

of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the past sale on August 28, 2001 (the Stock Redemption), by the ESOP to the ACR Homes, Inc., the sponsoring employer (the Employer), of 3,600 shares of the Employer's class A common stock (the Shares) for \$511,250 in cash; provided that the following conditions were satisfied:

(a) The Stock Redemption was a one-time cash transaction;

(b) The ESOP received the fair market value of the Shares as determined by an independent, qualified appraiser on the date of the Stock Redemption; and

(c) The ESOP paid no commissions or other expenses associated with the Stock Redemption.

**EFFECTIVE DATE:** This exemption is effective as of August 28, 2001.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 16, 2003, at 68 FR 18686 (the notice).

#### Written Comments

The Department received one written comment (the Comment) with respect to the notice and no requests for a hearing. The Comment was filed by the attorney for the applicant. The Comment states that the chart contained in Paragraph 2 of the Summary of Facts and Representations in the notice erroneously lists the number of shares owned by Dorothy Nelson (Mrs. Nelson) before the Stock Redemption as 10,400. The correct amount owned by Mrs. Nelson before the Stock Redemption was 10,000 shares.

The Department acknowledges the applicant's correction to the notice, as stated in the Comment. Accordingly, based on the entire record, the Department has determined to grant the exemption as proposed.

**FOR FURTHER INFORMATION CONTACT:** Ekaterina A. Uzlyan of the Department at (202) 693-8540. (This is not a toll-free number.)

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his

duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed in Washington, DC, this 5th day of June, 2003.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
Department of Labor.*

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## DEPARTMENT OF LABOR

### Employment Standards Administration

#### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, 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 requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Secretary of Labors Opportunity Award, Exemplary

Voluntary Effort (EVE), and Exemplary Public Interest Contribution (EPIC) Awards. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before August 11, 2003.

**ADDRESSES:** Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0418, fax (202) 693-1451, Email [hbelle@fenix2.dol-esa.gov](mailto:hbelle@fenix2.dol-esa.gov). Please use only one method of transmission for comments (mail, fax, or Email).

#### SUPPLEMENTARY INFORMATION:

I. *Background:* The Office of Federal Contract Compliance Programs (OFCCP) is responsible for the administration of the Secretary of Labors Opportunity Award, Exemplary Voluntary Effort (EVE), and Exemplary Public Interest Contribution (EPIC) Awards. These awards are presented annually to Federal contractors and non-profit organizations whose activities support the mission of the OFCCP. The recognition of Federal contractors who are in compliance with the OFCCP regulations and who work with community and public interest organizations sends a positive message throughout the U.S. Labor Force and business community.

The Secretary of Labor's Opportunity and EVE award recipients must be Federal contractors covered by Executive Order 11246, as amended; Section 503 of the Rehabilitation Act, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act, as amended.

The Secretary of Labor's Opportunity Award is presented to one contractor each year that has established and instituted comprehensive workforce strategies to ensure equal employment opportunity. The EVE Award is given to those contractors who have demonstrated through programs or activities, exemplary and innovative efforts to create an inclusive American Workforce. The EPIC Award is presented to public interest organizations that have supported equal employment opportunity and linked their efforts with those of the Federal contractors to enhance employment opportunities for those with the least opportunity to join the workforce. Guidelines for the nomination process can be found in Administrative Notice Number 261 dated January 21, 2003.

II. *Review Focus*: The Department of Labor is particularly interested in comments which:

- 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;
- 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;
- Enhance the quality, utility and clarity of the information to be collected; and
- 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.

III. *Current Actions*: The Department of Labor seeks approval to collect this information to recognize outstanding Federal contractors and non-profit public interest organizations with exceptional equal opportunity and nondiscrimination programs that support the OFCCP mission.

*Type of Review*: New Collection.

*Agency*: Employment Standards Administration.

*Title*: Secretary of Labor's Opportunity Award, Exemplary Voluntary Effort (EVE), and Exemplary Public Interest Contribution (EPIC) Awards.

*OMB Number*: 1215-.

*Agency Number*:

*Affected Public*: Business or other for-profit, Not-for-profit institutions.

*Total Respondents/Responses*: 80.

*Total Annual responses*: 80.

*Frequency*: Annually.

*Estimated Total Burden Hours*: 95,760.

*Total Burden Cost (capital/startup)*: \$0.

*Total Burden Cost (operating/maintenance)*: \$0.

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: June 4, 2003.

**Bruce Bohanon,**

*Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.*

[FR Doc. 03-14526 Filed 6-9-03; 8:45 am]

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## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Proposed Information Collection Request Submitted for Public Comment and Recommendations; Petitions for Modification of Mandatory Safety Standards

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance 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 requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR Sections 44.9, 44.10, and 44.11; Petitions for Modification of Mandatory Safety Standards.

**DATES:** Submit comments on or before August 11, 2003.

**ADDRESSES:** Send comments to Jane Tarr, Management Analyst, Administration and Management 1100 Wilson Boulevard, Room 2171, Arlington, VA 22209-3939. Commenters are encouraged to send their comments on computer disk, or via Internet E-mail to [Tarr-Jane@Msha.Gov](mailto:Tarr-Jane@Msha.Gov). Ms. Tarr can be reached at (202) 693-9824 (voice), or (202) 693-9801 (facsimile).

**FOR FURTHER INFORMATION CONTACT:** Jane Tarr, Management Analyst, Records Management Group, U.S. Department of Labor, Mine Safety and Health Administration, Room 2171, 1100 Wilson Boulevard, Arlington, VA 22209-3939. Ms. Tarr can be reached at [Tarr-Jane@Msha.Gov](mailto:Tarr-Jane@Msha.Gov) (Internet E-mail), (202) 693-9824 (voice), or (202) 693-9801 (facsimile).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 811(c), provides that a mine operator or a representative of miners may petition the Secretary of Labor (Secretary) to modify the

application of a mandatory safety standard. A petition for modification may be granted if the Secretary determines (1) that an alternative method of achieving the results of the standard exists and that it will guarantee, at all times, no less than the same measure of protection for the miners affected as that afforded by the standard, or (2) that the application of the standard will result in a diminution of safety to the miners affected.

##### II. Desired Focus of Comments

MSHA is particularly interested in comments which:

- 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;
- 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;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA home page (<http://www.msha.gov>) and then choosing "Statutory and Regulatory Information" and "Federal Register Documents."

##### III. Current Actions

Under 30 CFR 44.9, mine operators must post a copy of each petition for modification concerning the mine on the mine's bulletin board and maintain the posting until a ruling on the petition becomes final. This applies only to mines for which there is no representative of miners.

Under 30 CFR 44.10, detailed guidance for filing a petition for modification is provided for the operator of the affected mine or any representative of the miners at that mine. The petition must be in writing, filed with the Assistant Secretary of Labor for Mine Safety and Health, and a copy of the petition served by the filing party (the mine operator or