

Labor may grant exemptions from the prohibited transaction provisions of sections 406 and 407(a) of ERISA, and directs the Secretary to establish an exemption procedure with respect to such provisions. On July 31, 1996, the Department published Prohibited Transaction Exemption 96-62, which, pursuant to the exemption procedure set forth in 29 CFR 2570, subpart B, permits a plan to seek approval on an accelerated basis of otherwise prohibited transactions. A class exemption will only be granted on the conditions that the plan demonstrate to the Department that the transaction is substantially similar to those described in at least two prior individual exemptions granted by the Department and that it presents little, if any, opportunity for abuse or risk of loss to a plan's participants and beneficiaries. This ICR is intended to provide the Department with sufficient information to support a finding that the exemption meets the statutory standards of section 408(a) of ERISA, and to provide affected parties with the opportunity to comment on the proposed transaction, while at the same time reducing the regulatory burden associated with processing individual exemptions for transactions prohibited under ERISA.

## II. Review Focus

The Department is particularly interested in comments that:

- 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 Office of Management and Budget's (OMB) approval of this ICR will expire on November 30, 2004. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. No change to the

existing ICR is proposed or made at this time.

**Agency:** Employee Benefits Security Administration.

**Title:** Prohibited Transaction Exemption 96-62; Accelerated Approval of an Otherwise Prohibited Transaction.

**Type of Review:** Extension of a currently approved collection of information.

**OMB Number:** 1210-0098.

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

**Total Respondents:** 42.

**Total Responses:** 42.

**Frequency:** On occasion.

**Estimated Total Burden Hours:** 53.

**Total Annual Costs (Operating and Maintenance):** \$43,491.

Dated: September 30, 2004.

**Gerald B. Lindrew,**

*Deputy Director, Employee Benefits Security Administration, Office of Policy and Research.*

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**BILLING CODE 4510-29-P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations Prohibited Transaction Class Exemption 81-8

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**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 other Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (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 Employee Benefits Security Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Class Exemption 81-8 on

investment of plan assets in certain types of short-term investments. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice.

**DATES:** Written comments must be submitted on or before December 6, 2004.

**ADDRESSES:** Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 693-8410; Fax (202) 693-4745. These are not toll-free numbers.

## SUPPLEMENTARY INFORMATION:

### I. Background

Prohibited Transaction Class Exemption 81-8 permits the investment of plan assets that involve the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan in certain types of short-term investments. These include investments in banker's acceptances, commercial paper, repurchase agreements, certificates of deposit, and bank securities. Absent the exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act (ERISA).

Provided that the requirements of the exemption are met, the exemption allows plans to invest in certain short term investments in debt obligations issued by certain persons who provide services to the plan or who are affiliated with such service providers that otherwise might be prohibited under sections 406 and 407(a) of ERISA. Without this exemption, these types of short term transactions might not be permitted.

In order to ensure that the exemption is not abused, that the rights of participants and beneficiaries are protected, and that the conditions of the exemption have been satisfied, the Department has included in the exemption two basic disclosure requirements. Both affect only the portion of the exemption dealing with repurchase agreements. The first requirement calls for the repurchase agreements between the seller and the plan to be in writing. The second requirement obliges the seller of such repurchase agreements to agree to provide financial statements to the plan at the time of the sale and as future statements are issued. The seller must also represent, either in the repurchase agreement or prior to the negotiation of

each repurchase agreement transaction, that there has been no material adverse change in the seller's financial condition since the date that the most recent financial statement was furnished which has not been disclosed to the plan fiduciary with whom the written agreement is made.

Without the recording and disclosure requirements included in this ICR, participants and beneficiaries of a plan would not be protected in their investments, the Department would be unable to monitor a plan's activities for compliance, and plans would be at a disadvantage in assessing the value of certain short-term investment activities.

## II. Desired Focus of Comments

The Department of Labor is particularly interested in comments that:

- 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;
- 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.

## III. Current Actions

The Office of Management and Budget's (OMB) approval of this ICR will expire on November 30, 2004. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time.

*Agency:* Department of Labor, Employee Benefits Security Administration.

*Title:* Prohibited Transaction Class Exemption 81-8 for Investment of Plan Assets in Certain Types of Short-Term Investments.

*Type of Review:* Extension of a currently approved collection of information.

*OMB Number:* 1210-0061.

*Affected Public:* Individuals or households; Business or other for-profit; Not-for-profit institutions.

*Total Respondents:* 45,969.

*Total Responses:* 229,845.

*Frequency of Response:* On occasion.

*Estimated Burden Hours:* 31,900.

*Estimated Burden Costs:* \$85,000.

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: September 30, 2004.

**Gerald B. Lindrew,**

*Deputy Director, Employee Benefits Security Administration, Office of Policy and Research.*

[FR Doc. 04-22432 Filed 10-5-04; 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; Health Standards for Diesel Particulates (Underground Metal and Nonmetal Mines)**

**ACTION:** Extension of comment period for an additional 30-day period to accommodate request for additional time.

**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 57.5060, 57.5066, 57.5070, 57.5071, and 57.5075—Health Standards for Diesel Particulates (Underground Metal and Nonmetal Mines). The notice was published on August 11, 2004 (69 FR 48897).

**DATES:** Submit comments on or before December 6, 2004

**ADDRESSES:** Send comments to Melissa Stoehr, Acting Chief, Records Management Branch, 1100 Wilson Boulevard, Room 2134, Arlington, VA 22209-3939. Commenters are encouraged to send their comments on computer disk, or via E-mail to [stoehr.melissa@dol.gov](mailto:stoehr.melissa@dol.gov). Ms. Stoehr can be reached at (202) 693-9827 (voice), or (202) 693-9801 (facsimile).

**FOR FURTHER INFORMATION CONTACT:** Contact the employee listed in the **ADDRESSES** section of this notice.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

These sections require mine operators to take certain actions to limit the concentration of diesel particulate matter (DPM) to which metal and nonmetal miners are exposed in underground areas of a mine where miners normally work or travel. If a mine has technological constraints in meeting this time requirement, then the mine operator can file a special extension application after January 19, 2006, under § 57.5060(c). Section 57.5071 requires mine operators to sample the air as often as necessary to determine that DPM concentrations do not exceed the limit. Also under this section, if a mine environment is above the DPM concentration limit, mine operators will have to take corrective actions and post the corrective actions taken. Mine operators must also provide adequate respiratory protection to overexposed miners and enroll them in a respiratory protection program until engineering and administrative controls are shown to be effective in limiting the DPM levels to the concentration limit.

Mine operators must also take certain actions to ensure that diesel-powered equipment is maintained and operated in a manner that will limit DPM exposures. Section 57.5066(b) requires mine operators to tag diesel-powered equipment at any time there is any apparent emission-related defect in the equipment.

Each time that there is an emission related problem on a diesel-powered machine and the machine is tagged, there also must be a record made of the equipment tagged. For each diesel machine that has been tagged, an examination must be conducted concerning the tagged equipment and a record must be made of the examination. Section 57.5066(c) requires operators to assure that miners performing emissions-related maintenance have adequate training or