

this section are available by appointment for public inspection or copying during regular business hours on regular business days at the office of the Executive Director. Every request for access to such records, other than published records described in §902.3, shall be signed and submitted in writing to the Executive Director, Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury, Washington, DC 20220, shall state the name and address of the person requesting such access, and shall describe such records in a manner reasonably sufficient to permit their identification without undue difficulty.

(c) *Fees.* A fee at the rate of \$5.00 per hour or fraction thereof or the time required to locate such records, plus ten cents per standard page for any copying thereof, shall be paid by any person requesting records other than published records described in §902.3. In addition, the cost of postage and any packaging and special handling shall be paid by the requester. Documents shall be provided without charge or at a reduced charge where the Chairman determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(d) *Actions on requests.* The Executive Director shall, within ten days (excepting Saturdays, Sundays and legal public holidays) from receipt of request, determine whether to comply with such request for records and shall immediately notify in writing the person making such request of such determination and the reason therefor, and of the right of such person to appeal any adverse determination, as provided in §902.5. In unusual circumstances, the time limit for the determination may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which the determination is expected to be dispatched. No such notice shall specify a date that will result in an extension of more than ten working days.

#### **§902.5 Appeal.**

(a) Any person denied access to records requested under §902.4, may

within thirty days after notification of such denial, file a signed written appeal to the Joint Board. The appeal shall provide the name and address of the appellant, the identification of the records denied, and the dates of the original request and its denial.

(b) The Joint Board shall act upon any such appeal within twenty days (excepting Saturdays, Sundays and legal public holidays) of its receipt, unless for unusual circumstances the time for such action is deferred, subject to §902.4(b), for not more than ten days. If action upon any such appeal is so deferred, the Joint Board shall notify the requester of the reasons for such deferral and the date on which the final reply is expected to be dispatched. If it is determined that the appeal from the initial denial shall be denied (in whole or in part), the requester shall be notified in writing of the denial, of the reasons therefor, of the fact the Joint Board is responsible for the denial, and of the provisions of section 552(a)(4) of title 5 of the United States Code for judicial review of the determination.

(c) Any extension or extensions of time under §§902.4(d) and 902.5(b) shall not cumulatively total more than ten days (excepting Saturdays, Sundays and legal public holidays). If an extension is invoked in connection with an initial determination under §902.4(d), any unused days of such extension may be invoked in connection with the determination on appeal under §902.5(a), by written notice from the Joint Board.

## **PART 903—ACCESS TO RECORDS**

### **Subpart A—Records Pertaining to Individuals**

Sec.

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## § 903.1

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 41 FR 1493, Jan. 8, 1976, unless otherwise noted.

### Subpart A—Records Pertaining to Individuals

#### § 903.1 Purpose and scope of regulations.

The regulations in this subpart are issued to implement the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). The regulations relate to all records maintained by the Joint Board for the Enrollment of Actuaries (Joint Board) which are identifiable by individual name or identifier and all systems of such records which are retrievable by name or other identifier. They do not relate to personnel records of Government employees, which are under the jurisdiction of the Civil Service Commission, and, thus, subject to regulations issued by such Commission. The regulations set forth the procedures by which individuals may request notification of whether the Joint Board maintains or has disclosed a record pertaining to them or may seek access to such records maintained in any non-exempt system of records, request amendment of such records, and appeal any initial adverse determination with respect to any such request.

#### § 903.2 Definitions.

(a) The term *agency* includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency (see 5 U.S.C. 552(e));

(b) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) The term *maintain* includes maintain, use, collect or disseminate;

(d) The term *record* means any item, collection, or grouping of information about an individual that is maintained by the Joint Board, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identi-

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fying number, symbol, or other identifying particular assigned to the individual such as a finger or voice print or a photograph;

(e) The term *system of records* means a group of any records under the control of the Joint Board from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(f) The term *routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

#### § 903.3 Procedures for notification with respect to records regarding individuals.

(a) *Procedures for notification.* The systems of records maintained by the Joint Board are listed annually as required by the Privacy Act of 1974. Any individual, who wishes to know whether a system of records contains a record regarding him, may write to the Executive Director, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, DC 20220. Requests may also be delivered personally to the Executive Director, Joint Board for the Enrollment of Actuaries, 2401 E Street, NW., suite 1537, Washington, D.C. between the hours of 9 a.m. and 5 p.m. on workdays. Any such inquiry will be acknowledged in writing within 10 days (excluding Saturdays, Sundays and legal public holidays) of receipt of the request.

(b) *Requests.* A request for notification of whether a record exists shall:

(1) Be made in writing and signed by the person making the request, who must be the individual about whom the record is maintained, or his duly authorized representative (see § 903.7);

(2) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a, or the regulations contained in this part;

(3) Furnish the name of the system of records with respect to which notification is sought, as specified in the systems notices published in the FEDERAL REGISTER, Volume 40, No. 167;

(4) Mark "Privacy Act Request" on the request and on the envelope in which the request is contained;

(5) Be addressed as specified in paragraph (a) of this section, unless personally delivered; and

(6) Meet the requirements set forth in paragraph (c) of this section.

(c) *Verification of identity.* Notification of the existence of records in certain systems maintained by the Joint Board will not be made unless the individual requester's identity is verified. Where applicable, requirements for verification of identity are specified in the notices of systems published in the FEDERAL REGISTER, Volume 40, No. 167.

(d) *Date of receipt of request.* A request for notification with respect to records shall be considered to have been received on the date on which the requirements of paragraphs (a), (b) and (c) of this section have been satisfied. Requests for notification shall be stamped with the date of receipt by the Office of the Executive Director.

(e) *Exemptions.* The procedures prescribed under paragraphs (a), (b) and (c) of this section shall not apply to: (1) Systems of records exempted pursuant to 5 U.S.C. 552a(k); (2) information compiled in reasonable anticipation of a civil action or proceeding (see 5 U.S.C. 552a(d) (5); or (3) information regarding an individual which is contained in, and inseparable from, another individual's record.

(f) *Notification of determination—(1) In general.* The Executive Director shall, except as otherwise provided in this paragraph, notify an individual requester as to whether or not a system of records contains a record regarding such individual. Such notification shall be made within 30 days (excluding Saturdays, Sundays and legal public holidays) after the date of receipt of the request, as determined in accordance with paragraph (d) of this section. If it is not possible to respond within 30 days, the Executive Director will inform the requester, stating the reasons for the delay (e.g., volume of records involved, need to consult other agencies, or the difficulty of the legal issues involved) and when a response will be dispatched.

(2) *Denial of request.* When it is determined that a request for notification with respect to records will be denied (whether in whole or in part or subject to conditions or exceptions), the person

making the request shall be so notified by mail in accordance with paragraph (f)(1) of this section. The letter of notification shall set forth the name and title or position of the responsible official.

(3) *Records exempt in whole or in part.*

(i) When an individual requests notification with respect to records concerning himself which have been compiled in reasonable anticipation of a civil action or proceeding either in a court or before an administrative tribunal, the Executive Director will neither confirm nor deny the existence of the record but shall advise the individual only that no record with respect to the existence of which he is entitled to be notified pursuant to the Privacy Act of 1974 has been identified.

(ii) Requests for records which have been exempted from the requirement of notification pursuant to 5 U.S.C. 552a(k)(2) shall be responded to in the manner provided in paragraph (f)(3)(i) of this section.

**§ 903.4 Procedures for access to records and accountings of disclosures from records, regarding individuals.**

(a) *Access.* The Executive Director of the Joint Board shall, upon request by any individual to gain access to a record regarding him which is contained in a system of records maintained by the Joint Board, or to an accounting of a disclosure from such record made pursuant to 5 U.S.C. 552a(c)(1), permit that individual, and, upon his/her request, a person he/she chooses to accompany him/her, to review the record or any such accounting and have a copy made of all or any portion thereof in a form comprehensible to the individual, except that the Executive Director may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence. Such request may be addressed to the Executive Director, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, DC 20220. Requests may also be delivered personally to the Executive Director, Joint Board for the Enrollment of Actuaries, 2401 E Street, NW., suite 1537, Washington,

DC, between the hours of 9 a.m. and 5 p.m. on workdays. Any such inquiry will be acknowledged in writing within 10 days (excluding Saturdays, Sundays and legal public holidays) of receipt of the request (see paragraph (e) of this section).

(b) *Requests.* A request for access to records or accountings of disclosure from records, shall:

(1) Be signed in writing by the person making the request, who must be the individual about whom the record is maintained, or his duly authorized representative (see § 903.7);

(2) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a, or the regulations contained in this part;

(3) Furnish the name of the system of records to which access is sought, or the name of the system for a disclosure from which an accounting is sought, as specified in the systems notices published in the FEDERAL REGISTER, Volume 40, No. 167;

(4) Mark “Privacy Act Request” on the request and on the envelope in which the request is contained;

(5) Be addressed as specified in paragraph (a) of this section, unless personally delivered;

(6) State whether the requester wishes to inspect the records and/or accountings of disclosures therefrom, or desires to have a copy made and furnished without inspecting them;

(7) State, if the requester desires to have a copy made, the requester’s agreement to pay the fees for duplication as ultimately determined in accordance with § 903.6; and

(8) Meet the requirements set forth in paragraph (c) of this section.

(c) *Verification of identity.* Access to records contained in certain systems maintained by the Joint Board and/or accountings of disclosures from such records, will not be granted unless the individual requester’s identity is verified. Where applicable, requirements for verification of identity are specified in the notices of systems published in the FEDERAL REGISTER, Volume 40, No. 167.

(d) *Exemptions.* The procedures specified in paragraphs (a), (b) and (c) of this section shall not apply to: (1) Systems of records exempted pursuant to 5 U.S.C. 552a(k); (2) information com-

piled in reasonable anticipation of a civil action or proceeding (see 5 U.S.C. 552a(d)(5)); or (3) information regarding an individual which is contained in, and inseparable from, another individual’s record.

(e) *Date of receipt of request.* A request for access to records and/or accountings shall be considered to have been received on the date on which the requirements of paragraphs (a), (b) and (c) of this section have been satisfied. Requests for access, and any separate agreement to pay, shall be stamped with the date of receipt by the Office of the Executive Director. The latest of such stamped dates will be deemed to be the date of receipt of the request.

(f) *Notification of determination.*—(1) *In general.* Notification of determinations as to whether to grant access to records and/or accountings requested will be made by the Executive Director of the Joint Board. The notification of the determination shall be made within 30 days (excluding Saturdays, Sundays and legal public holidays) after the date of receipt of the request, as determined in accordance with paragraph (g) of this section. If it is not possible to respond within 30 days, the Executive Director will inform the requester, stating the reason(s) for the delay (e.g., volume of records requested, need to consult other agencies, or the difficulty of the legal issues involved) and when a response will be dispatched (See 5 U.S.C. 552a (d) and (f)).

(2) *Granting of access.* (i) When it has been determined that the request for access will be granted—(A) and a copy requested; such copy in a form comprehensible to him shall be furnished promptly, together with a statement of the applicable fees for duplication as set forth elsewhere in these regulations (See § 903.6); and (B) and the right to inspect has been requested, the requester shall be promptly notified in writing of the determination, and when and where the requested records and/or accountings may be inspected.

(ii) An individual seeking to inspect records concerning himself and/or accountings of disclosure from such records may be accompanied by another individual of his own choosing. The individual seeking access shall be

required to sign the required form indicating that the Joint Board is authorized to discuss the contents of the subject record in the accompanying person's presence. If, after making the inspection, the individual making the request desires a copy of all or portion of the requested records, such copy in a form comprehensible to him shall be furnished upon payment of the applicable fees for duplication as prescribed by § 903.6. Fees shall not be charged where they would amount, in the aggregate, to less than \$53.00. (See 5 U.S.C. 552a (d) and (f):

(3) *Denial of request.* (i) When it is determined that the request for access to records will be denied (whether in whole or in part or subject to conditions or exceptions), the person making the request shall be so notified by mail in accordance with paragraph (f)(1) of this section. The letter of notification shall contain a statement of the reasons for not granting the request as made, set forth the name and title or position of the responsible official and advise the individual making the request of the right to file suit in accordance with 5 U.S.C. 552a(g)(1)(B).

(ii) When it is determined that a request for access to accountings will be denied, the person making the request shall be so notified by mail in accordance with paragraph (f)(1)(4)(iii) of this section.

(4) *Records exempt in whole or in part.*

(i) When an individual requests records concerning himself which have been compiled in reasonable anticipation of a civil action or proceeding either in a court or before an administrative tribunal, the Executive Director will neither confirm nor deny the existence of the record but shall advise the individual only that no record available to him pursuant to the Privacy Act of 1974 has been identified.

(ii) Requests for records which have been exempted from disclosure pursuant to 5 U.S.C. 552a(k)(2) shall be responded to in the manner provided in paragraph (f)(4)(i) of this section unless a review of the information indicates that the information has been used or is being used to deny the individual any right, privilege or benefit for which he is eligible or to which he would otherwise be entitled under Fed-

eral law. In that event, the individual shall be advised of the existence of the information but such information as would identify a confidential source shall be extracted or summarized in a manner which protects the source to the maximum degree possible and the summary extract shall be provided to the requesting individual.

(iii) When an individual requests access to accountings of disclosure from records concerning himself which have been compiled in reasonable anticipation of a civil action or proceeding, either in a court or before an administrative tribunal, or which have been exempted from disclosure pursuant to 5 U.S.C. 552a(k)(2), the Executive Director will neither confirm nor deny the existence of the record or accountings of disclosure therefrom, but shall advise the individual that no accounting available to him pursuant to the Privacy Act of 1974 has been identified.

**§ 903.5 Procedures for amendment of records regarding individual—format, agency review and appeal from initial adverse agency determination.**

(a) *In general.* Subject to the application of exemptions promulgated by the Joint Board, in accordance with 5 U.S.C. 552a(k), the Executive Director shall, in conformance with 5 U.S.C. 552a(d)(2), permit an individual to request amendment of a record pertaining to him. Any such request shall be addressed to the Executive Director, Joint Board for the Enrollment of Actuaries, U.S. Department of the Treasury, Washington, DC 20220 or delivered personally to the Executive Director, Joint Board for the Enrollment of Actuaries, 2401 E Street, NW., suite 1537, Washington, DC. Any request for amendment of records or any appeal from the initial denial of a request which does not fully comply with the requirements of this section will not be deemed subject to the time constraints of paragraph (e) of this section, unless and until amended so as to comply. However, the Executive Director shall forthwith advise the requester in what respect the request or appeal is deficient so that it may be resubmitted or amended. (See 5 U.S.C. 552a (d) and (f)).

(b) *Form of request to amend records.* In order to be subject to the provisions of

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this section, a request to amend records shall:

(1) Be made in writing and signed by the person making the request, who must be the individual about whom the record is maintained, or his duly authorized representative. (See § 903.7);

(2) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a or these regulations;

(3) Mark “Privacy Act Amendment Request” on the request and on the envelope; and

(4) Reasonably describe the records which the individual desires to have amended, including, to the best of the requester’s knowledge, dates of letters requesting access to such records previously and dates of letters in which notification concerning access was made, if any, and the individual’s documentation justifying the correction. (See 5 U.S.C. 552a (d) and (f)).

(c) *Date of receipt of request.* A request for amendment of records pertaining to an individual shall be deemed to have been received for purposes of this subpart when the requirements of paragraphs (a) and (b) of this section have been satisfied. The Office of the Executive Director shall stamp the date of receipt of the request thereon. (See 5 U.S.C. 552a (d) and (f)).

(d) *Review of requests to amend records.* The Executive Director shall:

(1) Not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(2) Promptly, either—(i) make any correction of any portion of a record which the individual believes and the Executive Director agrees is not accurate, relevant, timely, or complete; or (ii) inform the individual of the refusal to amend the record in accordance with his request, the reason for the refusal, and that he may request that the Joint Board review such refusal. (See 5 U.S.C. 552a (d) and (f)).

(e) *Administrative appeal—(1) In general.* The Joint Board shall permit individuals to request a review of initial decisions made under paragraph (d) of this section when an individual disagrees with a refusal to amend his record. (See 5 U.S.C. 552a(d), and (g)(1)).

(2) *Form of request for administrative review of refusal to amend record.* At any time within 35 days after the date of the notification of the initial decision described in paragraph (d)(2)(ii) of this section, the requester may submit a request for review of such refusal to the official specified in the notification of the initial decision. The appeal shall:

(i) Be made in writing stating any arguments in support thereof and be signed by the person to whom the record pertains, or his duly authorized representative (See § 903.7);

(ii) Within 35 days of the date of the initial decision: (A) Be addressed and mailed to the Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, DC 20220; or (B) be personally delivered to the Executive Director, Joint Board for the Enrollment of Actuaries, 2401 E Street NW., suite 1537, Washington, DC on workdays between the hours of 9 a.m. and 5 p.m.;

(iii) Have clearly marked on the appeal and on the envelope, “Privacy Act Amendment Appeal”;

(iv) Reasonably describe the records requested to be amended; and

(v) Specify the date of the initial request to amend records, and the date of the letter giving notification that the request was denied. (See 5 U.S.C. 552a (d) and (f)).

(3) *Date of Receipt.* Appeals shall be promptly stamped with the date of their receipt by the Office of the Executive Director and such stamped date will be deemed to be the date of receipt for all purposes of this section. The receipt of the appeal shall be acknowledged within 10 days from the date of receipt (unless the determination on appeal is dispatched in 10 days, in which case, no acknowledgment is required) by the Joint Board and the requester is advised of the date of receipt established by the foregoing and when a response is due in accordance with this paragraph. (See 5 U.S.C. 552a (d) and (f)).

(4) *Review of administrative appeals from denial of requests to amend records.* The Joint Board shall complete the review and notify the requester of the final agency decision within 30 days (exclusive of Saturdays, Sundays and legal public holidays) after the date of

receipt of such appeal, unless it extends the time for good cause shown. If such final agency decision is to refuse to amend the record, in whole or in part, the requester shall also be advised of his right; (i) to file a concise "Statement of Disagreement" setting forth the reasons for his disagreement with the decision which shall be filed within 35 days of the date of the notification of the final agency decision and (ii) to seek judicial review of the final agency decision under 5 U.S.C. 552a(g)(1)(A). (See 5 U.S.C. 552a (d), (f) and (g)(1)).

(5) *Notation on record and distribution of statements of disagreement.* (i) The Executive Director is responsible, in any disclosure containing information about which an individual has filed a "Statement of Disagreement," occurring after the filing of the statement under paragraph (e)(4) of this section, for clearly noting any portion of the record which is disputed and providing copies of the statement and, if deemed appropriate, a concise statement of the Joint Board's reasons for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed. (See 5 U.S.C. 552a(d)(4)).

(ii) In addition, when a "Statement of Disagreement" is filed regarding information previously disclosed to a person or other agency and when, for such disclosure, an accounting was made pursuant to 5 U.S.C. 552(c)(1), then the Executive Director shall provide such person or other agency with the following:

(A) Copy of the "Statement of Disagreement";

(B) Copy of the portion of the previously disclosed in dispute clearly noted as disputed and;

(C) If deemed appropriate, a concise statement of the Joint Board's reasons for not making requested amendments.

(f) *Records not subject to correction.* The following records are not subject to correction or amendment by individuals:

(1) Transcripts or written statements made under oath;

(2) Transcripts of Grand Jury proceedings, judicial or quasi-judicial proceedings which form the official record of those proceedings;

(3) Pre-sentence reports comprising the property of the courts but maintained in agency files;

(4) Records pertaining to the determination, the collection and the payment of federal taxes; and

(5) Records duly exempted from correction by notice published in the FEDERAL REGISTER.

[41 FR 1493, Jan. 8, 1976, as amended at 45 FR 84994, Dec. 24, 1980]

### § 903.6 Fees.

Charges for copies of records made pursuant to part 903 of this chapter will be at the rate of \$0.10 per copy. For records not susceptible to photocopying, e.g., over-size materials, photographs, etc., the amount charged will be the actual cost of copying. Only one copy of each record requested will be provided. No charge will be made unless the charge as computed above would exceed \$3 for each request or related series of requests. If a fee in excess of \$25 is required, the requester will be notified that the fee must be tendered before the records will be copied.

### § 903.7 Guardianship.

The guardian of a person judicially determined to be incompetent shall, in addition to establishing the identity of the person he represents, establish his own guardianship by furnishing a copy of a court order establishing the guardianship and may thereafter act on behalf of such individual. (See 5 U.S.C. 552a(h)).

### § 903.8 Exemptions.

(a) *Names of systems:* JBEA-2, Enrolled Actuary Disciplinary Records; and JBEA-4, Enrolled Actuary Enrollment Records.

(b) *Provisions from which exempted:* These systems contain records described in section (k)(2) of the Privacy Act of 1974, 5 U.S.C. 552a(k)(2). Exemptions are claimed for such records only where appropriate from the following provisions: sections (c)(3); (d); (e)(1); (e)(4)(G), (e)(4)(H), and (e)(4)(I); and (f) of 5 U.S.C. 552a.

(c) *Reasons for claimed exemptions:* (1) The Privacy Act of 1974 creates several methods by which individuals may learn of and obtain records containing

information on such individuals and consisting of investigatory material compiled for law enforcement purposes. These methods are as follows: Subsection (c)(3) allows individuals to discover if other agencies are investigating such individuals; subsections (d)(1), (e)(4)(H) and (f)(2), (3) and (5) establish the ability of individuals to gain access to investigatory material compiled on such individuals; subsections (d)(2), (3) and (4), (e)(4)(H) and (f)(4) presuppose access and enable individuals to contest the contents of investigatory material compiled on these individuals; and subsections (e)(4)(G) and (f)(1) allow individuals to determine whether or not they are under investigation. Because these subsections are variations upon the individual's ability to ascertain whether his civil or criminal misconduct has been discovered, these subsections have been grouped together for purposes of this notice.

(2)(i) The Joint Board believes that imposition of the requirements of subsection (c)(3), which requires that accountings of disclosures be made available to individuals, would impair the ability of the Joint Board and other investigative entities to conduct investigations of alleged or suspected violations of the regulations governing the performance of actuarial services with respect to plans to which the Employee Retirement Income Security Act (ERISA) applies, and of civil or criminal laws. Making the accountings of disclosures available to individuals enables such individuals to identify entities investigating them and thereby to determine the nature of the violations of which they are suspected. With such knowledge, individuals would be able to alter their illegal activities, destroy or alter evidence of such activities and seriously impair the successful completion of investigations. For these reasons, the Joint Board claims exemption from the requirements of subsection (c)(3) of the Act.

(ii) With respect to subsections (d)(1), (e)(4)(H), and (f)(2), (3) and (5), the Joint Board believes that access to investigatory material would prevent the successful completion of investigations. Individuals who gain access to investigatory material involving them

discover the nature and extent of the violations of regulations, and of civil and criminal laws, of which they are suspected. By gaining access, such individuals also learn the facts developed during investigations. Knowledge of these matters enables these individuals to destroy or alter evidence which would otherwise have been used against them. In addition, knowledge of the facts and suspected violations gives individuals, who are committing ongoing violations, or who are about to commit violations of regulations, or of civil or criminal laws, the opportunity to temporarily postpone the commission of the violations or to effectively disguise the commission of these violations. Material compiled on investigated individuals reveals investigative techniques and procedures, disclosure of which enables such individuals to structure their illegal activities so as to escape detection. Further, such material may contain, or by its very nature reveal, the identity of confidential sources. When the identities of confidential sources are revealed, they may be subjected to various forms of reprisal. If confidential sources of information are subjected to actual reprisals or fear thereof, they may become reluctant to provide information necessary to identify or prove the guilt of persons who violate regulations, or civil or criminal laws. Further, the protections afforded by the above-referenced subsections are unnecessary because the Joint Board may not deny enrollment or suspend or terminate the enrollment of an individual to perform actuarial services until it has provided such individual with due process safeguards. For these reasons, the Joint Board claims exemptions from the requirements of subsections (d)(1), (e)(4)(H), and (f)(2), (3), and (5) of the Act.

(iii) With respect to subsections (d)(2), (3) and (4), (e)(4)(H), and (f)(4), the Joint Board believes that the imposition of these requirements, which presuppose access and provide for amending records, would impair the ability to conduct investigations and would be unnecessary for the same reasons stated in the preceding subsection (2)(ii). These reasons herein are incorporated by reference. Therefore, the Joint



Board claims exemptions from the requirements of subsections (d)(2), (3), and (4), (e)(4)(H), and (f)(4).

(iv) With respect to subsections (e)(4)(G) and (f)(1), the Joint Board believes that informing individuals that they are the subjects of a particular system or systems of records would impair the ability of the Joint Board and its agents to successfully complete investigations of suspected or alleged violators of the regulations governing the performance of actuarial services with respect to plans to which ERISA applies. Individuals who learn that they are suspected of violating said regulations are given the opportunity to destroy or alter evidence needed to prove the alleged violations. Such individuals may also be able to impair investigations by temporarily suspending or restructuring the activities which place them in violation of said regulations. Further, as noted in the preceding subsection (2)(ii) and incorporated by reference herein, the procedural requirements imposed on the Joint Board by ERISA make the protections afforded by subsections (e)(4)(G) and (f)(1) unnecessary. For these reasons, the Joint Board claims exemptions from the requirements of subsections (e)(4)(G) and (f)(1).

(v) Subsection (e)(1) of the Privacy Act of 1974 requires that the Joint Board maintain in its records only information that is relevant and necessary to accomplish a purpose of the Office required to be accomplished by statute or by executive order of the President. The Joint Board believes that imposition of said requirement would seriously impair its ability, and the abilities of its agents and other in-

vestigative entities to effectively investigate suspected or alleged violations of regulations and of civil or criminal laws. The Joint Board does not initiate inquiries into individuals' conduct unless it receives information evidencing violation by such individuals of the regulations governing performance of actuarial services with respect to plans to which ERISA applies. Sources of such information may be unfamiliar with the Joint Board's interpretations of said regulations and, therefore, may not always provide only relevant and necessary information. Therefore, it may often be impossible to determine whether or not information is relevant and necessary. For these reasons, the Joint Board claims exemption from the requirements of subsection (e)(1).

(vi) Subsection (e)(4)(I) of the Privacy Act of 1974 requires the publication of the categories of sources of records in each system of records. The Joint Board believes that imposition of said requirement would seriously impair its ability to obtain information from such sources for the following reasons. Revealing such categories of sources could disclose investigative techniques and procedures and could cause sources to decline to provide information because of fear of reprisal, or fear of breaches of promises of confidentiality. For these reasons, the Joint Board claims exemption from the requirements of subsection (e)(4)(I).

[41 FR 1493, Jan. 8, 1976, as amended at 75 FR 81455, Dec. 28, 2010]

**PARTS 904-999 [RESERVED]**