

against which the product has been tested. This information will assist Federal agencies in determining whether or not a qualifying biobased product overlaps with EPA-designated re-refined lubricating oils and which product should be afforded the preference in purchasing.

Note to paragraph (d): Biobased multipurpose lubricant products within this designated item can compete with similar multipurpose lubricant products with recycled content. Under the Resource Conservation and Recovery Act of 1976, section 6002, the U.S. Environmental Protection Agency designated re-refined lubricating oils containing recovered materials as items for which Federal agencies must give preference in their purchasing programs. The designation can be found in the Comprehensive Procurement Guideline, 40 CFR 247.11.

§ 2902.58 [Reserved]

§ 2902.59 Topical pain relief products.

(a) *Definition.* Products that can be balms, creams and other topical treatments used for the relief of muscle, joint, headache, and nerve pain, as well as sprains, bruises, swelling, and other aches.

(b) *Minimum biobased content.* The preferred procurement product must have a minimum biobased content of at least 91 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than October 18, 2011, procuring agencies, in accordance with this part, will give a procurement preference for qualifying biobased topical pain relief products. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased topical pain relief products.

§ 2902.60 Turbine drip oils.

(a) *Definition.* Products that are lubricants for use in drip lubrication systems for water well line shaft bearings, water turbine bearings for irrigation pumps, and other turbine bearing applications.

(b) *Minimum biobased content.* The preferred procurement product must have a minimum biobased content of at least 87 percent, which shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the finished product.

(c) *Preference compliance date.* No later than October 18, 2011, procuring agencies, in accordance with this part,

will give a procurement preference for qualifying biobased turbine drip oils. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for items to be procured shall ensure that the relevant specifications require the use of biobased turbine drip oils.

Dated: October 12, 2010.

Pearlie S. Reed,

Assistant Secretary for Administration, U.S. Department of Agriculture.

[FR Doc. 2010-26122 Filed 10-15-10; 8:45 am]

BILLING CODE 3410-93-P

FEDERAL RESERVE SYSTEM

12 CFR Part 261a

[Docket No. R-1313]

Privacy Act of 1974; Privacy Act Regulation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is issuing a final rule to amend its regulation implementing the Privacy Act of 1974 (Privacy Act). The primary changes concern the waiver of copying fees charged to current and former Board employees, and applicants for Board employment, for access to their records under the Privacy Act; the amendment of special procedures for the release of medical records to permit the Board's Chief Privacy Officer to consult with the Board's Employee Assistance Program counselor to determine whether the disclosure of medical records directly to the requester could have an adverse effect on the requester; changes to the time limits for responding to requests for access to information and amendment of records; and updates to the exemptions claimed for certain systems of records. In addition, the Board is proposing to make minor editorial and technical changes to ensure that the Board's regulation is consistent with the Board's published systems of records and is clearer.

DATES: This rule is effective October 18, 2010.

FOR FURTHER INFORMATION CONTACT: Brad Fleetwood, Senior Counsel, (202) 452-3721, Legal Division. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION: The Board published a notice of proposed rulemaking to amend its regulation

implementing the Privacy Act in the **Federal Register**, 73 FR 25594, May 7, 2008. The proposed amendments: (1) Waived all copying fees in connection with any Privacy Act request by current or former Board employees and applicants for Board employment; (2) permitted the Chief Privacy Officer to consult with the Board's Employee Assistance Program counselor as well as the Board's physician to determine whether the disclosure of medical records directly to the requester could have an adverse effect on the requester; (3) required all requests for access (including requests made by current Board employees for access to their personnel records) to be submitted in writing to the Secretary of the Board; (4) lengthened the time limits for acknowledging (and where practicable, substantially responding to) an individual's request for access to information and making a determination on a request to amend an individual's record; (5) replaced the statutory exemptions listed in the Privacy Act with references to the relevant provisions in the Privacy Act; (6) updated the exemptions listed under 12 CFR 261a.12 to conform to the exemptions approved for each of the Board's Privacy Act systems of records; and (7) made minor editorial and technical changes for clarity and consistency with the Board's published systems of records.

In response to these proposed amendments, the Board received three public comments relating to the privacy of information held by banks and other financial institutions. Because the Board's Privacy Act regulation does not regulate the privacy of this information, the Board did not consider these comments relevant.

The Board's final rule adopts all of the amendments as proposed except that the Board has determined to revise the requirement that all requests for access be submitted in writing to the Secretary of the Board. This amendment was proposed to facilitate appropriate tracking and processing of all Privacy Act requests. However, after an internal review of this matter, the Board determined that because current and former employees frequently request access to records about themselves directly from Human Resources (HR) in person to require such employees to instead seek this information from the Secretary's Office in writing would be extremely burdensome. Any benefit from an increased ability to track these requests would be more than outweighed by the increased difficulty that employees would face in seeking information about themselves.

Therefore, the Board has determined that it is unnecessary at this time to require current or former employees to make Privacy Act requests through the Secretary's Office. The final rule permits current and former Board employees to make Privacy Act requests in person or in writing to the Board office that maintains the record. The Board believes that this will facilitate employees' access to their records consistent with the requirements of the Privacy Act. If the Secretary determines that this option impedes or frustrates in any way the appropriate tracking of requests, the Secretary may notify requesters that they must submit their requests through the Secretary's office. In any case, a denial of an employee's request (in whole or in part) must be reported to the Secretary of the Board so that the Secretary can ensure that the request was appropriately processed.

The Board's final rule also updates section 261a.5(c) regarding verification of identity to make it clear that a Board identification card is considered valid proof of identity for current and former Board employees. In addition, during the time between the date the proposed rulemaking was published and this final rulemaking, the Board published two new systems of records, BGFRS-37 (Electronic Applications) and BGFRS-38 (Transportation Subsidy Records). As noted in the related **Federal Register** Notice, 73 FR 54595, September 22, 2008, certain portions of BGFRS-37 (Electronic Applications) may be exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Thus, the Board has amended section 261a.12 to reflect this exemption.

Regulatory Flexibility Analysis

The Privacy Act Regulation sets forth the procedures by which individuals may request access and amendment to records maintained in systems of records at the Board. The Board certifies that this rule will not have a significant economic impact on a substantial number of small entities, because it does not apply to business entities.

List of Subjects in 12 CFR Part 261a

Privacy.

Authority and Issuance

■ For the reasons set forth in the preamble, the Board revises 12 CFR Part 261a as follows:

PART 261a—RULES REGARDING ACCESS TO PERSONAL INFORMATION UNDER THE PRIVACY ACT 1974

Subpart A—General Provisions

Sec.

- 261a.1 Authority, purpose and scope.
- 261a.2 Definitions.
- 261a.3 Custodian of records; delegations of authority.
- 261a.4 Fees.

Subpart B—Procedures for Requests by Individual to Whom Record Pertains

- 261a.5 Request for access to record.
- 261a.6 Board procedures for responding to request for access.
- 261a.7 Special procedures for medical records.
- 261a.8 Request for amendment of record.
- 261a.9 Board review of request for amendment of record.
- 261a.10 Appeal of adverse determination of request for access or amendment.

Subpart C—Disclosure of Records

- 261a.11 Restrictions on disclosure.
- 261a.12 Exempt records.

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

Subpart A—General Provisions

§ 261a.1 Authority, purpose and scope.

(a) *Authority.* This part is issued by the Board of Governors of the Federal Reserve System (the Board) pursuant to the Privacy Act of 1974 (5 U.S.C. 552a).

(b) *Purpose and scope.* This part implements the provisions of the Privacy Act of 1974 with regard to the maintenance, protection, disclosure, and amendment of records contained within systems of records maintained by the Board. It sets forth the procedures for requests for access to, or amendment of, records concerning individuals that are contained in systems of records maintained by the Board.

§ 261a.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Business day* means any day except Saturday, Sunday or a legal Federal holiday.

(b) *Guardian* means the parent of a minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction.

(c) *Individual* means a natural person who is either a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) *Maintain* includes maintain, collect, use, or disseminate.

(e) *Record* means any item, collection, or grouping of information about an individual maintained by the Board that

contains the individual's name or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voice print, or photograph.

(f) *Routine use* means, with respect to disclosure of a record, the use of such record for a purpose that is compatible with the purpose for which it was collected or created.

(g) *System of records* means a group of any records under the control of the Board from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(h) *You* means an individual making a request under the Privacy Act.

(i) *We* means the Board.

§ 261a.3 Custodian of records; delegations of authority.

(a) *Custodian of records.* The Secretary of the Board is the official custodian of all Board records.

(b) *Delegated authority of the Secretary.* The Secretary of the Board is authorized to—

(1) Respond to requests for access to, accounting of, or amendment of records contained in a system of records, except for requests regarding systems of records maintained by the Board's Office of Inspector General (OIG);

(2) Approve the publication of new systems of records and amend existing systems of records, except those systems of records exempted pursuant to § 261a.12(b), (c) and (d); and

(3) File any necessary reports related to the Privacy Act.

(c) *Delegated authority of designee.*

Any action or determination required or permitted by this part to be done by the Secretary of the Board may be done by a Deputy or Associate Secretary or other responsible employee of the Board who has been duly designated for this purpose by the Secretary.

(d) *Delegated authority of Inspector General.* The Inspector General is authorized to respond to requests for access to, accounting of, or amendment of records contained in a system of records maintained by the OIG.

§ 261a.4 Fees.

(a) *Copies of records.* We will provide you with copies of the records you request under § 261a.5 of this part at the same cost we charge for duplication of records and/or production of computer output under the Board's Rules Regarding Availability of Information, 12 CFR Part 261.

(b) *No fee.* We will not charge you a fee if:

(1) Your total charges are less than \$5, or

(2) You are a Board employee or former employee, or an applicant for employment with the Board, and you request records pertaining to you.

Subpart B—Procedures for Requests by Individuals to Whom Record Pertains

§ 261a.5 Request for access to records.

(a) *Procedures for making request.* (1) Except as provided in paragraph (a)(2) or (f) of this section, if you (or your guardian) want to learn of the existence of, or to gain access to, your record in a system of records, you may submit a request in writing to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

(2) If you request information contained in a system of records maintained by the Board's OIG, you may submit the request in writing to the Inspector General, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

(b) *Contents of request.* Except for requests made under paragraph (f) of this section, your written request must include –

(1) A statement that the request is made pursuant to the Privacy Act of 1974;

(2) The name of the system of records you believe contains the record you request, or a concise description of that system of records;

(3) Information necessary to verify your identity pursuant to paragraph (c) of this section; and

(4) Any other information that might assist us in identifying the record you seek (e.g., maiden name, dates of employment, etc.).

(c) *Verification of identity.* We will require proof of your identity, and we reserve the right to determine whether the proof you submit is adequate. In general, we will consider the following to be adequate proof of identity:

(1) If you are a current or former Board employee, your Board identification card; or

(2) If you are not a current or former Board employee, either

(i) Two forms of identification, including one photo identification, or

(ii) A notarized statement attesting to your identity.

(d) *Verification of identity not required.* We will not require verification of identity when the records you seek are available to any person under the Freedom of Information Act (5 U.S.C. 552).

(e) *Request for accounting of previous disclosures.* You may request an

accounting of previous disclosures of records pertaining to you in a system of records as provided in 5 U.S.C. 552a(c).

(f) *Requests Made by Board Employees.* Unless the Secretary provides and you are notified otherwise, if you are a current or former Board employee, you also may request access to your record in a system of records by appearing in person before or writing directly to the Board office that maintains the record.

§ 261a.6 Board procedures for responding to request for access.

(a) *Compliance with Freedom of Information Act.* We will handle every request made pursuant to § 261a.5 of this part (other than requests submitted under § 261a.5(f) that were granted) as a request for information pursuant to the Freedom of Information Act. The time limits set forth in paragraph (b) of this section and the fees specified in § 261a.4 of this part will apply to such requests.

(b) *Time for response.* We will acknowledge every request made pursuant to § 261a.5 of this part within 20 business days from receipt of the request and will, where practicable, respond to each request within that 20-day period. When a full response is not practicable within the 20-day period, we will respond as promptly as possible.

(c) *Disclosure.* (1) When we disclose information in response to your request, except for information maintained by the Board's OIG, we will make the information available for inspection and copying during regular business hours at the Board's Freedom of Information Office, or we will mail it to you on your request. For requests made under paragraph § 261a.5(f), you may request that the information be provided orally or in person.

(2) When the information to be disclosed is maintained by the Board's OIG, the OIG will make the information available for inspection and copying or will mail it to you on request.

(3) You may bring with you anyone you choose to see the requested material. All visitors to the Board's buildings must comply with the Board's security procedures.

(d) *Denial of request.* If we deny a request made pursuant to § 261a.5 of this part, we will tell you the reason(s) for denial and the procedures for appealing the denial. If a request made under paragraph § 261a.5(f) is denied, in whole or in part, the Board office that denied your request will simultaneously notify the Secretary of the Board of its action.

§ 261a.7 Special procedures for medical records.

If you request medical or psychological records pursuant to § 261a.5, we will disclose them directly to you unless the Chief Privacy Officer, in consultation with the Board's physician or Employee Assistance Program counselor, determines that such disclosure could have an adverse effect on you. If the Chief Privacy Officer makes that determination, we will provide the information to a licensed physician or other appropriate representative that you designate, who may disclose those records to you in a manner he or she deems appropriate.

§ 261a.8 Request for amendment of record.

(a) *Procedures for making request.*

(1) If you wish to amend a record that pertains to you in a system of records, you may submit the request in writing to the Secretary of the Board (or to the Inspector General for records in a system of records maintained by the OIG) in an envelope clearly marked "Privacy Act Amendment Request."

(2) Your request for amendment of a record must—

(i) Identify the system of records containing the record for which amendment is requested;

(ii) Specify the portion of that record requested to be amended; and

(iii) Describe the nature of and reasons for each requested amendment.

(3) We will require you to verify your identity under the procedures set forth in § 261a.5(c) of this part, unless you have already done so in a related request for access or amendment.

(b) *Burden of proof.* Your request for amendment of a record must tell us why you believe the record is not accurate, relevant, timely, or complete. You have the burden of proof for demonstrating the appropriateness of the requested amendment, and you must provide relevant and convincing evidence in support of your request.

§ 261a.9 Board review of request for amendment of record.

(a) *Time limits.* We will acknowledge your request for amendment of your record within 10 business days after we receive your request. In the acknowledgment, we may request additional information necessary for a determination on the request for amendment. We will make a determination on a request to amend a record promptly.

(b) *Contents of response to request for amendment.* When we respond to a request for amendment, we will tell you whether your request is granted or

denied. If we grant your request, we will take the necessary steps to amend your record and, when appropriate and possible, notify prior recipients of the record of our action. If we deny the request, in whole or in part, we will tell you—

- (1) Why we denied the request (or portion of the request);
- (2) That you have a right to appeal; and
- (3) How to file an appeal.

§ 261a.10 Appeal of adverse determination of request for access or amendment.

(a) *Appeal.* You may appeal a denial of a request made pursuant to § 261a.5 or § 261a.8 of this part within 10 business days after we notify you that we denied your request. Your appeal must—

(1) Be made in writing with the words “PRIVACY ACT APPEAL” written prominently on the first page and addressed to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551;

(2) Specify the background of the request; and

(3) Provide reasons why you believe the initial denial is in error.

(b) *Determination.* We will make a determination on your appeal within 30 business days from the date we receive it, unless we extend the time for good cause.

(1) If we grant your appeal regarding a request for amendment, we will take the necessary steps to amend your record and, when appropriate and possible, notify prior recipients of the record of our action.

(2) If we deny your appeal, we will inform you of such determination, tell you our reasons for the denial, and tell you about your rights to file a statement of disagreement and to have a court review our decision.

(c) *Statement of disagreement.* (1) If we deny your appeal regarding a request for amendment, you may file a concise statement of disagreement with the denial. We will maintain your statement with the record you sought to amend and any disclosure of the record will include a copy of your statement of disagreement.

(2) When practicable and appropriate, we will provide a copy of the statement of disagreement to any prior recipients of the record.

Subpart C—Disclosure of Records

§ 261a.11 Restrictions on disclosure.

We will not disclose any record about you contained in a system of records to

any person or agency without your prior written consent unless the disclosure is authorized by 5 U.S.C. 552a(b).

§ 261a.12 Exempt records.

(a) *Information compiled for civil action.* This regulation does not permit you to have access to any information compiled in reasonable anticipation of a civil action or proceeding.

(b) *Law enforcement information.* Pursuant to 5 U.S.C. 552a(k)(2), we have determined that it is necessary to exempt the systems of records listed below from the requirements of the Privacy Act concerning access to records, accounting of disclosures of records, maintenance of only relevant and necessary information in files, and certain publication provisions, respectively, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), and §§ 261a.5, 261a.7, and 261a.8 of this part. The exemption applies only to the extent that a system of records contains investigatory materials compiled for law enforcement purposes.

- (1) BGFRS–1 Recruiting and Placement Records
- (2) BGFRS–2 Personnel Security Systems
- (3) BGFRS–4 General Personnel Records
- (4) BGFRS–5 EEO Discrimination Complaint File
- (5) BGFRS–18 Consumer Complaint Information
- (6) BGFRS–21 Supervisory Enforcement Actions and Special Examinations Tracking System
- (7) BGFRS–31 Protective Information System
- (8) BGFRS–32 Visitor Registration System
- (9) BGFRS–36 Federal Reserve Application Name Check System
- (10) BGFRS–37 Electronic Applications
- (11) BGFRS/OIG–1 OIG Investigative Records

(c) *Confidential references.* Pursuant to 5 U.S.C. 552a(k)(5), we have determined that it is necessary to exempt the systems of records listed below from the requirements of the Privacy Act concerning access to records, accounting of disclosures of records, maintenance of only relevant and necessary information in files, and certain publication provisions, respectively, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), and §§ 261a.5, 261a.7, and 261a.8 of this part. The exemption applies only to the extent that a system of records contains investigatory material compiled to determine an individual’s suitability, eligibility, and qualifications for Board

employment or access to classified information, and the disclosure of such material would reveal the identity of a source who furnished information to the Board under a promise of confidentiality.

- (1) BGFRS–1 Recruiting and Placement Records
- (2) BGFRS–2 Personnel Security Systems
- (3) BGFRS–4 General Personnel Records
- (4) BGFRS–10 General Files on Board Members
- (5) BGFRS–11 Official General Files
- (6) BGFRS–13 Federal Reserve System Bank Supervision Staff Qualifications
- (7) BGFRS–14 General File on Federal Reserve Bank and Branch Directors
- (8) BGFRS–25 Multi-Rater Feedback Records
- (9) BGFRS/OIG–1 OIG Investigative Records
- (10) BGFRS/OIG–2 OIG Personnel Records

(d) *Criminal law enforcement information.* Pursuant to 5 U.S.C. 552a(j)(2), we have determined that the OIG Investigative Records (BGFRS/OIG–1) are exempt from the Privacy Act, except the provisions regarding disclosure, the requirement to keep an accounting, certain publication requirements, certain requirements regarding the proper maintenance of systems of records, and the criminal penalties for violation of the Privacy Act, respectively, 5 U.S.C. 552a(b), (c)(1), and (2), (e)(4)(A) through (F), (e)(6), (e)(7), (e)(9), (e)(10), (e)(11) and (i).

By order of the Board of Governors of the Federal Reserve System, October 4, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–25367 Filed 10–15–10; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0651; Airspace Docket No. 10–ANM–7]

Amendment of Class D and Class E Airspace; Klamath Falls, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will amend Class D and Class E airspace at Klamath Falls, OR. Decommissioning of the Merrill