

*Total Burden Hours:* 205.  
*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$132,181.

*Description:* Plan administrators who fail to file an annual report may be assessed a penalty of \$300 per day, up to \$30,000 per year, until a complete annual report is filed. Penalties are applicable to each annual report required to be filed under Title I of the Employee Retirement Income Security Act of 1974 (ERISA).

The Department may, in its discretion, waive all or part of a civil penalty assessed under ERISA section 502(c)(2) upon a showing by the administrator that there was reasonable cause for the failure to file a complete and timely annual report.

The Department has determined that the possible assessment of these civil penalties may deter certain delinquent filers from voluntarily complying with the annual reporting requirements under Title I of ERISA. In an effort to encourage annual reporting compliance, the Department implemented the Delinquent Filer Voluntary Compliance Program (the Program) on April 27, 1995 (60 FR 20873). Under the Program, administrators otherwise subject to the assessment of higher civil penalties are permitted to pay reduced civil penalties for voluntarily complying with the annual reporting requirements under Title I of ERISA.

This ICR covers the requirement of providing data necessary to identify the plan along with the penalty payment. This data is the means by which each penalty payment is associated with the appropriate plan.

*Agency:* Employee Benefits Security Administration.

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

*Title:* PTE 98–54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions.

*OMB Number:* 1210–0111.

*Frequency:* On occasion.

*Type of Response:* Recordkeeping and Third party disclosure.

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

*Number of Respondents:* 35.

*Number of Annual Responses:* 8,400.

*Estimated Time per Response:* 30 minutes.

*Total Burden Hours:* 4,200.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$0.

*Description:* PTE 98–54 permits certain foreign exchange transactions between employee benefit plans and certain banks, broker-dealers, and domestic affiliates thereof, which are parties in interest with respect to such plans, pursuant to standing instructions. In the absence of an exemption, foreign exchange transactions pursuant to standing instructions would be prohibited under circumstances where the bank or broker-dealer is a party in interest or disqualified person with respect to the plan under the Employee Retirement Income Securities Act of 1974 (ERISA) or the Internal Revenue Code.

The class exemption has five basic information collection requirements. The first requires the bank or broker-dealer to maintain written policies and procedures for handling foreign exchange transactions for plans for which it is a party in interest which ensure that the party acting for the bank or broker-dealer knows it is dealing with a plan. The second requires that the transactions are performed in accordance with a written authorization executed in advance by an independent fiduciary of the plan. The third requires that the bank or broker-dealer provides the authorizing fiduciary with a copy of its written policies and procedures for foreign exchange transactions involving income item conversions and de minimis purchase and sale transactions prior to the execution of a transaction. The fourth requires the bank or broker-dealer to furnish the authorizing fiduciary a written confirmation statement with respect to each covered transaction within five days of execution. The fifth requires that the bank or broker-dealer maintains records necessary for plan fiduciaries, participants, and the Department and Internal Revenue Service to determine whether the conditions of the exemption are being met for period of six years from the date of execution of a transaction.

By requiring that records pertaining to the exempted transaction be maintained for six years, this ICR insures that the exemption is not abused, the rights of the participants and beneficiaries are protected, and that compliance with the exemption's conditions can be confirmed. The exemption affects participants and beneficiaries of the plans that are involved in such transactions as well as certain banks,

broker-dealers, and domestic affiliates thereof.

**Ira L. Mills,**

*Departmental Clearance Officer.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

February 28, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on (202) 693–4129 (this is not a toll-free number) or e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Office of the Solicitor.

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

*Title:* Equal Access to Justice Act.

*OMB Number:* 1225–0013.

*Frequency:* On occasion.

*Affected Public:* Business or other for-profit; not-for-profit institutions; individuals or households; State, local, or tribal government; and Federal government.

*Number of Respondents:* 10.

*Estimated Annual Responses:* 10.

*Average Response Time:* 5 hours.

*Total Annual Burden Hours:* 50.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$20.00.

*Description:* The Equal Access to Justice Act (EAJA) provides for the award of fees and expenses, under certain circumstances, to parties involved in adversary adjudications with the United States. 5 U.S.C. 504. The statute, at 5 U.S.C. 504(a)(2), requires that a party seeking an award of fees and expenses in a covered proceeding must submit to the agency "an application which shows that the party is the prevailing party and is eligible to receive an award" under EAJA.

The Department of Labor's regulations at 29 CFR part 16 implement EAJA, and 29 CFR 16.201 sets forth the required elements of an EAJA award application. Under this regulation, EAJA award applications must include information regarding the following: The identity of the applicant, the proceeding for which an award is sought, the fact that the applicant has prevailed, the agency position alleged not to be substantially justified, the number of employees of the applicant at the time the proceeding was instituted (if the applicant is other than an individual), the type and purpose of the applicant's organization or business (if applicable), net worth and/or other designated information, and amounts requested. Certain certifications, affidavits and other documents also are required. See 29 CFR 16.201–16.204 for a complete description of information required from applicants.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 05–4210 Filed 3–3–05; 8:45 am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

February 25, 2005.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to

the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on (202) 693–4129 (this is not a toll-free number) or e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Occupational Safety and Health Administration.

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

*Title:* Underground Construction Standard (29 CFR 1926.800).

*OMB Number:* 1218–0067.

*Frequency:* On occasion and annually.

*Type of Response:* Recordkeeping and third party disclosure.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 323.

*Number of Annual Responses:* 885,762.

*Estimated Time Per Response:* Varies from 30 seconds to read and record air-quality test results to one hour to inspect, load test, and complete and maintain a certification record for a hoist.

*Total Burden Hours:* 57,949.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$117,000.

*Description:* Seven paragraphs in the Underground Construction Standard ("the Standard") require employers to post warning signs or notices during underground construction; these paragraphs are (b)(3), (i)(3), (j)(1)(vi)(A), (m)(2)(ii), (o)(2), (q)(11), and (t)(1)(iv)(B). The warning signs and notices required by these paragraphs enable employers to effectively alert employees to the presence of hazards or potential hazards at the job site, thereby preventing employee exposure to hazards or potential hazards associated with underground construction that could cause death or serious harm.

Certification inspection records for hoist. Paragraph (t)(i)(xxi) of the Standard requires employers to inspect and load test hoists when they install them, and at least annually thereafter; they must also inspect and load test a hoist after making any repairs or alterations to it that affect its structural integrity, and after tripping a safety device on the hoist. Employers must also prepare a certification record of each inspection and load test that includes specified information, and maintain the most recent certification record until they complete the construction project.

Establishing and maintaining a written record of the most recent inspection and load test alerts equipment mechanics to problems identified during the inspection. Prior to returning the equipment to service, employers can review the records to ensure that the mechanics performed the necessary repairs and maintenance. Accordingly, by using only equipment that is in safe working order, employers will prevent severe injury and death to the equipment operators and other employees who work near the equipment. In addition, these records provide the most efficient means for OSHA compliance officers to determine that an employer performed the required inspections and load tests, thereby assuring that the equipment is safe to operate.

Developing and maintaining records for air-quality tests. Paragraph (j)(3) of the Standard mandates that employers develop records for air-quality tests performed under paragraph (j), including air-quality tests required by paragraphs (j)(1)(ii)(A) through (j)(1)(iii)(A), (j)(1)(iii)(B), (j)(1)(iii)(C), (j)(1)(iii)(D), (j)(1)(iv), (j)(1)(v)(A), (j)(1)(v)(B), and (j)(2)(i) through (j)(2)(v). Paragraph (j) also requires that air-quality records include specified information, and that employers