contact the system manager at the system location listed above.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment must contact the system manager at the system location listed above.

RECORD SOURCE CATEGORIES:

Trainers and any individuals attending any of the OSHA outreach trainer courses (500, 501, 502, 503).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OSHA–12

SYSTEM NAME:

OSHA Employee Conduct Investigations.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Directorate heads, separate office heads, Regional Administrators, Director Cincinnati Laboratory, Director Salt Lake City Laboratory, of the Occupational Safety and Health Administration (OSHA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who are the subject of an investigation or a conduct inquiry.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization, and other information relating to the individual involved. The record also contains investigative report(s) associated with the case, including interviews and other information gathered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

These records are maintained to ensure that all appropriate records of problems, misconduct, illegal acts, conflicts of interest, etc., are retained.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records are stored in file folders in metal file cabinets.

**RETRIEVABILITY:**

By name or case file number.

**SAFEGUARDS:**

The files are maintained in locked file cabinets with access available only to those with a need to know the information to perform their officially assigned duties.

**RETENTION AND DISPOSAL:**

Records are retained for four years following the date either: (a) They are referred to the OIG; (b) they are transferred to OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance; or (c) it is determined that the allegation was without sufficient merit to warrant further action, after which they are destroyed by burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Directorate heads, separate Office heads, Regional Administrators, Director Cincinnati Laboratory, Director Salt Lake City Laboratory, of the Occupational Safety and Health Administration at addresses listed in the Appendix.

**NOTIFICATION PROCEDURE:**

Inquiries should be mailed to system managers listed above at addresses listed in the Appendix.

**RECORD ACCESS PROCEDURES:**

Individuals wishing to gain access to records should contact the appropriate system manager at the system locations listed in the Appendix.

**CONTESTING RECORD PROCEDURE:**

Individuals wishing to request amendment of any non-exempt records should contact the system manager at the location listed in the Appendix.

**RECORD SOURCE CATEGORIES:**

Hotline complaints received through the Office of the Inspector General, or through the General Accounting Office; complaints or incident reports submitted by other employees or members of the public; and other investigative reports.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/OSHA–13**

**SYSTEM NAME:**

OSHA Office of Training and Education Automated Registration System.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Training and Education, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Students from the U.S. Department of Labor, state governments, other Federal agencies and from the private sector. These students are primarily compliance safety and health officers, safety specialists, safety engineers, safety officers, industrial hygienists, instructors, loss control specialists, and others in occupations related to occupational safety and health.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Each student's file contains the following information: Student's name, office name, office address, office telephone number, course enrollment history, tuition status, student employment origin, cumulative record of student's continuing educational units (CEU's), and certification maintenance points (CMP's) issued by this office from fiscal year 1989 to the present. Reports are prepared from these records that identify by individual or group of individuals, the students first and last name, office name, and status of class(es) enrollment (i.e., enrolled, waiting, canceled, or completed). This information is reported by region, state, area office, or course.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Occupational Safety and Health Act of 1970 (29 U.S.C. 651–678).

**PURPOSE(S):**

To maintain needed enrollment information for proper management of course schedules, curricula and determining individual training needs. Records are used by managers and Office of Training Education staff to develop class rosters, student enrollment history, course/class enrollment changes on a weekly basis, training verification, cancellation notices, confirmation letters and certificates of completion for individual students. Reports are used by Office of Training and Education staff, and OSHA National Office and Regional office staff for managing the registration of students in courses.

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

None, except for those universal routine uses listed in the General Prefatory Statement of this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:**

**STORAGE:**

Magnetic media and manual files.

**RETRIEVABILITY:**

The operators who operate the system can access information by student's name or by course number. The system administrator can access by student's name, course number, date of enrollment, employment origin, company name, address and phone number.

**SAFEGUARDS:**

Manual files are stored in locked file cabinets. The hard disk in the computer is secured by the use of a system lock to which only authorized staff have access. Backup floppy disks are stored in locked file cabinets. Access to all manual and ADP files is restricted to authorized personnel only.

RETENTION AND DISPOSAL:

Data for the current year and two preceding years will be retained on the computer hard disk. Data pre-dating this time will be backed up on floppy disks and stored in a locked cabinet. In no case will data predate fiscal year 1989. Files will be destroyed when no longer of any administrative use.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative officer, Office of Training and Education, at the system location in Des Plaines, Illinois.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the system location listed above.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to non-exempt records should contact the system manager at the system location listed above.

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of any non-exempt records should contact the system manager at the system location listed above.

RECORD SOURCE CATEGORIES:

Students.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Not applicable.

## DOL/OSHA–14

SYSTEM NAME:

Office of Training and Education Computer-based Acquisition/Financial Records System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Training and Education, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Staff of the Office of Training and Education, including the Training Institute. Individuals doing business with the Office of Training and Education that involve the payment or receipt of funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include necessary data to prepare a procurement requisition including: The requisition number; the name of the bureau making the procurement request; the specific page number of the requisition; the date of the requisition; the accounting code; the delivery requirement address; the official's name, title, and phone number for information concerning the procurement; an identification if the procurement is for instructional services, or for other supplies/services, if for instructional services—the course number and location of the course; a specific ordering item number and/or stock number; a narrative description of the item or service; the quantity requested; the unit price; the unit issue; the total dollar amount; the narrative justification for making the request; the name, address, and phone number of the suggested vendor; the Office division making the request; and the initials of the staff person(s) making the request. This system of records also contains the necessary data for maintaining a general ledger of accounts. Information will be taken from obligating documents. Records also include necessary data to track the receipt of all receivables.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act of 1970 (29 U.S.C. 651–678).

PURPOSE(S):

To provide an acquisition and financial management system which will improve the acquisition process; and provide an efficient means for the accurate recording, tracking, reporting, and control of Office funds and receivables.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

ADP files.

RETRIEVABILITY:

By name of vendor, by name of staff person making a procurement request, by individual travel authorization number, by individual last name, and by any of the data elements identified in the Categories of Records in the System category.

SAFEGUARDS:

Computer disks locked in file cabinets; password system for authorized persons only.

RETENTION AND DISPOSAL:

Dispose of when no longer needed for administrative purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Administration and Training Information, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the system location listed above.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to non-exempt records should contact the system manager at the system location listed above.

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of any records should contact the system manager at the system location listed above.

RECORD SOURCE CATEGORIES:

Administrative files and procurement files.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OSHA–15

SYSTEM NAME:

Office of Training and Education Resource Center Loan Program.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Training and Education, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

Individual borrowers who have become qualified to borrow from the Resource Center Collection of occupational safety and health materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain borrower name, company name and address or home address, company and home telephone numbers, fax number, application form

number, application date, borrower category, audiovisual program title and accession number, audiovisual copyright date, transaction identification number, and transaction date.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Occupational Safety and Health Act of 1970 (29 U.S.C. 651–678) and 5 U.S.C. 301.

**PURPOSE(S):**

These records are maintained to facilitate the performance of the Resource Center Loan Program which loans occupational safety and health materials to qualified borrowers, for verification of borrower status and authorization to borrow, to track borrower requests for materials through processing and disposition, to maintain material availability and usage information, to track status and history of overdue materials, to maintain records on lost and damaged materials.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files for signed borrower agreement forms, borrower request forms, and program booking forms are maintained in file cabinets. Automated Data Processing (ADP) files for all other records.

**RETRIEVABILITY:**

By name of borrower for signed borrower agreement forms (manual), by any of the data elements in Categories of Records in the System section (ADP).

**SAFEGUARDS:**

Manual files and computer disks are locked in file cabinets. Password system access to authorized personnel for ADP files.

**RETENTION AND DISPOSAL:**

Dispose of when no longer needed for administrative purposes.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Division of Administration and Training Information, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018.

**NOTIFICATION PROCEDURE:**

Any individual who wishes to be notified if this system of records contains a record pertaining to them may apply in writing to the system manager at the above address.

**RECORD ACCESS PROCEDURES:**

Any individual wishing to gain access to any records pertaining to them, may apply in writing to the system manager at the system address listed above.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request modification or deletion to any records pertaining to them, may apply in writing to the system manager at the system address listed above.

**RECORD SOURCE CATEGORIES:**

Individuals and information pertaining to Resource Center materials are taken from Resource Center files.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/PWBA–2

**SYSTEM NAME:**

PWBA Enforcement Management System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Enforcement, PWBA, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, and all PWBA field offices as listed in the Appendix A to this document.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Plan administrators, trustees, and those individuals who provide advice or services to employee benefit plans, and other individuals (such as the named defendants) involved in investigations and enforcement actions.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information including plan name, plan administrator's name, service provider's name, trustee's name, and names of other individuals (such as the named defendants) involved in investigations and enforcement actions.

**AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 1134–37.

**PURPOSE(S):**

This system of records is used to access information related to case files involving investigations instituted by the Department of Labor (DOL) under the Title I of the Employee Retirement Security Act of 1974 (ERISA). The investigative files are used in the prosecution of violations of law, whether civil or criminal in nature.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, pursuant to 29 U.S.C. 1134, a record from this system of records may be disclosed, subject to the restrictions imposed by various statutes and rules, such as the Privacy Act, to a department or agency of the United States, or to any person actually affected by any matter which may be the subject of the investigation; except that any information obtained by the Secretary of Labor pursuant to section 6103 of Title 26 shall be made available only in accordance with regulations prescribed by the Secretary of the Treasury.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records in this system are maintained in an electronic database and in paper case files.

**RETRIEVABILITY:**

Records are retrieved from the electronic database by the name of the plan, service provider name, trustee name, or the name of another individual (such as the named defendant) involved in the investigation or enforcement action. Records are also retrieved by case number, the plan's employer identification number (EIN) and plan number (if known), or service provider or trustee EIN.

**SAFEGUARDS:**

Direct access to and use of these records is restricted to authorized personnel in the Office of Enforcement and PWBA field offices. In the Office of Enforcement, manual files are maintained in file cabinets with access limited to OE staff. In the field offices, manual files are maintained in file cabinets with access limited to appropriate PWBA staff. In all instances, the electronic database is password protected and limited to use by authorized personnel.

**RETENTION AND DISPOSAL:**

Investigative case files are retained in the office for one year after completion

by voluntary compliance or litigation, or related actions following voluntary compliance or litigation. After one year, the case files are transferred to the Federal Records Center for seven (7) years and then destroyed. The electronic database files are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

In the national office: Director of Enforcement, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

In the Regional offices: the Regional Director (as listed in the Appendix to this document).

In the District Offices: the District Supervisor (as listed in the Appendix A to this document).

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager described above. Individuals should furnish their full name, address, and employee benefit plan association and should identify the employee benefit plan by name, address, and EIS (if known).

RECORD ACCESS PROCEDURES:

Request for access to records should follow the Notification procedure described above. Specific materials in the system have been exempted from Privacy Act provisions under 5 U.S.C. 552a(j)(2) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access, contest of the content of the record, and appeal of a denial to access. A determination as to exemption shall be made at the time a request for access is received. Access procedures are the same as the Notification procedures described above. Individuals requesting access must also comply with Privacy Act regulations on verification of identity and access to records (29 CFR 71.2).

CONTESTING RECORD PROCEDURES:

Same as the Notification procedure above, except individuals desiring to contest or amend information maintained in the system should direct their written request to the appropriate System Manager listed above, state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Individual complaints, witnesses, or interviews conducted during investigations or plan participant or beneficiary information obtained during investigations on cases opened in the Office of Enforcement or in any of the PWBA field offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

a. *Criminal Law Enforcement:* In accordance with subsection 552a(j)(2) of the Privacy Act, 5 U.S.C. 552a(j)(2), information maintained for criminal law enforcement purposes in PWBA's Office of Enforcement or its field offices is exempt from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H), and (I), (e)(5) and (8), (f), and (g) of 5 U.S.C. 552a.

b. *Other Law Enforcement:* In accordance with subsection 552a(k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for civil law enforcement purposes is exempt from subsections (c)(3), (d)(1), (2), (3), and (4), (e)(1), (e)(4)(G) and (I), and (f) of 5 U.S.C. 552a.

## DOL/PWBA–3

SYSTEM NAME:

PWBA Correspondence Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Participant Assistance and Communications

Office of Exemption Determinations

Office of Regulations and Interpretations

Office of Health Plan Standards and Compliance Assistance

U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210

Atlanta Regional Office, 61 Forsyth Street, Suite 7B54, Atlanta, GA 30303

Boston Regional Office, J.F.K. Building, Room 575, Boston, MA 02203

San Francisco Regional Office, 71 Stevenson Street, Suite 915, P.O. Box 190250, San Francisco, CA 94119–250

Seattle District Office, 1111 Third Avenue, MIDCOM Tower, Suite 860, Seattle, WA 98101–3212.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Correspondents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters requesting information, advisory opinions, FOIA requests, Privacy Act Requests, or submitting comments, the Department's replies thereto, and related internal memoranda, including notes pertaining to meetings and telephone calls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1135.

PURPOSE(S):

These records are maintained to take action on or to respond to a complaint, inquiry or comment concerning certain aspects of Title I of ERISA or to respond to requests under FOIA or Privacy Act and to track the progress of such correspondence through the office.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and electronic tracking system.

RETRIEVABILITY:

Files are retrieved by an individual name or control number.

SAFEGUARDS:

Access to these records is limited to authorized PWBA staff. Computer system is password protected and accessible only to personnel creating the database.

RETENTION AND DISPOSAL:

The retention schedule for FOIA and Privacy Act request files follows General Records Schedule 14 and are retained two years after date of reply or six years after issuance of the appeal determination. If there is litigation in the underlying matter, the file is retained for three years after the litigation is completed. Requests for advisory opinions and the replies thereto are retained indefinitely, requests for information are destroyed one year after completion of project. Electronic index is destroyed six years after date of last entry.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of Participant Assistance and Communications

Director of the Office of Exemption Determinations

Director of the Office of Regulations and Interpretations

Director of the Office of Health Plan Standards and Compliance Assistance

Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Regional Directors in the following offices:

Atlanta Regional Office, 61 Forsyth Street, Suite 7B54, Atlanta, GA 30303

Boston Regional Office, J.F.K. Building, Room 575, Boston, MA 02203

San Francisco Regional Office, 71 Stevenson Street, Suite 915, PO Box 190250, San Francisco, CA 94119–250

District Supervisor, Seattle District Office, 1111 Third Avenue, MIDCOM Tower, Suite 860, Seattle, WA 98101–3212.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. All requests must be in writing and mailed or presented in person during the Department's normal business hours.

**RECORDS ACCESS PROCEDURES:**

Same as notification procedure. Individuals requesting access must also comply with U.S. Department of Labor Privacy Act regulations on verification of identity at 29 CFR 71.2.

**CONTESTING RECORD PROCEDURES:**

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Correspondence from individuals and responses thereto.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/PWBA–4

**SYSTEM NAME:**

Technical Assistance and Inquiries System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Division of Technical Assistance and Inquiries in the National office, all regional and district offices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Correspondents and callers requesting information and assistance.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

General and congressional telephone inquiries and correspondence regarding all aspects of pension and welfare benefit plans and records which provide the status of individuals under these plans.

**AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 1135.

**PURPOSE(S):**

These records are used to take action on or respond to inquiries from Members of Congress and private citizens.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, records in this system may be disclosed to the relevant employee benefit plan administrator, third party administrator, insurance carrier or other party as necessary to facilitate a resolution to the circumstance presented by the individual seeking assistance from the agency.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in file cabinets and on computer system.

**RETRIEVABILITY:**

By name of individual.

**SAFEGUARDS:**

In the National office, manual files are maintained in file cabinets with access limited to staff of the Division of Technical Assistance and Inquiries. In the regional and district offices, manual files are maintained in file cabinets with access limited to appropriate PWBA staff. Computer system is password protected and limited to use by authorized personnel.

**RETENTION AND DISPOSAL:**

Manual records are maintained for one year after closing the file, then destroyed. Computer files are maintained for the same period as the manual records or deleted when no longer needed which ever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

In the national office: Director of the Office of Participant Assistance and Communications, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

In the Regional offices: the Regional Director

In the District Offices: the District Supervisor.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact a system manager indicated above. Individuals must furnish their full names for their records to be located and identified.

**RECORD ACCESS PROCEDURES:**

Same as notification procedure. Individuals requesting access must also comply with U. S. Department of Labor Privacy Act regulations on verification of identity at 29 CFR 71.2.

**CONTESTING RECORD PROCEDURES:**

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Individuals seeking technical assistance or information.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/PWBA–5

**SYSTEM NAME:**

Public Disclosure Request Tracking System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, PWBA, Public Disclosure Room, U.S. Department of Labor, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who request documents.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Data regarding the request for copies of plan filings made with the Department of Labor or the Internal Revenue Service. Data includes individual requester's name, street address, city, state, zip code, and telephone number, the Employer Identification Number and Plan Number of the plan for which information has been requested and the documents requested.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1021 et seq.

PURPOSE(S):

These records are used by authorized PWBA disclosure personnel to process requests made to the Public Disclosure Room and by PWBA managers to compile statistical reports regarding such requests for management information purposes.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and computer storage.

RETRIEVABILITY:

By individual name, control number or EIN/PN of requested plan.

SAFEGUARDS:

Manual files are maintained in file cabinets with access limited to authorized personnel. Computer system is password protected and accessible only to personnel creating and maintaining the database.

RETENTION AND DISPOSAL:

Manual files are destroyed after three months, the electronic index is deleted on the same schedule as the manual files or when no longer needed whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of Participant Assistance and Communications, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish their full names for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Individuals requesting access must also comply with U. S. Department of Labor Privacy Act regulations on verification of identity at 29 CFR 71.2.

CONTESTING RECORD PROCEDURES:

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Individuals requesting documents from the Public Disclosure Room.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/PWBA–6

SYSTEM NAME:

PWBA Debt Collection/Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Pension and Welfare Benefits Administration, Office of Program Planning, Evaluation and Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been assessed fines or penalties under provisions of ERISA sections 502(c)(2), 502(i) and 502(l).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing data regarding the assessment of fines/penalties under provisions of ERISA sections 502(c)(2), 502(i) and 502(l). Data includes individuals (or trade) name, street address, city, state, zip code, telephone number, taxpayer identification number, and transaction information (e.g., correspondence, debt status and payment records).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1132, 31 U.S.C. 3711(a) and 29 CFR Part 20.

PURPOSE(S):

Records are used for maintaining an ongoing Debt Collection/Management Program requiring tracking and accounting for assessed fines/penalties, determination of collection status and assignment of delinquent debts to private collection agencies.

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

Relevant records may be disclosed to private collection agencies in order for them to collect debts subject to this program.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Records may be disclosed for delinquent accounts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

Manual files and computer storage.

RETRIEVABILITY:

Debt Collection/Management data is sorted numerically by assigned case number. Records in this system are retrieved by computer and manually using the PWBA-assigned case number and a cross-reference debtor taxpayer identification number.

SAFEGUARDS:

Manual files are maintained in file cabinets with access limited to authorized personnel. Computer system is accessible, through password, only to personnel creating and maintaining the database.

RETENTION AND DISPOSAL:

Both, manual and automated records are maintained for two years after the case is closed or until expiration of applicable statute of limitations, whichever occurs first.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish their full name and additional personal identifiers for their records to be located and identified.

RECORD ACCESS PROCEDURE:

See notification procedure above. Individuals requesting access must also comply with Privacy Act regulations on verification of identity and access to records. (29 CFR 71.2.).

CONTESTING RECORD PROCEDURE:

Same as notification procedure above, except individuals desiring to contest or amend information maintained in the

system should direct their written request to the system manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Investigators and auditors.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/PWBA–7**

**SYSTEM NAME:**

PWBA Employee Conduct Investigations.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Pension and Welfare Benefits Administration, Office of Program Planning, Evaluation and Management, 200 Constitution Avenue, NW., Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

PWBA employee(s) against whom allegations of misconduct have been made.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The file contains investigative report(s) compiled in the course of employee misconduct investigations, including interviews and other data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

The records are compiled as an adjunct to investigating allegations of employee misconduct, to make determinations on personnel actions and to document agency action in most cases.

**ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEMS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records are stored in file folders in metal cabinets.

**RETRIEVABILITY:**

Records are retrieved by name.

**SAFEGUARDS:**

The files are maintained in locked file cabinets with access only to those with a need to know the information to perform their duties. A charge out system is used to monitor and restrict the withdrawal of records from this file.

**RETENTION AND DISPOSAL:**

Records are retained for four years following the date either: (a) They are referred to the OIG; (b) they are transferred to OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance; or (c) it is determined that the allegation was without sufficient merit to warrant further action, after which they are destroyed by burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Program Planning, Evaluation, and Management, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Inquiries should be mailed or presented to the System Manager noted at the address listed above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the System Manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date of the investigation.

Individuals requesting access must also comply with the Privacy Act regulations regarding verification of identity at 29 CFR 71.2.

**CONTESTING RECORD PROCEDURES:**

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Complaints through the Office of the Inspector General's and the General Accounting Office's hotline system; allegations and incident reports submitted by employees; statements by the subject, fellow employees or members of the public; and other investigative reports.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/PWBA–8**

**SYSTEM NAME:**

PWBA Consolidated Training Record.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Program Planning, Evaluation & Management, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees of the Pension and Welfare Benefits Administration.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records reflect educational attainment levels (to include areas of study), professional certifications, date of accession to PWBA, in-house (PWBA) technical training courses and Federal Law Enforcement Training Center programs completed by employees of the Pension and Welfare Benefits Administration.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

These records are used to identify which employees have completed certain of the courses, and the number of employees awaiting training. This information, in the aggregate, helps project the number of courses to schedule for succeeding years. The prior formal education information is used to respond to Congressional and other inquiries regarding the educational

attainment level of our workforce. Finally, a combination of the data elements is used to identify employees with specific educational backgrounds and current skill levels who may be considered as Instructors for the several agency-sponsored courses.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic Files.

RETRIEVABILITY:

By name of the individual employee.

SAFEGUARDS:

System is password protected and limited to use by authorized personnel in the Office of Program Planning, Evaluation and Management.

RETENTION AND DISPOSAL:

Destroyed when 5 years old or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

PWBA Training Coordinator, Office of Program Planning, Evaluation and Management, PWBA, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the system location listed above.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Individuals requesting access must also comply with U.S. Department of Labor Privacy Act regulations on verification of identity at 29 CFR 71.2.

CONTESTING RECORD PROCEDURES:

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Individual employees, SF171s, or resume(s) submitted at time of accession to PWBA and individual training course records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/PWBA–9**

SYSTEM NAME:

Office of Enforcement Correspondence Tracking System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Enforcement, PWBA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Correspondents, such as employee benefit plan professionals, and other individuals involved in investigations and enforcement actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information including plan name, plan administrator's name, service provider's name, trustee's name, and names of other individuals (such as the named defendants) involved in investigations and enforcement actions. Letters from the general public requesting information under the Freedom of Information Act or relating to all aspects of pension and welfare benefit plans covered by Title I of the Employee Retirement Income Security Act of 1974 (ERISA), the status of individuals under these plans, the Department's replies to the inquiries, and related internal memoranda, including notes pertaining to meetings and telephone calls.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1134–37.

PURPOSE(S):

This system of records is used to track the progress of correspondence through the Office of Enforcement, including a record of action taken on or response to an inquiry received from the general public or others, and to access investigative information related to field office correspondence regarding investigations instituted by the Department of Labor (DOL) under the Title I of the Employee Retirement Security Act of 1974 (ERISA). The investigative files are used in the prosecution of violations of law, whether civil, criminal or regulatory in nature.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, pursuant to 29 U.S.C. 1134, a record from this system of records may be disclosed, subject to the restrictions imposed by various statutes and rules, such as the Privacy Act, to a department or agency of the United States, or to any person actually affected by any matter which may be the subject of the investigation; except that any information obtained by the Secretary of Labor pursuant to section 6103(g) of Title 26 shall be made available only in accordance with regulations prescribed by the Secretary of the Treasury.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in this system are maintained in an electronic database.

RETRIEVABILITY:

Records are retrieved from the electronic database by the name of the plan, service provider name, trustee name, the name of another individual (such as the named defendant) involved in the investigation or enforcement action, or the name of the correspondent. Records are also retrieved by case number, the plan's employer identification number (EIN).

SAFEGUARDS:

Direct access to and use of these records is restricted to authorized personnel in the Office of Enforcement. General correspondence are maintained in file cabinets with access limited to OE staff. The electronic database is password protected and limited to use by authorized personnel.

RETENTION AND DISPOSAL:

General correspondence files are destroyed after three years. The electronic database files are deleted when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Enforcement, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact

the System Manager. Individuals should furnish their full name, address, and employee benefit plan association and should identify the employee benefit plan by name, address, and EIN (if known).

**RECORD ACCESS PROCEDURES:**

Request for access to records should follow the notification procedure described above. Specific materials in the system have been exempted from Privacy Act provisions under 5 U.S.C. 552a (j)(2) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access, contest of the content of the record, and appeal of a denial to access. A determination as to exemption shall be made at the time a request for access is received. Access procedures are the same as the Notification procedures described above. Individuals requesting access must also comply with Privacy Act regulations regarding verification of identity and access to records (29 CFR 71.2).

**CONTESTING RECORD PROCEDURES:**

Same as the Notification procedure above, except individuals desiring to contest or amend information maintained in the system should direct their written request to the appropriate System Manager listed above, state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Correspondence from individuals, individual complaints, witnesses, or interviews conducted during investigations or plan participant or beneficiary information obtained during investigations on cases opened in the Office of Enforcement or in any of the PWBA field offices.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

a. *Criminal Law Enforcement:* In accordance with subsection 552a(j)(2) of the Privacy Act, 5 U.S.C. 552a(j)(2), information maintained for criminal law enforcement purposes in PWBA's Office of Enforcement or its field offices is exempt from subsections (c)(3), and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H), and (I), (e) (5) and (8), (f), and (g) of 5 U.S.C. 552a.

b. *Other Law Enforcement:* In accordance with subsection 552a(k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for civil law enforcement purposes is exempt from subsections (c)(3), (d)(1), (2), (3), and (4), (e)(1), (e)(4)(G) and (I), and (f) of 5 U.S.C. 552a.

**DOL/PWBA–10**

**SYSTEM NAME:**

PWBA Civil Litigation Case Information System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Enforcement, PWBA, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The named defendants in the civil actions, and the names of other individuals involved in investigations and enforcement actions resulting in civil litigation with PWBA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Documents such as litigation memoranda, legal documents, press releases, judgements, consent orders and other documents which relate information about a case in civil litigation. Information includes plan name, plan administrator's name, service provider's name, trustee's name, the named defendants, and the names of other individuals involved in investigations and enforcement actions resulting in civil litigation with PWBA.

**AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 1134–37.

**PURPOSE(S):**

This system of records is used to access information related to civil litigation case files involving investigations instituted by the Department of Labor (DOL) under the Title I of the Employee Retirement Security Act of 1974 (ERISA). The civil litigation case files are used in the prosecution of violations of law.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, pursuant to 29 U.S.C. 1134, a record from this system of records may be disclosed, subject to the restrictions imposed by various statutes and rules, such as the Privacy Act, to a department or agency of the United States, or to any person actually affected by any matter which may be the subject of the investigation; except that any information obtained by the Secretary of Labor pursuant to section 6103(g) of Title 26 shall be made available only in accordance with regulations prescribed by the Secretary of the Treasury.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records in this system are maintained in an electronic database and in manual files.

**RETRIEVABILITY:**

Records are retrieved by the name of the plan, service provider name, trustee name, and/or the named defendants in the investigation or enforcement action.

**SAFEGUARDS:**

Direct access to and use of these records is restricted to authorized personnel in the Office of Enforcement (OE). The civil litigation case files are maintained in file cabinets with access limited to OE staff. The electronic database is password protected and limited to use by authorized personnel.

**RETENTION AND DISPOSAL:**

Manual files are destroyed after three years, the electronic index is deleted on the same schedule as the manual files or when no longer needed whichever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Enforcement, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager. Individuals should furnish their full name, address, and employee benefit plan association and should identify the employee benefit plan by name and address.

**RECORD ACCESS PROCEDURES:**

Request for access to records should follow the Notification procedure described above. Specific materials in the system have been exempted from Privacy Act provisions under 5 U.S.C. 552a. To the extent that this system of records is not subject to exemption, it is subject to access, contest of the content of the record, and appeal of a denial to access. A determination as to exemption shall be made at the time a request for access is received. Access procedures are the same as the Notification procedures described above. Individuals

requesting access must also comply with Privacy Act regulations on verification of identity and access to records (29 CFR 71.2).

CONTESTING RECORD PROCEDURES:

Same as the Notification procedure above, except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager, state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Investigators, individual defendants, witnesses, and other individuals who have relevant information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with subsection 552a(k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for civil law enforcement purposes is exempt from subsections (c)(3), (d)(1), (2), (3), and (4), (e)(1), (e)(4)(G) and (I), and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence. Accordingly the following systems of records are exempt from (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(I) and (f) of 5 U.S.C. 552a.

**DOL/PWBA–11**

SYSTEM NAME:

PWBA Criminal Case Information System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION

Office of Enforcement, PWBA, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defendants in criminal actions involving private sector employee benefit plans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Court and other documents which transmit information about the progress and/or disposition of criminal cases involving private sector employee benefit plans and written summaries of same. Documents include media articles, press releases, indictments, plea agreements, judgements, appellate documents and documents bearing evidence of restitution.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1134–37.

PURPOSE(S):

This system of records is used to access information related to criminal actions involving investigations conducted by the Department of Labor (DOL). The criminal information files are used in the prosecution of violations of law.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, pursuant to 29 U.S.C. 1134, a record from this system of records may be disclosed, subject to the restrictions imposed by various statutes and rules, such as the Privacy Act, to a department or agency of the United States, or to any person actually affected by any matter which may be the subject of the investigation; except that any information obtained by the Secretary of Labor pursuant to section 6103(g) of Title 26 shall be made available only in accordance with regulations prescribed by the Secretary of the Treasury.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in this system are maintained in an electronic tracking system and in manual files.

RETRIEVABILITY:

Manual files are retrieved by the name of the defendant. Records in electronic index may be retrieved by court, defendant's name, violation, type of plan, etc.

SAFEGUARDS:

Direct access to and use of these records is restricted to authorized personnel in the Office of Enforcement. The electronic system is password protected and limited to use by authorized personnel.

RETENTION AND DISPOSAL:

Manual files are destroyed after three years after case is closed, the electronic index is deleted on the same schedule as the manual files or when no longer needed whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Enforcement, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager. Individuals should furnish their full name, address, and employee benefit plan association and should identify the employee benefit plan by name and address.

RECORD ACCESS PROCEDURES:

Request for access to records should follow the Notification procedure described above. Specific materials in the system have been exempted from Privacy Act provisions under 5 U.S.C. 552a(j)(2). To the extent that this system of records is not subject to exemption, it is subject to access, contest of the content of the record, and appeal of a denial to access. A determination as to exemption shall be made at the time a request for access is received. Access procedures are the same as the Notification procedures described above. Individuals requesting access must also comply with Privacy Act regulations on verification of identity and access to records (29 CFR 71.2).

CONTESTING RECORD PROCEDURES:

Same as the Notification procedure above, except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager, state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Individual defendants, witnesses, and other individuals who have relevant information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with subsection 552a(j)(2) of the Privacy Act, 5 U.S.C. 552a(j)(2), information maintained for criminal law enforcement purposes in PWBA's Office of Enforcement or its field offices is exempt from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H), and (I), (e) (5) and (8), (f), and (g) of 5 U.S.C. 552a.

**DOL/PWBA–12**

SYSTEM NAME:

Publication Hotline Requests

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

GMR, Inc. 7203 Gateway Court, Manassas, VA 20109.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requesting PWBA publications via the toll free telephone number.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data regarding requests for copies of PWBA publications that are received through the toll free publication request line. Data includes individual requester's name, street address, city, state, zip code, telephone number, the publication(s) ordered and the quantity, the date the order was placed and the date it was filled.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1135.

PURPOSE(S):

These records are maintained to process requests made to the PWBA Toll Free Publication Hotline for publications.

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

None except those mentioned in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer storage.

RETRIEVABILITY:

Records on this system are retrieved electronically by using the name of requestor.

SAFEGUARDS:

Computer system is password protected and accessible only to personnel creating and maintaining the database.

RETENTION AND DISPOSAL:

Destroyed when three months old or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of Participant Assistance and Communications, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish their full names for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Individuals requesting access must also comply with Privacy Act regulations on verification of identity and access to records (29 CFR 71.2).

CONTESTING RECORD PROCEDURES:

Same as Notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Individuals requesting publications.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/PWBA–13**

SYSTEM NAME:

Office of Exemption Determination ERISA Sec. 502(l) Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have petitioned the Secretary of Labor for relief from the monetary penalties imposed under ERISA Sec. 502(l).

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters from individuals seeking relief from the 502(l) penalties, attachments supporting their petitions for relief, the Department's replies thereto, and related internal memoranda, including notes pertaining to meetings and telephone calls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1135.

PURPOSE(S):

These records are maintained to document the Department's response to petitioners' requests for relief from the section 502(l) penalties. Such penalties are imposed upon those who are found to have violated the fiduciary and prohibited transaction provisions of Part 4 of Title I of ERISA.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and computerized index.

RETRIEVABILITY:

Files are retrieved by name of requester using a computerized index.

SAFEGUARDS:

Access to these records is limited to authorized PWBA staff. Computer system is password protected and accessible only to personnel creating the database.

RETENTION AND DISPOSAL:

Manual records are maintained in the Office of Exemption Determinations for up to two years after case closure, then transferred to the Federal Records Center for retention for an additional 23 years. Electronic records are destroyed on the same schedule as the manual files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Exemption Determinations, Pension and Welfare

Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. All requests must be in writing and mailed or presented in person during the Department's normal business hours.

RECORDS ACCESS PROCEDURES:

Same as notification procedures. Individuals requesting access must also comply with Privacy Act regulations on verification of identity and access to records (29 CFR 71.2).

CONTESTING RECORD PROCEDURES:

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the system manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Individuals requesting a 502(l) exemption and the responses thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/PWBA–14

SYSTEM NAME:

Investment Advisor Registration Data Base.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Labor, PWBA Public Disclosure Room, U.S. Department of Labor, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Investment advisers who manage less than $25 million in assets and wish to obtain investment advisor status under the Employee Retirement Income Security Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of state registration forms. Such forms vary from state to state, but typically include name, SEC file number, Employer Identification number, social security number, business address, etc.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1002(38).

PURPOSE(S):

To develop a listing of individuals who have status as an investment advisors under ERISA.

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

The records must be publicly available in accordance with ERISA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records and electronic listing.

RETRIEVABILITY:

Records on this system are retrieved electronically by the name of investment advisor. A list of the name, location, state of registration, and date filed is available on the PWBA web-site.

SAFEGUARDS:

Computer system is password protected and accessible only to personnel creating and maintaining the database. Manual files are stored off site and are only available to authorized personnel.

RETENTION AND DISPOSAL:

Manual files are destroyed when six years old. Electronic version is deleted on the same schedule as the manual files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of Participant Assistance and Communications, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish their full names for their records to be located and identified.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Individuals requesting access must also comply with Privacy Act regulations on verification of identity and access to records (29 CFR 71.2).

CONTESTING RECORD PROCEDURES:

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Investment advisors who request investment advisor status under ERISA.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/PWBA–15

SYSTEM NAME:

PWBA Inventory Management Data Base.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Labor, Office of Information Management, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned custody of PWBA-owned ADP equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Electronic records of PWBA-owned ADP hardware, its assigned location, the individual assigned custody of equipment, acquisition/disposal and warranty data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To identify the makes and models of all PWBA owned ADP hardware, the equipment's current location within the agency and the individual to whom it is assigned.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic database.

RETRIEVABILITY:

Files are retrieved using individual's name.

**SAFEGUARDS:**

Access to these records is limited to authorized PWBA staff. The computer system provides security with: (1) Mapping rights on the network, (2) network user logon passwords, and (3) database passwords.

**RETENTION AND DISPOSAL:**

Records are destroyed when no longer needed for administrative, legal, audit, or other operational purposes.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Information Management, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. All requests must be in writing and mailed or presented in person during the Department's normal business hours.

**RECORDS ACCESS PROCEDURES:**

Same as notification procedure. Individuals requesting access must also comply with US Department of Labor Privacy Act regulations on verification of identity at 29 CFR 71.2.

**CONTESTING RECORD PROCEDURES:**

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Individuals assigned computer equipment and individuals assigning the computer equipment.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/PWBA–16

**SYSTEM NAME:**

Form 5500EZ Filings.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Pension and Welfare Benefits Administration, Attention: EFAST 3833 Greenway Drive, Lawrence, KS 66046–1290.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have filed a Form 5500EZ with the Department of Labor for plan years beginning on or after January 1, 1999.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Forms 5500EZ filed with the Department of Labor for plan years beginning on or after January 1, 1999.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

26 U.S.C. 6058(a); 29 U.S.C. 1135, 1137, 1143.

**PURPOSE(S):**

These records satisfy the reporting and disclosure requirements mandated by the Employee Retirement Income Security Act of 1974, as amended, and the Internal Revenue Code.

**Note:** This system of records is maintained by the Department of Labor for the benefit of the Internal Revenue Service (IRS).

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

None, except for those routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Original paper filings, electronic image files of the filings, and electronic data files extracted from the filing.

**RETRIEVABILITY:**

Retrieved using personal name, taxpayer identification number, or Social Security number; plan number; and plan year.

**Note:** Only the IRS can retrieve this data.

**SAFEGUARDS:**

Accessible only to authorized personnel. Safeguards include both electronic safeguards, including C2 compliant systems and password-protected files, and physical safeguards, including a restricted-access facility.

**RETENTION AND DISPOSAL:**

Paper filings are retained by the system manager for 6 months, after which time they are retained off-site for a period of fifty years. Electronic files are retained by the system manager for a period of fifty years. At the end of their respective retention periods, the paper and electronic files are destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Information Management, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish their full names for their records to be located and identified.

**RECORD ACCESS PROCEDURES:**

Same as notification procedure. Individuals requesting access must also comply with U.S. Department of Labor Privacy Act regulations on verification of identity at 29 CFR 71.2.

**CONTESTING RECORD PROCEDURES:**

Same as notification procedure above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought pursuant to 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Individuals filing Form 5500EZ filings.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## DOL/OSBP–1

**SYSTEM NAME:**

Office of Small Business Programs, Small Entity Inquiry and Complaint Tracking System.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

U.S. Department of Labor, Office of Small Business Programs, Frances Perkins Building, 200 Constitution Ave., NW, Room C–2318, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who make oral or written complaints about, or requests or inquiries concerning, enforcement activities under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) of the U.S. Department of Labor (Department).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the name and address of the individuals making complaints, requests, or inquiries concerning enforcement activities of the Department of Labor, and any other information under SBREFA necessary to respond to the complaint or request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Subtitles A and B of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, sec. 213, 110 Stat. 858–859; 5 U.S.C. Chapter 6.

PURPOSE(S):

Section 213 of Title II of Pub. L. 104–121 requires each agency to establish a program for providing informal guidance to small entities regulated by that agency. Section 213(c) requires the agency to report to Congress on ''the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.'' The records in this system are maintained for the purpose of complying with the above statutory requirements.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, relevant records may be disclosed to the Small Business Administration (SBA) in response to a referral from the SBA of a complaint filed against this Department by a small entity.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically.

RETRIEVABILITY:

Name or Control Number.

SAFEGUARDS:

Accessed by authorized personnel only. Passwords are used for the data, which is electronically stored.

RETENTION AND DISPOSAL:

Five years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Small Business Programs, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Mail all inquiries or present in writing to System Manager at above address.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date of the complaint or incident.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the system manager.

RECORD SOURCE CATEGORIES:

From the concerned individuals and entities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/OSBP–2

SYSTEM NAME:

Department of Labor Advisory Committees Members Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Offices in various components within the Department of Labor, and also at the Office of Small Business Programs, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former members of the advisory committees established by the Department of Labor and candidates for a position on an advisory committee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information on individuals who are or have been members or are being considered for membership on the committees. Also, the biographical information on individuals who have been nominated for membership on advisory committees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To ensure that all appropriate personal records on advisory committee members, and nominees, are retained and are available for official use.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, information in these records may be disclosed to the General Services Administration when necessary to comply with the Federal Advisory Committee Act.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Storage methods vary between program components, but the data will be stored either on magnetic media or in a manual file, both of which are secured at all times.

RETRIEVABILITY:

Retrieved by member name, nominee name or committee name, and via identification number if electronically maintained.

SAFEGUARDS:

Access is limited to authorized employees.

RETENTION AND DISPOSAL:

After a Committee terminates, its records are transferred to the National Archives and Records Administration for permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Director, Office of Small Business Programs, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

Mail all inquiries or present in writing to the system manager.

RECORD ACCESS PROCEDURES:

A request for access should be addressed to the system manager. The request should include the name of the Committee.

CONTESTING RECORD PROCEDURES:

Individuals wanting to contest or amend information maintained in this system should direct their written request to the system manager.

RECORD SOURCE CATEGORIES:

Individual members of the committees and those persons making nominations to the committee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

**DOL/SOL–3**

**SYSTEM NAME:**

Tort Claim Files.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of the Solicitor, Division of Employee Benefits, 200 Constitution Avenue, NW, Washington, DC 20210–0002; Offices of the Regional Solicitors and Associate Regional Solicitors at various field locations set forth in the Appendix.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals filing claims for damages under the Federal Tort Claims Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Federal Tort Claim Act files, including claims forms and supporting documents filed by claimants, agency records, administrative reports and supporting documents prepared by the agency involved, internal memoranda, legal pleadings, decisions, and other documents received in connection with Federal Tort Claims Act administrative claims and litigation.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

28 U.S.C. 2671 et seq.

**PURPOSE(S):**

To maintain records necessary for adjudication of claims and defense of litigation filed under the Federal Tort Claims Act.

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

In addition to those universal routine uses contained in the General Prefatory Statement to this document, where an administrative claim or litigation under the Federal Tort Claims Act is filed with or involves allegations concerning more than one federal agency, relevant information in this system of records, including documents submitted in support of the administrative claim, may be disclosed to the relevant agency or agencies for their input and independent adjudication of the claim.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files.

**RETRIEVABILITY:**

Name of claimant.

**SAFEGUARDS:**

Files are kept in office suites that are locked after working hours.

**RETENTION AND DISPOSAL:**

These records are maintained as long as a case is open. Upon conclusion of the matter, files are maintained for two years then transferred to the Federal Records Center for two years and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Solicitor for Employee Benefits in Washington, DC, and Regional Solicitors and Associate Regional Solicitors in various locations in the field.

**NOTIFICATION PROCEDURE:**

See system managers and addresses.

**RECORD ACCESS PROCEDURE:**

To see your records, write to the office responsible for adjudicating your claim and describe as specifically as possible the records sought. The inquirer should furnish the following information:

a. Full name and address

b. Date and place of the incident or accident

c. Claim number assigned to claim (if known)

d. Signature

**CONTESTING RECORD PROCEDURES:**

See record access procedures.

**RECORDS SOURCE CATEGORIES:**

Claimants, current and former employers, witnesses, physicians and/or medical providers, insurance companies attorneys, police, hospitals, and other persons.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/SOL–5**

**SYSTEM NAME:**

Workforce Investment Act Tort Claim Files.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Offices of the Regional Solicitors, U.S. Department of Labor.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Claimants.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Tort claims, including negligence, medical, personnel and legal reports, summaries, correspondence, and memoranda.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 1501 et seq. and the Workforce Investment Act, 29 U.S.C. 2801 *et seq.*

**PURPOSE(S):**

To allow adjudication of claims filed under the Workforce Investment Act.

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

None, except for those universal routine uses contained in the General Prefatory Statement to this document.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Manual files.

**RETRIEVABILITY:**

Name of claimant.

**SAFEGUARDS:**

Files are kept in office suite that is locked after working hours.

**RETENTION AND DISPOSAL:**

Upon completion of a case, the files are maintained in the Office of the Solicitor for two years, then retired to the appropriate Federal Records Center for three years and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESSES:**

Regional Solicitors and Associate Regional Solicitors, U.S. Department of Labor. See the Appendix of this document for the regional addresses.

**NOTIFICATION PROCEDURE:**

See system manager(s) and addresses set forth in the Appendix to this document.

**RECORD ACCESS PROCEDURES:**

Inquirer should provide his or her full name, plus date and place of incident.

**CONTESTING RECORD PROCEDURES:**

See record access procedures.

**RECORD SOURCE CATEGORIES:**

Claimants, current and former employers, witnesses, physicians, insurance companies, attorneys, police, hospitals, other individuals.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/SOL–6**

**SYSTEM NAME:**

Military Personnel and Civilian Employees' Claims.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Solicitor, Division of Employee Benefits, 200 Constitution Avenue, NW, Washington, DC 20210–0002; Offices of the Regional Solicitors and Associate Regional Solicitors at various regional locations set forth in the Appendix to this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees of the Department of Labor filing claims under the Military Personnel and Civilian Employees' Claims Act to recover for the loss of or damage to personal property incident to their service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim files, including claim forms, accident, investigative, medical or personnel reports, witness statements, summaries, correspondence and memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 240–243.

PURPOSE(S):

To maintain records necessary for adjudication of claims filed under the Military Personnel and Civilian Employees' Claims Act.

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

None, except for those universal routine uses contained in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name of claimant.

SAFEGUARDS:

Files are kept in office suites that are locked after working hours.

RETENTION AND DISPOSAL:

These records are maintained as long as the case is open in the office handling the claim. Upon conclusion of the matter, files are retained for two years and then transferred to the Federal Records Center for three years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Solicitor for Employee Benefits in Washington, DC, and Regional Solicitors and Associate Regional Solicitors at various regional locations set forth in the Appendix to this document.

NOTIFICATION PROCEDURES:

Individuals, wishing to inquire whether this system of records contains information about them, should contact the appropriate system manager. Such person should provide his or her full name, date of birth, and signature.

RECORD ACCESS PROCEDURES:

To see your records, write the office responsible for adjudicating your claim and describe as specifically as possible the records sought. The inquirer should furnish the following information:

a. Full name and address

b. Date and place of the loss

c. Claim number assigned to claim (if known)

d. Signature

CONTESTING RECORD PROCEDURE:

See Record Access Procedures.

RECORDS SOURCE CATEGORIES:

Claimants, current and former employers, witnesses, physicians and/or medical providers, insurance companies, attorneys, police, hospitals, and other persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

## DOL/SOL–7

SYSTEM NAME:

Solicitor's Legal Activity Recordkeeping System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The central database is maintained in the Office of the Solicitor (SOL), Office of Administration, Management, and Litigation Support, Washington, DC. Computer access terminals are located in SOL Divisional Offices in Washington, DC, and in all SOL Regional and Associate Regional Solicitors Offices. See the Appendix to this document for the regional office addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and paralegal specialists employed by SOL, judges assigned to DOL cases, and individuals and/or parties involved in the cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual attorney and paralegal specialist assignments, records which identify pending cases and opinions requested, status of assignments, cases and opinions, statutes enforced, client agencies served, and time spent on assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To track the status of cases and other legal work, to manage attorney and paralegal specialist assignments, to track the time spent litigating cases and providing other legal services, to prepare budget submissions and to assist in allocating resources among Divisional and Regional Offices.

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

Selected data may be shared with the Office of Management and Budget (OMB) and Congress as part of the budget submission process.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and computer files.

RETRIEVABILITY:

By initials of the SOL attorney or paralegal specialist, name of the judge, name or social security number of the individual involved, and/or the name of the party involved in a case.

SAFEGUARDS:

Manual and computer files are accessible only by authorized persons.

RETENTION AND DISPOSAL:

Records are retained for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, Management and Litigation Support/ Office of the Solicitor, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Inquiries should be mailed or presented to the system manager at the address listed above.

RECORD ACCESS PROCEDURE:

A request for access shall be mailed or presented to the system manager at the address listed above.

CONTESTING RECORD PROCEDURES:

A request for amendment should be addressed to the system manager noted above and must meet the requirements of 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Covered individuals, case files, correspondence files, opinion files and miscellaneous files.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**DOL/SOL–9**

**SYSTEM NAME:**

Freedom of Information Act and Privacy Act Appeal Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of the Solicitor, Division of Legislation and Legal Counsel, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system encompasses all individuals who submit administrative appeals under the Freedom of Information and Privacy Acts.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Each file generally contains the appeal letter, the initial request, the initial agency determination, and other records necessary to make a determination on the appeal, including copies of unsanitized records responsive to the request. When a determination is made on the appeal, the determination letter is added to the file.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Freedom of Information Act (5 U.S.C. 552); the Privacy Act of 1974 (5 U.S.C. 552a); and 5 U.S.C. 301.

**PURPOSE(S):**

These records are maintained to process an individual's administrative appeal made under the provisions of the Freedom of Information and the Privacy Acts. The records are also used to prepare the Department's annual reports to OMB and Congress required by the Privacy and the Freedom of Information Acts.

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

These records, and information in these records, that is relevant and necessary may be used:

a. To disclose information to Federal agencies (e.g., Department of Justice) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or competence, for use by the Office of the Solicitor in making required appeal determinations and related dispositions under the Freedom of Information Act or the Privacy Act of 1974.

b. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the appeal, and to identify the type of information involved in an appeal), where necessary to obtain information relative to a decision concerning a Freedom of Information or Privacy Act appeal.

c. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are maintained in manual form in file folders and are stored using the name of the individual filing the appeal. Information about the status of Freedom of Information and Privacy Act appeals is also maintained on magnetic media for use in a micro-computer.

**RETRIEVABILITY:**

Manual and the electronic records are retrieved by the name of the individual making the appeal. Electronic records are retrieved by the name of the appellant, the appellant's law firm, the original requester, the subject, the denying officer, the disposition date, and the case number.

**SAFEGUARDS:**

These records, are located in metal filing cabinets in a lockable room with access limited to personnel whose duties require access. The electronic records are located in a computer data base.

**RETENTION AND DISPOSAL:**

These records are destroyed six years after final agency determination or 3 years after final court adjudication, whichever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

Solicitor of Labor, U.S. Department of Labor, Washington DC 20210.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the address listed above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date of the Freedom of Information or Privacy Act Appeal and the approximate date of the determination by the Department (if issued).

**CONTESTING RECORD PROCEDURES:**

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Information in this system of records comes from:

a. The individual who is the subject of the records.

b. Official personnel documents of the agency, including records from any other agency system or records included in this notice.

c. Agency officials who responded initially to the Freedom of Information and Privacy Act requests.

d. Other sources whom the agency believes have information pertinent to an agency decision on a Freedom of Information or Privacy Act appeal.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Department of Labor has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a(k)(1), (2), (3), (5), and (6). During the course of processing a Freedom of Information or Privacy Act appeal, exempt materials from those other systems may become part of the case record in this system. To the extent that copies of exempt records from those other systems are entered into these Freedom of Information and Privacy Act appeals files, the Department has claimed the same exemptions for the records as they have in the original primary system or records of which they are a part.

**DOL/SOL–13**

**SYSTEM NAME:**

Employee Conduct Investigations.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Offices in the Office of the Solicitor at the National Office and in each of the

Regional and Associate Regional Offices of the Solicitor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employee(s) against whom any allegations of misconduct have been made or violations of law.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative report(s), sworn affidavits, written statements, time and attendance records, earnings and leave statements, applications for leave, notifications of personnel actions, travel vouchers, 171's, certificates of eligible, performance appraisals, interviews and other data gathered from involved parties and organizations which are associated with the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To investigate allegations of misconduct or violations of law.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USERS:

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING IN THE SYSTEM:

STORAGE:

Records are stored in file folders in metal cabinets.

RETRIEVABILITY:

By name or case file number.

SAFEGUARDS:

Files are maintained in locked file cabinets with access only to those with a need to know the information to perform their duties.

RETENTION AND DISPOSAL:

Records are retained for four years following the date either: (a) They are referred to the OIG; (b) they are transferred to OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance; or (c) it is determined that the allegation was without sufficient merit to warrant further action, after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Management, Office of the Solicitor, 200 Constitution Avenue, NW, Washington, DC 20210, and appropriate Regional Offices.

NOTIFICATION PROCEDURE:

Inquiries should be sent to the system manager noted at the address listed above.

RECORDS ACCESS PROCEDURES:

A request for access shall be addressed to the system manager at the address listed above.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Hotline complaints through the Office of the Inspector General's hotline or through the General Accounting Office; incident reports submitted by employees or members of the general public; statements by subject and fellow employees; and other investigative reports.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/SOL–15

SYSTEM NAME:

Solicitor's Office Litigation Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Offices of the Associate Solicitors, Office of the Solicitor, Washington, DC; Offices of the Regional Solicitor and Associate Regional Solicitors at various locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Plaintiffs, defendants, respondents, witnesses and other individuals who may have provided information relating to, or who may have been involved in matters that are part of Labor Department litigation, where the Department is either the plaintiff or the defendant.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records gathered by the various Offices of the Associate Solicitors, Regional Solicitors and Associate Regional Solicitors. The records may be derived from materials filed with the Department of Labor, court records, pleadings, statements of witnesses, information received from federal, state, local and foreign regulatory organizations and from other sources. The system also contains records that incorporate the work product of the various offices and other privileged documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

These records are maintained for the purpose of prosecuting violations of labor laws, as well as for defending law suits and claims brought against the Department of Labor.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Litigation files are maintained in manual files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are kept in office suites which are locked after working hours.

RETENTION AND DISPOSAL:

Litigation files are maintained for two (2) years after final court determination, then transferred to the FRC where they are kept for an additional three (3) years and then destroyed.

However:

SIGNIFICANT LITIGATION FILES IN THE CIVIL RIGHTS DIVISION:

Cases which (1) resulted in a major legal precedent, or (2) involved a complex and/or novel issue, or (3) involved intense public interest or controversy that usually is reflected in a high degree of media attention are retained permanently.

Litigation files involving OSHA:

OSHA litigation files are destroyed one year after all rights of appeals have expired.

Matters in which the Department obtained an injunction are maintained in SOL for two years after the matter is closed and then transferred to the FRC for twenty (20) years and then destroyed. Briefs and significant motions are retained in the office for twenty (20) years and then destroyed.

**FREEDOM OF INFORMATION ACT AND PRIVACY ACT LITIGATION FILES:**

Files are maintained for six years after final agency action or three (3) years after final court determination, whichever is later.

**BLACK LUNG FILES:**

Files for cases before the Administrative Law Judges are maintained for one (1) year after the case is closed and then destroyed. Cases adjudicated before the Benefit Review Board are maintained for two (2) years after the final decision is issued and then destroyed. Court of Appeal and Supreme Court cases are maintained for five years after the final decision is issued and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

The appropriate Associate Solicitor or the Regional Solicitor or Associate Regional Solicitor, Office of the Solicitor, U.S. Department of Labor, Room S–2002, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Inquiries should be mailed or presented to the system manager noted at the address listed above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date for the investigation.

**CONTESTING RECORD PROCEDURES:**

A petition for amendments shall be addressed to the System Manager and must meet the requirements of 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Component agency investigative files; investigators; other law enforcement personnel; attorneys; witnesses, informants; other individuals; federal, states and local agencies; opinion files; miscellaneous files.

**SYSTEM EXEMPTED FROM CERTAIN PROVISION OF THE ACT:**

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of the Act. Disclosure of information could enable the subject of the record to take action to escape prosecution and could avail the subject greater access to information than that already provided under rules of discovery. In addition, disclosure of information might lead to intimidation of witnesses, informants, or their families, and impair future investigations by making it more difficult to collect similar information.

## DOL/SOL–17

**SYSTEM NAME:**

Solicitor's Office Equipment Files.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of the Solicitor, Office of Administration, Management & Litigation Support (OAMLS), U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All employees from the Office of the Solicitor both those from the National and the Regional Offices of the Solicitor.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system contains detailed records pertaining to the chairs, desks, and other furniture, and equipment assigned to each employee from the Office of the Solicitor, including National and Regional Offices.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**PURPOSE(S):**

The information is used for statistical data and to prepare purchase orders for furniture, equipment and accessories. The information is also used to track items assigned to individuals within the Solicitor's Office.

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

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

**DISCLOSURE REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The records are maintained in file folders and in computers.

**RETRIEVABILITY:**

Records are retrieved by the name of the employee.

**SAFEGUARDS:**

These records are kept in office suites which are locked after working hours.

**RETENTION AND DISPOSAL:**

The system is updated annually and earlier records are destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Administration, Management & Litigation Support, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

**NOTIFICATION PROCEDURES:**

Inquiries should be directed to the system manager noted at the address listed above.

**RECORD ACCESS PROCEDURES:**

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Individuals requesting access must also comply with the Privacy Act regulations regarding verification of identity to records at 29 CFR 71.4.

**CONTESTING RECORD PROCEDURES:**

A petition for amendments shall be addressed to the System Manager and must meet the requirements of 29 CFR 71.9.

**RECORD SOURCE CATEGORIES:**

Agency personnel files, information submitted by the employee, and records from the Office of Administration, Management and Litigation Support.

**SYSTEM EXEMPTED FROM CERTAIN PROVISION OF THE ACT:**

None.

## DOL/VETS–1

**SYSTEM NAME:**

Uniformed Services Employment and Reemployment Rights Act (USERRA) Complaint File.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Veterans' Employment and Training Service (VETS') State Offices, Regional Offices, and National Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Complainants who are veterans, enlistees, examinees, reservists or members of the National Guard of the U.S. Armed Forces on active or reserve service or training duty, and other complainants.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records contains data related to civil investigations which include: Initial investigative complaint form, background, investigators' fact finding records, witness statements, supporting documents provided by claimants and employers, other information relevant to a determination of veterans reemployment rights.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 4301 et seq.

PURPOSE(S):

Records are maintained for enforcement of federal laws pertaining to rights of veterans, reservists and members of the National Guard upon their return to pre-military civilian employment following periods of active and inactive military duty and related to non-discrimination based on such service or periods of duty.

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

In addition to those universal routine uses listed in the General Prefatory Statement, relevant records and information may be disclosed to the employer against whom a complaint has been made so that the complaint can proceed to a resolution. Disclosure may also be made when relevant and necessary to the Department of Veterans Affairs, to the Department of Defense, to the Department of Justice, and to the Office of Special Counsel when complaints have proceeded to an advanced stage.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and manual records.

RETRIEVABILITY:

By name of complainant or name of employer.

SAFEGUARDS:

Locked room or locked cabinets, and passwords for electronic system.

RETENTION AND DISPOSAL:

Cutoff and removal from active file in fiscal year when litigation is completed, transfer to Federal Records Center five (5) years after cutoff. Destroy when ten (10) years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Investigations and Compliance, United States Department of Labor, Veterans' Employment and Training Service, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Inquiries should be directed to the system manager noted at the address listed above.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the systems manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date of separation.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Veterans, Reserve and National Guard members, employees, employers, former employees, Departments of Defense, Department of Veterans Affairs, physicians, union officers and maybe the public.

SYSTEMS EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

## DOL/VETS–2

SYSTEM NAME:

Veterans' Preference Complaint File under the Veterans Equal Opportunities Act of 1998 (VEOA).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Veterans' Employment and Training Service (VETS') State Offices, Regional Offices, and National Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans of the U.S. Armed Forces who believe that they have been denied veterans preference or other special considerations provided by law(s).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records contains materials related to civil investigations which include: Initial investigative complaint form, background, investigators' fact finding records, witness statements, supporting documents provided by claimants and employers, other information relevant to a determination of veterans preference consideration related to employment with Federal agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3330a.

PURPOSE(S):

Records are maintained for investigation of possible violations of federal laws pertaining to veterans' preference and other special consideration related to employment with Federal agencies.

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

In addition to those universal routine uses listed in the General Prefatory Statement, records and information may be disclosed to the Federal employing agency against whom a complaint has been made so that the complaint can proceed to a conclusion. Disclosure of information that is relevant and necessary may also be made to the Office of Personnel Management and to the Merit Systems Protection Board.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and manual records.

RETRIEVABILITY:

By name of complainant or name of Federal agency.

SAFEGUARDS:

Secured room, or locked cabinets, and passwords for electronic system.

RETENTION AND DISPOSAL:

Cutoff and removed from active file in fiscal year when litigation is completed. Transferred to Federal Records Center five (5) years after cutoff. Destroy when ten (10) years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Investigations and Compliance, United States Department of Labor, Veterans' Employment and Training Service, 200 Constitution Avenue, NW, Washington, DC 20210.

NOTIFICATION PROCEDURES:

Inquiries should be mailed or presented to the system manager noted at the address listed above.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the systems manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date of separation.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Veterans, Federal employment applicants or employing Federal agencies, former agency employees, Department of Defense, Department of Veterans Affairs, Office of Personnel Management, union officers and members of the public.

SYSTEMS EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

**DOL/VETS–3**

SYSTEM NAME:

Veterans' Transition Assistance Program (TAP) Registration System.

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

Veterans' Employment and Training Service (VETS) State Directors' Offices, Regional Offices, National Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Service members, and their spouses, for 180 days after separation of the servicemember from the U.S. Armed Forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Registration data on participants in the Transition Assistance Program (TAP) orkshops including the name, address, social security number, and duty station.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

10 U.S.C. 1144.

PURPOSE(S):

Records are maintained to house achievement levels in TAP Program workshops, develop demographic data, and research programs effectiveness.

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

In addition to those universal routine uses listed in the General Prefatory Statement to this document, disclosure of records and information may be made to the Department of Defense, Department of Transportation, and to the Department of Veterans Affairs so that they may they assist the TAP participant by sharing information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and manual records.

RETRIEVABILITY:

By name, state, military base, or VETS region.

SAFEGUARDS:

Locked room or locked cabinets, and passwords for electronic system.

RETENTION AND DISPOSAL:

Records are transferred to the Federal Records Center three years after the end of the fiscal year when they were created, and they are destroyed ten years thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Operations and Programs, United States Department of Labor, Veterans' Employment and Training Service, Room, 200 Constitution Avenue, NW, Washington, DC 20210, and Regional Offices.

NOTIFICATION PROCEDURES:

Inquiries should be mailed or presented to the appropriate system manager listed above.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the systems manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Approximate date of separation.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 29 CFR 71.9.

RECORD SOURCE CATEGORIES:

Participants in TAP workshops.

SYSTEMS EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

## Appendix—Responsible Officials

**National Office**

The titles of the responsible officials of the various component agencies in the Department of Labor are listed below. This list is provided for information and to assist requesters in locating the office most likely to have responsive records. The officials may be changed by appropriate designation. Unless otherwise specified, the mailing addresses of the officials shall be: U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

*Office of the Secretary*

Secretary of Labor, *ATTENTION:* Assistant Secretary for Administration and Management (OASAM)

*Office of the Solicitor*

Deputy Solicitor, Office of the Solicitor

*Office of the Administrative Law Judges (OALJ)*

Chief Administrative Law Judge, Office of Administrative Law Judges, OALJ
Legal Counsel, OALJ

The mailing address for the Office of Administrative Law Judges is: Chief, Office of Administrative Law Judges, 800 K Street, NW., Suite N–400, Washington, DC 20001–8002.

*Office of the Assistant Secretary of Administration and Management (OASAM)*

Assistant Secretary for Administration and Management, OASAM
Deputy Assistant Secretary for Administration and Management, OASAM
Director, Business Operations Center, OASAM
Director, Procurement Service Center, OASAM
Director, Civil Rights Center, OASAM
Director, Human Resources Center, OASAM
Director, Information Technology Center, OASAM

Director, Worklife Center, OASAM
Director, Human Resource Services Center, OASAM
Director, Office of Budget, OASAM
Director, Conference and Services Center, OASAM
Director, Safety and Health Center, OASAM

*Office of the Chief Financial Officer (OCFO)*

Chief Financial Officer, OCFO

*Office of Small Business Programs*

Director, Office of Small Business Programs

*Employees' Compensation Appeals Board (ECAB)*

Chairperson, Employees' Compensation Appeals Board, ECAB
Associate Deputy Secretary for Adjudication
Executive Director, Office of Adjudicatory Services

*Administrative Review Board (ARB)*

Chairperson, Administrative Review Board, ARB

*Benefits Review Board (BRB)*

Chief Administrative Appeals Judge, Benefits Review Board, BRB
Director, Women's Bureau, Office of the Secretary

*Office of Congressional and Intergovernmental Affairs (OCIA)*

Assistant Secretary, Office of Congressional and Intergovernmental Affairs, OCIA
Deputy Assistant Secretary, OCIA

*Office of the Assistant Secretary for Policy (ASP)*

Assistant Secretary for Policy, ASP
Deputy Assistant Secretary, ASP

*Office of the Assistant Secretary for Public Affairs (OPA)*

Assistant Secretary, Office of Public Affairs, OPA
Deputy Assistant Secretary, OPA

*Administrative Review Board (ARB)*

Director, Office of Administrative Review Board, ARB

*Office of the Inspector General (OIG)*

Disclosure Officer, OIG

*Bureau of International Labor Affairs (ILAB)*

Deputy Under Secretary, ILAB
Associate Deputy Under Secretary, ILAB
Secretary of the National Administrative Office, ILAB

*Employment Standards Administration (ESA)*

Assistant Secretary for Employment Standards, ESA
Director, Equal Employment Opportunity Unit, ESA
Director, Office of Management, Administration and Planning (OMAP), ESA
Director, Division of Human Resources Management, OMAP, ESA
Director, Division of Legislative and Regulatory Analysis, OMAP, ESA
Director, Office of Workers' Compensation Programs (OWCP), ESA
Special Assistant to the Director, OWCP, ESA
Director, Division of Planning, Policy and Standards, OWCP, ESA
Director for Federal Employees' Compensation, OWCP, ESA
Director for Longshore and Harbor Workers' Compensation, OWCP, ESA
Director for Coal Mine Workers' Compensation, OWCP, ESA
Administrator, Wage and Hour Division, ESA
Deputy Administrator, Wage and Hour Division, ESA
National Office Program Administrator, Wage and Hour Division, ESA
Deputy National Office Program Administrator, Wage and Hour Division, ESA
Director, Office of Enforcement Policy, Wage and Hour Division, ESA
Deputy Director, Office of Enforcement Policy, Wage and Hour Division, ESA
Director, Office of Planning and Analysis, Wage and Hour Division, ESA
Director, Office of Wage Determinations, Wage and Hour Division, ESA
Director, Office of External Affairs, Wage and Hour Division, ESA
Director, Office of Quality and Human Resources, Wage and Hour Division, ESA
Deputy Assistant Secretary for Federal Contract Compliance Programs (OFCCP), ESA
Deputy Director, Office of Federal Contract Compliance Programs, OFCCP, ESA
Director, Division of Policy, Planning and Program Development, OFCCP, ESA
Deputy Director, Division of Policy, Planning and Program Development, OFCCP, ESA
Director, Division of Program Operations, OFCCP, ESA
Deputy Director, Division of Program Operations, OFCCP, ESA
Director, Division of Management and Administrative Programs, OFCCP, ESA
Deputy Assistant Secretary for Labor-Management Programs, (OLMS), ESA

*Employment and Training Administration (ETA)*

Assistant Secretary of Labor, ETA
Deputy Assistant Secretary of Labor, ETA
Administrator, Office of Financial and Administrative Management, ETA
Director, Office of Financial and Administrative Services, ETA
Director, Office of Human Resources, ETA
Director, Divisions of Federal Assistance and Contract Services, ETA
Administrator, Office of Policy and Research, ETA
Director, Office of Grants and Contracts Management, ETA
Administrator, Office of Technology and Information Services, ETA
Administrator, Office of Workforce Security, ETA
Director, Office of Income Support, ETA
Director, Office of Career Transition Assistance, ETA
Director, Division of U.S. Employment Service and Americans Labor Information Market System (ALMIS)
Chief, Division of Foreign Labor Certifications, ETA
Administrator, Office of Adult Services, ETA
Director Office of National Programs, ETA
Director, Division of Systems Support, ETA
Director, Office of Adults, Dislocated Workers and Trade Adjustment Assistance, ETA
Director, Division of Trade Adjustment Assistance, ETA
Administrator, Office of Youth Services, ETA
Director, Office of Youth Opportunities, ETA
Director, Office of School to Work, ETA
Director, Office of Job Corps, ETA
Director, Office of Apprenticeship Training, Employer and Labor Services, ETA
Director, Office of Equal Employment Opportunity, ETA

*Occupational Safety and Health Administration (OSHA)*

Assistant Secretary, OSHA
Director, Office of Public Affairs, OSHA
Director, Directorate of Construction, OSHA
Director, Directorate of Federal-State Operations, OSHA
Director, Directorate of Policy, OSHA
Director, Directorate of Administrative Programs, OSHA
Director, Personnel Programs, OSHA
Director, Office of Administrative Services, OSHA
Director, Office of Management Data Systems, OSHA
Director, Office of Management Systems and Organization, OSHA
Director, Office of Program Budgeting, Planning and Financial Management, OSHA
Director, Directorate of Compliance Programs, OSHA
Director, Directorate of Technical Support, OSHA
Director, Directorate of Safety Standards Programs, OSHA
Director, Directorate of Health Standards Programs, OSHA
Director, Office of Statistics, OSHA

*Pension and Welfare Benefits Administration (PWBA)*

Director, Office of Participant Assistance and Communications, PWBA

*Office of the Assistant Secretary for Veterans' Employment and Training (VETS)*

Assistant Secretary, VETS
Deputy Assistant Secretary, VETS
Director, Office of Operations and Programs, VETS
Director, Office of Agency Management and Budget, VETS
Disclosure Officer, VETS

*Bureau of Labor Statistics (BLS)*

Commissioner, BLS
Associate Commissioner, Office of Administration, BLS

The mailing address for responsible officials in the Bureau of Labor Statistics is: Rm. 4040—Postal Square Bldg., 2 Massachusetts Ave., NE, Washington, DC 20212–0001.

*Mine Safety and Health Administration (MSHA)*

Assistant Secretary, MSHA
Deputy Assistant Secretary, MSHA
Chief, Office of Congressional and Legislative Affairs, MSHA
Chief, Office of Information and Public Affairs, MSHA

Director of Administration and Management, MSHA
Administrator, Coal Mine Safety and Health (CMS&H), MSHA
Chief, Technical Compliance & Investigation Division, CMS&H, MSHA
Chief, Health Division, CMS&H, MSHA
Chief, Safety Division, CMS&H, MSHA
Accident Investigation Program Manager, CMS&H, MSHA
Administrator, Metal and Nonmetal Mine Safety and Health (M/NM), MSHA
Chief, Technical Compliance & Investigation Division, M/NM, MSHA
Chief, Health Division, M/NM, MSHA
Chief, Safety Division, M/NM, MSHA
Accident Investigation Program Manager, M/NM, MSHA
Director of Assessments, MSHA
Director of Technical Support, MSHA
Director of Educational Policy and Development, MSHA
Director of Standards, Regulations, and Variances, MSHA
Director of Program Evaluation and Information Resources, MSHA

The mailing address for the responsible officials in the Mine Safety and Health Administration (MSHA) is: 4015 Wilson Boulevard, Arlington, Virginia 22203.

**Regional Offices**

The titles of the responsible officials in the regional offices of the various component agencies are listed below: Unless otherwise specified, the mailing address for these officials by region, shall be:

*Region I*

U.S. Department of Labor, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (For Wage and Hour only: Contact Region III)

*Region II*

201 Varick Street, New York, New York 10014 (For Wage and Hour only: Contact Region III)

*Region III*

The Curtis Center, 170 South Independence Mall West, Suite 825 East, Philadelphia, Pennsylvania 19106–3315

*Region IV*

U.S. Department of Labor, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303
(OWCP Only) 214 N. Hogan Street, Suite 1006, Jacksonville, Florida 32202

*Region V*

Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Illinois 60604
(FEC only) 1240 East Ninth Street, Room 851, Cleveland, Ohio 44199

*Region VI*

525 Griffin Square Building, Griffin & Young Streets, Dallas, Texas 75202

*Region VII*

City Center Square Building, 1100 Main Street, Kansas City, Missouri 64105–2112 (For Wage and Hour only: Contact Region V)
(OFCCP only) 801 Walnut Street, Room 200, Kansas City, Missouri 64106

*Region VIII*

1999 Broadway Street, Denver, Colorado 80202, (For Wage and Hour and OFCCP: Contact Region VI)
(OWCP only) 1801 California Street, Suite 915, Denver, Colorado 80202

The mailing address for the Regional Director, Bureau of Apprenticeship and Training in Region VIII is: U.S. Custom House, 721—19th Street, Room 465, Denver, CO. 80202.

*Region IX*

71 Stevenson Street, San Francisco, California 94105

*Region X*

1111 Third Avenue, Seattle, Washington 98101–3212 (For Wage and Hour only: Contact Region IX)
Regional Administrator for Administration and Management (OASAM)
Regional Personnel Officer, OASAM
Regional Director for Information and Public Affairs, OASAM
Regional Administrator for Occupational Safety and Health and Safety (OSHA)
Regional Commissioner, Bureau of Labor Statistics (BLS)
Regional Administrator for Employment and Training Administration (ETA) (For the following regions: Boston, New York, Philadelphia, Atlanta, Dallas, Chicago and San Francisco)
Associate Regional Administrator for ETA (For the following regions: Denver, Kansas City and Seattle)
Regional Director, Job Corps, ETA
Director, Regional Office of Apprenticeship and Training, Employer and Labor Services, ETA
Regional Administrator for Wage and Hour, ESA
Regional Director for Federal Contract Compliance Programs, ESA
Regional Director for the Office of Workers' Compensation Programs, ESA
District Director, Office of Workers' Compensation Programs, ESA

**Office of Federal Contract Compliance Programs ESA, Responsible Offices, Regional Offices**

JFK Federal Building, Room E–235, Boston, Massachusetts 02203
201 Varick Street, Room 750, New York, New York 10014
The Curtis Center, 170 South Independence Mall West, Philadelphia, Pennsylvania 19106–3315
61 Forsyth Street, S.W., Suite 7B75, Atlanta, Georgia 30303
Klucynski Federal Building, 230 South Dearborn Street, Room 570, Chicago, Illinois 60604
Federal Building, 525 South Griffin Street, Room 840 Dallas, Texas 75202
71 Stevenson Street, Suite 1700, San Francisco, California 94105–2614
1111 Third Avenue, Suite 610, Seattle, Washington 98101–3212

**Office of Workers' Compensation Programs ESA: Responsible Officials, District Directors**

John F. Kennedy Federal Building, Room E–260, Boston, Massachusetts 02203 (FECA and LHWCA Only)
201 Varick Street, Seventh Floor, Room 750, New York, New York 10014 (FECA and LHWCA only)
The Curtis Center, 170 South Independence Mall West, Suite 790 West, Philadelphia, Pennsylvania 19106–3313 (FECA and LHWCA only)
Penn Traffic Building, 319 Washington Street, Johnstown, Pennsylvania 15901 (BLBA only)
105 North Main Street, Suite 100, Wilkes-Barre, Pennsylvania 18701 (BLBA Only)
Wellington Square, 1225 South Main Street, Suite 405, Greensburg, Pennsylvania 15601 (BLBA only)
300 West Pratt Street, Suite 240, Baltimore, Maryland 21201 (LHWCA Only)
Federal Building, 200 Granby Mall, Room #212, Norfolk, Virginia 23510 (LHWCA only)
500 Quarrier Street, Suite 110, Charleston, West Virginia 25301 (BLBA Only)
425 Juliana Street, Suite 3116, Parkersburg, West Virginia 26101 (BLBA Only)
800 North Capitol Street, NW., Washington, DC 20211 (FECA Only)
77 P Street, NE., 2nd Floor, Washington, DC 20002 (LHWCA Only)
1200 Upshur Street, NW., Washington, DC 20210 (DC Claims Only)
164 Main Street, Suite 508, Pikeville Kentucky 41501 (BLBA only)
500 Springdale Plaza, Spring Street, Mt. Sterling, Kentucky 40353 (BLBA Only)
214 N. Hogan Street, 10th Floor, Room 1006, Jacksonville, Florida 32201 (FECA and LHWCA only)
230 South Dearborn Street, Room 578, Chicago, Illinois 60604 (FECA and LHWCA)
1240 East 9th Street, Room 851, Cleveland, Ohio 44199 (FECA Only)
1160 Dublin Road, Suite 300, Columbus, Ohio 43214 (BLBA Only)
525 Griffin Street, Federal Building Dallas, Texas 75202 (FECA Only)
701 Loyola Avenue, Room 13032, New Orleans, Louisiana 70113 (LHWCA Only)
8866 Gulf Freeway, Suite 140, Houston, Texas 77017 (LHWCA Only)
City Center Square, Suite 750, 1100 Main Street, Kansas City, Missouri 64105 (FECA Only)
1801 California Street, Suite 915, Denver, Colorado 80202 (FECA and BLBA Only)
71 Stevenson Street, 2nd Floor, P.O. Box 193770, San Francisco, California 94105 (LHWCA and FECA Only)
401 E. Ocean Boulevard, Suite 720, Long Beach, California 90802 (LHWCA Only)
300 Ala Moana Boulevard, Room 5119, Honolulu, Hawaii 96850 (LHWCA Only)
1111 3rd Avenue, Suite 615, Seattle, Washington 98101–3212 (LHWCA and FECA only)

**Mine Safety & Health Administration Field Offices And Responsible Officials**

Coordinator, Small Mines/Mine Emergency Unit

Superintendent, National Mine Health and Safety Academy, 1301 Airport Road, Beaver, WV 25813–9426
Chief, Safety and Health Technology Center, P.O. Box 18233, Pittsburgh, PA 15236
Chief, Approval and Certification Center, R.R. 1, Box 251, Industrial Park Road, Triadelphia, WV 26059
Chief, Information Resource Center
Chief, Office of Injury and Employment Information, P.O. Box 25367, Denver, CO 80225–0367

*District Manager, Coal Mine Safety and Health*

The Stegmaier Bldg., Suite 034, 7 N. Wilkes-Barre Blvd., Wilkes-Barre, PA 18702
R.R. 1, Box 736, Hunker, PA 15639
5012 Mountaineer Mall, Morgantown, WV 26505
100 Bluestone Road, Mt. Hope, WV 25880
P.O. Box 560, Norton, VA 24273
4159 North Mayo Trail, Pikeville, KY 41501
HC 66, Box 1699, Barbourville, KY 40906
Suite 200, 2300 Old Decker Road, Vincennes, IN 47591
P.O. Box 25367, Denver, CO 80225–0367
100 YMCA Drive, Madisonville, KY 42431–9019
Suite 213, 135 Gemini Circle Birmingham, AL 35209

*District Manager, Metal and Nonmetal Mine Safety and Health*

Assistant District Manager, Metal and Nonmetal Mine Safety and Health:

Thornhill Industrial Park, 547 Keystone Drive, Suite 4, Warrendale, PA 15086–7573
Suite 212, 135 Gemini Circle, Birmingham, AL 35209
Suite 333, 515 W. First Street, Duluth, MN 55802–1302
Rm. 4C50, 1100 Commerce Street, Dallas, TX 75242–0499
P.O. Box 25367, Denver, CO 80225–0367
2060 Peabody Road, Suite 610, Vacaville, CA 95687–6696

**Regional Administrator, Occupational Safety and Health Administration (OSHA)**

*Area Director, OSHA:*

Valley Office Park, 13 Branch Street, Methuen, MA 01844
639 Granite Street, 4th Floor, Braintree, MA 02184
1441 Main Street, Room 550, Springfield, MA 01103–1493
One Lafayette Square, Suite 202, Bridgeport, CT 06604
Federal Building, 450 Main Street, Room 613, Hartford, CT 06103
40 Western Avenue, Room 608, Augusta, ME 04330
202 Harlow Street, Room 211, Bangor, ME 04401
279 Pleasant Street, Suite 201, Concord, NH 03301
Federal Office Building, 380 Westminster Mall, Room 243, Providence, RI 02903
401 New Karner Road, Suite 300, Albany, NY 12205–3809
42–40 Bell Boulevard, Bayside, NY 11361
5360 Genesee Street, Bowmansville, NY 14026
1400 Old Country Road, Suite 208, Westbury, NY 11590
201 Varick Street, Room 670, New York, NY 10048
3300 Vickery Road, North Syracuse, NY 13212
660 White Plains Road, 4th Floor, Tarrytown, NY 10591–5107
1030 St. Georges Avenue, Plaza 35, Suite 205, Avenel, NJ 07001
500 Route 17 South, 2nd Floor, Hasbrouck Heights, NJ 07604
299 Cherry Hill Road, Suite 304, Parsippany, NJ 07054
Marlton Executive Park, Building 2, 701 Route 73 South, Suite 120, Marlton, NJ 08053
BBV Plaza Building, 1510 F.D. Roosevelt Avenue, Guaynabo, PR 00968
850 North 5th Street, Allentown, PA 18102
3939 West Ridge Road, Suite B12, Erie, PA 16506–1857
Progress Plaza, 49 North Progress Avenue, Harrisburg, PA 17109–3596
U.S. Custom House, Room 242, Second & Chestnut Street, Philadelphia, PA 19106
Federal Office Building, 1000 Liberty Avenue, Room 1428, Pittsburgh, PA 15222–4101
The Stegmaier Building, Suite 410, 7 North Wilkes-Barre Boulevard, Wilkes-Barre, PA 18702–5241
844 North King Street—Room 2209, Wilmington, DE 19801
1099 Winterson Road, Suite 140, Linthicum, MD 21090
Federal Office Building, 200 Granby Street, Room 835, Norfolk, VA 23510–1811
405 Capitol Street, Suite 407, Charleston, WV 25301–1727
LaVista Perimeter Office Park, 2183 N. Lake Parkway, Building 7, Suite 110, Tucker, GA 30084–4154
2400 Herodian Way, Suite 250, Smyrna, GA 30080–2968
450 Mall Boulevard, Suite J, Savannah, GA 31406
2047 Canyon Road—Todd Mall, Birmingham, AL 35216–1981
3737 Government Boulevard, Suite 100, Mobile, AL 36693–4309
8040 Peters Road, Building H–100, Fort Lauderdale, FL 33324
Ribault Building, Suite 227, 1851 Executive Center Drive, Jacksonville, FL 32207
5807 Breckenridge Parkway, Suite A, Tampa, FL 33610–4249
John C. Watts Federal Office Building, 330 West Broadway, Room 108, Frankfort, KY 40601–1922
3780 I–55 North, Suite 210, Jackson, MS 39211–6323
Century Station Federal Office Building, 300 Fayetteville Street Mall, Room 438, Raleigh, NC 27601–9998
1835 Assembly Street, Room 1468, Columbia, SC 29201–2453
2002 Richard Jones Road, Suite C–205, Nashville, TN 37215–2809
1600 167th Street, Suite 12, Calumet City, IL 60409
O'Hara Lake Plaza, 2360 East Devon Avenue, Suite 1010, Des Plaines, IL 60018
11 Executive Drive, Suite 11, Fairview Heights, IL 62208
344 Smoke Tree Business Park, North Aurora, IL 60542
2918 W. Willow Knolls Road, Peoria, IL 61614
46 East Ohio Street, Room 423, Indianapolis, IN 46204
Lansing Area Director, 801 South Waverly Road, Suite 306, Lansing, MI 48917–4200
300 South 4th Street, Room 1205, Minneapolis, MN 55415
36 Triangle Park Drive, Cincinnati, OH 45246
Federal Office Building, 1240 East 9th Street, Room 899, Cleveland, OH 44199
Federal Office Building, 200 North High Street, Room 620, Columbus, OH 43215
Ohio Building, 420 Madison Avenue, Suite 600, Toledo, OH 43604
Federal Building, U.S. Courthouse 500, Barstow Street, Room B–9, Eau Claire, WI 54701
1648 Tri Park Way, Appleton, WI 54914
4802 E. Broadway, Madison, WI 53716
Henry S. Reuss Building, 310 W. Wisconsin Ave, Suite 1180, Milwaukee, WI 53202
903 San Jacinto Boulevard, Suite 319, Austin, TX 78701
Wilson Plaza, 606 N. Carancahua, Suite 700, Corpus Christi, TX 78476
834 East R.L. Thornton Freeway, Suite 420, Dallas, TX 75228
700 East San Antonio Street, Room C408, El Paso, TX 79901
North Starr II, Suite 430, 8713 Airport Freeway, Fort Worth, TX 76180–7604
350 N. Sam Houston Parkway, Suite 120, Houston, TX 77060
17625 El Camino Real, Suite 400, Houston, TX 77058
Federal Office Building, 1205 Texas Avenue, Room 804, Lubbock, TX 79401
TCBY Building, Suite 450, 425 West Capitol Avenue, Little Rock, AR 72201
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Federal Register

**Monday,**
**April 8, 2002**

## Part III

# Pension Benefit Guaranty Corporation

**29 CFR Part 4022 et al.**
**PBGC Benefit Payments; Final Rule**

## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4022, 4022B, 4044

**RIN 1212–AA82**

### PBGC Benefit Payments

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The PBGC is amending its regulations to make several changes in how it pays benefits, including giving participants more choices of annuity benefit forms, clarifying (for certain purposes under Title IV of ERISA) what it means to be able to ''retire'' under plan provisions, and adding rules on who will get certain payments the PBGC owes to a participant at the time of death.

**EFFECTIVE DATE:** June 1, 2002. For a detailed discussion of applicability of the amendments, see the various Applicability sections in **SUPPLEMENTARY INFORMATION.**

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

**SUPPLEMENTARY INFORMATION:** On December 26, 2000 (at 65 FR 81456), the PBGC published a proposed rule to address several issues under its regulations on Benefits Payable in Terminated Single-Employer Plans (part 4022), Aggregate Limits on Guaranteed Benefits (part 4022B), and Allocation of Assets in Single-Employer Plans (part 4044).

The PBGC received two comments on the proposed rule and is issuing the final regulation substantially as proposed.

#### Earliest PBGC Retirement Date

The earliest date a participant could ''retire'' under a plan can have several consequences under Title IV of ERISA:

- It can affect whether a participant's benefit is in priority category 3 in the asset allocation scheme under ERISA section 4044 (which gives priority in the asset allocation upon plan termination to the benefits of persons who retired or could have retired three years before the plan's termination date).
- It governs when a participant is first eligible to be placed in pay status by the PBGC.
- It is used as part of the methodology for determining the ''expected retirement age'' assumption the PBGC uses to value a participant's benefit. Determination of this date can affect not only the participant for whom the determination is made, but other participants, the employer, and premium payers. Whether an earlier or later date favors a particular interest depends on the facts and circumstances of the plan termination.

The PBGC has been making determinations about the earliest date a participant could ''retire'' under a plan on a case-by-case basis based on all the facts and circumstances. In many cases, the analysis is straightforward because the plan provides for early or normal retirement starting at a point (*e.g.*, early retirement at age 55) that clearly would qualify as retirement. However, because plan designs have been evolving in recent years, the PBGC anticipates that case-by-case decision-making in this area will become increasingly difficult.

A growing number of plans have been offering consensual lump sums upon separation regardless of age (*e.g.*, at age 23) and are therefore required to offer a qualified joint-and-survivor annuity commencing immediately. See Treas. Reg. § 1.417(e)-1(b). Some plans, such as cash balance plans, do not use the word ''retirement,'' even to describe a separation that commonly would be viewed as a retirement, while other plans specify ''normal retirement age'' as the age reached after five years of service.

The PBGC does not believe it would be appropriate to determine the earliest retirement date for PBGC purposes simply by looking at the availability of a consensual lump sum or immediate annuity or at plan labels. Doing so would treat any separation that gives rise to the availability of a consensual lump sum or immediate annuity as if it were a retirement. Among other things, this would give priority category 3 status to many participants who are not close to retirement, thereby significantly diluting priority category 3 protection for those persons Congress intended to protect. On the other hand, where a participant is old enough or has enough service, the PBGC believes that treating a separation as a retirement would be consistent with the statutory scheme.

To provide guidance and to reduce the need for case-by-case decision-making, the PBGC is introducing the concept of an ''Earliest PBGC Retirement Date.'' The Earliest PBGC Retirement Date for a participant will be the earliest date on which the participant could ''retire'' for certain purposes under Title IV of ERISA. If the participant's ''earliest annuity date'' (the earliest date under plan provisions on which the participant could separate from service with the right to receive an immediate annuity) is on or after the date the participant reaches age 55, the Earliest PBGC Retirement Date will be the ''earliest annuity date.'' However, if the participant's ''earliest annuity date'' is before the date the participant reaches age 55, the Earliest PBGC Retirement Date will be the date the participant reaches age 55, unless the PBGC determines, under a facts-and-circumstances test, that the participant could retire on an earlier date. Under the facts-and-circumstances test, the PBGC will consider whether the participant could retire for purposes of ERISA section 4044(a)(3)(B). The proposed regulation provided that in making this determination, the PBGC would look at plan provisions, the age at which employees customarily retire (under the particular plan or in the particular company or industry, as appropriate), and all other relevant considerations.

Both commenters expressed concern about the application of the Earliest PBGC Retirement Date concept in plans where participants can separate from service with the right to receive an immediate annuity before reaching age 55.

One commenter stated that the Earliest PBGC Retirement Date ''should not be used to restrict protections that workers enjoy under current rules.'' The commenter went on to point out that many defined benefit plans permit benefit eligibility at a point earlier than age 55 that ''clearly would qualify as a retirement for purposes of the statute.'' The commenter suggested that the ''PBGC should continue to permit the receipt of annuity benefits before age 55 when a plan provides for retirement earlier than age 55 and recognize pre-55 retirement eligibility in its determination of priority category 3 benefits.''

The PBGC intended the adoption of the ''Earliest PBGC Retirement Date'' concept as a way to simplify administration for the PBGC and clarify the rules for participants—not as a way to ''restrict'' the earliest date on which a participant would be considered to be eligible to ''retire.'' Indeed, this new concept will have no effect on the PBGC's existing facts-and-circumstances approach for determining pre-age 55 retirement dates; rather it merely clarifies and codifies that approach. Therefore, the date a participant could first ''retire'' should never be later under the new regulation than under the PBGC's existing facts-and-circumstances approach (although, for post-age 55

retirement dates, it may be earlier under the new concept).

The other commenter, expressing particular concern about airline pilots' plans, urged the PBGC ''to adopt a special rule for plans covering participants who are legally required to retire before age 65.'' That commenter urged the PBGC to adopt a rule that the Earliest PBGC Retirement Date for a participant in such a plan will never be later than the date the participant reaches age 50, while retaining discretion to determine pre-age 50 Earliest PBGC Retirement Dates based on the facts and circumstances.

The PBGC recognizes the commenter's concern about airline pilots' plans but believes this concern can be addressed without changing the Earliest PBGC Retirement Date definition. The regulation provides for Earliest PBGC Retirement Dates before age 55 based on the PBGC's facts-and-circumstances analysis, taking into account (among other things) plan provisions and the age at which participants customarily retire. The PBGC recognizes that plans covering airline pilots generally provide for early retirement before age 55 (often subject to substantial service or age-and-service requirements and with subsidized benefits) and that airline pilots customarily retire at relatively early ages. In the case of a typical airline pilots' plan that provides for a normal retirement age of 60 and an early retirement age of 50 with 5 years of service, the PBGC generally would determine—under its facts-and-circumstances analysis—that a participant who has completed 5 years of service reaches his or her Earliest PBGC Retirement Date upon attaining age 50. If the plan instead had provided for early retirement before age 50, the PBGC would consider all the facts and circumstances (including the plan's normal retirement age and the age at which employees customarily retire in the airline industry) in determining whether to treat the date the participant reaches the plan's early retirement age as the participant's Earliest PBGC Retirement Date. The PBGC is adding a specific example to the final rule to illustrate its treatment of a typical airline pilots' plan.

The preamble to the proposed rule contained examples of Earliest PBGC Retirement Dates. For the convenience of the public, the PBGC is moving those examples to the regulatory language and is adding, along with the new example dealing with a typical airline pilots' plan, an example dealing with plans that specify early retirement requirements and do not offer a consensual lump sum or immediate annuity upon separation before those requirements are met.

The final rule also clarifies the following:

- *''Window'' periods.* For purposes of determining a participant's Earliest PBGC Retirement Date, the PBGC will treat the participant as being able, under plan provisions, to separate from service with the right to receive an immediate annuity on a date before the plan's termination date only if eligibility for that immediate annuity continues through the earlier of the plan's termination date or the date the participant actually separates from service with the right to receive an immediate annuity and the participant satisfies the conditions for eligibility for that immediate annuity on or before the plan's termination date.
- *Benefit start dates.* For participants who had reached their Earliest PBGC Retirement Date before the beginning of the 3-year period ending on the plan's termination date, the PBGC will not exclude annuity benefits from priority category 3 protection merely because, under the plan's rules for starting benefit payments, the payments do not start until the next payment date (*e.g.,* the first day of the first month following the date of separation).

Aside from these clarifications, the PBGC is issuing the final rules in this area with only structural and other editorial changes from the proposed regulation. For example, the PBGC is moving the definition of Earliest PBGC Retirement Date from part 4044 (where it was in the proposed regulation) to part 4022.

**Applicability**

The new definition will apply to benefits in plans with termination dates on or after June 1, 2002.

The new definition will also apply, for the purpose of determining when participants will first be able to receive retirement benefits in annuity form from the PBGC, to benefits not yet in pay status as of June 1, 2002, except that the new age-55 rule will not apply to any plan trusteed by the PBGC before October 1, 1998. In plans trusteed by the PBGC before October 1, 1998, the PBGC will continue to apply its facts-and-circumstances analysis (as clarified and codified in the new regulation), regardless of whether the participant is younger than age 55 or is age 55 or older. The PBGC is not applying the new age-55 rule to plans trusteed by the PBGC before October 1, 1998, because doing so would require the PBGC to reopen determinations in thousands of plans (with little or no impact for the vast majority of participants), and therefore could significantly delay the PBGC's processing of new plans (*i.e.,* those trusteed on or after October 1, 1998).

*Form of Payment by PBGC*

The PBGC pays benefits to participants when an underfunded single-employer defined benefit plan terminates under Title IV of ERISA and the PBGC becomes trustee. If a participant's benefit is already in pay status, the PBGC continues to pay the benefit (subject to the limitations in Title IV of ERISA) in the form being paid. But for those participants whose benefits are not yet in pay status, the PBGC generally pays non-de minimis benefits (*i.e.,* benefits with a lump-sum value exceeding $5,000) in the form the plan would have paid in the absence of an election, typically a joint-and-50% spousal survivor annuity (for married participants) or a straight-life annuity (for unmarried participants and married participants who, with spousal consent, waive the joint-and-survivor annuity). If a married participant dies before entering pay status, the PBGC pays a qualified pre-retirement survivor annuity to the participant's spouse. The PBGC does not pay benefits in lump-sum form except in limited circumstances (primarily where it cashes out a de minimis benefit).

Many participants would welcome the PBGC's offering them choices of other annuity benefit forms and allowing them to designate non-spouse beneficiaries. With today's technology, it is now feasible for the PBGC to offer a menu of optional forms.

The PBGC intends to provide participants (and beneficiaries) whose benefits are not yet in pay status with more choices of annuity benefit forms, including a straight-life annuity, certain-and-continuous annuities with various periods certain, joint-and-survivor annuities with various survivor percentages, and a joint-and-survivor-'pop-up'' annuity. A participant who is married on the annuity starting date will need spousal consent to elect any of the optional forms. Either a married participant (with spousal consent) or an unmarried participant will be able to designate a non-spouse beneficiary to receive survivor benefits under any optional joint-life or other annuity form under which payments may continue after the participant's death.

The PBGC will determine the amount of the benefit in an optional form elected by a participant by first determining the annuity benefit that it would pay the participant under Title IV of ERISA. If the participant (regardless of marital status) elects to receive a joint-and-survivor optional form from the PBGC, the PBGC will start with the joint-and-survivor form that the plan would have paid to a married

participant in the absence of an election under the plan. If the participant (regardless of marital status) elects to receive a single-life optional form from the PBGC, the PBGC will start with the single-life form that the plan would have paid to an unmarried participant in the absence of an election under the plan. The PBGC will convert this starting benefit to the optional annuity form the participant or beneficiary chooses, using specified PBGC factors.

Both commenters commended the PBGC for proposing to offer a choice of optional annuity forms, and the PBGC is issuing the new rules in this area substantially as proposed.

The final regulation clarifies that the form under the plan that an unmarried person would be entitled to receive in the absence of an election is available not only to an unmarried participant but also to a married participant. It also clarifies that the PBGC may prescribe the time and manner for benefit elections to be made and spousal consents to be provided. It also clarifies that benefit forms cannot be changed once payment starts and simplifies and clarifies the rules governing permitted designees.

The final regulation also clarifies one technical issue that could arise in rare circumstances, *e.g.*, where the form the plan would have paid to a married participant in the absence of an election is highly subsidized and the participant (whether married or unmarried) elects an optional PBGC form with a smaller survivor annuity percentage. In these circumstances, the proposed regulation could have been read as requiring the PBGC to pay a greater monthly benefit to a participant in the form of a joint-and-survivor benefit than it would have paid the participant in the form of a straight life annuity. The final regulation clarifies that the PBGC will limit its payment to avoid this result. For example, assume the amount of a participant's benefit is $1,000 a month in the form of a straight life annuity or $980 a month in the form of a highly-subsidized joint-and-100% survivor annuity. Assume the participant elects a joint-and-50% survivor annuity. Using the specified conversion factors, the amount of the benefit in the form elected would be $1,060 a month. The final rule clarifies that the PBGC would pay $1,000 a month in such circumstances.

**Applicability**

The PBGC will make the optional benefit forms available where the first benefit payment is made on or after June 1, 2002.

Where the first benefit payment is made on or after May 1, 2002, and the participant or beneficiary has filed an application that does not include the new optional benefit forms, the PBGC may make the optional benefit forms available to that participant or beneficiary on or after June 1, 2002, by providing an opportunity to change the election within a reasonable time period. Until the end of that time period, the PBGC will not apply to that participant or beneficiary the new rule that once payment of a benefit starts, the benefit form cannot be changed. If the benefit form changes, the PBGC will make appropriate adjustments to the benefit amount.

*Certain Payments Owed Upon Death*

When a participant dies, the PBGC occasionally may have paid too much of the benefit or too little of the benefit that was due the participant during the participant's life. If the PBGC paid too much, there is an overpayment owed to the PBGC at the time of the participant's death. If the PBGC paid too little, there is an underpayment owed to the participant at the time of the participant's death. In either case, the PBGC needs to determine not only the amount of the overpayment or underpayment, but the person(s) it will seek to collect from or pay.

The PBGC recoups any overpayment made to a participant from the person who is receiving survivor benefits under any joint-and-survivor or other annuity form under which payments may continue after the participant's death. The PBGC pays any underpayment due the participant to that same person.

Under the PBGC's current policy, if the PBGC owes benefits to a participant at the time of the participant's death and the benefit is not in the form of a joint-and-survivor or other annuity under which payments may continue after the participant's death or although the benefit is in such a form payments do not continue after the participant's death, the PBGC pays the person(s) designated with the PBGC or by or under the plan to receive benefits owed to the participant at the time of the participant's death. If there is no such designation, the PBGC generally pays those benefits to the participant's estate. However, issuing checks to estates has created difficulties for families of deceased participants and has complicated the PBGC's efforts to distribute benefits owed to a deceased participant. The PBGC has found that, in most cases, the participant has no open estate, usually because no estate was probated but occasionally because the estate was closed by the time the PBGC learns of the death and determines the amount of the underpayment.

To address these problems, the PBGC is adding new subpart F of part 4022, which governs who will receive benefits owed to a deceased participant where the benefit is not in the form of a joint-and-survivor or other annuity under which payments may continue after the participant's death or although the benefit is in such a form payments do not continue after the participant's death. Under these new rules, the PBGC will pay those benefits to the person(s) the participant designates with the PBGC to receive those benefits or '' *if* the participant dies within 180 days after the PBGC becomes trustee of the participant's plan *and* has not made a designation with the PBGC—the person(s) designated by or under the plan. In all other cases, the PBGC will pay those benefits to the person(s) surviving the participant in the following order: spouse, children, parents, estate, and next of kin.

This order of payment generally follows the order of payment for death benefits used by the Thrift Savings Plan (TSP), the retirement savings plan for federal employees. However, the PBGC is not adopting the TSP rules; rather it is establishing its own order-of-payment rules and therefore will be making its own interpretations of those rules. The PBGC notes that the order of payment generally conforms to state intestate law and believes, based on its experience, that it is also generally consistent with typical participant designations under a plan or will. The PBGC also expects that the benefit amounts that will be subject to the order-of-payment rules will in most cases be relatively small.

Under its existing regulation, the PBGC may pay any annuity benefits payable to an estate in a single installment if the estate so elects. The PBGC is amending the regulation to provide that, for purposes of discounting such annuity payments, it will use the federal mid-term rate (the same rate used for crediting interest for future periods on net underpayments of benefits).

The PBGC received no comments on its proposal relating to certain payments owed upon death and is issuing the new rules in this area with only clarifying and editorial changes from the proposed regulation. The final regulation clarifies that the new rules will apply to benefits the PBGC owes to any individual at the time of the individual's death (including benefits the PBGC owes because the plan owed them). Thus, the rules will apply not only to benefits the PBGC owes to a participant in a terminated

plan, but also to benefits the PBGC owes to a beneficiary (including an alternate payee) at the time of the beneficiary's death or to a designee or other payee under subpart F (*e.g.,* a participant's next of kin) at the time of the designee or other payee's death.

The final regulation also clarifies that (1) in the case of an overpayment to a participant at the time of the participant's death, if the participant is not entitled to future annuity benefits as of the plan's termination date, the PBGC may seek repayment of the overpayment to the participant from the participant's estate, and (2) in the case of an underpayment to a participant at the time of the participant's death, if the person receiving survivor benefits is an alternate payee under a qualified domestic relations order, the PBGC will treat the benefit as if payments do not continue after the participant's death (*i.e.,* the PBGC will pay the underpayment to the person determined under the rules in new subpart F).

The final regulation includes structural and other editorial changes from the proposed regulation designed to make the new rules easier to understand. For example, in the proposed regulation, subpart F covers situations in which a person dies without having received all required payments for future periods under a form of annuity promising that, regardless of a participant's death, there will be annuity payments for a certain period of time (*e.g.,* a certain-and-continuous annuity) or until a certain amount is paid (*e.g.,* a cash-refund annuity or installment-refund annuity), and there is no surviving beneficiary designated to receive such payments. In the final regulation, these situations are covered in new subpart G. The final regulation includes examples that show how the rules in subparts F and G will apply in various situations.

**Applicability**

The new rules will apply in the case of any death on or after June 1, 2002.

*Entitlement Conditions Met on Termination Date*

Under the existing benefit payment regulation (part 4022), entitlement to benefits often depends on whether certain conditions have been met *before* the plan's termination date. The PBGC is amending the regulation to provide for entitlement also where plan conditions relating to age, length of service, disability, or death are met *on* the plan's termination date. Under the existing regulation, the PBGC may find entitlement in such circumstances by exercising its discretion under § 4022.4(b) and has done so in a number of cases. Because there is virtually no risk of abuse resulting from manipulation of these events, the PBGC is amending the regulation to provide for entitlement in all such cases.

The PBGC is also making several related changes so that other determinations affecting guaranteed benefits take into account conditions through and including a plan's termination date: (1) An annuity payable under the terms of the plan on account of the total and permanent disability of a participant will be considered to be a ''pension benefit'' (and thus eligible to be guaranteed) in the case of a disability that began on or before the plan's termination date; (2) in applying the ''accrued-at-normal'' limitation (*i.e.*, the limitation on guaranteed benefits to the dollar amount payable as a straight-life annuity commencing at normal retirement age), the PBGC will take into account a participant's credited service *through and including* the plan's termination date; and (3) the accrued-at-normal limitation will not apply to a survivor benefit payable as an annuity on account of the death of a participant that occurred before the participant retired and *on or* before the plan's termination date.

The PBGC received no comments on its proposal relating to entitlement conditions being met on the termination date and is issuing the new rules in this area without change from the proposed regulation.

**Applicability**

The new rules will apply to benefits in any plan with a termination date on or after June 1, 2002.

*Aggregate Limits on Guaranteed Benefits*

The PBGC is amending its regulation on Aggregate Limits on Guaranteed Benefits (part 4022B). Under the current regulation, when applying the limitation on guaranteed benefits in § 4022.22(b), the PBGC aggregates: (1) A person's benefits under two or more plans, (2) a person's benefits with respect to two or more participants, and (3) benefits with respect to one participant when more than one person is entitled to receive a benefit with respect to that participant).

Under this amendment the PBGC will not aggregate benefits with respect to two or more participants (the second type of aggregation above) when applying this limitation. For example, suppose a participant is entitled to a $2,500 monthly benefit in her own right and another $1,000 survivor benefit with respect to her deceased husband who was covered under the same plan (or another PBGC-trusteed plan). Assume for simplicity the maximum guaranteeable monthly benefit is $3,000. Under the current rule, the participant's total benefit is limited to a monthly benefit of $3,000. Under the amendment, the participant will be entitled to the full $3,500 benefit.

The PBGC is removing from part 4022B, as unnecessary, the language relating to the aggregation of benefits with respect to one participant when more than one person is entitled to receive a benefit with respect to that participant (the third type of aggregation above). (This is a nonsubstantive change; under § 4022.22, the PBGC will continue to aggregate such benefits.)

The PBGC received no comments on its proposal relating to the aggregate limits on guaranteed benefits and is issuing the new rules in this area without change from the proposed regulation.

**Applicability**

The new rules will apply to benefit determinations that become effective on or after June 1, 2002.

*Compliance With Rulemaking and Paperwork Reduction Act Guidelines*

The Office of Management and Budget has determined that this final rule is a ''significant regulatory action'' and has therefore reviewed the final rule under Executive Order 12866.

The PBGC certifies under section 605(b) of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities. Virtually all of the changes in the final rule will affect only the PBGC and persons who receive benefits from the PBGC. The only change that could affect small entities is the application of the Earliest PBGC Retirement Date to the ''expected retirement age'' assumption under the PBGC's valuation regulation. Although this change potentially could affect employer liability, in most cases, the results of a valuation will match the results under the PBGC's current regulation. In those cases where the valuation results do not match, the differences generally will not be significant. Thus, the change will not have a significant economic impact on a substantial number of entities of any size. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

This rule contains information collection requirements. The Office of Management and Budget has approved this information collection, including the implementing forms and

instructions, under the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**List of Subjects in 29 CFR Parts 4022, 4022B, and 4044**

Pension insurance, Pensions.

For the reasons set forth above, the PBGC is amending parts 4022, 4022B, and 4044 of 29 CFR chapter LX as follows:

## PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for Part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

### § 4022.4 [Amended]

2. Amend paragraph (a)(3) of § 4022.4 by adding the words ''(or on or before the termination date, in the case of a requirement that a participant attain a particular age, earn a particular amount of service, become disabled, or die)'' after the words ''Except for a benefit described in paragraph (a)(2) of this section, before the termination date'', and the words ''(prior to or on such date, in the case of a requirement that a participant attain a particular age, earn a particular amount of service, become disabled, or die)'' after the words ''the right to receive the benefit prior to such date''.

### § 4022.6 [Amended]

3. Amend paragraph (a) of § 4022.6 by adding the words ''on or'' before the words ''before the termination date''.

* * * * *

4. Amend § 4022.7 by revising paragraphs (b)(1) and (d) to read as follows:

### § 4022.7 Benefits payable in a single installment.

(b)(1) *Payment in lump sum.* Notwithstanding paragraph (a) of this section:

(i) *In general.* If the lump sum value of a benefit (or of an estimated benefit) payable by the PBGC is $5,000 or less and the benefit is not yet in pay status, the benefit (or estimated benefit) may be paid in a lump sum.

(ii) *Annuity option.* If the PBGC would otherwise make a lump sum payment in accordance with paragraph (b)(1)(i) of this section and the monthly benefit (or the estimated monthly benefit) is equal to or greater than $25 (at normal retirement age and in the normal form for an unmarried participant), the PBGC will provide the option to receive the benefit in the form of an annuity.

(iii) *Election of QPSA lump sum.* If the lump sum value of annuity payments under a qualified preretirement survivor annuity (or under an estimated qualified preretirement survivor annuity) is $5,000 or less, the benefit is not yet in pay status, and the participant dies after the termination date, the benefit (or estimated benefit) may be paid in a lump sum if so elected by the surviving spouse.

(iv) *Payments to estates.* The PBGC may pay any annuity payments payable to an estate in a single installment without regard to the threshold in paragraph (b)(1)(i) of this section if so elected by the estate. The PBGC will discount the annuity payments using the federal mid-term rate (as determined by the Secretary of the Treasury pursuant to section 1274(d)(1)(C)(ii) of the Code) applicable for the month the participant died based on monthly compounding.

* * * * *

(d) *Determination of lump sum amount.* For purposes of paragraph (b)(1) of this section—

(1) *Benefits disregarded.* In determining whether the lump-sum value of a benefit is $5,000 or less, the PBGC may disregard the value of any benefits the plan or the PBGC previously paid in lump-sum form or the plan paid by purchasing an annuity contract, the value of any benefits returned under paragraph (b)(2) of this section, and the value of any benefits the PBGC has not yet determined under section 4022(c) of ERISA.

(2) *Actuarial assumptions.* The PBGC will calculate the lump sum value of a benefit by valuing the monthly annuity benefits payable in the form determined under § 4044.51(a) of this chapter and commencing at the time determined under § 4044.51(b) of this chapter. The actuarial assumptions used will be those described in § 4044.52, except that—

(i) *Loading for expenses.* There will be no adjustment to reflect the loading for expenses;

(ii) *Mortality rates and interest assumptions.* The mortality rates in appendix A to this part and the interest assumptions in appendix B to this part will apply; and

(iii) *Date for determining lump sum value.* The date as of which a lump sum value is calculated is the termination date, except that in the case of a subsequent insufficiency it is the date described in section 4062(b)(1)(B) of ERISA.

5. Add § 4022.8 to subpart A to read as follows:

### § 4022.8 Form of payment.

(a) *In general.* This section applies where benefits are not already in pay status. Except as provided in § 4022.7 (relating to the payment of lump sums), the PBGC will pay benefits—

(1) In the automatic PBGC form described in paragraph (b) of this section; or

(2) If an optional PBGC form described in paragraph (c) of this section is elected, in that optional form.

(b) *Automatic PBGC form.*

(1) *Participants.*

(i) *Married participants.* The automatic PBGC form with respect to a participant who is married at the time the benefit enters pay status is the form a married participant would be entitled to receive from the plan in the absence of an election.

(ii) *Unmarried participants.* The automatic PBGC form with respect to a participant who is unmarried at the time the benefit enters pay status is the form an unmarried person would be entitled to receive from the plan in the absence of an election.

(2) *Beneficiaries.*

(i) *QPSA beneficiaries.* The automatic PBGC form with respect to the spouse of a married participant in a plan with a termination date on or after August 23, 1984, who dies before his or her benefit enters pay status is the qualified preretirement survivor annuity such a spouse would be entitled to receive from the plan in the absence of an election. The PBGC will not charge the participant or beneficiary for this survivor benefit coverage for the time period beginning on the plan's termination date (regardless of whether the plan would have charged).

(ii) *Alternate payees.* The automatic PBGC form with respect to an alternate payee with a separate interest under a qualified domestic relations order is the form an unmarried participant would be entitled to receive from the plan in the absence of an election.

(c) *Optional PBGC forms.*

(1) *Participant and beneficiary elections.* A participant may elect any optional form described in paragraphs (c)(4) or (c)(5) of this section. A beneficiary described in paragraph (b)(2) of this section (a QPSA beneficiary or an alternate payee) may elect any optional form described in paragraphs (c)(4)(i) through (c)(4)(iv) of this section.

(2) *Permitted designees.* A participant or beneficiary, whether married or unmarried, who elects an optional form with a survivor feature (*e.g.,* a 5-year certain-and-continuous annuity or, in

the case of a participant, a joint-and-50%-survivor annuity) may designate either a spouse or a non-spouse beneficiary to receive survivor benefits. An optional joint-life form must be payable to a natural person or (with the consent of the PBGC) to a trust for the benefit of one or more natural persons.

(3) *Spousal consent.* In the case of a participant who is married at the time the benefit enters pay status, the election of an optional form or the designation of a non-spouse beneficiary is valid only if the participant's spouse consents.

(4) *Permitted optional single-life forms.* The PBGC may offer benefits in the following single-life forms:

(i) A straight-life annuity;

(ii) A 5-year certain-and-continuous annuity;

(iii) A 10-year certain-and-continuous annuity;

(iv) A 15-year certain-and-continuous annuity; and

(v) The form an unmarried person would be entitled to receive from the plan in the absence of an election.

(5) *Permitted optional joint-life forms.* The PBGC may offer benefits in the following joint-life forms:

(i) A joint-and-50%-survivor annuity;

(ii) A joint-and-50%-survivor-''pop-up'' annuity (*i.e.,* where the participant's benefit ''pops up'' to the unreduced level if the beneficiary dies first);

(iii) A joint-and-75%-survivor annuity; and

(iv) A joint-and-100%-survivor annuity.

(6) *Determination of benefit amount; starting benefit.* To determine the amount of the benefit in an optional PBGC form—

(i) *Single-life forms.* In the case of an optional PBGC form under paragraph (c)(4) of this section, the PBGC will first determine the amount of the benefit in the form the plan would pay to an unmarried participant in the absence of an election.

(ii) *Joint-life forms.* In the case of an optional PBGC form under paragraph (c)(5) of this section, the PBGC will first determine the amount of the benefit in the form the plan would pay to a married participant in the absence of an election. For this purpose, the PBGC will treat a participant who designates a non-spouse beneficiary as being married to a person who is the same age as that non-spouse beneficiary.

(7) *Determination of benefit amount; conversion factors.* The PBGC will convert the benefit amount determined under paragraph (c)(6) of this section to the optional form elected, using PBGC factors based on—

(i) *Mortality.* Unisex mortality rates that are a fixed blend of 50 percent of the male mortality rates and 50 percent of the female mortality rates from the 1983 Group Annuity Mortality Table as prescribed in Rev. Rul. 95–6, 1995–1 C.B. 80 (Internal Revenue Service Cumulative Bulletins are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402); and

(ii) *Interest.* An interest rate of six percent.

(8) *Determination of benefit amount; limitation.* The PBGC will limit the benefit amount determined under paragraph (c)(7) of this section to the amount of the benefit it would pay in the form of a straight life annuity under paragraph (c)(4)(i) of this section.

(9) *Incidental benefits.* The PBGC will not pay an optional PBGC form with a death benefit (*e.g.,* a joint-and-50%-survivor annuity) unless the death benefit would be an ''incidental death benefit'' under 26 CFR 1.401–1(b)(1)(i). If the death benefit would not be an ''incidental death benefit,'' the PBGC may instead offer a modified version of the optional form under which the death benefit would be an ''incidental death benefit.''

(d) *Change in benefit form.* Once payment of a benefit starts, the benefit form cannot be changed.

(e) *PBGC discretion.* The PBGC may make other optional annuity forms available subject to the rules in paragraph (c) of this section.

6. Add § 4022.9 to subpart A to read as follows:

**§ 4022.9 Time of payment; benefit applications.**

(a) *Time of payment.* A participant may start receiving an annuity benefit from the PBGC (subject to the PBGC's rules for starting benefit payments) on his or her Earliest PBGC Retirement Date as determined under § 4022.10 of this subchapter or, if later, the plan's termination date.

(b) *Elections and consents.* The PBGC may prescribe the time and manner for benefit elections to be made and spousal consents to be provided.

(c) *Benefit applications.* The PBGC is not required to accept any application for benefits not made in accordance with its forms and instructions.

7. Add § 4022.10 to subpart A to read as follows:

**§ 4022.10 Earliest PBGC Retirement Date.**

The Earliest PBGC Retirement Date for a participant is the earliest date on which the participant could retire under plan provisions for purposes of section 4044(a)(3)(B) of ERISA. The Earliest PBGC Retirement Date is determined in accordance with this § 4022.10. For purposes of this § 4022.10, ''age'' means the participant's age as of his or her last birthday (unless otherwise required by the context).

(a) *Immediate annuity at or after age 55.* If the earliest date on which a participant could separate from service with the right to receive an immediate annuity is on or after the date the participant reaches age 55, the Earliest PBGC Retirement Date for the participant is the earliest date on which the participant could separate from service with the right to receive an immediate annuity.

(b) *Immediate annuity before age 55.* If the earliest date on which a participant could separate from service with the right to receive an immediate annuity is before the date the participant reaches age 55, the Earliest PBGC Retirement Date for the participant is the date the participant reaches age 55 (except as provided in paragraph (c) of this section).

(c) *Facts and circumstances.* If a participant could separate from service with the right to receive an immediate annuity before the date the participant reaches age 55, the PBGC will make a determination, under the facts and circumstances, as to whether the participant could retire under plan provisions for purposes of section 4044(a)(3)(B) of ERISA on an earlier date. If the PBGC determines, under the facts and circumstances, that the participant could retire under plan provisions for those purposes on an earlier date, that earlier date is the Earliest PBGC Retirement Date for the participant. In making this determination, the PBGC will take into account plan provisions (*e.g.,* the general structure of the provisions, the extent to which the benefit is subsidized, and whether eligibility for the benefit is based on a substantial service or age-and-service requirement), the age at which employees customarily retire (under the particular plan or in the particular company or industry, as appropriate), and all other relevant considerations. Neither a plan's reference to a separation from service at a particular age as a ''retirement'' nor the ability of a participant to receive an immediate annuity at a particular age necessarily makes the date the participant reaches that age the Earliest PBGC Retirement Date for the participant. The Earliest PBGC Retirement Date determined by the PBGC under this paragraph (c) will never be earlier than the earliest date the participant could separate from

service with the right to receive an immediate annuity.

(d) *Examples.* The following examples illustrate the operation of the rules in paragraphs (a) through (c) of this section.

(1) *Normal retirement age.* A plan's normal retirement age is age 65. The plan does not offer a consensual lump sum or an immediate annuity upon separation before normal retirement age. The Earliest PBGC Retirement Date for a participant who, as of the plan's termination date, is age 50 is the date the participant reaches age 65.

(2) *Early retirement age.* A plan's normal retirement age is age 65. The plan specifies an early retirement age of 60 with 10 years of service. The plan does not offer a consensual lump sum or an immediate annuity upon separation before early retirement age. The Earliest PBGC Retirement Date for a participant who, as of the plan's termination date, is age 55 and has completed 10 years of service is the date the participant reaches age 60.

(3) *Separation at any age.* A plan's normal retirement age is age 65. The plan specifies an early retirement age of 60 but offers an immediate annuity upon separation regardless of age. The Earliest PBGC Retirement Date for a participant who, as of the plan's termination date, is age 35 is the date the participant reaches age 55, unless the PBGC determines under the facts and circumstances that the participant could ''retire'' for purposes of ERISA section 4044(a)(3)(B) on an earlier date, in which case the participant's Earliest PBGC Retirement Date would be that earlier date.

(4) *Age 50 retirement common.* A plan's normal retirement age is age 60. The plan specifies an early retirement age of 50 but offers an immediate annuity upon separation regardless of age. The Earliest PBGC Retirement Date for a participant who, as of the plan's termination date, is age 35 is the date the participant reaches age 55, unless the PBGC determines under the facts and circumstances that the participant could retire for purposes of ERISA section 4044(a)(3)(B) on an earlier date, in which case the Earliest PBGC Retirement Date would be that earlier date. For example, if it were common for participants to retire at age 50, the PBGC could determine that the participant's Earliest PBGC Retirement Date would be the date the participant reached age 50.

(5) *''30-and-out'' benefit.* A plan's normal retirement age is age 65. The plan offers an immediate annuity upon separation regardless of age and a fully-subsidized annuity upon separation with 30 years of service. The Earliest PBGC Retirement Date for a participant who, as of the plan's termination date, is age 48 and has completed 30 years of service is the date the participant reaches age 55, unless the PBGC determines under the facts and circumstances that the participant could retire for purposes of ERISA section 4044(a)(3)(B) on an earlier date, in which case the participant's Earliest PBGC Retirement Date would be that earlier date. In this example, the PBGC generally would determine under the facts and circumstances that the participant's Earliest PBGC Retirement Date is the date the participant completed 30 years of service.

(6) *Typical airline pilots' plan.* An airline pilots' plan has a normal retirement age of 60. The plan specifies an early retirement age of 50 (with 5 years of service). The Earliest PBGC Retirement Date for a participant who, as of the plan's termination date, is age 48 and has completed five years of service would be the date the participant reaches age 55, unless the PBGC determines under the facts and circumstances that the participant could retire for purposes of ERISA section 4044(a)(3)(B) on an earlier date, in which case the participant's Earliest PBGC Retirement Date would be that earlier date. In this example, the PBGC generally would determine under the facts and circumstances that the participant's Earliest PBGC Retirement Date is the date the participant reaches age 50. If the plan instead had provided for early retirement before age 50, the PBGC would consider all the facts and circumstances (including the plan's normal retirement age and the age at which employees customarily retire in the airline industry) in determining whether to treat the date the participant reaches the plan's early retirement age as the participant's Earliest PBGC Retirement Date.

(e) *Special rule for ''window'' provisions.* For purposes of paragraphs (a), (b), and (c) of this section, the PBGC will treat a participant as being able, under plan provisions, to separate from service with the right to receive an immediate annuity on a date before the plan's termination date only if—

(1) Eligibility for that immediate annuity continues through the earlier of—

(i) The plan's termination date; or

(ii) The date the participant actually separates from service with the right to receive an immediate annuity; and

(2) The participant satisfies the conditions for eligibility for that immediate annuity on or before the plan's termination date.

8. Amend § 4022.21 as follows:

a. In paragraph (a)(2)(i), remove the words ''before the plan terminates and before the participant retired'' and add in their place the words ''on or before the plan's termination date and before the participant retired''.

b. Revise paragraph (d) to read as follows:

**§ 4022.21 Limitations; in general.**

* * * * *

(d) The PBGC will not guarantee a joint-life annuity benefit payable to other than—

(1) Natural persons; or

(2) A trust or estate for the benefit of one or more natural persons.

9. Amend § 4022.25 by revising paragraphs (c) and (d) as follows:

**§ 4022.25 Five-year phase-in of benefit guranteee for participants other than substantial owners.**

* * * * *

(c) *Computation of years.* In computing the number of years a benefit increase has been in effect, each complete 12-month period ending on or before the termination date during which such benefit increase was in effect constitutes one year.

(d) *Multiple benefit increases.* In applying the formula contained in paragraph (b) of this section, multiple benefit increases within any 12-month period ending on or before the termination date and calculated from that date are aggregated and treated as one benefit increase.

* * * * *

10. Add paragraph (d) to § 4022.81 to read as follows:

**§ 4022.81 General rules.**

* * * * *

(d) *Death of participant.*

(1) *Benefit overpayments.* If the PBGC determines that, at the time of a participant's death, there was a net overpayment to the participant—

(i) *Future annuity payments.* If the participant was entitled to future annuity payments as of the plan's termination date, the PBGC will (except as provided in paragraph (a) of this section) recoup the overpayment from the person (if any) who is receiving survivor benefits under the annuity.

(ii) *No future annuity payments.* If the participant was not entitled to future annuity benefits as of the plan's termination date, the PBGC may seek repayment of the overpayment from the participant's estate.

(2) *Benefit underpayments.* If the PBGC determines that, at the time of a participant's death, there was a net underpayment to the participant—

(i) *Future annuity payments.* If the benefit is in the form of a joint-and-survivor or other annuity under which payments may continue after the participant's death, the PBGC will pay the underpayment to the person who is receiving survivor benefits; for this purpose, if the person receiving survivor benefits is an alternate payee under a qualified domestic relations order, the PBGC will treat the benefit as if payments do not continue after the participant's death (see paragraph (d)(2)(ii) of this section).

(ii) *No future annuity payments.* If the benefit is not in the form of a joint-and-survivor or other annuity (*e.g.*, a certain-and-continuous annuity) under which payments may continue after the participant's death or although the benefit is in such a form payments do not continue after the participant's death (*i.e.*, in the case of a joint-and-survivor annuity, the person designated to receive survivor benefits predeceased the participant or, in the case of another annuity under which payments may continue after the participant's death the participant died with no payments owed for future periods), the PBGC will pay the underpayment to the person determined under the rules in §§ 4022.91 through 4022.95.

11. Add subpart F to part 4022 to read as follows:

## Subpart F—Certain Payments Owed Upon Death

Sec.

4022.91 When do these rules apply?
4022.92 What definitions do I need to know for these rules?
4022.93 Who will get benefits the PBGC may owe me at the time of my death?
4022.94 What are the PBGC's rules on designating a person to get benefits the PBGC may owe me at the time of my death?
4022.95 Examples.

### § 4022.91 When do these rules apply?

(a) *Types of benefits.* Provided the conditions in paragraphs (b) and (c) of this section are satisfied, these rules (§§ 4022.91 through 4022.95) apply to any benefits we may owe you (including benefits we owe you because your plan owed them) at the time of your death, such as a payment of a lump-sum benefit that we calculated as of your plan's termination date but have not yet paid you or a back payment to reimburse you for monthly underpayments. We may owe you benefits at the time of your death if—

(1) You are a participant in a terminated plan;

(2) You are a beneficiary (including an alternate payee) of a participant; or

(3) You are a designee or other payee (*e.g.*, a participant's next of kin) under these rules, as explained in § 4022.93.

(b) *Payments do not continue after death.* These rules apply only if payments do not continue after your death. (If payments continue after your death, we will make up any underpayment to you at the time of your death under the rule in § 4022.81(d)(2)(i) by paying it to the person who is entitled to receive those continuing payments.) Payments do not continue after your death if—

(1) Your benefit is not in the form of a joint-and-survivor or other annuity under which payments may continue after your death (*e.g.*, a certain-and-continuous annuity);

(2) Your benefit is in the form of a joint-and-survivor annuity and the person designated to receive survivor benefits died before you; or

(3) Your benefit is in the form of another type of annuity under which payments may continue after your death (*e.g.*, a certain-and-continuous annuity) but you die with no payments owed for future periods.

(c) *Time of death.* These rules apply only if you die—

(1) On or after the date we take over your plan (as trustee); or

(2) Before the date we take over your plan, to the extent that, by that date, the plan administrator has not paid all benefits owed to you at the time of your death.

(d) *Effect of plan or will.* These rules apply even if there is a contrary provision in a plan or will.

### § 4022.92 What definitions do I need to know for these rules?

You need to know three definitions from § 4001.2 of this chapter (PBGC, person, and plan) and the following definitions:

''We'' means the PBGC.

''You'' means the person to whom we may owe benefits at the time of death.

### § 4022.93 Who will get benefits the PBGC may owe me at the time of my death?

(a) *In general.* Except as provided in paragraphs (b) and (c) of this section (which explain what happens if you die before the date we take over your plan or within 180 days after the date we take over your plan), we will pay any benefits we owe you at the time of your death to the person(s) surviving you in the following order—

(1) *Designee with the PBGC.* The person(s) you designated with us to get any benefits we may owe you at the time of your death. See § 4022.94 for information on designating with us.

(2) *Spouse.* Your spouse. We will consider a person to whom you are married to be your spouse even if you and that person are separated, unless a decree of divorce or annulment has been entered in a court.

(3) *Children.* Your children and descendants of your deceased children.

(i) *Adopted children.* In determining who is a child or descendant, an adopted child is treated the same way as a natural child.

(ii) *Child dies before parent.* If one of your children dies before you, any of your grandchildren through that deceased child will equally divide that deceased child's share; if one of your grandchildren through that deceased child dies before that deceased child, any of your great-grandchildren through that deceased grandchild will equally divide that deceased grandchild's share; and so on.

(4) *Parents.* Your parents. A parent includes an adoptive parent.

(5) *Estate.* Your estate, provided your estate is open.

(6) *Next of kin.* Your next of kin in accordance with applicable state law.

(b) *Pre-trusteeship deaths.* If you die before the date we take over your plan and, by that date, the plan administrator has not paid all benefits owed to you at the time of your death, we will pay any benefits we owe you at the time of your death to the person(s) designated by or under the plan to get those benefits (provided the designation clearly applies to those benefits). If there is no such designation, we will pay those benefits to your spouse, children, parents, estate, or next of kin under the rules in paragraphs (a) (2) through (a)(6) of this section.

(c) *Deaths shortly after trusteeship.* If you die within 180 days after the date we take over your plan and you have not designated anyone with the PBGC under paragraph (a)(1) of this section, we will pay any benefits we owe you at the time of your death to the person(s) designated by or under the plan to get those benefits (provided the designation clearly applies to those benefits) before paying those benefits to your spouse, children, parents, estate, or next of kin under the rules in paragraphs (a) (2) through (a)(6) of this section.

### § 4022.94 What are the PBGC's rules on designating a person to get benefits the PBGC may owe me at the time of my death?

(a) *When you may designate.* At any time on or after the date we take over your plan, you may designate with us who will get any benefits we owe you at the time of your death.

(b) *Change of designee.* If you want to change the person(s) you designate with us, you must submit another designation to us.

(c) *If your designee dies before you.*

(1) *In general.* If the person(s) you designate with us dies before you or at the same time as you, we will treat you as not having designated anyone with us (unless you named an alternate designee who survives you). Therefore, you should keep your designation with us current.

(2) *Simultaneous deaths.* If you and a person you designated die as a result of the same event, we will treat you and that person as having died at the same time, provided you and that person die within 30 days of each other.

**§ 4022.95 Examples.**

The following examples show how the rules in §§ 4022.91 through 4022.94 apply. For examples on how these rules apply in the case of a certain-and-continuous annuity, see § 4022.104.

At the time of his death, Charlie was receiving payments under a joint-and-survivor annuity. Charlie designated Ellen to receive survivor benefits under his joint-and-survivor annuity. We underpaid Charlie for periods before his death. At the time of his death, we owed Charlie a back payment to reimburse him for those underpayments.

(a) *Example 1: where surviving beneficiary is alive at participant's death.* Ellen survived Charlie. As explained in § 4022.91(b), because Ellen is entitled to survivor benefits under the joint-and-survivor annuity, we would pay Ellen the back payment.

(b) *Example 2: where surviving beneficiary predeceases participant.* Ellen died before Charlie. As explained in §§ 4022.91(b) and 4022.93, because benefits do not continue after Charlie's death under the joint-and-survivor annuity, we would pay the back payment to the person(s) Charlie designated to receive any payments we might owe him at the time of his death. If Charlie did not designate anyone to receive those payments or his designee died before him, we would pay the back payment to the person(s) surviving Charlie in the following order: spouse, children, parents, estate and next of kin.

12. Add subpart G to part 4022 to read as follows:

## Subpart G—Certain-and-Continuous and Similar Annuity Payments Owed for Future Periods After Death

Sec.

4022.101 When do these rules apply?
4022.102 What definitions do I need to know for these rules?
4022.103 Who will get benefits if I die when payments for future periods under a certain-and-continuous or similar annuity are owed upon my death?
4022.104 Examples.

**§ 4022.101 When do these rules apply?**

(a) *In general.* These rules (§§ 4022.101 through 4022.104) apply only if you die—

(1) *Required payments for future periods.* Without having received all required payments for future periods under a form of annuity promising that, regardless of a participant's death, there will be annuity payments for a certain period of time (*e.g.*, a certain-and-continuous annuity) or until a certain amount is paid (*e.g.*, a cash-refund annuity or installment-refund annuity);

(2) *No surviving beneficiary.* Without a surviving beneficiary designated to receive the payments described in paragraph (a)(1) of this section; and

(3) *Time of death.*

(i) On or after the date we take over your plan (as trustee); or

(ii) Before the date we take over your plan, to the extent that, by that date, the plan administrator has not paid any required payments for future periods.

(b) *Effect of plan or will.* These rules apply even if there is a contrary provision in a plan or will.

(c) *Payments owed at time of death.* See §§ 4022.91 through 4022.95 for rules that apply to benefits we may owe you at the time of your death, such as a correction for monthly underpayments.

**§ 4022.102 What definitions do I need to know for these rules?**

You need to know three definitions from § 4001.2 of this chapter (PBGC, person, and plan) and the following definitions:

''We'' means the PBGC.

''You'' means the person who might die—

(1) Without having received all required payments for future periods under a form of annuity promising that, regardless of a participant's death, there will be annuity payments for a certain period of time (*e.g.*, a certain-and-continuous annuity) or until a certain amount is paid (*e.g.*, a cash-refund annuity or installment-refund annuity); and

(2) Without a surviving beneficiary designated to receive the payments described in paragraph (1) of this definition.

**§ 4022.103 Who will get benefits if I die when payments for future periods under a certain-and-continuous or similar annuity are owed upon my death?**

If you die at a time when payments are owed for future periods under a form of annuity promising that, regardless of a participant's death, there will be annuity payments for a certain period of time (*e.g.*, a certain-and-continuous annuity) or until a certain amount is paid (*e.g.*, a cash-refund annuity or installment-refund annuity), and there is no surviving beneficiary designated to receive such payments, we will pay the remaining payments to the person determined under the rules in § 4022.93.

**§ 4022.104 Examples.**

The following examples show how the rules in §§ 4022.101 through 4022.103 and 4022.91 through 4022.94 apply in the case of a certain-and-continuous annuity.

(a) *C&C annuity with no underpayment.* At the time of his death, Charlie was receiving payments (in the correct amount) under a 5-year certain-and-continuous annuity. Charlie designated Ellen to receive any payments we might owe for periods after his death (but did not designate an alternate beneficiary to receive those payments in case Ellen died before him). Charlie died with three years of payments remaining.

(1) *Example 1: where surviving beneficiary predeceases participant.* Ellen died before Charlie. As explained in §§ 4022.103 and 4022.93, we would pay the remaining three years of payments to the person(s) surviving Charlie in the following order: spouse, children, parents, estate and next of kin.

(2) *Example 2: where surviving beneficiary dies during certain period.* Ellen survived Charlie and lived another year. We pay Ellen one year of payments. As explained in §§ 4022.103 and 4022.93, we would pay the remaining two years of payments to the person Ellen designated to receive any payments we might owe for periods after Ellen's death. If Ellen did not designate anyone to receive those payments or her designee died before her, we would pay the remaining year of payments to the person(s) surviving Ellen in the following order: spouse, children, parents, estate, next of kin.

(b) *C&C annuity with underpayment.* At the time of his death, Charlie was receiving payments under a 5-year certain-and-continuous annuity. Charlie designated Ellen to receive any payments we might owe for periods after his death. We underpaid Charlie for periods before his death. At the time of his death, we owed Charlie a back payment to reimburse him for those underpayments.

(1) *Example 3: where participant dies during certain period.* Charlie died with three years of payments remaining. Ellen survived Charlie and lived at least another three years. We pay Ellen the remaining three years of payments. As explained in § 4022.91(b), because Ellen is entitled to survivor benefits under the certain-and-continuous annuity, we would pay Ellen the back payment for the underpayments to Charlie (and for any underpayments to Ellen).

(2) *Example 4: where participant and surviving beneficiary die during certain period.* Charlie died with three years of payments remaining. Ellen survived Charlie and lived another year. We paid Ellen one year of payments. Ellen designated Jean to receive any payments we might owe for periods after Ellen's death. Jean survived Ellen and lives at least another two years. We

pay Jean the remaining two years of payments. As explained in § 4022.91(b), because Jean is entitled to survivor benefits under the certain-and-continuous annuity, we would pay Jean the back payment for the underpayments to Charlie (and for any underpayments to Ellen).

(3) *Example 5: where participant dies after certain period.* Charlie died after receiving seven years of payments. As explained in §§ 4022.91(b) and 4022.93, because benefits do not continue after Charlie's death under the certain-and-continuous annuity, we would pay the back payment to the person(s) Charlie designated to receive any payments we might owe him at the time of his death in case he died after the end of certain period. If Charlie did not designate anyone to receive those payments or his designee died before him, we would pay the back payment to the person(s) surviving Charlie in the following order: spouse, children, parents, estate and next of kin.

## PART 4022B—AGGREGATE LIMITS ON GUARANTEED BENEFITS

13. The authority citation for part 4022B is added to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3), 1322B.

14. Revise § 4022B.1 to read as follows:

### § 4022B.1 Aggregate payments limitation.

(a) *Benefits with respect to two or more plans.* If a person (or persons) is entitled to benefits payable with respect to one participant in two or more plans, the aggregate benefits payable by PBGC from its funds is limited by § 4022.22 of this chapter (without regard to § 4022.22(a)). The PBGC will determine the limitation as of the date of the last plan termination.

(b) *Benefits with respect to two or more participants.* The PBGC will not aggregate the benefits payable with respect to one participant with the benefits payable with respect to any other participant (*e.g.*, if an individual is entitled to benefits both as a participant and as the spouse of a deceased participant).

## PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

15. The authority citation for Part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

### § 4044.2 [Amended]

16. In § 4044.2(b), amend the definition of *Earliest retirement age at valuation date* by removing the words ''earliest age at which the participant can retire under the terms of the plan'' and adding in their place the words ''participant's attained age as of his or her Earliest PBGC Retirement Date (as determined under § 4022.10 of this chapter)''.

17. Revise § 4044.13 to read as follows:

### § 4044.13 Priority category 3 benefits.

(a) *Definition.* The benefits in priority category 3 are those annuity benefits that were in pay status before the beginning of the 3-year period ending on the termination date, and those annuity benefits that could have been in pay status (then or as of the next payment date under the plan's rules for starting benefit payments) for participants who, before the beginning of the 3-year period ending on the termination date, had reached their Earliest PBGC Retirement Date (as determined under § 4022.10 of this chapter based on plan provisions in effect on the day before the beginning of the 3-year period ending on the termination date). Benefit increases that were effective throughout the 5-year period ending on the termination date, including automatic benefit increases during that period to the extent provided in paragraph (b)(5) of this section, shall be included in determining the priority category 3 benefit. Benefits are primarily basic-type benefits, although nonbasic-type benefits will be included if any portion of a participant's priority category 3 benefit is not guaranteeable under the provisions of subpart A of part 4022 and § 4022.21 of this chapter.

(b) *Assigning benefits.* The annuity benefit that is assigned to priority category 3 with respect to each participant is the lowest annuity that was paid or payable under the rules in paragraphs (b)(2) through (b)(6) of this section.

(1) *Eligibility of participants and beneficiaries.* A participant or beneficiary is eligible for a priority category 3 benefit if either of the following applies:

(i) The participant's (or beneficiary's) benefit was in pay status before the beginning of the 3-year period ending on the termination date.

(ii) Before the beginning of the 3-year period ending on the termination date, the participant was eligible for an annuity benefit that could have been in pay status and had reached his or her Earliest PBGC Retirement Date (as determined in § 4022.10 of this chapter, based on plan provisions in effect on the day before the beginning of the 3-year period ending on the termination date). Whether a participant was eligible to receive an annuity before the beginning of the 3-year period shall be determined using the plan provisions in effect on the day before the beginning of the 3-year period.

(iii) If a participant described in either of the preceding two paragraphs died during the 3-year period ending on the date of the plan termination and his or her beneficiary is entitled to an annuity, the beneficiary is eligible for a priority category 3 benefit.

Issued in Washington, DC, this 2nd day of April, 2002.

**Elaine L. Chao,**

*Chairman, Board of Directors, Pension Benefit Guaranty Corporation.*

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

**James J. Keightley,**

*Secretary, Board of Directors, Pension Benefit Guaranty Corporation.*

[FR Doc. 02–8340 Filed 4–5–02; 8:45 am]

BILLING CODE 7708–01–P

Federal Register

Monday,
April 8, 2002

## Part IV

# Department of Labor

### Employment and Training Administration

**Workforce Investment Act; Lower Living Standard Income Level; Notice**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Workforce Investment Act; Lower Living Standard Income Level

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of determination of lower living standard income level.

**SUMMARY:** Under Title I of the Workforce Investment Act of 1998 (Public Law 105–220), the Secretary of Labor annually determines the Lower Living Standard Income Level (LLSIL) for uses described in the Law. WIA defines the term ''Low Income Individual'' as one who qualifies under various criteria, including an individual who received income for a six-month period that does not exceed the higher of the poverty line or 70 percent of the lower living standard income level. This issuance provides the Secretary's annual LLSIL for 2002 and references the current 2002 Health and Human Services ''Poverty Guidelines.''

**EFFECTIVE DATE:** This notice is effective on April 8, 2002.

**ADDRESSES:** Send written comments to: Mr. Haskel Lowery, Employment and Training Administration, Department of Labor, Room N–4464, 200 Constitution Avenue NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Mr. Haskel Lowery, Telephone 202–693–3608; Fax 202–693–3532 (these are not toll free numbers).

**SUPPLEMENTARY INFORMATION:** It is the purpose of the Workforce Investment Act of 1998 (WIA) ''to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competiveness of the Nation.''

The LLSIL is used for several purposes under WIA: Specifically, WIA Section 101(25) defines the term ''low income individual'' for eligibility purposes, sections 127(b)(2)(C) and 132(b)(1)(IV) define the terms ''disadvantage adult,'' and ''disadvantaged youth'' in terms of the poverty line of LLSIL for purpose of State formula allotments. The Governor State/Local Workforce Investment Boards use the LLSIL for determining eligibility for youth, eligibility for employed adult workers for certain services, and for the Work Opportunity Tax Credit (WOTC), recently reauthorized until 2004. We encouraged the Governors and State/Local Workforce Investment Boards to consult WIA and its Regulations and Preamble at 29 CFR part 652 et al., for more specific guidance in applying the LLSIL to program requirements. The Department of Health and Human Services published the annual 2002 update of the poverty-level guidelines in the **Federal Register** at 67 FR 6931, (Feb. 14, 2002). The HHS 2002 Poverty guidelines may also be found on the Internet at: *http://www.aspe.hhs.gov/poverty/02poverty.htm.*

ETA plans to have the 2002 LLSIL available on its Web site at: [*http://www.wdsc.doleta.gov/llsil/llsil2002.asp*].

WIA Section 101(24) defines the LLSIL as ''that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary [of Labor] based on the most recent lower living family budget issued by the Secretary.'' The most recent lower living family budget was issued by the Secretary of Labor in the fall of 1981. The four-person urban family budget estimates, previously published by the Bureau of Labor Statistics (BLS) provided the basis for the Secretary to determine the LLSIL. BLS terminated the four-person family budget series in 1982, after publication of the fall 1981 estimates. Currently BLS provides data to ETA, from which it develops the LLSIL tables.

The Employment and Training Administration (ETA) published the 2001 updates to the LLSIL in the **Federal Register** of May 9, 2001, at 66 FR 23737. This notice again updates the LLSIL to reflect cost of living increases for 2001 by applying the percentage change in the December 2001 Consumer Price Index for All Urban Consumers (CPI–U), compared with the December 2000, CPI–U, to each of the May 9, 2001, LLSIL figures. Those updated figures for a family of four are listed in Table 1 below by region for both metropolitan and nonmetropolitan areas. Figures in all of the accompanying tables are rounded up to the nearest ten. Since ''low income individual,'' ''disadvantaged adult,'' and ''disadvantaged youth'' maybe determined by family income at 70 percent of the LLSIL, pursuant to WIA Sections, 101(25), 127(b)(2)(C) and 132(b)(1)(B)(v)(IV), respectively, those figures are listed below as well.

Jurisdictions included in the various regions, based generally on Census Divisions of the U.S. Department of Commerce, are as follows:

*Northeast*

Connecticut
Maine
Massachusetts
New Hampshire
New Jersey
New York
Pennsylvania
Rhode Island
Vermont
Virgin Islands

*Midwest*

Illinois
Indiana
Iowa
Kansas
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Ohio
South Dakota
Wisconsin

*South*

Alabama
American Samoa
Arkansas
Delaware
District of Columbia
Florida
Georgia
Northern Marinas
Oklahoma
Palau
Puerto Rico
South Carolina
Kentucky
Louisiana
Marshall Islands
Maryland
Mississippi
Micronesia
North Carolina
Tennessee
Texas
Virginia
West Virginia

*West*

Arizona
California
Colorado
Idaho
Montana
Nevada
New Mexico
Oregon
Utah
Washington
Wyoming

Additionally, separate figures have been provided for Alaska, Hawaii, and Guam as indicated in Table 2 below.

For Alaska, Hawaii, and Guam, the year 2002 figures were updated from the May 9, 2001, ''State Index'' based on the ratio of the urban change in the State (using Anchorage for Alaska and Honolulu for Hawaii and Guam) compared to the West regional metropolitan change, and then applying that index to the West regional metropolitan change.

Data on 23 selected Metropolitan Statistical Areas (MSAs) are also available. These are based on semiannual CPI–U changes for a 12 month period ending in December 2001. The updated LLSIL figures for these MSAs and 70 percent of the LLSIL are reported in Table 3 below.

Table 4 below lists each of the various figures at 70 percent of the updated 2001 LLSIL for family sizes of one to six persons. For families larger than six persons, an amount equal to the difference between the six-person and the five-person family income levels should be added to the six-person family income level for each additional person in the family. Where the poverty level for a particular family size is greater than the corresponding LLSIL figure, the figure is indicated in parentheses. Table 5, 100 percent of LLSIL, is used to determine self-sufficiency as noted at 20 CFR 663.230 of WIA Regulations and WIA section 134(d)(3)(A)(ii).

**Use of These Data**

Governors should designate the appropriate LLSILs for use within the State from Tables 1 through 3. Tables 4 and 5 may be used with any of the levels designated. The Governor's designation may be provided by disseminating information on Metropolitan Statistical Areas (MSAs) and metropolitan and nonmetropolitan areas within the State, or it may involve further calculations. For example, the State of New Jersey may have four or more LLSIL figures: Metropolitan, nonmetropolitan, for portions of the States in the New York City MSA, and for those in the Philadelphia MSA. If a workforce investment area includes areas that would be covered by more than on figure, the Governor may determine which is to be used. Under 20 CFR 661.220, a State's policies and measures for the workforce investment system shall be accepted by the Secretary to the extent that they are consistent with the WIA and the WIA regulations.

**Disclaimer on Statistical Uses**

It should be noted that the publication of these figures is only for the purpose of meeting the requirements specified by WIA as defined in the law and regulations. BLS has not revised the lower living family budget since 1981, and has no plans to do so. The four-person urban family budget estimates series has been terminated. The CPI–U adjustments used to update the LLSIL for this publication are not precisely comparable, most notably because certain tax items were included in the 1981 LLSIL, but are not in the CPI–U. Thus, these figures should not be used for any statistical purposes, and are valid only for those purposed under the WIA as defined in the law and regulations.

Signed at Washington, DC, this 2nd day of April 2002.

**Lorenzo D. Harrison,**

*Administrator, Office of Youth Services, Attachments.*

**BILLING CODE 4510–30–P**

## Table 1: Lower Living Standard Income Level (for a family of four persons) by Region[1]

| Region[2] | 2002 Adjusted LLSIL | 70 percent LLSIL |
|---|---|---|
| Northeast | | |
| Metro | $30,850 | $21,600 |
| Non-Metro[3] | $30,350 | $21,250 |
| Midwest | | |
| Metro | $28,640 | $20,050 |
| Non-Metro | $26,870 | $18,810 |
| South | | |
| Metro | $26,900 | $18,830 |
| Non-Metro | $25,380 | $17,770 |
| West | | |
| Metro | $30,990 | $21,700 |
| Non-Metro[4] | $29,980 | $20,990 |

[1]For ease of use, these figures have been rounded to the next highest ten dollars.

[2]Metropolitan area measures were calculated from the weighted average CPI-Us for city size classes A and B/C. Non-metropolitan area measures were calculated from the CPI-Us for city size class D.

[3]Nonmetropolitan area percent changes for the Northeast region are no longer available. The Non-metropolitan percent change was calculated using the U.S. average CPI-U for city size Class D.

[4]Non-metropolitan area percent changes for the West region are unpublished data.

## Table 2: Lower Living Standard Income Level (for a family of four persons) -- Alaska, Hawaii and Guam[1]

| Region | 2002 Adjusted LLSIL | 70 percent LLSIL |
|---|---|---|
| Alaska | | |
| Metro | $37,990 | $26,590 |
| Non-Metro[2] | $37,630 | $26,340 |
| Hawaii, Guam | | |
| Metro | $38,970 | $27,280 |
| NonMetro[2] | $40,180 | $28,130 |

[1]Rounded to next highest ten dollars.

[2]Non-Metropolitan percent changes for Alaska, Hawaii and Guam were calculated from the CPI-Us for city size Class D in the Western Region.

# Table 3: Lower Living Standard Income Level (for a family of four persons) 23 MSAs[1]

| Metropolitan Statistical Areas (MSAs) | 2002 Adjusted LLSIL | 70 percent LLSIL |
|---|---|---|
| Anchorage, AK | $37,990 | $26,590 |
| Atlanta, GA | $27,500 | $19,250 |
| Boston--Brockton--Nashua, MA/NH/ME/CT | $34,000 | $23,800 |
| Chicago--Gary--Kenosha, IL/IN/WI | $30,090 | $21,060 |
| Cincinnati--Hamilton, OH/KY/IN | $28,820 | $20,170 |
| Cleveland--Akron, OH | $29,910 | $20,940 |
| Dallas--Ft. Worth, TX | $26,610 | $18,630 |
| Denver--Boulder--Greeley, CO | $31,070 | $21,750 |
| Detroit--Ann Arbor--Flint, MI | $28,070 | $19,650 |
| Honolulu, HI | $38,970 | $27,280 |
| Houston--Galveston--Brazoria, TX | $25,150 | $17,610 |
| Kansas City, MO/KS | $28,150 | $19,710 |
| Los Angeles--Riverside--Orange County, CA | $31,330 | $21,930 |
| Milwaukee--Racine, WI | $28,690 | $20,080 |
| Minneapolis--St. Paul, MN/WI | $29,160 | $20,410 |
| New York--Northern NJ--Long Island, NY/NJ/CT/PA | $32,300 | $22,610 |
| Philadelphia--Wilmington--Atlantic City, PA/NJ/DE/MD | $30,050 | $21,030 |
| Pittsburgh, PA | $28,940 | $20,260 |
| St. Louis, MO/IL | $27,150 | $19,010 |
| San Diego, CA | $33,510 | $23,460 |
| San Francisco--Oakland--San Jose, CA | $33,990 | $23,790 |
| Seattle--Tacoma--Bremerton, WA | $34,300 | $24,010 |
| Washington--Baltimore, DC/MD/VA/WV[2] | $32,790 | $22,960 |

[1]Rounded to next highest ten dollars.

[2] Baltimore and Washington are now calculated as a single metropolitan statistical area.

# Table 4 - Seventy Percent of Updated 2002 Lower Living Standard Income Level (LLSIL), by Family Size

To use the seventy percent LLSIL value, where it is stipulated for WIA programs, individuals must begin by locating the region or metropolitan area where they reside. These are listed in Tables 1, 2 and 3. Individuals must locate their region or metropolitan statistical area and then find the seventy percent LLSIL amount for that location. The seventy percent LLSIL figures are listed in the last column to the right on each of the three tables. These figures apply to a family of four. Larger and smaller family eligibility is based on a percentage of the family of four. To determine eligibility for other size families consult the table below.

To use Table 4, locate the seventy percent LLSIL value that applies to the individual's region or metropolitan area from Tables 1, 2 or 3. Find the same number in the "family of four" column of Table 4. Move left or right across that row to the size that corresponds to the individual's family unit. That figure is the maximum household income the individual is permitted in order to qualify as economically disadvantaged under WIA.

Where the HHS poverty level for a particular family size is greater than the corresponding LLSIL figure, the LLSIL figure is indicated in parentheses. Individuals from these size families may consult the 2002 HHS poverty guidelines found in the Federal Register, Vol. 67, No. 31, February 14, 2002, pp. 6931-6933 (on the Internet at http://aspe.hhs.gov/poverty/02poverty.htm) to find the higher eligibility standard. Individuals from Alaska and Hawaii should consult the HHS guidelines for the generally higher poverty levels that apply in their states.

| Family of One | Family of Two | Family of Three | Family of Four | Family of Five | Family of Six |
|---|---|---|---|---|---|
| ($6,330) | ($10,380) | ($14,260) | ($17,610) | ($20,770) | $24,300 |
| ($6,390) | ($10,480) | ($14,390) | ($17,770) | ($20,960) | $24,520 |
| ($6,710) | ($11,000) | $15,100 | $18,630 | $21,990 | $25,710 |
| ($6,780) | ($11,100) | $15,240 | $18,810 | $22,200 | $25,960 |
| ($6,780) | ($11,110) | $15,260 | $18,830 | $22,220 | $25,990 |
| ($6,850) | ($11,220) | $15,400 | $19,010 | $22,440 | $26,240 |
| ($6,930) | ($11,360) | $15,600 | $19,250 | $22,720 | $26,570 |
| ($7,080) | ($11,600) | $15,920 | $19,650 | $23,190 | $27,120 |
| ($7,100) | ($11,630) | $15,970 | $19,710 | $23,260 | $27,200 |
| ($7,220) | ($11,830) | $16,250 | $20,050 | $23,660 | $27,670 |
| ($7,230) | ($11,850) | $16,270 | $20,080 | $23,700 | $27,720 |
| ($7,270) | ($11,910) | $16,340 | $20,170 | $23,810 | $27,840 |
| ($7,300) | $11,960 | $16,420 | $20,260 | $23,910 | $27,960 |
| ($7,350) | $12,050 | $16,540 | $20,410 | $24,090 | $28,170 |
| ($7,540) | $12,360 | $16,970 | $20,940 | $24,710 | $28,900 |
| ($7,560) | $12,390 | $17,010 | $20,990 | $24,770 | $28,970 |
| ($7,580) | $12,410 | $17,040 | $21,030 | $24,820 | $29,030 |
| ($7,590) | $12,430 | $17,060 | $21,060 | $24,860 | $29,070 |
| ($7,650) | $12,540 | $17,220 | $21,250 | $25,080 | $29,330 |
| ($7,780) | $12,750 | $17,500 | $21,600 | $25,490 | $29,810 |
| ($7,820) | $12,810 | $17,580 | $21,700 | $25,610 | $29,950 |
| ($7,830) | $12,840 | $17,620 | $21,750 | $25,670 | $30,020 |
| ($7,900) | $12,940 | $17,770 | $21,930 | $25,880 | $30,270 |
| ($8,140) | $13,340 | $18,320 | $22,610 | $26,680 | $31,210 |
| ($8,270) | $13,550 | $18,600 | $22,960 | $27,100 | $31,690 |
| ($8,450) | $13,850 | $19,010 | $23,460 | $27,690 | $32,380 |
| ($8,570) | $14,040 | $19,270 | $23,790 | $28,080 | $32,840 |
| ($8,570) | $14,050 | $19,280 | $23,800 | $28,090 | $32,850 |
| ($8,650) | $14,170 | $19,450 | $24,010 | $28,340 | $33,140 |
| $9,490 | $15,550 | $21,340 | $26,340 | $31,090 | $36,350 |
| $9,580 | $15,690 | $21,540 | $26,590 | $31,380 | $36,700 |
| $9,830 | $16,100 | $22,100 | $27,280 | $32,200 | $37,650 |
| $10,130 | $16,600 | $22,790 | $28,130 | $33,200 | $38,820 |

## Table 5 - Updated 2002 LLSIL (100%), By Family Size

To use the LLSIL to determine the minimum level for establishing self-sufficiency criteria at the state or local level, begin by locating the metropolitan area or region from Table 1, 2 or 3. The individual must locate their region or metropolitan statistical area and then find the 2002 Adjusted LLSIL amount for that location. These figures apply to a family of four. Locate the corresponding number in the family of four column below. Move left or right across that row to the size that corresponds to the individual's family unit. That figure is the minimum figure States must set for determining whether employment leads to self-sufficiency under WIA programs.

| Family of One | Family of Two | Family of Three | Family of Four | Family of Five | Family of Six |
|---|---|---|---|---|---|
| $9,060 | $14,840 | $20,380 | $25,150 | $29,680 | $34,710 |
| $9,140 | $14,980 | $20,560 | $25,380 | $29,950 | $35,030 |
| $9,580 | $15,700 | $21,560 | $26,610 | $31,400 | $36,730 |
| $9,680 | $15,860 | $21,770 | $26,870 | $31,710 | $37,090 |
| $9,690 | $15,880 | $21,790 | $26,900 | $31,750 | $37,130 |
| $9,780 | $16,020 | $22,000 | $27,150 | $32,040 | $37,470 |
| $9,900 | $16,230 | $22,280 | $27,500 | $32,450 | $37,950 |
| $10,110 | $16,570 | $22,740 | $28,070 | $33,130 | $38,740 |
| $10,140 | $16,610 | $22,810 | $28,150 | $33,220 | $38,850 |
| $10,320 | $16,900 | $23,200 | $28,640 | $33,800 | $39,530 |
| $10,330 | $16,930 | $23,240 | $28,690 | $33,860 | $39,600 |
| $10,380 | $17,010 | $23,350 | $28,820 | $34,010 | $39,780 |
| $10,420 | $17,080 | $23,450 | $28,940 | $34,150 | $39,940 |
| $10,500 | $17,210 | $23,620 | $29,160 | $34,410 | $40,250 |
| $10,770 | $17,650 | $24,230 | $29,910 | $35,300 | $41,280 |
| $10,800 | $17,690 | $24,290 | $29,980 | $35,380 | $41,380 |
| $10,820 | $17,730 | $24,350 | $30,050 | $35,460 | $41,470 |
| $10,840 | $17,760 | $24,380 | $30,090 | $35,510 | $41,530 |
| $10,930 | $17,910 | $24,590 | $30,350 | $35,820 | $41,890 |
| $11,110 | $18,210 | $24,990 | $30,850 | $36,410 | $42,580 |
| $11,160 | $18,290 | $25,110 | $30,990 | $36,570 | $42,770 |
| $11,190 | $18,340 | $25,170 | $31,070 | $36,670 | $42,880 |
| $11,280 | $18,490 | $25,380 | $31,330 | $36,970 | $43,240 |
| $11,630 | $19,060 | $26,170 | $32,300 | $38,120 | $44,580 |
| $11,810 | $19,350 | $26,560 | $32,790 | $38,700 | $45,260 |
| $12,070 | $19,780 | $27,150 | $33,510 | $39,550 | $46,250 |
| $12,240 | $20,060 | $27,540 | $33,990 | $40,110 | $46,910 |
| $12,240 | $20,060 | $27,540 | $34,000 | $40,120 | $46,920 |
| $12,350 | $20,240 | $27,790 | $34,300 | $40,480 | $47,340 |
| $13,550 | $22,210 | $30,490 | $37,630 | $44,410 | $51,930 |
| $13,680 | $22,420 | $30,780 | $37,990 | $44,830 | $52,430 |
| $14,030 | $23,000 | $31,570 | $38,970 | $45,990 | $53,780 |
| $14,470 | $23,710 | $32,550 | $40,180 | $47,420 | $55,450 |

[FR Doc. 02–8383 Filed 4–5–02; 8:45 am]
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**H.R. 1499/P.L. 107–157**

District of Columbia College Access Improvement Act of 2002 (Apr. 4, 2002; 116 Stat. 118)

**H.R. 2739/P.L. 107–158**

To amend Public Law 107-10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes. (Apr. 4, 2002; 116 Stat. 121)

**H.R. 3985/P.L. 107–159**

To amend the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955, to provide for binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community. (Apr. 4, 2002; 116 Stat. 122)

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| 800–End | (869–048–00044–5) | 40.00 | Jan. 1, 2002 |
| **16 Parts:** | | | |
| 0–999 | (869–048–00045–3) | 47.00 | Jan. 1, 2002 |
| *1000–End | (869–048–00046–1) | 57.00 | Jan. 1, 2002 |
| **17 Parts:** | | | |
| 1–199 | (869–044–00048–2) | 45.00 | Apr. 1, 2001 |
| 200–239 | (869–044–00049–1) | 51.00 | Apr. 1, 2001 |
| 240–End | (869–044–00050–4) | 55.00 | Apr. 1, 2001 |
| **18 Parts:** | | | |
| 1–399 | (869–044–00051–2) | 56.00 | Apr. 1, 2001 |
| 400–End | (869–044–00052–1) | 23.00 | Apr. 1, 2001 |
| **19 Parts:** | | | |
| 1–140 | (869–044–00053–9) | 54.00 | Apr. 1, 2001 |
| 141–199 | (869–044–00054–7) | 53.00 | Apr. 1, 2001 |
| 200–End | (869–044–00055–5) | 20.00 | [5]Apr. 1, 2001 |
| **20 Parts:** | | | |
| 1–399 | (869–044–00056–3) | 45.00 | Apr. 1, 2001 |
| 400–499 | (869–044–00057–1) | 57.00 | Apr. 1, 2001 |
| 500–End | (869–044–00058–0) | 57.00 | Apr. 1, 2001 |
| **21 Parts:** | | | |
| 1–99 | (869–044–00059–8) | 37.00 | Apr. 1, 2001 |
| 100–169 | (869–044–00060–1) | 44.00 | Apr. 1, 2001 |
| 170–199 | (869–044–00061–0) | 45.00 | Apr. 1, 2001 |
| 200–299 | (869–044–00062–8) | 16.00 | Apr. 1, 2001 |
| 300–499 | (869–044–00063–6) | 27.00 | Apr. 1, 2001 |
| 500–599 | (869–044–00064–4) | 44.00 | Apr. 1, 2001 |
| 600–799 | (869–044–00065–2) | 15.00 | Apr. 1, 2001 |
| 800–1299 | (869–044–00066–1) | 52.00 | Apr. 1, 2001 |
| 1300–End | (869–044–00067–9) | 20.00 | Apr. 1, 2001 |
| **22 Parts:** | | | |
| 1–299 | (869–044–00068–7) | 56.00 | Apr. 1, 2001 |
| 300–End | (869–044–00069–5) | 42.00 | Apr. 1, 2001 |
| **23** | (869–044–00070–9) | 40.00 | Apr. 1, 2001 |
| **24 Parts:** | | | |
| 0–199 | (869–044–00071–7) | 53.00 | Apr. 1, 2001 |
| 200–499 | (869–044–00072–5) | 45.00 | Apr. 1, 2001 |
| 500–699 | (869–044–00073–3) | 27.00 | Apr. 1, 2001 |
| 700–1699 | (869–044–00074–1) | 55.00 | Apr. 1, 2001 |
| 1700–End | (869–044–00075–0) | 28.00 | Apr. 1, 2001 |
| **25** | (869–044–00076–8) | 57.00 | Apr. 1, 2001 |
| **26 Parts:** | | | |
| §§ 1.0-1–1.60 | (869–044–00077–6) | 43.00 | Apr. 1, 2001 |
| §§ 1.61–1.169 | (869–044–00078–4) | 57.00 | Apr. 1, 2001 |
| §§ 1.170–1.300 | (869–044–00079–2) | 52.00 | Apr. 1, 2001 |
| §§ 1.301–1.400 | (869–044–00080–6) | 41.00 | Apr. 1, 2001 |
| §§ 1.401–1.440 | (869–044–00081–4) | 58.00 | Apr. 1, 2001 |
| §§ 1.441-1.500 | (869-044-00082-2) | 45.00 | Apr. 1, 2001 |
| §§ 1.501–1.640 | (869–044–00083–1) | 44.00 | Apr. 1, 2001 |
| §§ 1.641–1.850 | (869–044–00084–9) | 53.00 | Apr. 1, 2001 |
| §§ 1.851–1.907 | (869–044–00085–7) | 54.00 | Apr. 1, 2001 |
| §§ 1.908–1.1000 | (869–044–00086–5) | 53.00 | Apr. 1, 2001 |
| §§ 1.1001–1.1400 | (869–044–00087–3) | 55.00 | Apr. 1, 2001 |
| §§ 1.1401–End | (869–044–00088–1) | 58.00 | Apr. 1, 2001 |
| 2–29 | (869–044–00089–0) | 54.00 | Apr. 1, 2001 |
| 30–39 | (869–044–00090–3) | 37.00 | Apr. 1, 2001 |
| 40–49 | (869–044–00091–1) | 25.00 | Apr. 1, 2001 |
| 50–299 | (869–044–00092–0) | 23.00 | Apr. 1, 2001 |
| 300–499 | (869–044–00093–8) | 54.00 | Apr. 1, 2001 |
| 500–599 | (869–044–00094–6) | 12.00 | [5]Apr. 1, 2001 |
| 600–End | (869–044–00095–4) | 15.00 | Apr. 1, 2001 |
| **27 Parts:** | | | |
| 1–199 | (869–044–00096–2) | 57.00 | Apr. 1, 2001 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 200–End | (869–044–00097–1) | 26.00 | Apr. 1, 2001 |
| **28 Parts:** | | | |
| 0-42 | (869–044–00098–9) | 55.00 | July 1, 2001 |
| 43-end | (869-044-00099-7) | 50.00 | July 1, 2001 |
| **29 Parts:** | | | |
| 0–99 | (869–044–00100–4) | 45.00 | July 1, 2001 |
| 100–499 | (869–044–00101–2) | 14.00 | [6]July 1, 2001 |
| 500–899 | (869–044–00102–1) | 47.00 | [6]July 1, 2001 |
| 900–1899 | (869–044–00103–9) | 33.00 | July 1, 2001 |
| 1900–1910 (§§ 1900 to 1910.999) | (869–044–00104–7) | 55.00 | July 1, 2001 |
| 1910 (§§ 1910.1000 to end) | (869–044–00105–5) | 42.00 | July 1, 2001 |
| 1911–1925 | (869–044–00106–3) | 20.00 | [6]July 1, 2001 |
| 1926 | (869–044–00107–1) | 45.00 | July 1, 2001 |
| 1927–End | (869–044–00108–0) | 55.00 | July 1, 2001 |
| **30 Parts:** | | | |
| 1–199 | (869–044–00109–8) | 52.00 | July 1, 2001 |
| 200–699 | (869–044–00110–1) | 45.00 | July 1, 2001 |
| 700–End | (869–044–00111–7) | 53.00 | July 1, 2001 |
| **31 Parts:** | | | |
| 0–199 | (869–044–00112–8) | 32.00 | July 1, 2001 |
| 200–End | (869–044–00113–6) | 56.00 | July 1, 2001 |
| **32 Parts:** | | | |
| 1–39, Vol. I | | 15.00 | [2] July 1, 1984 |
| 1–39, Vol. II | | 19.00 | [2] July 1, 1984 |
| 1–39, Vol. III | | 18.00 | [2] July 1, 1984 |
| 1–190 | (869–044–00114–4) | 51.00 | [6]July 1, 2001 |
| 191–399 | (869–044–00115–2) | 57.00 | July 1, 2001 |
| 400–629 | (869–044–00116–8) | 35.00 | [6]July 1, 2001 |
| 630–699 | (869–044–00117–9) | 34.00 | July 1, 2001 |
| 700–799 | (869–044–00118–7) | 42.00 | July 1, 2001 |
| 800–End | (869–044–00119–5) | 44.00 | July 1, 2001 |
| **33 Parts:** | | | |
| 1–124 | (869–044–00120–9) | 45.00 | July 1, 2001 |
| 125–199 | (869–044–00121–7) | 55.00 | July 1, 2001 |
| 200–End | (869–044–00122–5) | 45.00 | July 1, 2001 |
| **34 Parts:** | | | |
| 1–299 | (869–044–00123–3) | 43.00 | July 1, 2001 |
| 300–399 | (869–044–00124–1) | 40.00 | July 1, 2001 |
| 400–End | (869–044–00125–0) | 56.00 | July 1, 2001 |
| **35** | (869–044–00126–8) | 10.00 | [6]July 1, 2001 |
| **36 Parts** | | | |
| 1–199 | (869–044–00127–6) | 34.00 | July 1, 2001 |
| 200–299 | (869–044–00128–4) | 33.00 | July 1, 2001 |
| 300–End | (869–044–00129–2) | 55.00 | July 1, 2001 |
| **37** | (869–044–00130–6) | 45.00 | July 1, 2001 |
| **38 Parts:** | | | |
| 0–17 | (869–044–00131–4) | 53.00 | July 1, 2001 |
| 18–End | (869–044–00132–2) | 55.00 | July 1, 2001 |
| **39** | (869–044–00133–1) | 37.00 | July 1, 2001 |
| **40 Parts:** | | | |
| 1–49 | (869–044–00134–9) | 54.00 | July 1, 2001 |
| 50–51 | (869–044–00135–7) | 38.00 | July 1, 2001 |
| 52 (52.01–52.1018) | (869–044–00136–5) | 50.00 | July 1, 2001 |
| 52 (52.1019–End) | (869–044–00137–3) | 55.00 | July 1, 2001 |
| 53–59 | (869–044–00138–1) | 28.00 | July 1, 2001 |
| 60 (60.1–End) | (869–044–00139–0) | 53.00 | July 1, 2001 |
| 60 (Apps) | (869–044–00140–3) | 51.00 | July 1, 2001 |
| 61–62 | (869–044–00141–1) | 35.00 | July 1, 2001 |
| 63 (63.1–63.599) | (869–044–00142–0) | 53.00 | July 1, 2001 |
| 63 (63.600–63.1199) | (869–044–00143–8) | 44.00 | July 1, 2001 |
| 63 (63.1200-End) | (869–044–00144–6) | 56.00 | July 1, 2001 |
| 64–71 | (869–044–00145–4) | 26.00 | July 1, 2001 |
| 72–80 | (869–044–00146–2) | 55.00 | July 1, 2001 |
| 81–85 | (869–044–00147–1) | 45.00 | July 1, 2001 |
| 86 (86.1–86.599–99) | (869–044–00148–9) | 52.00 | July 1, 2001 |
| 86 (86.600–1–End) | (869–044–00149–7) | 45.00 | July 1, 2001 |
| 87–99 | (869–044–00150–1) | 54.00 | July 1, 2001 |
| 100–135 | (869–044–00151–9) | 38.00 | July 1, 2001 |
| 136–149 | (869–044–00152–7) | 55.00 | July 1, 2001 |
| 150–189 | (869–044–00153–5) | 52.00 | July 1, 2001 |
| 190–259 | (869–044–00154–3) | 34.00 | July 1, 2001 |
| 260–265 | (869–044–00155–1) | 45.00 | July 1, 2001 |
| 266–299 | (869–044–00156–0) | 45.00 | July 1, 2001 |
| 300–399 | (869–044–00157–8) | 41.00 | July 1, 2001 |
| 400–424 | (869–044–00158–6) | 51.00 | July 1, 2001 |
| 425–699 | (869–044–00159–4) | 55.00 | July 1, 2001 |
| 700–789 | (869–044–00160–8) | 55.00 | July 1, 2001 |
| 790–End | (869–044–00161–6) | 44.00 | July 1, 2001 |
| **41 Chapters:** | | | |
| 1, 1–1 to 1–10 | | 13.00 | [3] July 1, 1984 |
| 1, 1–11 to Appendix, 2 (2 Reserved) | | 13.00 | [3] July 1, 1984 |
| 3–6 | | 14.00 | [3] July 1, 1984 |
| 7 | | 6.00 | [3] July 1, 1984 |
| 8 | | 4.50 | [3] July 1, 1984 |
| 9 | | 13.00 | [3] July 1, 1984 |
| 10–17 | | 9.50 | [3] July 1, 1984 |
| 18, Vol. I, Parts 1–5 | | 13.00 | [3] July 1, 1984 |
| 18, Vol. II, Parts 6–19 | | 13.00 | [3] July 1, 1984 |
| 18, Vol. III, Parts 20–52 | | 13.00 | [3] July 1, 1984 |
| 19–100 | | 13.00 | [3] July 1, 1984 |
| 1–100 | (869–044–00162–4) | 22.00 | July 1, 2001 |
| 101 | (869–044–00163–2) | 45.00 | July 1, 2001 |
| 102–200 | (869–044–00164–1) | 33.00 | July 1, 2001 |
| 201–End | (869–044–00165–9) | 24.00 | July 1, 2001 |
| **42 Parts:** | | | |
| 1–399 | (869–044–00166–7) | 51.00 | Oct. 1, 2001 |
| 400–429 | (869–044–00167–5) | 59.00 | Oct. 1, 2001 |
| 430–End | (869–044–00168–3) | 58.00 | Oct. 1, 2001 |
| **43 Parts:** | | | |
| 1–999 | (869–044–00169–1) | 45.00 | Oct. 1, 2001 |
| 1000–end | (869–044–00170–5) | 56.00 | Oct. 1, 2001 |
| **44** | (869–044–00171–3) | 45.00 | Oct. 1, 2001 |
| **45 Parts:** | | | |
| 1–199 | (869–044–00172–1) | 53.00 | Oct. 1, 2001 |
| 200–499 | (869–044–00173–0) | 31.00 | Oct. 1, 2001 |
| 500–1199 | (869–044–00174–8) | 45.00 | Oct. 1, 2001 |
| 1200–End | (869–044–00175–6) | 55.00 | Oct. 1, 2001 |
| **46 Parts:** | | | |
| 1–40 | (869–044–00176–4) | 43.00 | Oct. 1, 2001 |
| 41–69 | (869–044–00177–2) | 35.00 | Oct. 1, 2001 |
| 70–89 | (869–044–00178–1) | 13.00 | Oct. 1, 2001 |
| 90–139 | (869–044–00179–9) | 41.00 | Oct. 1, 2001 |
| 140–155 | (869–044–00180–2) | 24.00 | Oct. 1, 2001 |
| 156–165 | (869–044–00181–1) | 31.00 | Oct. 1, 2001 |
| 166–199 | (869–044–00182–9) | 42.00 | Oct. 1, 2001 |
| 200–499 | (869–044–00183–7) | 36.00 | Oct. 1, 2001 |
| 500–End | (869–044–00184–5) | 23.00 | Oct. 1, 2001 |
| **47 Parts:** | | | |
| 0–19 | (869–044–00185–3) | 55.00 | Oct. 1, 2001 |
| 20–39 | (869–044–00186–1) | 43.00 | Oct. 1, 2001 |
| 40–69 | (869–044–00187–0) | 36.00 | Oct. 1, 2001 |
| 70–79 | (869–044–00188–8) | 58.00 | Oct. 1, 2001 |
| 80–End | (869–044–00189–6) | 55.00 | Oct. 1, 2001 |
| **48 Chapters:** | | | |
| 1 (Parts 1–51) | (869–044–00190–0) | 60.00 | Oct. 1, 2001 |
| 1 (Parts 52–99) | (869–044–00191–8) | 45.00 | Oct. 1, 2001 |
| 2 (Parts 201–299) | (869–044–00192–6) | 53.00 | Oct. 1, 2001 |
| 3–6 | (869–044–00193–4) | 31.00 | Oct. 1, 2001 |
| 7–14 | (869–044–00194–2) | 51.00 | Oct. 1, 2001 |
| 15–28 | (869–044–00195–1) | 53.00 | Oct. 1, 2001 |
| 29–End | (869–044–00196–9) | 38.00 | Oct. 1, 2001 |
| **49 Parts:** | | | |
| 1–99 | (869–044–00197–7) | 55.00 | Oct. 1, 2001 |
| 100–185 | (869–044–00198–5) | 60.00 | Oct. 1, 2001 |
| 186–199 | (869–044–00199–3) | 18.00 | Oct. 1, 2001 |
| 200–399 | (869–044–00200–1) | 60.00 | Oct. 1, 2001 |
| 400–999 | (869–044–00201–9) | 58.00 | Oct. 1, 2001 |
| 1000–1199 | (869–044–00202–7) | 26.00 | Oct. 1, 2001 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 1200–End | (869–044–00203–5) | 21.00 | Oct. 1, 2001 |
| **50 Parts:** | | | |
| 1–199 | (869–044–00204–3) | 63.00 | Oct. 1, 2001 |
| 200–599 | (869–044–00205–1) | 36.00 | Oct. 1, 2001 |
| 600–End | (869–044–00206–0) | 55.00 | Oct. 1, 2001 |
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.