

director with the most votes will be the representative.

(b) *Method of transmission.* The Commissioner may distribute the ballots relating to the election under this part by electronic mail or other methods the Commissioner determines to be appropriate and may specify the methods through which votes are to be cast.

(c) *Vacancies.* If a representative does not complete the term, the Commissioner shall conduct an election to elect a replacement for the remainder of the term using the procedures described in paragraph (a) and (b) of this section.

## PART 70—PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

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APPENDIX A TO PART 70—DISCLOSURE OFFICERS

APPENDIX B TO PART 70 [RESERVED]

AUTHORITY: 5 U.S.C. 301, 5 U.S.C. 552, as amended; Reorganization Plan No. 6 of 1950, 5 U.S.C. Appendix; E.O. 12600, 52 FR 23781, 3 CFR, 1988 Comp., p. 235.

SOURCE: 71 FR 30763, May 30, 2006, unless otherwise noted.

### Subpart A—General

#### § 70.1 Purpose and scope.

This part contains the regulations of the Department of Labor implementing the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552 and Executive Order 12600. It also implements the public information provisions of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 435, the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1026 (106), and the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 11. Subpart A contains general information about Department of Labor policies and procedures; subpart B sets forth the procedures for obtaining access to records of the Department; subpart C contains the Department's regulations on fees; and subpart D sets forth the procedures for obtaining access to certain public records. Appendix A contains a list of all Department of Labor disclosure officers from whom records may be obtained.

#### § 70.2 Definitions.

As used in this part:

(a) The terms *agency*, *person*, *party*, *rule*, *order*, and *adjudication* have the meaning attributed to these terms by the definitions in 5 U.S.C. 551.

(b) *Component* means each separate bureau, office, board, division, commission, service or administration of the Department of Labor.

(c) *Disclosure officer* means an official of a component who has authority to disclose or withhold records under the FOIA and to whom requests to inspect or copy records in his/her custody

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should be addressed. Department of Labor disclosure officers are listed in Appendix A to this part.

(d) *The Secretary* means the Secretary of Labor.

(e) *The Department* means the Department of Labor.

(f) *Request* means any written request for records made pursuant to 5 U.S.C. 552(a)(3) and which meets the requirements of this Part.

(g) *Requester* means any person who makes a request.

(h) *Record* means information in any format, including electronic format.

(i) *Search* means to seek, manually or by automated means, Department records for the purpose of locating records in response to a request.

(j) *Business information* means commercial or financial information received or obtained by the Department from a submitter, directly or indirectly, that arguably may be protected from disclosure under Exemption 4 of the FOIA.

(k) *Submitter* means any person or entity from whom the Department receives or obtains commercial or financial information, directly or indirectly. The term submitter includes, but is not limited to corporations, labor organizations, non-profit organizations, and local, state, tribal and foreign governments.

### § 70.3 Policy.

All agency records, except those exempt from mandatory disclosure by one or more provisions of 5 U.S.C. 552(b), will be made promptly available to any person submitting a written request in accordance with the procedures of this part.

### § 70.4 Public reading rooms.

(a) To the extent required by 5 U.S.C. 552(a)(2), each component within the Department will make the materials listed in this section available for public inspection and copying (unless they are published and copies are offered for sale):

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted

by the agency and are not published in the FEDERAL REGISTER;

(3) Administrative staff manuals and instructions to staff that affect a member of the public except to the extent that such records or portions thereof are exempt from disclosure under section 552(b) of the FOIA; and

(4) Copies of all records, regardless of form or format, which have been released to any person under 5 U.S.C. 552(a)(3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

(5) A general index of the records referred to in paragraph (a) (4) of this section.

(b) Each component of the Department will maintain and make available, including through the Department's Internet/World Wide Web site [<http://www.dol.gov>], current indexes providing identifying information regarding any matter issued, adopted or promulgated after July 4, 1967, and required by paragraph (a) of this section to be made available or published. Each component will publish and make available for distribution copies of such indexes and their supplements at least quarterly, unless it determines by Notice published in the FEDERAL REGISTER that publication would be unnecessary and impracticable. After issuance of such Notice, the component will provide copies of any index upon request at a cost not to exceed the direct cost of duplication.

(c) A component may exclude information from records made available to the public pursuant to paragraphs (a)(1), (a)(2) and (a)(3) of this section where release of such information would constitute a clearly unwarranted invasion of privacy and may also exclude identifying details from records made available to the public pursuant to paragraph (a)(4) of this section when disclosure would be harmful to an interest protected by an exemption. When making a deletion for such purposes, the component will explain the reason for the deletion. Also, a component will describe the extent of the deletion and must, if technically feasible,

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identify the exact location where the deletion was made.

(d) Records described in this section are available for examination or copying without the submission of a formal FOIA request. All records covered by this section are available through public reading rooms, and, to the extent indicated in this paragraph, through the Department's Internet/World Wide Web site [<http://www.dol.gov>].

(1) Some components have public reading rooms only in Washington, DC, while other components provide reading rooms in area, district or regional offices throughout the United States. A disclosure officer in the appropriate component listed in Appendix A to this part should be contacted to find out where the public reading room is located. If the appropriate component is unknown, inquiries can be directed to the Office of the Solicitor, Division of Management and Administrative Legal Services, 200 Constitution Avenue, NW., Room N-2428, Washington, DC 20210. Fees for reproduction of records in public reading rooms are charged consistent with § 70.40.

(2) To the extent feasible, components are required to place copies of any records covered by this section and which were created on or after November 1, 1996 on the Internet/World Wide Web. In particular, when records are required to be made available to the public pursuant to the requirements of paragraph (a)(4) of this section, the component will also place on the Internet/World Wide Web, if technically feasible, any records that are released in the response to a FOIA decision. The Department's Internet home page may be searched to obtain these documents. The Department will make available to the public by electronic or other appropriate media any documents covered by this section that cannot be feasibly placed on the Internet/World Wide Web.

### § 70.5 Compilation of new records.

Nothing in 5 U.S.C. 552 or this part requires that any agency or component create a new record in order to respond to a request for records. A component must, however, make reasonable efforts to search for records that already exist in electronic form or format, except when such efforts would signifi-

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cantly interfere with the operation of the component's automated information systems. The component will determine what constitutes a reasonable effort on a case-by-case basis.

### § 70.6 Disclosure of originals.

(a) No original record or file in the custody of the Department of Labor, or of any component or official thereof, will on any occasion be given to any agent, attorney, or other person not officially connected with the Department without the written consent of the Secretary, the Solicitor of Labor or the Inspector General.

(b) The individual authorizing the release of the original record or file must ensure that a copy of the document or file is retained in the component that had custody and/or control when an original document or file is released pursuant to this subpart.

### §§ 70.7-70.18 [Reserved]

## Subpart B—Procedures for Disclosure of Records Under the Freedom of Information Act

### § 70.19 Requests for records.

(a) *How to make a request.* Requests under this subpart for a record of the Department of Labor must be written and received by mail, delivery service/courier, facsimile or e-mail.

(b) *To whom to direct requests.* A request should be sent to the appropriate official/officer for the component that maintains the records at its proper address. The request as well as the envelope itself should be clearly marked "Freedom of Information Act Request." If the request is made by e-mail, it must be sent to [foiarequest@dol.gov](mailto:foiarequest@dol.gov). Requests submitted to any other e-mail address will not be accepted as a request made under this Part.

(1) The functions of each major Department of Labor component are summarized in the United States Government Manual which is issued annually. The manual is available in print from the Superintendent of Documents, Washington, DC 20402-9328, and electronically at the Government Printing Office's World Wide Web site, [http://www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs). Appendix

A of this part lists the disclosure officers of each component by title and address. This initial list has been included for information purposes only, and the disclosure officers may be changed through appropriate designation. Regional, district and field office addresses have been included in Appendix A to this part to assist requesters in identifying the disclosure officer who is most likely to have custody of the records sought.

(2) Requesters who cannot determine the proper disclosure officer to whom the request should be addressed may direct the request to the Office of the Solicitor, Division of Management and Administrative Legal Services, 200 Constitution Avenue, NW., Room N-2428, Washington, DC 20210 or by e-mail to [foiarequest@dol.gov](mailto:foiarequest@dol.gov). Note, pursuant to § 70.25(a), the time for the component to respond to a request begins to run when the request is received by the proper disclosure officer.

(c) *Description of information requested.* Each request must reasonably describe the record or records sought. The descriptions must be sufficiently detailed to permit the identification and location of the requested records with a reasonable amount of effort. So far as practicable, the request should specify the subject of the record, the date or approximate date when made, the place where made, the person or office that created it, and any other pertinent identifying details.

(d) *Deficient descriptions.* If the description is insufficient, so that a knowledgeable employee who is familiar with the subject area of the request cannot locate the record with a reasonable amount of effort, the component processing the request should notify the requester and describe what additional information is needed to process the request. Every reasonable effort will be made to assist a requester in the identification and location of the record or records sought. Any amended request must be confirmed in writing and meet the requirements for a request under this Part.

(e) *Agreement to pay fees.* The filing of a request under this subpart will be deemed to constitute an agreement by the requester to pay all applicable fees charged under this part, up to \$25.

#### § 70.20 Responsibility for responding to requests.

(a) *In general.* Except as stated in paragraph (b) of this section, the disclosure officer who receives a request for a record and has possession of that record is the disclosure officer responsible for responding to the request. When it is determined that records responsive to a request may be located in multiple components of the Department, the Office of the Solicitor, Division of Management and Administrative Legal Services, will provide any necessary coordination of the Department's response. If the Office of the Solicitor deems a consolidated response appropriate, it will issue such a response on behalf of the Department.

(b) *Consultations and referrals.* When a disclosure officer receives a request for a record, the disclosure officer will determine whether another disclosure officer of the component, the Department, or of the Federal Government, is better able to determine whether the record can be disclosed or is exempt from disclosure under the FOIA. If the receiving disclosure officer determines that he or she is not best able to process the record, then the receiving disclosure officer will either:

(1) Respond to the request after consulting with the component or agency best able to determine whether to disclose it and with any other component or agency that has a substantial interest in it; or

(2) Refer the responsibility for responding to the request regarding that record to the component best able to determine whether to disclose it, or to another agency that originated the record (but only if that entity is subject to the FOIA). Ordinarily, the component or agency that originated the record will be presumed to be best able to determine whether to disclose it.

(c) *Notice of referral.* Whenever a disclosure officer refers all or any part of the responsibility for responding to a request to another component or agency, the disclosure officer will notify the requester of the referral and inform the requester of the name of each component or agency to which the request has been referred.

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(d) *Classified records.* Any request for classified records which are in the custody of the Department of Labor will be referred to the classifying agency under paragraphs (b) and (c) of this section.

### § 70.21 Form and content of responses.

(a) *Form of notice granting a request.*

(1) After a disclosure officer has made a determination to grant a request in whole or in part, the disclosure officer will notify the requester in writing. The notice will describe the manner in which the record will be disclosed. The disclosure officer will provide the record in the form or format requested if the record is readily reproducible in that form or format, provided the requester has agreed to pay and/or has paid any fees required by Subpart C of this part. The disclosure officer will determine on a case-by-case basis what constitutes a readily reproducible format. Each component should make reasonable efforts to maintain its records in commonly reproducible forms or formats.

(2) Alternatively, a disclosure officer may make a copy of the releasable portions of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection will not unreasonably disrupt the operations of the component.

(b) *Form of notice denying a request.* A disclosure officer denying a request in whole or in part must notify the requester in writing. The notice must be signed by the disclosure officer and will include:

(1) The name and title or position of the disclosure officer.

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions relied upon in denying the request. Deletions should be indicated at the place in the record where the deletion is made.

(3) An estimate of the volume of records of information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate

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would harm an interest protected by an applicable exemption.

(4) A statement that the denial may be appealed under § 70.22 and a description of the requirements of that section.

(c) *Record cannot be located or has been destroyed.* If a requested record cannot be located from the information supplied, or it is known or believed to have been destroyed or otherwise disposed of, the disclosure officer will so notify the requester in writing and this determination may be appealed as described in § 70.22.

(d) *Date for determining responsive records.* When responding to a request, a component will ordinarily include only those records existing as of the date the component begins its search for them. If any other date is used, the component will inform the requester of that date.

### § 70.22 Appeals from denial of requests.

(a) When a request for access to records has been denied in whole or in part; where a requester disputes a determination that records cannot be located or have been destroyed; where a requester disputes a determination by a disclosure officer concerning the assessment or waiver of fees; or when a component fails to respond to a request within the time limits set forth in the FOIA, the requester may appeal to the Solicitor of Labor. The appeal must be filed within 90 days of the date of the action being appealed.

(b) The appeal will state in writing the grounds for appeal, and it may include any supporting statements or arguments, but such statements are not required. In order to facilitate processing of the appeal, the appeal should include the appellant's mailing address and daytime telephone number, as well as copies of the initial request and the disclosure officer's response. The envelope and the letter of appeal should be clearly marked: "Freedom of Information Act Appeal." Any amendment to the appeal must be in writing and received prior to a decision on the appeal.

(c) The appeal should be addressed to the Solicitor of Labor, Division of Management and Administrative Legal

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Services, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-2428, Washington, DC 20210. Appeals also may be submitted by e-mail to [foiaappeal@dol.gov](mailto:foiaappeal@dol.gov). Appeals submitted to any other e-mail address will not be accepted.

### § 70.23 Action on appeals.

The Solicitor of Labor, or designee, will review the appellant's appeal and make a determination *de novo* whether the action of the disclosure officer was proper and in accordance with the applicable law.

### § 70.24 Form and content of action on appeals.

The disposition of an appeal will be issued by the Solicitor of Labor or designee in writing. A decision affirming, in whole or in part, the decision below will include a brief statement of the reason or reasons for the affirmance, including the FOIA exemption or exemptions relied upon, and its relation to each record withheld, and a statement that judicial review of the denial is available in the United States District Court for the judicial district in which the requester resides or maintains his or her principal place of business, the judicial district in which the requested records are located, or the District of Columbia. If it is determined on appeal that a record should be disclosed, the record should be provided in accordance with the decision on appeal. If it is determined that records should be denied in whole or in part, the appeal determination will include an estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption.

### § 70.25 Time limits and order in which requests must be processed.

(a) *Time limits.* Components of the Department of Labor will comply with the time limits required by the FOIA for responding to and processing requests and appeals, unless there are ex-

ceptional circumstances within the meaning of 5 U.S.C. 552(a)(6)(C). A component will notify a requester whenever the component is unable to respond to or process the request or appeal within the time limits established by the FOIA.

(b) *Multitrack processing.* (1) A component may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, including through limits based on the number of pages involved. If a component does so, it will advise requesters in its slower track(s) of the limits of its faster track(s).

(2) A component using multitrack processing may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of the component's faster track(s). A component doing so will contact the requester either by telephone or by letter, whichever is more efficient in each case.

(c) *Unusual circumstances.* (1) Where the statutory time limits for processing a request cannot be met because of "unusual circumstances," as defined in the FOIA, and the component determines to extend the time limits on that basis, the component will as soon as practicable notify the requester in writing of the unusual circumstances and of the date by which processing of the request can be expected to be completed. Where the extension is for more than ten working days, the component will provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period with the component for processing the request or a modified request.

(2) Where a component reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated.

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(d) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing must be received by the proper component. Requests based on the categories in paragraphs (d)(1)(i), (ii), (iii), and (iv) of this section must be submitted to the component that maintains the records requested.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category in paragraph (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten calendar days of its receipt of a request for expedited processing, the proper component will decide whether to grant it and will notify

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the requester of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

### § 70.26 Business information.

(a) *In general.* Confidential business information will be disclosed under the FOIA only in accordance with this section.

(b) *Designation of business information.* A submitter of business information will use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(c) *Notice to submitters.* A component will provide a submitter with prompt written notice of a FOIA request that seeks its business information whenever required under paragraph (d) of this section, except as provided in paragraph (g) of this section, in order to give the submitter an opportunity to object in writing to disclosure of any specified portion of that information under paragraph (e) of this section. The notice will either describe the business information requested or include copies of the requested records or record portions containing the information. When notification to a voluminous number of submitters is required, notification may be made by posting or publishing notice reasonably likely to accomplish such notification.

(d) *When notice is required.* Notice will be given to a submitter whenever:

(1) The information requested under the FOIA has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(2) A component has reason to believe that the information requested under the FOIA may be protected from disclosure under Exemption 4.

(e) *Opportunity to object to disclosure.* A component will allow a submitter a

reasonable time to respond to the notice described in paragraph (c) of this section. If a submitter has any objection to disclosure, it is required to submit a detailed written statement. The statement must show why the information is a trade secret or commercial or financial information that is privileged or confidential. In the event that a submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to disclosure of the information. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* A component will consider a submitter's timely objections and specific grounds for non-disclosure in deciding whether to disclose business information. Whenever a disclosure officer decides to disclose business information over the objection of a submitter, the component will give the submitter written notice, which will include:

(1) A statement of the reason(s) why each of the submitter's disclosure objections was not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which will be a reasonable time subsequent to the notice.

(g) *Exceptions to notice requirements.* The notice requirements of paragraphs (c) and (f) of this section will not apply if:

(1) The disclosure officer determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 (3 CFR 1988 Comp., p. 235); or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous or such a designation would be unsupported—except that, in such a case, the component will, within a reasonable time prior to a specified disclosure date, give the submitter written

notice of any final decision to disclose the information.

(h) *Notice of a FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, the component will promptly notify the submitter.

(i) *Corresponding notice to requesters.* Whenever a component provides a submitter with notice and an opportunity to object to disclosure under paragraphs (d) and (e) of this section, the component will also notify the requester(s). Whenever a component notifies a submitter of its intent to disclose requested information under paragraph (f) of this section, the component will also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the component will notify the requester(s).

(j) *Notice requirements.* The component will fulfill the notice requirements of this section by addressing the notice to the business submitter or its legal successor at the address indicated on the records, or the last known address. If the notice is returned, the component will make a reasonable effort to locate the business submitter or its legal successor. Where notification of a voluminous number of submitters is required, such notification may be accomplished by posting and publishing the notice in a place reasonably calculated to accomplish notification.

#### § 70.27 Preservation of records.

Each component will preserve all correspondence relating to the requests it receives under this part, and all records processed pursuant to such requests, until disposition or destruction of such correspondence and records is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Under no circumstances will records be destroyed while they are the subject of a pending request, appeal, or lawsuit under the Act.



## § 70.28–70.37 [Reserved]

**Subpart C—Costs for Production of Records****§ 70.38 Definitions.**

The following definitions apply to this subpart:

(a) *Request*, in this subpart, includes any request, as defined by § 70.2(f), as well as any appeal filed in accordance with § 70.22.

(b) *Direct costs* means those expenditures which a component actually incurs in searching for and duplicating (and in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the salary of the Federal employee performing work (the basic rate of pay for the Federal employee plus 16 percent of that rate to cover benefits) and the cost of operating duplication machinery. Not included in direct costs are overhead expenses such as costs of space, heating or lighting the facility in which the records are kept.

(c) *Reproduction* means the process of making a copy of a record necessary to respond to a request. Such copy can take the form of paper, microform, audio-visual materials or electronic records (e.g., magnetic tape or disk).

(d) *Search* means the process of looking for and retrieving records or information that is responsive to a FOIA request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Disclosure officers will ensure that searches are done in the most efficient and least expensive manner reasonably possible. A search does not include the review of material, as defined in paragraph (e) of this section, which is performed to determine whether material is exempt from disclosure.

(e) *Review* means the process of examining records, including audio-visual, electronic mail, etc., located in response to a request to determine whether any portion of the located record is exempt from disclosure, and accordingly may be withheld. It also includes the act of preparing materials

for disclosure, i.e., doing all that is necessary to excise them and otherwise prepare them for release. Review time includes time spent contacting any submitter, and considering and responding to any objections to disclosure made by a submitter under § 70.26, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(f) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade or profit interests, which can include furthering those interests through litigation. Components will determine, whenever reasonably possible, the use to which a requester will put the requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because a component has reasonable cause to doubt a requester's stated use, the component will provide the requester a reasonable opportunity to submit further clarification.

(g) *Educational institution* means an institution which:

(1) Is a preschool, public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, and

(2) Operates a program or programs of scholarly research. To qualify under this definition, the program of scholarly research in connection with which the information is sought must be carried out under the auspices of the academic institution itself as opposed to the individual scholarly pursuits of persons affiliated with an institution. For example, a request from a professor to assist him or her in writing of a book, independent of his or her institutional responsibilities, would not qualify under this definition, whereas a request predicated upon research funding granted to the institution would meet its requirements. A request from a student enrolled in an individual course of study at an educational institution would not qualify as a request from the institution.

(h) *Non-commercial scientific institution* means an institution that is not operated on a commercial basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(i) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

(1) Factors indicating such representation status include press accreditation, guild membership, a history of continuing publication, business registration, and/or Federal Communication Commission licensing, among others.

(2) For purposes of this definition, news contemplates information that is about current events or that would be of current interest to the public.

(3) A freelance journalist will be treated as a representative of the news media if the person can demonstrate a solid basis for expecting publication of matters related to the requested information through a qualifying news media entity. A publication contract with a qualifying news media entity satisfies this requirement. An individual's past publication record with such organizations is also relevant in making this determination. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals including newsletters (but only in those instances where they can qualify as disseminators of news) who make their products available for purchase or subscription by the general public.

**§ 70.39 Statutes specifically providing for setting of fees.**

This subpart will not apply to fees charged under any statute, other than the FOIA, that specifically requires an agency to set and collect fees for particular types of records.

**§ 70.40 Charges assessed for the production of records.**

(a) *General.* There are three types of charges assessed in connection with the production of records in response to a request, charges for costs associated with:

(1) Searching for or locating responsive records (search costs),

(2) Reproducing such records (reproduction costs), and

(3) Reviewing records to determine whether any materials are exempt (review costs).

(b)(1) There are four types of requesters:

(i) Commercial use requesters,

(ii) Educational and non-commercial scientific institutions,

(iii) Representatives of the news media, and

(iv) All other requesters.

(2) Depending upon the type of requester, as set forth in paragraph (b)(1) of this section, the charges outlined in paragraph (c) of this section may be assessed.

(c) *Types of charges that will be assessed for each type of request—*(1) *Commercial use request.* When a requester makes a commercial use request, search costs, reproduction costs and review costs will be assessed in their entirety.

(2) *Educational or non-commercial scientific institution request.* When an educational or non-commercial scientific institution makes a request, only reproduction costs will be assessed, excluding charges for the first 100 pages.

(3) *Request by representative of news media.* When a representative of the news media makes a request, only reproduction costs will be assessed, excluding charges for the first 100 pages.

(4) *All other requests.* Requesters making a request which does not fall within paragraphs (c)(1), (2), or (3) of this section will be charged search costs and reproduction costs, except that the first 100 pages of reproduction and the first two hours of search time will be furnished without charge. Where computer searches are involved, the monetary equivalent of two hours of search time by a professional employee will be deducted from the total cost of computer processing time.

(d) *Charges for each type of activity—*

(1) *Search costs.* (i) When a search for records is performed by a clerical employee, a rate of \$5.00 per quarter hour will be applicable. When a search is performed by professional or supervisory personnel, a rate of \$10.00 per

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quarter hour will be applicable. Components will charge for time spent searching even if they do not locate any responsive records or they withhold the records located as exempt from disclosure.

(ii) For computer searches of records, requesters will be charged the direct costs of conducting the search, except as provided in paragraph (c)(4) of this section.

(iii) If the search for requested records requires transportation of the searcher to the location of the records or transportation of the records to the searcher, all transportation costs in excess of \$5.00 may be added to the search cost.

(2) *Reproduction costs.* The standard copying charge for records in black and white paper copy is \$0.15 per page. This charge includes the operator's time to duplicate the record. When responsive information is provided in a format other than 8½ x 11 or 11 x 14 inch black and white paper copy, such as computer tapes, disks and color copies, the requester may be charged the direct costs of the tape, disk, audio-visual or whatever medium is used to produce the information, as well as the direct cost of reproduction, including operator time. The disclosure officer may request that if a medium is requested other than paper, the medium will be provided by the requester.

(3) *Review costs.* Costs associated with the review of records, as defined in "70.38(e), will be charged for work performed by a clerical employee at a rate of \$5.00 per quarter hour when applicable. When professional or supervisory personnel perform work, a rate of \$10.00 per quarter hour will be charged, when applicable. Except as noted in this paragraph, charges may only be assessed for review the first time the records are analyzed to determine the applicability of specific exemptions to the particular record or portion of the record. Thus a requester would not be charged for review at the administrative appeal level with regard to the applicability of an exemption already applied at the initial level. When, however, a record has been withheld pursuant to an exemption which is subsequently determined not to apply and is reviewed again at the appellate level to

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determine the potential applicability of other exemptions, the costs attendant to such additional review will be assessed.

(4) *Mailing cost.* Where requests for copies are sent by mail, no postage charge will be made for transmitting by regular mail a single copy of the requested record to the requester, or for mailing additional copies where the total postage cost does not exceed \$5.00. However, where the volume of paper copy or method of transmittal requested is such that transmittal charges to the Department are in excess of \$5.00, the transmittal costs will be added.

(e) *Aggregating requests for purposes of assessing costs.* (1) Where a disclosure officer reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the disclosure officer may aggregate those requests and charge accordingly.

(2) Disclosure officers may presume that multiple requests of this type made within a 30-day period have been submitted in order to avoid fees. Where requests are separated by a longer period, disclosure officers will aggregate them only where a solid basis exists for determining that aggregation is warranted under all of the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(f) *Interest charges.* Disclosure officers will assess interest on an unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by the component. Components will follow the provisions of the Debt Collection Act of 1982, (Pub. L. 97-365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(g) *Authentication of copies—(1) Fees.* The FOIA does not require certification or attestation under seal of copies of records provided in accordance

with its provisions. Pursuant to provisions of the general user-charger statute, 31 U.S.C. 9701 and Subchapter II of title 29 U.S.C., the following charges will be made when, upon request, such services are nevertheless rendered by the agency in its discretion:

(i) For certification of true copies, \$10.00 each certification.

(ii) For attestation under the seal of the Department, \$10.00 each attestation under seal.

(2) *Authority and form for attestation under seal.* Authority is hereby given to any officer or officers of the Department of Labor designated as authentication officer or officers of the Department to sign and issue attestations under the seal of the Department of Labor.

(h) *Transcripts.* Fees for transcripts of an agency proceeding will be assessed in accordance with the provisions of this Subpart.

(i) *Privacy Act requesters.* A request from an individual or on behalf of an individual for a record maintained by that individual's name or other unique identifier which is contained within a component's system of records will be treated under the fee provisions at 29 CFR 71.6.

#### § 70.41 Reduction or waiver of fees.

(a) *Requirements for waiver or reduction of fees.* (1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (d) of § 70.40 where a Disclosure Officer determines, based on all available information, that the requester has demonstrated that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(2) To determine whether the requirement of paragraph (a)(1)(i) of this section is met, components will consider the following factors:

(i) The subject of the request: Whether the subject of the requested records concerns "the operations or activities

of the government." The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated.

(ii) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be "likely to contribute" to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding where nothing new would be added to the public's understanding.

(iii) The contribution to an understanding of the subject by the public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding." The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. It will be presumed that a representative of the news media will satisfy this consideration.

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. The public's understanding of the subject in question must be enhanced by the disclosure to a significant extent.

(3) To determine whether the requirement of paragraph (a)(1)(ii) of this section is met, components will consider the following factors:

(i) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure. The Disclosure Officer will

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consider any commercial interest of the requester (with reference to the definition of “commercial use request” in § 70.38(f)), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(ii) The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.” A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. The Disclosure Officer ordinarily will presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(4) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted only for those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraph (a) of this section, insofar as they apply to each request.

(b) *Submission.* Requests for waiver or reduction of fees must be submitted along with the request or before processing of the request has been commenced.

(c) *Appeal rights.* The procedures for appeal under 70.22 and 70.23 will control.

## § 70.42 Consent to Pay Fees.

(a) The filing of a request under this subpart will be deemed to constitute an agreement by the requester to pay all applicable fees charged under this part up to and including \$25.00, unless the requester seeks a waiver of fees. When making a request, the requester may

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specify a willingness to pay a greater or lesser amount.

(b) No request will be processed if a disclosure officer reasonably believes that the fees are likely to exceed the amount to which the requester has originally consented, absent supplemental written consent by the requester to proceed after being notified of this determination.

(c) When the estimated costs are likely to exceed the amount of fees to which the requester has consented, the requester must be notified. Such notice may invite the requester to reformulate the request to satisfy his or her needs at a lower cost.

## § 70.43 Payment of fees.

(a) *De minimis costs.* Where the cost of collecting and processing a fee to be assessed to a requester exceeds the amount of the fee which would otherwise be assessed, no fee need be charged. Fees which do not exceed \$15.00 usually need not be collected.

(b) *How payment will be made.* Requesters will pay fees by check or money order made payable to the Treasury of the United States.

(c) *Advance payments and billing.* (1) Prior to beginning to process a request, the disclosure officer will make a preliminary assessment of the amount that can properly be charged to the requester for search and review time and copying costs. Where a disclosure officer determines or estimates that a total fee to be charged under this section will be more than \$250.00, the disclosure officer will require the requester to make an advance payment of an amount up to the entire anticipated fee before beginning to process the request. The disclosure officer may waive the advance payment where the disclosure officer receives a satisfactory assurance of full payment from a requester who has a history of prompt payment of an amount similar to the one anticipated by the request.

(2) Where a requester has previously failed to pay a properly charged FOIA fee to any component of the Department of Labor within 30 days of the date of billing, a disclosure officer will require the requester to pay the full amount due, plus any applicable interest as provided in § 70.40(f) and to make

an advance payment of the full amount of any anticipated fee, before the disclosure officer begins to process a new request or appeal or continues to process a pending request or appeal from that requester.

(3) For a request other than those described in paragraphs (c) (1) and (2) of this section, a disclosure officer will not require the requester to make an advance payment before beginning to process a request. Payment owed for work already completed on a request pursuant to consent of the requester is not an advance payment and a disclosure officer may require the requester to make a payment for such work prior to releasing any records to the requester.

(d) *Time limits to respond extended when advance payments are requested.* When a component has requested an advance payment of fees in accordance with paragraph (c) of this section, the time limits prescribed in § 70.25 will only begin to run after the component has received the advance payment.

#### § 70.44 Other rights and services.

Nothing in this subpart will be construed to entitle any person, as of right, to any service or to the disclosure of any records to which such person is not entitled under the FOIA.

#### § 70.45–70.52 [Reserved]

### Subpart D—Public Records and Filings

#### § 70.53 Office of Labor-Management Standards.

(a) The following documents in the custody of the Office of Labor-Management Standards are public information available for inspection and/or purchase of copies in accordance with paragraphs (b) and (c) of this section.

(1) Data and information contained in any report or other document filed pursuant to sections 201, 202, 203, 211, 301 of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 524–28, 530, 79 Stat. 888, 73 Stat. 530, 29 U.S.C. 431–433, 441, 461).

(2) Data and information contained in any report or other document filed pursuant to the reporting requirements of 29 CFR part 458, which are the regu-

lations implementing the standards of conduct provisions of the Civil Service Reform Act of 1978, 5 U.S.C. 7120, and the Foreign Service Act of 1980, 22 U.S.C. 4117. The reporting requirements are found in 29 CFR 458.3.

(3) Data and information contained in any report or other document filed pursuant to the Congressional Accountability Act of 1995, 2 U.S.C. 1351, 109 Stat. 19.

(b) The documents listed in paragraph (a) of this section are available from: U.S. Department of Labor, Office of Labor-Management Standards, Public Disclosure Room, N-5608, 200 Constitution Avenue, NW., Washington, DC 20210. Reports filed pursuant to section 201 of the Labor-Management Reporting and Disclosure Act of 1959 and pursuant to 29 CFR 458.3 implementing the Civil Service Reform Act of 1978 and the Foreign Service Act of 1980 for the year 2000 and thereafter are also available at <http://www.union-reports.dol.gov>.

(c) Pursuant to 29 U.S.C. 435(c) which provides that the Secretary will by regulation provide for the furnishing of copies of the documents listed in paragraph (a) of this section, upon payment of a charge based upon the cost of the service, these documents are available at a cost of \$ .15 per page for record copies furnished. Authentication of copies is available in accordance with the fee schedule established in § 70.40. In accordance with 5 U.S.C. 552(a)(4)(A)(vi), the provisions for fees, fee waivers and fee reductions in subpart C of this part do not supersede these charges for these documents.

(d) Upon request of the Governor of a State for copies of any reports or documents filed pursuant to sections 201, 202, 203, or 211 of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 524–528, 79 Stat. 888; 29 U.S.C. 431–433, 441), or for information contained therein, which have been filed by any person whose principal place of business or headquarters is in such State, the Office of Labor-Management Standards will:

(1) Make available without payment of a charge to the State agency designated by law or by such Governor, such requested copies of information and data, or

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(2) Require the person who filed such reports and documents to furnish such copies or information and data directly to the State agency thus designated.

**§ 70.54 Employee Benefits Security Administration.**

(a) The annual financial reports (Form 5500) and attachments/schedules as filed by employee benefit plans under the Employee Retirement Income Security Act (ERISA) are in the custody of the Employee Benefits Security Administration (EBSA) at the address indicated in paragraph (b) of this section, and the right to inspect and copy such reports, as authorized under ERISA, at the fees set forth in this part, may be exercised at such office.

(b) The mailing address for the documents described in this section is: U.S. Department of Labor, Employee Benefits Security Administration, Public Documents Room, 200 Constitution Avenue, NW., Washington, DC 20210.

**APPENDIX A TO PART 70—DISCLOSURE OFFICERS**

(a) Offices in Washington, DC, are maintained by the following agencies of the Department of Labor. Field offices are maintained by some of these, as listed in the United States Government Manual.

The heads of the following agencies will make available for inspection and copying in accordance with the provisions of this part, records in their custody or in the custody of component units within their organizations, either directly or through their authorized representative in particular offices and locations.

- (1) Office of the Secretary of Labor
- (2) Office of the Solicitor of Labor
- (3) Office of Administrative Law Judges
- (4) Office of the Assistant Secretary for Administration and Management
- (5) Office of the Assistant Secretary for Congressional and Intergovernmental Affairs
- (6) Office of the Inspector General
- (7) Office of the Assistant Secretary for Policy
- (8) Office of the Assistant Secretary for Public Affairs
- (9) Bureau of International Labor Affairs
- (10) Bureau of Labor Statistics
- (11) Office of the Assistant Secretary for Employment Standards Administration
- (12) Office of the Assistant Secretary for Employment and Training Administration
- (13) Office of the Assistant Secretary for Mine Safety and Health Administration

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- (14) Office of the Assistant Secretary for Occupational Safety and Health Administration
- (15) Office of the Assistant Secretary for Employee Benefits Security Administration
- (16) Office of the Assistant Secretary for Veterans' Employment and Training Service
- (17) Office of the Associate Deputy Secretary for Adjudication
- (18) Women's Bureau
- (19) Employees' Compensation Appeals Board
- (20) Administrative Review Board
- (21) Benefits Review Board
- (22) Office of the Assistant Secretary for Disability Employment Policy

(b)(1) The titles of the responsible officials of the various independent 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 will be: U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

1. Secretary of Labor, *Attention:* Assistant Secretary for Administration and Management (OASAM)
2. Deputy Solicitor, Office of the Solicitor (SOL)
3. Chief Administrative Law Judge, Office of Administrative Law Judges (OALJ)
4. Legal Counsel, OALJ
5. Assistant Secretary for Administration and Management (OASAM)
6. Deputy Assistant Secretary for Administration and Management, OASAM
7. Deputy Assistant Secretary for Security and Emergency Management, OASAM
8. Director, Business Operations Center, OASAM
9. Director, Procurement Service Center, OASAM
10. Director, Civil Rights Center, OASAM
11. Director, Human Resources Center, OASAM
12. Director, Information Technology Center, OASAM
13. Director, Human Resource Services Center, OASAM
14. Director, Departmental Budget Center, OASAM
15. Director, Center for Program Planning and Results, OASAM
16. Chief Financial Officer, Office of the Chief Financial Officer (CFO)
17. Administrative Officer, CFO
18. Director, Office of Small Business Programs (OSBP)
19. Chief Administrative Appeals Judge, Employees' Compensation Appeals Board (ECAB)
20. Chief Administrative Appeals Judge, Administrative Review Board (ARB)
21. Chief Administrative Appeals Judge, Benefits Review Board (BRB)

**Office of the Secretary of Labor**

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- 22. Director, Women's Bureau (WB)
- 23. National Office Coordinator, WB
- 24. Assistant Secretary, Office of Congressional and Intergovernmental Affairs (OCIA)
- 25. Deputy Assistant Secretary, OCIA
- 26. Assistant Secretary for Policy (ASP)
- 27. Deputy Assistant Secretary, ASP
- 28. Assistant Secretary, Office of Public Affairs (OPA)
- 29. Deputy Assistant Secretary, OPA
- 30. Director, Office of Administrative Review Board (ARB)
- 31. Disclosure Officer, Office of the Inspector General (OIG)
- 32. Deputy Under Secretary, Bureau of International Labor Affairs (ILAB)
- 33. Secretary of the National Administrative Office, ILAB
- 34. Deputy Assistant Secretary, Office of Disability Policy (ODEP)
- 35. Special Assistant to the Deputy Assistant Secretary, ODEP
- 36. Director, Office of Job Corps
- 37. Ombudsman under Part E of the Energy Employees Occupational Illness Compensation Program Act

*Employment Standards Administration*

- 1. Assistant Secretary for Employment Standards, Employment Standards Administration (ESA)
- 2. Director, Equal Employment Opportunity Unit, ESA
- 3. Director, Office of Management, Administration and Planning (OMAP), ESA
- 4. Director, Office of Workers' Compensation Programs (OWCP), ESA
- 5. Director, Division of Planning, Policy and Standards, OWCP, ESA
- 6. Director for Federal Employees' Compensation, OWCP, ESA
- 7. Director for Longshore and Harbor Workers' Compensation, OWCP, ESA
- 8. Director for Coal Mine Workers' Compensation, OWCP, ESA
- 9. Director for Energy Employment Occupational Illness Compensation Program, OWCP, ESA
- 10. Administrator, Wage and Hour Division, ESA
- 11. Deputy Administrator for Policy, Wage and Hour Division, ESA
- 12. Deputy Administrator for Operations, Wage and Hour Division, ESA
- 13. Senior Policy Advisor, Wage and Hour Division, ESA
- 14. Director, Office of Enforcement Policy, Wage and Hour Division, ESA
- 15. Deputy Director, Office of Enforcement Policy, Wage and Hour Division, ESA
- 16. Chief, Branch of Service Contracts Wage Determination, Wage and Hour Division, ESA
- 17. Chief, Branch of Davis-Bacon Wage Determination, Wage and Hour Division, ESA

- 18. Director, Office of Planning and Analysis, Wage and Hour Division, ESA
- 19. Director, Office of Wage Determinations, Wage and Hour Division, ESA
- 20. Director, Office of External Affairs, Wage and Hour Division, ESA
- 21. Deputy Director, Office of External Affairs, Wage and Hour Division, ESA
- 22. Deputy Assistant Secretary for Federal Contract Compliance Programs (OFCCP), ESA
- 23. Director, Division of Policy, Planning and Program Development, OFCCP, ESA
- 24. Deputy Director, Division of Policy, Planning and Program Development, OFCCP, ESA
- 25. Director, Division of Program Operations, OFCCP, ESA
- 26. Deputy Director, Division of Program Operations, OFCCP, ESA
- 27. Director, Division of Management and Administrative Programs, OFCCP, ESA
- 28. Deputy Assistant Secretary for Labor-Management Programs (OLMS), ESA

*Employment and Training Administration*

- 1. Assistant Secretary for Employment and Training, ETA.
- 2. Deputy Assistant Secretary, Workforce Investment System, ETA.
- 3. Administrator, Office of Workforce Investment, ETA.
- 4. Administrator, Office of Workforce Security, ETA.
- 5. Administrator, Office of National Response, ETA.
- 6. Director, Division of Trade Adjustment Assistance, ETA.
- 7. Administrator, Office of Field Operations, ETA.
- 8. Regional Administrator, Boston, ETA.
- 9. Regional Administrator, Philadelphia, ETA.
- 10. Regional Administrator, Atlanta, ETA.
- 11. Regional Administrator, Dallas, ETA.
- 12. Regional Administrator, Chicago, ETA.
- 13. Regional Administrator, San Francisco, ETA.
- 14. Deputy Assistant Secretary, Administration & National Activity, ETA.
- 15. Administrator, Office of Foreign Labor Certification, ETA.
- 16. Administrator, Office of Apprenticeship, ETA.
- 17. Regional Director, Office of Apprenticeship, Boston, ETA.
- 18. Regional Director, Office of Apprenticeship, Philadelphia, ETA.
- 19. Regional Director, Office of Apprenticeship, Atlanta, ETA.
- 20. Regional Director, Office of Apprenticeship, Dallas, ETA.
- 21. Regional Director, Office of Apprenticeship, Chicago, ETA.
- 22. Regional Director, Office of Apprenticeship, San Francisco, ETA.



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23. Administrator, Office of Policy Development & Research, ETA.
24. Administrator, Office of Financial & Administrative Management, ETA.
25. Director, Office of Financial and Administrative Services, ETA.
26. Director, Office of Grants and Contracts Management, ETA.
27. Chief, Division of Contract Services, ETA.
28. Chief, Division of Federal Assistance, ETA.
29. Director, Office of Human Resources, ETA.
30. Director, Office of Equal Employment Opportunity, ETA.
31. Director, Office of Special Programs & Emergency Preparedness, ETA; and
32. Administrator, Office of Performance & Technology, ETA.

*Occupational Safety and Health Administration*

1. Assistant Secretary, Occupational Safety and Health Administration (OSHA)
2. Director, Office of Communications, OSHA
3. Director, Office of Equal Employment Opportunity, OSHA
4. Director, Directorate of Construction, OSHA
5. Director, Directorate of Cooperative and State Programs, OSHA
6. Director, Directorate of Evaluation and Analysis, OSHA
7. Director, Directorate of Administrative Programs, OSHA
8. Director, Directorate of Information Technology, OSHA
9. Director, Directorate of Enforcement Programs, OSHA
10. Director, Directorate of Science, Technology and Medicine, OSHA
11. Director, Directorate of Standards and Guidance, OSHA

*Employee Benefits Security Administration*

Director, Office of Participant Assistance, Employee Benefits Security Administration (EBSA)

*Veterans' Employment and Training Service*

1. Assistant Secretary for Veterans' Employment and Training (VETS)
2. Deputy Assistant Secretary for Veterans' Employment and Training, VETS
3. Director, Office of Operations and Programs, VETS

*Bureau of Labor Statistics*

1. Commissioner, Bureau of Labor Statistics (BLS)
2. Associate Commissioner, Office of Administration, BLS

The mailing address for responsible officials in the Bureau of Labor Statistics is: Room 4040—Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC 20212.

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*Mine Safety and Health Administration*

The mailing address for all requests directed to the Mine Safety and Health Administration (MSHA) is: 1100 Wilson Boulevard, 21st Floor, Arlington, Virginia 22209.

1. Assistant Secretary, MSHA
2. Deputy Assistant Secretary, MSHA
3. Director, Office of Program Education and Outreach, MSHA
4. Director of Administration and Management, MSHA
5. Administrator, Coal Mine Safety and Health (CMS&H), MSHA
6. Chief, Health Division, CMS&H, MSHA
7. Chief, Safety Division, CMS&H, MSHA
8. Accident Investigation Program Manager, CMS&H, MSHA
9. Administrator, Metal and Nonmetal Mine Safety and Health (M/NM), MSHA
10. Chief, Health Division, M/NM, MSHA
11. Chief, Safety Division, M/NM, MSHA
12. Accident Investigation Program Manager, M/NM, MSHA
13. Director of Assessments, MSHA
14. Director of Technical Support, MSHA
15. Director of Educational Policy and Development, MSHA
16. Director of Standards, Regulations, and Variances, MSHA
17. Director of Program Evaluation and Information Resources, MSHA

*Office of Administrative Law Judges*

The mailing address for the Office of Administrative Law Judges is: Office of Administrative Law Judges, 800 K Street, NW., Suite N-400, Washington, DC 20001.

*Regional Offices*

(2) The titles of the responsible officials in the regional offices of the various independent agencies are listed below: Unless otherwise specified, the mailing address for these officials by region, will 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

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Region IV

U.S. Department of Labor  
Atlanta Federal Center  
61 Forsyth Street, SW.,  
Atlanta, Georgia 30303  
214 N. Hogan Street, Suite 1006  
Jacksonville, Florida 32202  
(OWCP only)

Region V

Kluczynski Federal Building  
230 South Dearborn Street  
Chicago, Illinois 60604  
1240 East Ninth Street, Room 851  
Cleveland, Ohio 44199  
(FECA only)

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  
(For Wage and Hour only: Contact Region V)  
801 Walnut Street, Room 200  
Kansas City, Missouri 64106  
(OFCCP only)

Region VIII

1999 Broadway Street  
Denver, Colorado 80202  
(For Wage and Hour and OFCCP: Contact Region VI)  
1999 Broadway, Suite 600  
Denver, Colorado 80202  
(OWCP only)

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, Colorado 80202

Region IX

71 Stevenson Street  
San Francisco, California 94105

Region X

1111 Third Avenue  
Seattle, Washington 98101  
(For Wage and Hour only: Contact Region IX)

1. Regional Administrator for Administration and Management (OASAM)
2. Regional Personnel Officer, OASAM
3. Regional Director for Information and Public Affairs, Office of Public Affairs (OPA)
4. Regional Administrator for Occupational Safety and Health (OSHA)
5. Regional Commissioner, Bureau of Labor Statistics (BLS)

6. Regional Administrator for Employment and Training Administration (ETA)  
(For the following regions Boston, New York, Philadelphia, Atlanta, Dallas, Chicago and San Francisco)
7. Associate Regional Administrator for ETA  
(For the following locations Denver, Kansas City and Seattle)
8. Regional Director, Job Corps
9. Director, Regional Office of Apprenticeship and Training, Employer and Labor Services, ETA
10. Regional Administrator for Wage and Hour, ESA
11. Deputy Regional Administrator for Wage and Hour, ESA
12. Regional Operations Manager for Wage and Hour, ESA
13. Regional Director for Federal Contract Compliance Programs, ESA
14. Regional Director for the Office of Workers' Compensation Programs, ESA
15. District Director, Office of Workers' Compensation Programs, ESA

*Office of Federal Contract Compliance Programs  
ESA, Responsible Offices, Regional Offices*

1. JFK Federal Building, Room E-235, Boston, Massachusetts 02203
2. 201 Varick Street, Room 750, New York, New York 10014
3. The Curtis Center, 170 South Independence Mall West, Philadelphia, Pennsylvania 19106
4. 61 Forsyth Street, S.W., Suite 7B75, Atlanta, Georgia 30303
5. Kluczynski Federal Building, 230 South Dearborn Street, Room 570, Chicago, Illinois 60604
6. Federal Building, 525 South Griffin Street, Room 840, Dallas, Texas 75202
7. 71 Stevenson Street, Suite 1700, San Francisco, California 94105
8. 1111 Third Avenue, Suite 610, Seattle, Washington 98101

*Office of Workers' Compensation Programs ESA,  
Responsible Officials, District Directors*

1. John F. Kennedy Federal Building, Room E-260, Boston, Massachusetts 02203 (FECA and LHWCA only)
2. 201 Varick Street, Seventh Floor, Room 750, New York, New York 10014 (LHWCA and FECA only)
3. The Curtis Center, 170 South Independence Mall West, Philadelphia, Pennsylvania 19106 (LHWCA and FECA only)
4. Penn Traffic Building, 319 Washington Street, Johnstown, Pennsylvania 15901 (BLBA only)
5. 105 North Main Street, Suite 100, Wilkes-Barre, Pennsylvania 18701 (BLBA only)
6. Wellington Square, 1225 South Main Street, Suite 405, Greensburg, Pennsylvania 15601 (BLBA only)

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7. The Federal Building, 31 Hopkins Plaza, Room 410-B, Baltimore, Maryland 21201 (LHWCA only)
8. Federal Building, 200 Granby Mall, Room #212, Norfolk, Virginia 23510 (LHWCA only)
9. 2 Hale Street, Suite 304, Charleston, West Virginia 25301 (BLBA only)
10. 425 Juliana Street, Suite 3116, Parkersburg, West Virginia 26101 (BLBA only)
11. 800 North Capitol Street, NW., Room 800, Washington, DC 20211 (FECA only)
12. 164 Main Street, Suite 508, Pikeville, Kentucky 41501 (BLBA only)
13. 402 Campbell Way, Mt. Sterling, Kentucky 40353 (BLBA only)
14. 214 N. Hogan Street, 10th Floor, Room 1026, Jacksonville, Florida 32202 (LHWCA and FECA only)
15. 230 South Dearborn Street, Room 800, Chicago, Illinois 60604 (LHWCA and FECA only)
16. 1240 East 9th Street, Room 851, Cleveland, Ohio 44199 (FECA only)
17. 1160 Dublin Road, Suite 300, Columbus, Ohio 43214 (BLBA only)
18. 525 Griffin Street, Federal Building, Dallas, Texas 75202 (FECA only)
19. 701 Loyola Avenue, Room 13032, New Orleans, Louisiana 70113 (LHWCA only)
20. 8866 Gulf Freeway, Suite 140, Houston, Texas 77017 (LHWCA only)
21. City Center Square, Suite 750, 1100 Main Street, Kansas City, Missouri 64105 (FECA only)
22. 1999 Broadway, Suite 600, Denver, Colorado 80202 (FECA and BLBA only)
23. 71 Stevenson Street, Suite 1705, San Francisco, California 94105 (LHWCA and FECA only)
24. 401 E. Ocean Boulevard, Suite 720, Long Beach, California 90802 (LHWCA only)
25. 300 Ala Moana Boulevard, Room 5-135, Honolulu, Hawaii 96850 (LHWCA only)
26. 1111 3rd Avenue, Suite 620, Seattle, Washington 98101 (LHWCA and FECA only)

*Mine Safety & Health Administration Field Offices*

The mailing address for all requests directed to the field office of the Mine Safety and Health Administration (MSHA) is:

1. Coordinator, Mine Emergency Unit, 1301 Airport Road, Beaver, West Virginia 25813-9426
2. Superintendent, National Mine Health and Safety Academy, 1301 Airport Road, Beaver, West Virginia 25813-9426
3. Chief, Safety and Health Technology Center, P.O. Box 18233, Pittsburgh, Pennsylvania 15236
4. Chief, Approval and Certification Center, R.R. 1, Box 251, Industrial Park Road, Triadelphia, West Virginia 26059
5. Chief, Information Resource Center, P.O. Box 25367, Denver, Colorado 80225-0367

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6. Chief, Office of Injury and Employment Information, P.O. Box 25367, Denver, Colorado 80225-0367

*District Managers, Coal Mine Safety and Health*

1. The Stegmaier Building, Suite 034, 7 N. Wilkes-Barre Blvd., Wilkes-Barre, Pennsylvania 18702
2. 319 Paintersville Road, Hunker, Pennsylvania 15639
3. 604 Cheat Road, Morgantown, West Virginia 26508  
100 Bluestone Road, Mt. Hope, West Virginia 25880
4. P.O. Box 560, Norton, Virginia 24273
5. 100 Fae Ramsey Lane, Pikeville, Kentucky 41501
6. 3837 S. U.S. Hwy 25E, Barbourville, Kentucky 40906
7. 2300 Willow Street, Suite 200, Vincennes, Indiana 47591
8. P.O. Box 25367, Denver, Colorado 80225-0367
9. 100 YMCA Drive, Madisonville, Kentucky 42431-9019
10. 135 Gemini Circle, Suite 213, Birmingham, Alabama 35209

*District Managers, Metal and Nonmetal Mine Safety and Health*

1. 547 Keystone Drive, Suite 400, Warrendale, Pennsylvania 15086-7573
2. 135 Gemini Circle, Suite 212, Birmingham, Alabama 35209
3. 515 W. First Street, Suite 333, Duluth, Minnesota 55802-1302
4. 100 Commerce Street, Room 462, Dallas, Texas 75242-0499
5. P.O. Box 25367, Denver, Colorado 80225-0367
6. 2060 Peabody Road, Suite 610, Vacaville, California 95687-6696

*Regional Administrator, Occupational Safety And Health Administration (OSHA)*

Area Director, OSHA

1. 639 Granite Street, 4th Floor, Braintree, Massachusetts 02184
2. 279 Pleasant Street, Suite 201, Concord, New Hampshire 03301
3. Federal Building, 450 Main Street, Room 613, Hartford, Connecticut 06103
4. 1057 Broad Street, 4th Floor, Bridgeport, Connecticut 06604
5. 1441 Main Street, Room 550, Springfield, Massachusetts 01103
6. 202 Harlow Street, Room 211, Bangor, Maine 04401
7. West Tower, 100 Middle Street, Suite 410 West, Portland, Maine 04101
8. Federal Office Building, 380 Westminister Mall, Room 543, Providence, Rhode Island 02903
9. Valley Office Park, 13 Branch Street, Methuen, Massachusetts 01844
10. 201 Varick Street, Room 646, New York, New York 10014

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11. 1400 Old Court Road, Room 208, Westbury, New York 11590
12. 42-40 Bell Boulevard, Bayside, New York 11361
13. 401 New Karner Road, Suite 300, Albany, New York 12205
14. Plaza 35, 1030 St. Georges Avenue, Suite 205, Avenel, New Jersey 07001
15. 299 Cherry Hill Road, Suite 304, Parsippany, New Jersey 07054
16. 3300 Vikery Road, North Syracuse, New York 13212
17. 5360 Genesee Street, Bowmansville, New York 14026
18. Triple SSS Plaza Building, 1510 F.D. Roosevelt Avenue, Suite 5B, Guaynabo, Puerto Rico 00968
19. 500 Route 17 South, 2nd Floor, Hasbrouck Heights, New Jersey 07604
20. Marlton Executive Park, Building 2, Suite 120, 701 Route 73 South, Marlton, New Jersey 08053
21. 660 White Plains Road, 4th Floor, Tarrytown, New York 10591
22. U.S. Customs House, Second & Chestnut Streets, Room 242, Philadelphia, Pennsylvania 19106
23. Cabeb Boggs Federal Building, 844 N. King Street, Room 2209, Wilmington, Delaware 19801
24. Federal Office Building, 1000 Liberty Avenue, Room 1428, Pittsburgh, Pennsylvania 15222
25. 3939 West Ridge Road, Suite B12, Erie, Pennsylvania 16506
26. Federal Office Building, 200 Granby Street, Room 614, Norfolk, Virginia 23510
27. Stegmaier Building, Suite 410, 7 N. Wilkes-Barre Blvd., Wilkes-Barre, Pennsylvania 18702
28. 850 North 5th Street, Allentown, Pennsylvania 18102
29. 405 Capitol Street, Suite 407, Charleston, West Virginia 25301
30. 1099 Winterson Road, Suite 140, Linthicum, Maryland 21090
31. Progress Plaza, 49 N. Progress Avenue, Harrisburg, Pennsylvania 17109
32. 2400 Herodian Way, Suite 250, Smyrna, Georgia 30080
33. 450 Mall Boulevard, Suite J, Savannah, Georgia 31419
34. Vestavia Village, 2047 Canyon Road, Birmingham, Alabama 35216
35. 8040 Peters Road, Building H-100, Fort Lauderdale, Florida 33324
36. Ribault Building, 1851 Executive Center Drive, Suite 227, Jacksonville, Florida 32207
37. 5807 Breckenridge Parkway, Suite A, Tampa, Florida 33610
38. 1835 Assembly Street, Room 1468, Columbia, South Carolina 29201
39. 3780 I-55 North, Suite 210, Jackson, Mississippi 39211
40. 3737 Government Boulevard, Suite 100, Mobile, Alabama 36693
41. 2002 Richard Jones Road, Suite C-205, Nashville, Tennessee 37215
42. John C. Watts Federal Building, 330 West Broadway, Room 108, Frankfort, Kentucky 40601
43. LaVista Perimeter Office Park, 2183 N. Lake Parkway, Building 7, Suite 110, Tucker, Georgia 30084
44. Century Station Federal Office Building, 300 Fayetteville Mall, Room 438, Raleigh, North Carolina 27601
45. 1600 167th Street, Suite 9, Calumet City, Illinois 60409
46. 701 Lee Street, Suite 950, Des Plaines, Illinois 60016
47. 11 Executive Drive, Suite 11, Fairview Heights, Illinois 62208
48. 365 Smoke Tree Business Park, North Aurora, Illinois 60542
49. Federal Office Building, 1240 East 9th Street, Room 899, Cleveland, Ohio 44199
50. Federal Office Building, 200 N. High Street, Room 620, Columbus, Ohio 43215
51. 46 East Ohio Street, Room 453, Indianapolis, Indiana 46204
52. 36 Triangle Park Drive, Cincinnati, Ohio 45246
53. 1648 Tri Parkway, Appleton, Wisconsin 54914
54. 1310 West Clairmont Avenue, Eau Claire, Wisconsin 54701
55. Henry S. Reuss Building, 310 West Wisconsin Avenue, Room 1180, Milwaukee, Wisconsin 53202
56. 300 South 4th Street, Suite 1205, Minneapolis, Minnesota 55415
57. 420 Madison Avenue, Suite 600, Toledo, Ohio 43604
58. 801 South Waverly Road, Suite 306, Lansing, Michigan 48917
59. 4802 East Broadway, Madison, Wisconsin 53716
60. 2918 W. Willow Knolls Road, Peoria, Illinois 61614
61. 8344 East R.L. Thornton Freeway, Suite 420, Dallas, Texas 75228
62. 1033 LaPosada Drive, Suite 375, Austin, Texas 78752
63. 9100 Bluebonnet Centre Blvd., Suite 201, Baton Rouge, Louisiana 70809
64. Wilson Plaza 606 N. Carancahua, Suite 700, Corpus Christi, Texas 78476
65. Federal Office Building, 1205 Texas Avenue, Room 806, Lubbock, Texas 79401
66. 507 North Sam Houston Parkway, Suite 400, Houston, Texas 77060
67. 17625 El Camino Real, Suite 400, Houston, Texas 77058
68. 55 North Robinson, Suite 315, Oklahoma City, Oklahoma 73102
69. North Starr II, 8713 Airport Freeway, Suite 302, Fort Worth, Texas 76180
70. TCBY Building, 425 West Capitol Avenue, Suite 450, Little Rock, Arkansas 72201
71. 700 E. San Antonio Street, Room C-408, El Paso, Texas 79901

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72. 6200 Connecticut Avenue, Suite 100, Kansas City, Missouri 64120
73. 911 Washington Avenue, Room 420, St. Louis, Missouri 63101
74. 210 Walnut Street, Room 815, Des Moines, Iowa 50309
75. 217 West 3rd Street, Room 400, Wichita, Kansas 67202
76. Overland-Wolf Building, 6910 Pacific Street, Room 100, Omaha, Nebraska 68106
77. 2900 Fourth Avenue North, Suite 303, Billings, Montana 59101
78. 1640 East Capitol Avenue, Bismarck, North Dakota 58501
79. 7935 East Prentice Avenue, Suite 209, Greenwood Village, Colorado 80111
80. 1391 Speer Boulevard, Suite 210, Denver, Colorado 80204
81. 705 North Plaza, Room 204, Carson City, Nevada 89701
82. 3221 North 16th Street, Suite 100, Phoenix, Arizona 85016
83. 5675 Ruffin Road, Suite 330, San Diego, California 92123
84. 160 E 300 South, Heber-Wells Building, P.O. Box 146650, Salt Lake City, Utah 84114-6650
85. 301 West Northern Lights Boulevard, Suite 407, Anchorage, Alaska 99503
86. 1150 N. Curtis Road, Suite 201, Boise, Idaho 83706
87. 505 106th Avenue, Northeast, Suite 302, Bellevue, Washington 98004
88. Federal Office Building, 1220 Southwest Third Avenue, Room 640, Portland, Oregon 97204

*Employee Benefits Security Administration  
Regional Director or District Supervisor*

1. Regional Director, J.F.K. Federal Building, Room 575, Boston, Massachusetts 02203
2. Regional Director, 33 Whitehall Street, Suite 1200, New York, NY 10004.
3. Regional Director, The Curtis Center, 170 South Independence Mall West, Suite 870 West, Philadelphia, Pennsylvania 19106
4. District Supervisor, 1335 East-West Highway, Suite 200, Silver Spring, Maryland 20910
5. Regional Director, 61 Forsyth Street, S.W., Room 7B54, Atlanta, Georgia 30303
6. District Supervisor, 8040 Peters Road, Building H, Suite 104, Plantation, Florida 33324
7. Regional Director, 1885 Dixie Highway, Suite 210, Ft. Wright, Kentucky 41011
8. District Supervisor, 211 West Fort Street, Suite 1310, Detroit, Michigan 48226
9. Regional Director, 200 West Adams Street, Suite 1600, Chicago, Illinois 60606
10. Regional Director, Two Pershing Square Building, 2300 Main Street, Suite 1100, Kansas City, MO 64108.
11. District Supervisor, Robert Young Federal Building, 1222 Spruce Street, Room 6.310, St. Louis, Missouri 63103

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12. Regional Director, 525 Griffin Street, Room 900, Dallas, Texas 75202
13. Regional Director, 90 7th Street, Suite 11-300, San Francisco, CA 94103.
14. District Director, 1111 Third Avenue, Room 860, Seattle, Washington 98101
15. Regional Director, 1055 E. Colorado Blvd, Suite 200, Pasadena, California 91106

*Regional Administrators, Veterans' Employment and Training Service (VETS)*

1. J.F. Kennedy Federal Building, Government Center, Room E-315, Boston, Massachusetts 02203.
2. The Curtis Center, Suite 770 West, 170 S. Independence Mall West, Philadelphia, PA 19106-2205.
3. Atlanta Federal Center, 61 Forsyth Street, SW., Room 6T85, Atlanta, Georgia 30303.
4. 230 South Dearborn, Room 1064, Chicago, Illinois 60604.
5. 525 Griffin Street, Room 858, Dallas, Texas 75202.
6. 90 Seventh Street, Suite 2-600, San Francisco, California 94103.

[71 FR 30763, May 30, 2006, as amended at 72 FR 37098, July 9, 2007]

APPENDIX B TO PART 70 [RESERVED]

**PART 71—PROTECTION OF INDIVIDUAL PRIVACY AND ACCESS TO RECORDS UNDER THE PRIVACY ACT OF 1974**

**Subpart A—General**

- Sec.
- 71.1 General provisions.
  - 71.2 Request for access to records.
  - 71.3 Responses by components to requests for access to records.
  - 71.4 Form and content of component responses.
  - 71.5 Access to records.
  - 71.6 Fees for access to records.
  - 71.7 Appeals from denials of access.
  - 71.8 Preservation of records.
  - 71.9 Request for correction or amendment of records.
  - 71.10 Certain records not subject to correction.
  - 71.11 Emergency disclosures.
  - 71.12 Use and collection of social security numbers.
  - 71.13 Employee standards of conduct.
  - 71.14 Use of nonpublic information.
  - 71.15 Training.

**Subpart B—Exemption of Records Systems Under the Privacy Act**

- 71.50 General exemptions pursuant to subsection (j) of the Privacy Act.