

address one or more of the following four points:

- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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 submission of responses.

#### Overview of This Information Collection

1 *Type of Information Collection:* Revision of a currently approved collection.

2 *The Title of the Form/Collection:* National Institute of Justice Compliance Testing Program (NIJ CTP). This collection consists of eight forms: NIJ CTP Applicant Agreement; NIJ CTP Authorized Representatives Notification; NIJ CTP Body Armor Build Sheet; NIJ CTP Ballistic Body Armor Agreement; NIJ CTP Manufacturing Location Notification; NIJ CTP Multiple Listee Notification; NIJ Approved Laboratory Application and Agreement; NIJ CTP Electronic Signature Agreement.

3 *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* N/A, National Institute of Justice.

4 *Affected public who will be asked or required to respond, as well as a brief abstract:* Applicants to the NIJ Compliance Testing Program and Testing Laboratories. Other: None. The purpose of the voluntary NIJ Compliance Testing Program (CTP) is to provide confidence that equipment used for law enforcement and corrections applications meets minimum published performance requirements.

5 *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

*NIJ CTP Applicant Agreement:* Estimated 80 respondents at 1 hour each;

*NIJ CTP Authorized Representatives Notification:* Estimated 25 respondents at 15 minutes each;

*NIJ CTP Body Armor Build Sheet:* Estimated 60 respondents (estimated 150 responses) at 1 hour each;

*NIJ CTP Body Armor Agreement:* Estimated 60 respondents (estimated 150 responses) at 15 minutes each;

*NIJ CTP Manufacturing Location Notification:* Estimated 60 respondents (estimated 100 responses) at 15 minutes each;

*NIJ CTP Listee Notification:* Estimated 60 respondents at 15 minutes each;

*NIJ Approved Laboratory Application and Agreement:* Estimated 5 respondents at 1 hour each;

*NIJ CTP Electronic Signature Agreement:* Estimated 60 respondents at 10 minutes each.

6 *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this information is 328 hours in the first year and 289 hours each subsequent year.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: January 13, 2016.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2016-00877 Filed 1-15-16; 8:45 am]

**BILLING CODE 4410-18-P**

#### DEPARTMENT OF JUSTICE

[OMB Number 1140-0043]

#### Agency Information Collection Activities; Proposed eCollection eComments Requested; National Tracing Center Trace Request, ATF F 3312.1

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** Corrected 60-day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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.

**DATES:** Comments are encouraged and will be accepted for 60 days until March 21, 2016.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Larry Penninger, Jr., National Tracing Center, 244 Needy Road, Martinsburg, WV 25405, at telephone number of email: 1-800-788-7133 or [larry.penninger@atf.gov](mailto:larry.penninger@atf.gov).

**SUPPLEMENTARY INFORMATION:** 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:

- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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 submission of responses.

#### Overview of This Information Collection

1. *Type of Information Collection* (check justification or form 83):

Extension of a currently approved collection.

2. *The Title of the Form/Collection:* National Tracing Center Trace Request.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number (if applicable): ATF F 3312.1.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federal Government.

Other (if applicable): State, Local, or Tribal Government.

Abstract: The ATF Form 3312.1 is used by Federal, State, local and certain

foreign law enforcement officials to request that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) trace firearms used or suspected to have been used in crimes.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 6,103 respondents will take 6 minutes to complete the survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 34,448 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E-405B, Washington, DC 20530.

Dated: January 12, 2016.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2016-00805 Filed 1-15-16; 8:45 am]

**BILLING CODE 4410-FY-**

## **MERIT SYSTEMS PROTECTION BOARD**

### **Notice of Opportunity To File Amicus Briefs**

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Notice.

**SUMMARY:** The Merit Systems Protection Board (MSPB or the Board) announces the opportunity to file amicus briefs in the matter of *Mark Abernathy v. Department of the Army*, MSPB Docket No. DC-1221-14-0364-W-1, currently pending before the Board on petition for review. Additional information concerning the question on which the Board invites amicus briefing in *Abernathy* and the required format and length of amicus briefs can be found in the Supplementary Information below.

**DATES:** All briefs submitted in response to this notice must be received by the Clerk of the Board on or before February 9, 2016.

**ADDRESSES:** All briefs shall be captioned “*Mark Abernathy v. Department of the Army*” and entitled “Amicus Brief.” Only one copy of the brief need be submitted. The Board encourages interested parties to submit amicus briefs as attachments to electronic mail addressed to [mspb@mspb.gov](mailto:mspb@mspb.gov). An email should contain a subject line indicating

that the submission contains an amicus brief in the *Abernathy* case. Any commonly-used word processing format or PDF format is acceptable; text formats are preferable to image formats. Briefs may also be filed with William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; Fax (202) 653-7130.

**FOR FURTHER INFORMATION CONTACT:**

Molly Leckey, Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; (202) 653-7200; [mspb@mspb.gov](mailto:mspb@mspb.gov).

**SUPPLEMENTARY INFORMATION:** The administrative judge in *Abernathy* dismissed the individual right of action (IRA) appeal for lack of jurisdiction, finding that the appellant did not make a protected disclosure because, when he made the disclosure, he was neither an “employee” nor an “applicant,” but rather, a Federal contractor. Of particular relevance in *Abernathy* is the jurisdictional question of whether, under the Whistleblower Protection Act of 1989 (WPA), as amended by the Whistleblower Protection Enhancement Act of 2012 (WPEA), both the disclosure and the subject matter of the disclosure must have occurred after the individual who is seeking corrective action in an IRA appeal became an applicant or employee.

The Board believes that some ambiguity may exist in the language of the statute regarding who is covered by the WPA and WPEA. A starting point for statutory interpretation is the words of the statute itself, which must be examined to determine Congress’s intent and purpose. In construing statutes, their provisions should not be read in isolation; rather, each statute’s section should be construed in connection with every other section so as to produce a harmonious whole. *Yee v. Department of the Navy*, 121 M.S.P.R. 686 (2014). Because the WPA and WPEA are remedial legislation, the Board will interpret their provisions liberally to embrace all cases fairly within their scope, so as to effectuate the purpose of the Acts. *See Fishbein v. Department of Health & Human Services*, 102 M.S.P.R. 4 (2006). We now turn to the two statutory provisions in question.

The Board has jurisdiction over whistleblower claims filed pursuant to 5 U.S.C. 1221(a), as amended by WPEA § 101(b)(1)(A). Section 1221(a) provides that:

*an employee, former employee, or applicant for employment may, with respect to any personnel action taken, or proposed to be*

*taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302(b)(8) . . . seek corrective action from [the Board].*

5 U.S.C. § 1221(a) (emphasis added).

Section 2302(b)(8) prohibits any employee who has authority to take, direct others to take, recommend, or approve any personnel action to:

(8) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of—

(A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

(i) any violation of any law, rule, or regulation, or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

(i) any violation (other than a violation of this section) of any law, rule, or regulation, or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety[.]

5 U.S.C. § 2302(b)(8) (emphasis added).

The Board has held that, in whistleblower retaliation claims, 5 U.S.C. 1221(a) and 2302(b)(8) should be read together. *See Schmittling v. Department of the Army*, 92 M.S.P.R. 572 (2002). In construing section 1221(a) with section 2302(b)(8), it is possibly unclear if a request for corrective action under the WPA must concern only actions that occurred while the individual was an employee or applicant for employment. In other words, it is possibly uncertain whether, to constitute a disclosure “by an employee or applicant,” the disclosure of information described in section 2302(b)(8)(A), as well as the subject matter of the disclosure, must have transpired after—and not before—the individual seeking corrective action became “an employee” or “an applicant for employment.”

The U.S. Court of Appeals for the Federal Circuit (Federal Circuit) addressed this question in three nonprecedential decisions, all of which were decided before the enactment of the WPEA. *See Nasuti v. Merit Systems Protection Board*, 376 F. App’x 29 (Fed. Cir. 2010) (per curiam) (finding that an