

prior to a final temporary labor certification determination, or if it is learned that an application is the subject of a criminal indictment or information filed in a Court, the Certifying Officer shall refer the matter to the INS for investigation and shall notify the applicant in writing of this referral. The Certifying Officer shall continue to process the application and may issue a qualified temporary labor certification.

(b) If a Court finds an applicant innocent of fraud or willful misrepresentation, or if the Department of Justice decides not to prosecute an applicant, the Certifying Officer shall not deny the temporary labor certification application on the grounds of fraud or willful misrepresentation. The application, of course, may be denied for other reasons pursuant to this subpart.

(c) If a Court or the INS determines that there was fraud or willful misrepresentation involving a temporary labor certification application, the application shall be deemed invalidated, processing shall be terminated, and the application shall be returned to the applicant with the reason therefor stated in writing.

§ 655.109 Temporary labor certification related records.

Employers who have been granted temporary labor certifications shall maintain for at least three years all records, including payroll and other employment records, which are related to the employment of the non-immigrant alien workers. These records shall be made available by the Secretary or the Secretary's representatives.

§ 655.110 Nature of employment service job orders.

In view of the statutorily established basic function of the employment service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the Department of Labor nor the Guam employment service are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor do such job orders represent an "offer to contract" to which the Employment Service is in any way a party.

Signed at Washington, D.C., this 6th day of September 1977.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

[FR Doc. 77-26599 Filed 9-8-77; 3:53 pm]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 75P-0370]

PART 101—FOOD LABELING

Type-Size Exemption for Certain Small Packaged Food Labels

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This amendment permits a $\frac{1}{32}$ -inch type size to be used to print information required to appear on the labels of individual serving-size packages of foods if the food is for food service use, not intended for retail sale, and there is insufficient space on the package to print the information as required by existing regulations.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-3092).

SUPPLEMENTARY INFORMATION:

In the FEDERAL REGISTER of August 12, 1976 (41 FR 34051) the Commissioner of Food and Drugs issued a proposal to amend § 1.8d (21 CFR 1.8d) in response to a petition received from the Smith-Kline Corp., Philadelphia, Pa. Section 1.8d was recodified as § 101.2 (21 CFR 101.2) in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302); hereafter, it will be referred to by its new designation, § 101.2. The effect of the proposal was to permit a $\frac{1}{32}$ -inch type size to be used for printed information on the labels of individual serving-size packages of food that are for institutional food service use when there is insufficient space on the package to print the information as required by existing regulations.

In response to the proposal, 18 comments were received. There were 13 comments from consumers, 3 from industry, 1 from a local government agency, and 1 from a Federal government agency. The majority of the comments supported the proposal. Two comments were not directly applicable to the proposal.

DISCUSSION OF COMMENTS AND THE COMMISSIONER'S RESPONSE

1. Ten comments expressed general support for the proposal. One comment said, "The widespread use and popularity of individual single-service packaging benefits consumer and food service interests alike, permitting the sanitary and efficient distribution of prepared foods. The proposed $\frac{1}{32}$ -inch type size exemption makes allowances for the proper labeling of food items so packaged."

The Commissioner agrees, and to this he adds that since there is no prohibition against serving foods from open unlabeled serving containers—a practice that prevails in some food service operations—much has been gained in food service cleanliness and sanitation by the use of individual single-service packaging. Changes in the regulations are being made because the area of the surface available for labeling is often too small to accommodate all the required information in the type size currently required by § 101.2 and because the Commissioner wishes to encourage the use of single-service packaging as opposed to unlabeled open serving containers.

2. Several comments said that consumers will benefit from the proposed

amendment even though some may have difficulty reading information printed in $\frac{1}{32}$ -inch type. These comments pointed out that a $\frac{1}{32}$ -inch type will allow all required information to be readily available on the package at the point of usage, thereby enabling consumers to know the contents of the packaged food and to avoid ingredients to which they may be allergic.

The Commissioner recognizes that some consumers may have difficulty reading information printed in a $\frac{1}{32}$ -inch type size. He agrees, however, that the benefits expected from this amendment outweigh this detriment.

The Commissioner emphasizes that only packages having insufficient space available to meet present labeling requirements are entitled to this exemption. Accordingly, packages that have sufficient area for printing the required information in a $\frac{1}{32}$ -inch type size are required to do so.

3. Four comments said that the exemption should not be allowed because $\frac{1}{32}$ -inch type is difficult to read and would make consumers suspicious of the ingredients in the food. And the comments contended that information printed in $\frac{1}{32}$ -inch type is less likely to be read by the consumer, thereby defeating the purpose of placing the information on the package.

The Commissioner believes that for those food packages affected by this proposal it is appropriate to permit a $\frac{1}{32}$ -inch type size to be used for the printed information required. Because of the package area limitation of 3 square inches, the regulation is principally applicable to condiments. The Commissioner understands the concerns of the consumers who oppose the use of a $\frac{1}{32}$ -inch type size. It has been pointed out, however, that this exemption may serve to increase the availability of single-service packages of foods in food service operations. The increased availability of foods in single-service packaging will not only improve food sanitation, but will also provide the ultimate consumer with product information that may not otherwise be available to him.

4. One comment suggested, as an alternative to the proposed exemption, that manufacturers print the address where consumers can write for the information, which would then be supplied in a type size larger than $\frac{1}{32}$ -inch in height.

The Commissioner finds that labeling information should, whenever possible, accompany the food. It would be unfair to consumers to withhold this information from the labels and unreasonable to expect consumers to mail a request for labeling information concerning food about to be eaten.

5. One comment suggested that manufacturers be required to change the packaging size to accommodate printed information in a larger type size.

The Commissioner concludes that requiring manufacturers to enlarge their packages solely to accommodate information printed in a type size larger than $\frac{1}{32}$ inch in height would result in some unreasonable and avoidable cost

increases and environmental impact associated with the production and destruction of the larger packages. In addition, the Commissioner does not wish to impede the development of single-service containers by undue regulation of the size or style of packages for the products covered by this exemption.

6. One comment requested that § 101.2 (c) (5) (1) of the proposal be revised to state the package size limit as "3 square inches or less" rather than the proposed "less than 3 square inches." This comment contends that this revision is more in accord with the Commissioner's intent to include packages having a surface area of 3 square inches.

The Commissioner concurs and is revising paragraph (c) (5) (1) accordingly.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040-1042 as amended, 1047-1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 101 is amended in § 101.2 by adding new paragraph (c) (5) to read as follows:

§ 101.2 Information panel of package form food.

(c)

(5) Individual serving-size packages of food served with meals in restaurants, institutions, and on board passenger carriers, and not intended for sale at retail, are exempt from type-size requirements of this paragraph, provided:

(i) The package has a total area of 3 square inches or less available to bear labeling;

(ii) There is insufficient area on the package available to print all required information in a type size of $\frac{1}{16}$ inch in height;

(iii) The label information includes a full list of ingredients in accordance with regulations in this part and the policy expressed in § 101.6 of this chapter; and

(iv) The information required by paragraph (b) of this section appears on the label in accordance with the provisions of this paragraph, except that the type size is not less than $\frac{1}{16}$ inch in height.

Effective date: September 13, 1977.

(Secs. 201, 403, 701(a), 52 Stat. 1040-1042 as amended, 1047-1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a)))

Dated: September 7, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 77-26528 Filed 9-12-77; 8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Alaska; Certification of Completion of Developmental Steps

AGENCY: Occupational Safety and Health Administration.

ACTION: Certification of completion of developmental steps.

SUMMARY: This document certifies that the State of Alaska has completed all of the developmental steps specified in its occupational safety and health plan as approved on July 31, 1973 (38 FR 21628) and gives notice that commencing with this certification, operations under the plan will be subject to at least one year extensive evaluation to determine whether Federal occupational safety and health standards development and enforcement authority will be relinquished within the State of Alaska pursuant to section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(e)).

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3608, Washington, D.C. 20210 (202-523-8031).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Subpart D of Part 1902 of Title 29, Code of Federal Regulations (40 FR 54780) sets out procedures under which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) will make a determination under section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) whether, on the basis of actual operations under a State plan, the criteria of section 18(c) of the Act are being applied under the plan. Such a determination may not be made until at least three years after commencement of operations under the plan and, in the case of a developmental plan, until the State has satisfactorily completed all developmental steps and the Assistant Secretary has had at least one additional year to evaluate the plan on the basis of actual operations. Upon making a determination under 18(e) that the 18(c) require-

ments are being applied, Federal enforcement of standards and Federal Standards (except with regard to ongoing cases) cease to apply in the State with respect to any occupational safety and health issue covered under the determination.

Section 1902.34 of Subpart D provides that the evaluation of a State's fully operational program, preparatory to an 18(e) determination, shall commence upon publication in the FEDERAL REGISTER of a certification that all developmental steps have been completed. Such certification must list the developmental steps, including approved amendments thereto, and the dates their approvals were published in the FEDERAL REGISTER; approved substantive changes in the State plan and dates published in the FEDERAL REGISTER; documentation that the State merit system has been approved and found acceptable; and a description of the occupational safety and health issues covered by the certification. If the Assistant Secretary finds that the State has completed all the developmental steps specified in the plan, he shall give notice of same by publishing the certification in the FEDERAL REGISTER and amend the appropriate subpart of Part 1952 of this chapter to reflect this finding.

On August 19, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan as a developmental plan and adoption of Subpart R of Part 1952 containing the decision and describing the plan. During the three year period ending October 1, 1976, following commencement of State operations (three years from date of State's first 23(g) grant award), Edmond N. Orbeck, Commissioner, Alaska Department of Labor, submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Alaska developmental steps.

NOTICE OF CERTIFICATION OF COMPLETION OF DEVELOPMENTAL STEPS UNDER THE ALASKA PLAN

In accordance with the provisions of 29 CFR 1902.34, notice is given that the Alaska occupational safety and health plan is hereby certified, effective September 9, 1977, as having completed all the developmental steps specified in the plan as approved July 31, 1973, on or before October 1, 1976 (see Subpart C of 29 CFR Part 1952) as follows:

A. All developmental steps specified in the plan and amendments thereto have been completed:

1. The Alaska Occupational Safety and Health Act (§§ 18.60.010 through 18.60.105, Alaska Statutes), effective July 24, 1973, was approved at time of plan approval July 31, 1973 (38 FR 21628, August 10, 1973). State-initiated amended legislation (House Bill No. 588) was signed by the Governor on June 29, 1976, became effective June 30, 1976, and was approved by the Assistant Secretary on August 29, 1977. (See FR Doc. 77-26347 appearing in the Notices section of this issue.)

2. Alaska standards comparable to Subparts D, G, H, I, N, O, and P of Part 1910 were promulgated prior to and approved with the State plan on July 31, 1973. All Federal standards promulgated subsequent to the date of plan approval have been in turn promulgated by the State and approved by the Regional Administrator for Occupational Safety and Health as follows:

(a) State standards identical to Federal standards comparable to Part 1910, Subpart S were approved on June 30, 1975 (40 FR 33291, August 7, 1975).

(b) State standards identical to Federal standards comparable to Part 1910, Subpart J were approved on August 12, 1975 (40 FR 43101, September 18, 1975).

(c) State standards identical to Federal standards comparable to Part 1910, Subparts E, M, and P were approved on September 15, 1975 (40 FR 50582, October 30, 1975).

(d) State standards at least as effective as Federal standards comparable to Part 1910, Subparts K and Q were approved on September 11, 1975 (40 FR 50582, October 30, 1975).

(e) State standards at least as effective as Federal standards comparable to Part 1910, Subpart L were approved on September 15, 1975 (40 FR 50582, October 30, 1975).

(f) State standards at least as effective as the Federal standards comparable to Subpart R, § 1910.261 were approved on July 22, 1976 (41 FR 39112, September 14, 1976).

(g) State standards identical to Federal standards comparable to Subpart R, §§ 1910.262, 1910.263, and 1910.264 were approved on September 30, 1976 (41 FR 47613, October 29, 1976).

(h) In response to Federal program change, State standards identical to Federal standards comparable to Part 1910, Subpart Z were approved on October 29, 1976 (41 FR 52557, November 30, 1976).

(i) In response to a Federal program change, State standards identical to Federal standards comparable to § 1910.268, Telecommunications, were approved on October 29, 1976 (41 FR 52557, November 30, 1976).

(j) In response to a Federal program change, State standards identical to Federal standards comparable to Part 1928 were approved on October 29, 1976 (41 FR 52558, November 30, 1976).

(k) State standards at least as effective as the Federal standards comparable to Part 1928 were submitted to the Regional Administrator on September 24, 1976, and approved on October 29, 1976 (41 FR 53077, December 3, 1976).

(l) State standards identical to Federal standards comparable to Subpart R, §§ 1910.265 and 1910.266 were submitted to the Regional Administrator on September 20 and 24, 1976, and approved on October 29, 1976 (41 FR 56409, December 28, 1976).

(m) Update of all State standards comparable to Federal standards in Part 1910, as republished January 11, 1977 (42 FR

2366) were approved on December 3, 1976 (42 FR 2366, January 11, 1977).

(n) In response to a Federal program change, State standards identical to Federal standards comparable to § 1910.1001(1) (1), Asbestos Recordkeeping—Exposure Records, were approved on March 9, 1977 (42 FR 25389, May 17, 1977).

3. The Alaska compliance manual which establishes procedures to be used by State enforcement personnel was developed by February 1, 1974, and was subsequently revised. Documentation on completion of this developmental step was submitted by the State on September 28, 1976, and approved by the Assistant Secretary on August 9, 1977 (42 FR 40195).

4. Alaska developed and implemented a manual Management Information System by October 1, 1974. This developmental step was approved by the Assistant Secretary on August 20, 1976 (41 FR 36206, August 27, 1976).

5. Alaska completed its interim training program by April 1, 1974, and has developed an extended training program by October 1, 1976. This developmental step was approved by the Assistant Secretary on August 20, 1976 (41 FR 36206, August 27, 1976).

6. Alaska submitted a change to its plan to reduce the number of industrial hygienists as outlined in the original plan. This reduction was approved by the Assistant Secretary on November 19, 1976 (41 FR 52556, November 30, 1976). Therefore, in accordance with § 1952.243(e) Alaska completed hiring of its industrial health staff by October 1, 1976, which was approved by the Assistant Secretary on November 19, 1976 (41 FR 52556, November 30, 1976). Alaska has also provided for an Industrial Health Laboratory capacity which became fully operational on May 31, 1976, and which was approved by the Assistant Secretary on August 20, 1976 (41 FR 36206, August 27, 1976).

7. Alaska has promulgated the following administrative rules and regulations (Alaska Administrative Code) which were submitted on January 26, 1976, subsequently on April 14, May 13, 17, and 18, 1977, in response to Federal review and approved by the Assistant Secretary on August 9, 1977 (42 FR 40195).

(a) Regulation § 8 AAC 61.020 through 155: Inspections, Citations, and Proposed Penalties;

(b) Regulation § 8 AAC 61.225 through 295: Recording and Reporting Occupational Injuries and Illnesses;

(c) Regulation § 8 AAC 61.300 through 400: Variances;

(d) Regulation § 8 AAC 61.160 through 220: Occupational Safety and Health Review Board;

(e) Regulation § 8 AAC 61.410 through 420: Consulting and Training;

(f) Regulation § 8 AAC 61.430 through 460: General Provisions.

8. Alaska has developed a job safety poster applicable to both private and public employees which must be distributed to all workplaces in the State. The poster was approved by the Assistant Secretary on September 28, 1976 (41 FR 43405, October 1, 1976).

9. Alaska has submitted a revised plan. The revisions to the plan are editorial in nature: Clarifying and updating the original plan and eliminating duplications, conflicting time frames and extraneous information. This revision was approved by the Assistant Secretary on July 22, 1977 (42 FR 37607).

B. The personnel operations of the Alaska Department of Labor have been found to be in substantial conformity with the "Standards for a Merit System of Personnel Administration" by the U.S. Civil Service Commission by letter dated May 18, 1976. The merit system also incorporates an affirmative action plan.

C. This certification covers all occupational safety and health issues covered under the Federal program except for the longshoring and maritime standards found in 29 CFR Parts 1915, 1916, 1917, and 1918 (longshoring, ship repairing, shipbuilding, shipbreaking) which are excluded from coverage under the plan. This certification also covers the State program covering State and local government employees.

LOCATION OF THE PLAN AND ITS SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of the plan and the supplements may be inspected and copied during normal business hours at the following locations: Office of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Wash. 98174; and the Alaska Department of Labor, Juneau, Alaska 99801.

EFFECT OF CERTIFICATION

The operation of the Alaska occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification, to determine whether the State program in operation is at least as effective as operations under the Federal program, in order to make a determination under section 18 (e) of the Act that Federal enforcement authority and standards should cease to apply in issues under the plan.

In accordance with 29 CFR 1902.35 Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662, and 666) and Federal standards authority under section 6 (29 U.S.C. 655) of the Act will not be relinquished during this evaluation period. However, under the terms of the operational agreement entered into with Alaska effective January 6, 1977 (42 FR 37547) the exercise of this authority by the U.S. Department of Labor will continue to be limited to, among other things: Federal standards promulgated subsequent to the agreement where necessary to protect employees as in the case of temporary emergency standards promulgated under section 6(c) of the Act (29 U.S.C.

655 c) in the issues covered under the plan and agreement until such time as Alaska shall have adopted equivalent standards in accordance with Subpart C of 29 CFR Part 1953; complaints about violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660); Federal standards contained in the issues covered by Subpart B—Ship Repairing, Shipbuilding, Shipbreaking, and Longshoring. 29 CFR 1910.13 through 1910.16; and investigation and inspection for the purpose of evaluation of the Alaska plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)).

In accordance with this certification 29 CFR 1952.244 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (h) as follows:

§ 1952.244 Completion of developmental steps and certification.

(h) In accordance with § 1902.34 of this chapter, the Alaska occupational safety and health plan was certified; effective September 9, 1977, as having completed on or before October 1, 1976, all developmental steps specified in the plan as approved on July 31, 1973.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 29th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 77-26491 Filed 9-12-77; 8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Wyoming Plan Supplement

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: The Wyoming Occupational Health and Safety Commission formally submitted to OSHA its Affirmative Action Plan fulfilling a commitment in the notice of plan approval for insuring equal employment opportunity. The plan has been approved by both OSHA and the U.S. Civil Service Commission as completion of a developmental aspect of the State's plan.

FOR FURTHER INFORMATION CONTACT:

Charles Boyd, Project Officer, Office of State Programs, Occupational Safety and Health Administration, Department of Labor, 200 Constitution Avenue, NW., Room N-3608, Washington, D.C. 20210 (202-523-8031).

EFFECTIVE DATE: September 9, 1977.

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safe-

ty and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming plan and the adoption of Subpart BB to Part 1952 containing the decision and describing the plan. On June 24, 1977, Wyoming submitted a supplement to the plan involving implementation of its commitment to develop the basis for an ongoing affirmative action plan. The supplement was evaluated by the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) in conjunction with Regional Civil Service Commission officials.

DESCRIPTION OF THE SUPPLEMENT

Affirmative Action Plan: The Wyoming Occupational Health and Safety Commission has developed an Affirmative Action Plan outlining its policy of equal employment opportunity and establishing practice and procedures for the recruiting and hiring of minority and women employees, to assure its commitment to a program that provides equal employment opportunity to all persons on the basis of individual merit.

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of the Director, Federal Compliance and State Programs, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 15010, Federal Building, 1961 Stout Street, Denver, Colo. 80202; and, the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyo. 82001.

PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter, the Assistant Secretary for Occupational Safety and Health (hereinafter Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Wyoming plan supplement described above is consistent at this time with commitments, contained in the approved plan, and previously made available for public comment, State of Wyoming personnel policies, and the overall goals of the State's occupational safety and health program. Accordingly, it is found that further public comment and notice is unnecessary.

DECISIONS

After careful consideration, the Wyoming plan change outlined herein is approved under Part 1953. In addition,

29 CFR 1952.344 is hereby amended to reflect the completion of the developmental step.

§ 1952.344 Completed developmental steps.

(d) The State plan has been amended to include an Affirmative Action Plan outlining the State's policy of equal employment opportunity.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 29th day of August 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 77-26492 Filed 9-12-77; 8:45 am]

CHAPTER XXV—EMPLOYEE BENEFITS SECURITY OFFICE, DEPARTMENT OF LABOR

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

Exemption for Loans to Employee Stock Ownership Plans

Correction

In FR Doc. 77-25695 appearing at page 44383 as a Part IV in the issue for Friday, September 2, 1977, make the following corrections:

(1) On page 44386, third column, in § 2550.408b-3(h)(2), in the 5th line from the bottom, the word "refining" should have read "refinancing".

(2) On page 44387, middle column, in § 2550.408b-3(j), in the 9th line from the bottom, the word "option" should have read "put option".

(3) On the same page, in the same section, third column, in the italicized heading for paragraph (c)(2) the date for 60 days after publication of the final regulations is November 1, 1977.

**Title 32—Department of Defense
CHAPTER XII—DEFENSE LOGISTICS AGENCY**

[DLAR 5400.21:RCS DD(A&AR) 1379]

PART 1286—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Privacy Act of 1974

AGENCY: Defense Logistics Agency, DOD.

ACTION: Final rule.

SUMMARY: In FR Doc 77-21934 published in the FEDERAL REGISTER issue of July 26, 1977 (42 FR 37982), the Defense Logistics Agency published a proposed rule as a proposed amendment to 32 CFR Part 1286: amendment to Appendix C and modification of the reasons for exemption. No written comments, suggestions, or objections regarding the proposed rule were received. Accordingly, 32 CFR Part 1286 as set forth in 42 FR 37982 is formally adopted.

ADDRESS: Headquarters, Defense Logistics Agency, Attention: DLA-XA, Cameron Station, Alexandria, Va. 22314.

FOR FURTHER INFORMATION CONTACT:

Mr. William A. Smith, 202-274-6234.

By Order of the Director:

WILLIAM A. SMITH,
Chief, Administrative Management Division, Office of Administration.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

SEPTEMBER 8, 1977.

PART 1286—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Sec.

- 1286.1 Purpose and scope.
- 1286.2 Policy.
- 1286.3 Definitions.
- 1286.4 Responsibilities.
- 1286.5 Procedures.
- 1286.6 Forms and reports.

AUTHORITY: Pub. L. 93-579 (5 U.S.C. 552a).

§ 1286.1 Purpose and scope.

(a) This Part 1286 implements the Privacy Act of 1974 (hereinafter referred to as the Act) by prescribing:

(1) The procedures whereby an individual can be notified in response to his request of any system of records named by the individual contains a record pertaining to him.

(2) The requirements for verifying the identity of an individual who requests his record or information pertaining to him before the record or information will be made available to him.

(3) The procedures for granting access to an individual upon his request of his record or information pertaining to him.

(4) The procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to him, for making a determination on the request, and for an appeal of an initial adverse determination.

(5) The procedures and policies governing the collection, safeguarding, maintenance, public notice, use, and dissemination of personal information.

(6) The conditions under which disclosure of personal information may be made and procedures for exempting systems of records from certain requirements of the Act.

(b) This Part 1286 is applicable to HQDLA and all DLA field activities.

§ 1286.2 Policy.

It is the policy of DLA:

(a) To preserve the personal privacy of individuals, permitting an individual to know what records pertaining to him are collected, maintained, used, or disseminated in DLA, and to have access to and have a comprehensible copy made of all or any portion of such records and to correct or amend such records.

(b) To collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, and that adequate safeguards are provided to prevent misuse of such information.

¹For convenience in reading, standard pronoun gender usage will be followed in this DLAR. Where such pronouns as "he" or "him", etc., are used, it should be understood to include "she" or "hers", etc.

sonal information in a manner that assures that such action is for necessary and lawful purpose; that the information is timely and accurate for its intended use; and that adequate safeguards are provided to prevent misuse of such information.

§ 1286.3 Definitions.

(a) *Individual*. A citizen of the United States or an alien lawfully admitted for permanent residence. A legal guardian or the parent of a minor have the same rights as the individual and may act on behalf of the individual.

(b) *Maintain*. (Records on individuals) collect, use, or disseminate.

(c) *Record*. Any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) *Routine Use*. The disclosure of a record, or the use of such record for a purpose which is compatible with the purpose for which it was collected. Routine use encompasses not only common or ordinary uses, but also all the proper and necessary uses of the record; even if such use occurs infrequently.

(e) *System Manager*. The official responsible for the policies and practices governing the system of records.

(f) *System of Records*. A group of records under the control of any system manager from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

§ 1286.4 Responsibilities.

(a) *HQ DLA*—(1) *The Chief, Administrative Management Division, Office of Administration (DLA-XA)* will:

(i) Formulate policy to provide comprehensive guidance necessary for uniform compliance with the Act by all elements of DLA.

(ii) Serve as the focal point on privacy matters for DLA in communication with the Defense Privacy Board and is designated the DLA Privacy Act Officer.

(iii) Supervise the preparation for publication in the FEDERAL REGISTER of all required information or systems of records affected by the Act.

(iv) Serve as the DLA representative on the Defense Privacy Board.

(v) Review for conformity with the Act, all procedures, including DLA and DD forms, which requires an individual to furnish information, and formulate corrective or supplementary provisions, as necessary.

(vi) Maintain this DLAR in a current status and review it annually.

(2) *The Chief, Publication Division, Office of Administration (DLA-XM)* will review DLA publications to assure that those which meet the criteria for publication in the FEDERAL REGISTER are

prepared in proper form and transmitted promptly for publication in the FEDERAL REGISTER as required by DLAR 5025.19, Publication of Material in the FEDERAL REGISTER.

(3) *The Counsel (DLA-G)* will review policies, practices, and procedures to ensure conformity with the Act.

(4) *The Assistant Director, Plans, Programs and Systems (DLA-LS)* will provide policies and guidance to preclude unauthorized disclosure of protective information maintained in the automatic data processing facility.

(5) *The Chief, Training and Incentives Division, Office of Civilian Personnel (DLA-KT)* will, in conjunction with the DLA Privacy Board, ensure development of appropriate training program for all personnel where duties involve responsibilities for systems of records affected by the Act.

(6) *The Heads of HQ DLA Principal Staff Elements (PSEs)* will:

(i) Ensure that the collection, maintenance, use, or dissemination of record of identifiable personal information is in a manner that assures that such action is for a necessary and lawful purpose, that the information is timely and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

(ii) Ensure that internal operating procedures provide for effective compliance with the Act.

(iii) Establish procedures for the granting of confidentiality in regulations and procedures for investigations (e.g., law enforcement, suitability, etc.).

(iv) Prepare and submit reports in accordance with § 1286.6.

(7) *DLA Privacy Board*. Established under the chairmanship of the Chief, Administrative Management Division, Office of Administration (DLA-XA) with membership consisting of representatives from the Comptroller, DLA, Counsel, DLA, Staff Director, Civilian Personnel, DLA, Assistant Director, Plans, Programs, and Systems, DLA, Staff Director, Military Personnel, DLA, Command Security Officer, DLA, and the Executive Director, Industrial Security, HQ DLA CAS. The Board will cause to be reviewed for conformity with the Act, each category of information in a system of records for necessity and relevance; provide assistance in the development of DLA-wide Privacy training program; and review practices and procedures established by system managers to ensure they are in conformity with the Act.

(b) *The Heads of DLA Primary Level Field Activities (PLFAs)* will:

(i) Ensure that the collection, maintenance, use, or dissemination of record of identifiable personal information is in a manner that assures that such action is for a necessary and lawful purpose, that the information is timely and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

(2) Designate a Privacy Act officer to serve as the principal point of contact on privacy matters.

(3) Ensure that internal operating procedures provide for effective compliance with the Act.

(4) Establish a training program for those personnel whose duties involve responsibilities for systems of records affected by the Act.

§ 1286.5 Procedures.

(a) *Access to personal information.* (1) Upon request, an individual will be informed whether or not a system of records contains a record pertaining to him, and accompanied by a person of his own choosing, if he so desires, will be permitted to review his records, and to obtain a copy of such records in a form that is comprehensible to him at a reasonable cost, unless exempted in accordance with paragraph (c) (1) (v) of this section or paragraph (d) of this section. This Part 1286 does not require that a record be created or that an individual be given access to records which are not retrieved by name or other individual identifier. Only costs of reproduction, as set forth in DLAR 5400.14, Availability to the Public of Official Information, may be charged; however, if copying is the only means whereby the record can be made available to the individual, reproduction fees will not be assessed (i.e., when a copy must be made in order to delete information contained on the record pertaining to another individual).

(i) The granting of access to a record containing personal information will not be conditioned upon any requirement by the individual to state a reason or otherwise justify the need to gain access.

(ii) Prior to granting access to personal information, individuals may be required to provide reasonable verification of his identity.

(a) No verification of identity will be required of an individual seeking access to records which are otherwise available to any member of the public under DLAR 5400.14.

(b) For the individual who seeks access in person, verification of identity will normally be made by those documents which an individual is likely to have readily available, such as employee or military identification card, driver's license, or medical card.

(c) When access is requested by mail, verification of identity may consist of the individual providing certain minimum identifying data, such as name and date of birth or such other information deemed necessary by the system manager having custody of the record. If the sensitivity of the data warrants, a signed notarized statement of identity may be required.

(d) An individual will not be denied access to his record for refusing to disclose his social security number (SSN), unless disclosure of his SSN is required by Federal Statute or required for verification purposes under a system of records existing and operating before 1 January 1975, if such disclosure was required under statute or regulation adopted prior to such a date.

(e) Individuals may not be denied access to a record pertaining to themselves because those records are exempted from disclosure under the provisions of DLAR 5400.14.

(iii) Access to a record or a copy thereof will not be denied solely because the record's physical presence is not readily available (i.e., on magnetic tape), or because the context of the record may disclose sensitive information about another individual. To protect the personal privacy of other individuals who may be identified in a record, an extract will be prepared to delete only that information which would not be releasable to the requesting individual under DLAR 5400.14.

(iv) A medical record will be disclosed to the individual to whom it pertains unless, in the judgement of a physician, access to such record could have an adverse effect upon the individual's physical or mental health. When it has been determined that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, the information may be transmitted to a physician named by the requesting individual.

(v) This Part 1286 does not entitle an individual to have access to any information compiled in reasonable anticipation of a civil action or proceeding.

(vi) A system manager may require an individual who wishes to be accompanied by another person when receiving access to his records to furnish a written statement authorizing discussion of the records in the presence of the accompanying person.

(vii) Any requests from an individual for access to or copies of records maintained on him will be processed in accordance with this Part 1286 and not the Freedom of Information Act. Normally, requests for access to records will be acknowledged within 10 working days of receipt and access provided within 30 working days.

(viii) Copies of investigatory records compiled by any investigative organization, but in the temporary custody of an element requesting the record for purposes of adjudication or other personnel action, are the records of the originating investigative organization. Individuals seeking access to such records will be directed to the originating investigative organization and should be instructed to direct all requests submitted under the Act to that organization. Records concerning the adjudication, or other personnel actions based on the investigative records, originated by the organization using the investigation, are the records of the using organization which shall respond to all other requests under the Act concerning them.

(2) *Amendment of personal information.* (i) An individual will be given the opportunity to request, either in person or through the mail, that his record be amended. The system manager may, however, require that such requests be made in writing. Instructions for the preparation of a request and any forms employed should be as brief and as sim-

ple as possible. Requests should contain as a minimum, identifying information to locate the record, a description of the items to be amended and the reason amendment is being requested. A request will not be rejected or required to be resubmitted unless additional information is essential to process the request. Incomplete or inaccurate requests will not be rejected categorically; the individual will be asked to clarify the request as needed. Individuals will be required to provide verification of identity as paragraph (a) (1) (ii) of this section to assure that the requester is seeking to amend records pertaining to him and not, inadvertently or intentionally, the records of another individual.

(ii) A written acknowledgement of the receipt of a request for amendment of a record must be provided to the individual within 10 working days (excluding Saturdays, Sundays, and legal public holidays) after receipt by the system managers. The acknowledgement will clearly identify the request and advise the individual when he may expect to be advised of action taken on the request. Whenever practicable, the decision will be made within 30 working days. No separate acknowledgement of receipt is necessary if the request can be either approved or denied, and the individual advised within the 10-day period. For requests presented in person, written acknowledgement should be provided at the time the request is presented.

(iii) If the system manager agrees with any portion or all of the individual's request to amend a record, the system manager will promptly advise the individual and amend the record accordingly. If disclosure accounting has been made, the system manager will advise all previous recipients of the record that the amendment has been made and the substance of the correction.

(iv) If the system manager disagrees with all or any portion of a request to amend a record, the system manager will promptly:

(a) Advise the individual of his refusal and the reasons therefor.

(b) Inform the individual that he may request a further review by the designated reviewing official.

(c) Describe the procedures for requesting such a review including the name and address of the official to whom the request should be directed.

(v) A review of the initial refusal to amend a record will be made if requested by the individual.

(a) Heads of HQ DLA PSEs and Heads of PLFAs, as applicable, are designated reviewing officials and will make a review of the initial determination. The Deputy Director, DLA, or the Deputy Director, CAS, for HQ DLA CAS elements and Defense Contract Administration Services Regions, will be the reviewing official when one of the aforementioned officials is identified as a system manager.

(b) If, after conducting the review, the reviewing official also refuses to amend the record in accordance with the individual's request, the individual will be notified:

(1) Of the refusal and the reasons therefor.

(2) Of his right to file a concise statement of reasons for disagreeing with the decisions of DLA.

(3) Of the procedures for filing a statement of disagreement and such statement will be made available to anyone to whom the record is subsequently disclosed.

(4) That prior recipients of the disputed record will be provided a copy of the statement of disagreement to the extent that an accounting of disclosure is maintained.

(5) Of his right to seek judicial review of DLA's refusal to amend a record.

(c) If the reviewing official determines that the record should be amended in accordance with the request, the system manager will amend the record, advise the individual, and inform previous recipients where an accounting of disclosure has been maintained.

(d) A final determination on the individual's request for a review of an initial refusal to amend a record must be completed within 30 days after receipt by the proper office unless the reviewing official determines that a fair and equitable review cannot be completed in that time. If additional time is required, the individual will be informed, in writing, of the reasons for the delay and of the approximate date on which the review is expected to be completed.

(vi) When an individual files a statement of disagreement, the system manager will clearly annotate the record so that the dispute is apparent to anyone who may subsequently grant access to use or disclose the record. The notation itself will be integral to the record. Where an accounting of disclosure has been made, the system manager will advise previous recipients that the record has been disputed and will provide a copy of the individual's statement.

(a) The individual's statement of disagreement need not be filed as an integral part of the record to which it pertains. It will, however, be maintained in such a manner as to permit ready retrieval whenever the disputed portion of the record is to be disclosed. When information which is the subject of a statement of disagreement, is subsequently disclosed, the system manager will note which information is disputed and provide a copy of the individual's statement.

(b) The system manager may include a brief summary of its reasons for not making an amendment when disclosing disputed information. Summaries normally will be limited to the reasons stated to the individual. The system manager's summary will be treated as part of the individual's record; however, it will not be subject to the amendment procedures.

(b) *Disclosure to others.* (1) Except as prescribed in paragraph (a) of this section, this Part 1286 does not require disclosure of records to anyone other than the individual to whom the records pertain.

(2) No record contained in a system of records maintained within DLA will be

disclosed by any means of communication to any person, or to any agency outside DLA, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(i) To those officials and employees of the Department of Defense who have a need for the record in the performance of their official duties and the use is compatible with the purpose for which the record is maintained. This includes, for example, transfer of information between components when civilians or military personnel assigned or affiliated with one component are processed by an activity of another component such as Armed Forces Examination and Entrance Stations (AFES), Air Terminals, or Defense Investigative Service (DIS).

(ii) Required to be disclosed to a member of the public by DLAR 5400.14. Some examples of personal information pertaining to military personnel which normally are released without an unwarranted invasion of privacy are: name, rank, date of rank, salary, present, and past duty assignments, future assignments which have been finalized, office phone number, source of commission, military and civilian educational level, and promotion sequence number. Disclosure of personal information pertaining to civilian employees shall be made in accordance with the Federal Personnel Manual.

(iii) For a routine use as defined in 1286.3 and described in section II H of Appendix A.

(iv) To the Bureau of the Census for purpose of planning or carrying out a census or survey or related activity authorized by law.

(v) To a recipient who has provided DLA with advance adequate written assurance that:

(a) The record will be used solely as a statistical research or reporting record.

(b) The record is to be transferred in a form that is not individually identifiable, (i.e., the identity of the individual cannot be determined by combining various statistical records).

(c) The record will not be used to make any decisions about the rights, benefits, or entitlements of an individual.

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services, or his designee to determine whether the record has such value. A record transferred to a Federal records center for safekeeping or storage does not fall within this category since Federal records center personnel act on behalf of DLA in this instance and the records remain under the control of DLA. No disclosure accounting record of the transfer of records to Federal records centers need be maintained.

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is

authorized by law, and if the Head of the agency or instrumentality has made a written request to a DLA element which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought. Blanket requests for all records pertaining to an individual will not be accepted. A record may also be disclosed to a law enforcement agency at the initiative of a DLA element which maintains the record when criminal conduct is suspected, provided that such disclosure has been established in advance as a "routine use".

(viii) To a person pursuant to a showing or compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of the individual to whom the record pertains.

(ix) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, or any joint committee. This does not authorize the disclosure of any record subject to this Part 1286 to members of Congress acting in their individual capacities or on behalf of their constituents.

(x) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office.

(xi) Pursuant to the order of a court of competent jurisdiction.

(a) When a record is disclosed under compulsory legal process and when the issuance of that order or subpoena is made public by the court which issued it, reasonable efforts will be made to notify the individual to whom the record pertains. This may be accomplished by notifying the individual by mail at his most recent address as contained in DLA records.

(b) Upon being served with an order to disclose a record, the system manager will endeavor to determine whether the issuance of the order is a matter of public record and, if it is not, seek to be advised when it becomes public. An accounting of the disclosure will be made at the time the system manager complies with the order or subpoena.

(3) Each system manager, with respect to each system of records under his control will:

(1) For all disclosures under paragraph (b) (2) of this section, except those under paragraphs (b) (2) (i) and (ii) of this section, keep an accurate accounting of the following:

(a) The date of the disclosure.

(b) The nature of the disclosure; that is what was disclosed and how; for example, oral disclosure by telephone of home address. Other examples of disclosure include visual review of the record, written, transfer of data through telecommunications network, etc.

(c) The purpose of this disclosure. Describe the condition of the disclosure as listed in paragraphs (b) (2) (iii) thru (xi) of this section. If disclosure is for a routine use published in a records systems notice, briefly describe the specific routine use.

(d) The name and address of the person or agency to whom the disclosure is made. A system manager need not make a notation on a single document of every particular record, provided he can construction from the system for the required accounting information.

(i) Retain the accounting made under paragraph (b) (3) (i) of this section for at least 5 years after the last disclosure or the life of the record, whichever is longer. No record of the disclosure of this accounting need be maintained.

(iii) Upon request of the individual to whom the record pertains, make available to that individual all information in the accounting of disclosures except that pertaining to disclosures for law enforcement purposes pursuant to paragraph (b) (2) (vii) of this section, and systems that have been determined to be exempt from these provisions under subsections (j) and (k) of the Act.

(4) Names and Addresses. An individual's name and address may not be sold or rented by DLA unless such action is specifically authorized by law. Requests for home addresses may be referred to the last known address of the individual for reply at his discretion and the requester will be notified accordingly. This provision will not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(c) Collection of personal information from individuals. (1) Collection Directly from Individuals. Personal information shall be collected to the greatest extent practicable directly from the individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The collection of information from third parties should be minimized. Exceptions to this policy may be made under certain circumstances, such as the following:

(i) There is need to ensure accuracy of information supplied by an individual by verifying with a third party, such as in the case of verifying information for a security clearance.

(ii) The nature of the information is such that it can only be obtained from a third party, such as an evaluation of employee's performance in a previous job or assignment.

(iii) Obtaining the information from the individual would present exceptional practical difficulties or would result in unreasonable costs.

(2) Informing Individuals From Whom Information is Requested. Each individual who is asked to supply personal information must be told of:

(i) The authority (statute or Executive Order) which authorizes its solicitation.

(ii) The principal purpose or purpose for which it is to be used.

(iii) The routine uses, to be made of it.

(iv) Whether furnishing such information is mandatory or voluntary and the effects on him, if any, of not providing it. This notice to the individual will be made on a separate form which can be retained by the individual. This

advice must be given on all media used in requesting information whether it is a "form" in the usual sense (i.e., a pre-printed document with a control number and an edition date) or a format, questionnaire, survey sheet, or report rendered on a blank sheet. Supplying personal information is when individuals personally complete the fill-in information about themselves on the form or when the individuals furnish the information about themselves verbally as in an interview or question and answer type of arrangement.

(3) Collection Documents in Use Prior to 27 Sep 75. These documents in use before 27 Sep 75 and which are to be used on and after that date, must meet the notice requirements by use of a separate statement to go along with each such document subject to the provisions of the Act. The statement will be assigned the identifying form number/RCS/OMB Appeal Number/Form Letter Number used in collecting the information and the suffix "Privacy Act Statement", as follows:

(i) For forms in regularly-issued, numbered series, the Privacy Act Statement will bear the same number and edition date as the form to which it pertains, except as provided in paragraph 2 of Appendix B Example: For DD Form 398, Statement of Personal History, the applicable notice to each individual asked to complete the form will be identified as "DD Form 398—Privacy Act Statement" in the lower left-hand corner.

(ii) For unnumbered formats, questionnaires, surveys, and reports which are not in the regularly-issued form number series, the Privacy Act Statement will bear the report control symbol or OMB Approval Number under the authority for which the information is collected, if applicable.

Example: For the Air Force Junior ROTC Survey for AFJRDTC Cadets (Format A), the applicable notice to each individual asked to complete the questionnaire will be identified as "OMB Approval No. 21-RO268—Privacy Act Statement". Same reports are assigned Reports Control Symbol (RCS) numbers or OMB Approval Numbers. If these reports are controlled in a regular numbered form series, then the Privacy Act Statement will bear the form number reference in lieu of the RCS or OMB Number.

(4) Preparation of Privacy Act statements. (i) The proponent (i.e., the initiator) has the final responsibility for determining whether a form, format, questionnaire, survey, or report requires a Privacy Act Statement. The proponent must consult his counsel, particularly for validation of the authority for asking for the information. Statements must be sufficiently complete and specific but, at the same time be concise and couched in easily understood language.

(ii) Forms and information management officers at all echelons must assure that Privacy Act Statements are available for issuance with new forms, when required.

(iii) No Department of Defense component may deny any individual any right, benefit, or privilege provided by

law because of such individual's refusal to disclose his SSN, unless such disclosure is:

(a) Required by Federal statute.
(b) To any component maintaining a system of records in existence and operating before 1 Jan 75, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual. Executive Order No. 9397, 22 Nov 43, authorizes components to use SSN as a system of numerical identification of individuals.

(iv) Any component which requests an individual to disclose his SSN must inform that individual:

(a) Whether that disclosure is mandatory or voluntary.

(b) By what statutory or other authority such number is solicited.

(c) What uses will be made of it.

(v) If disclosure of the SSN is not required by Federal statute or is not for a system of records in existence and operating prior to 1 Jan 75, proponents are nevertheless not precluded from requesting it from individuals concerned. However, the separate Privacy Act Statement for the SSN alone, or a merged Privacy Act Statement, covering not only the SSN but also other items of personal information, must make clear that the disclosure of the SSN is voluntary. If, in such instances, the individual refuses to disclose it, the proponent concerned must be prepared to identify him by alternate means.

(d) Exemptions. The Director, DLA will designate the DLA records which are to be exempted from certain provisions of the Act, and DLA-XA will publish in the FEDERAL REGISTER, information specifying the name of each designated system, the specific provisions of the Act from which each system is to be exempted, and the reasons for each exemption of the record system.

(1) General Exemptions. To qualify for a general exemption, as defined in the Act, the system of records must be maintained by a system manager who performs as his principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities. Such system of records must consist of:

(i) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and containing only identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole, and probation status.

(ii) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual.

(iii) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(2) *Specific Exemption.* To qualify for a specific exemption, as defined by the Act the systems of records must be:

(i) Specifically authorized under criteria established by an Executive Order to be kept classified in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

(ii) Investigatory material compiled for law enforcement purposes other than material covered under a general exemption. However, an individual will not be denied access to information which has been used to deny him a right or privilege unless disclosure would reveal a source who furnished information to the Government under a promise that the identity of the source would be held in confidence. For investigations made after 27 Sep 75, the identity of the source may be treated as confidential only if based on the expressed guarantee that the identity would not be revealed.

(iii) Maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to 18 U.S.C. § 3056.

(iv) Used only to generate aggregate statistical data or for other similarly evaluative or analytic purposes, and which are not used to make decisions on the rights, benefits, or entitlements of individuals except for the disclosure of a census record permitted by 13 U.S.C. § 8.

(v) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Military Service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the source would be held in confidence, or prior to 27 Sep 75, under an implied promise that the identity of the source would be held in confidence.

(vi) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or elimination process.

(vii) Evaluation material used to determine potential for promotion in the Armed Services, but only the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or prior to 27 Sep 75, under an implied promise that the identity of the source would be held in confidence. System managers will specify those categories of individuals for whom pledges of confidentiality may be made when obtaining information on an individual's suitability for promotion.

(e) *System of Records—(1) Content.*

(i) Systems managers will maintain in its records systems only such information as is relevant and necessary to accomplish a purpose or mission required

by statute or Executive Order of the President.

(ii) The proponent of each system of records will identify the specific provision of law, or Executive Order, which provides authority for the maintenance of information in each system of records.

(iii) Authority to establish and maintain a system of records does not convey unlimited authority to collect and maintain all information which may be useful or convenient to have. The proponent of each system of records will evaluate each category of information in a system for both necessity and relevance. In performing this evaluation the following points will be considered:

(a) Relationship of each item of information to the statutory or regulatory purpose for which the system is maintained.

(b) Specific adverse consequence of not collecting each category of information.

(c) Possibility of meeting the information requirement through use of information not individually identifiable or through sampling techniques.

(d) Length of time that the information is needed and, where appropriate, techniques for purging parts of the record.

(e) Financial cost of information maintenance compared to risk or adverse consequence of not maintaining it.

(f) Necessity and relevance of this information to all individuals included in the system.

(iv) Collection will be discontinued for each category or item of information which, after the above evaluation, does not appear to be fully justifiable. Moreover, such information will be withdrawn and destroyed, provided it can be economically segregated from necessary and relevant information.

(v) The evaluation prescribed above will be performed by each proponent of a system of records:

(a) During the design phase of a new system of records or a change in an existing system of records.

(b) Annually, prior to the republication of all system notices in the *FEDERAL REGISTER*.

(2) *Publication of record system notices—(i) General.* A notice of the existence of each system of records, as defined in § 1286.3(d) must be published in the *FEDERAL REGISTER*.

(ii) *Record System Notices.* System managers proposing new systems will prepare system notices according to Appendix A at least 60 days before the proposed system change may be legally implemented. Initial system notices will be submitted to DLA-XA.

(iii) *Change to Existing Systems Requiring Advanced Public Notice*

(a) The following proposed changes to an existing system must be published in the *FEDERAL REGISTER* for public comment at least 30 days before the changes are implemented:

(i) Those which expand the categories of individuals on whom records are maintained.

(2) Those which add new categories of records to the system.

(3) Those which add new categories of sources.

(4) New or changed routine uses which involve disclosure to a new category of recipient.

(5) Changes in procedures governing access.

(b) Notices of proposed changes to existing systems will be submitted to DLA-XA, in accordance with Appendix A.

(iv) *Changes to Existing Systems Not Requiring Advanced Public Notice.* Changes in records systems not stated in paragraph (e) (2) (iii) of this section do not require advance publication, but must be submitted for inclusion in the annual consolidated listing of records systems. Accordingly, each system manager will ensure that all such changes are forwarded to DLA-XA by 15 March of each year for annual publication in the *FEDERAL REGISTER*.

(v) *Reports Concerning New and Changed Systems.* Concurrently with paragraph (e) (2) (ii) and (iii) of this section, DLA-XA will provide OASD (C) advanced notice of proposals to establish new systems or to change routine uses of existing systems.

(vi) *DLA Issuances.* DLA-XA will ensure that information contained in each system notice, as published in the *FEDERAL REGISTER*, is incorporated and published in DLAR 5400.22, Privacy Act System of Records Notices, to ensure uniform system use and maintenance. All DLA activities will take immediate action to discontinue any system of records not contained in DLAR 5400.22.

(3) *Standards of accuracy.* (i) Records used by system managers in making determinations about an individual will be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in any determination.

(ii) Prior to disseminating any record about an individual to any person other than a Federal agency, unless the dissemination is made pursuant to DLAR 5400.14, reasonable efforts will be made to ensure that such records are accurate, complete, timely and relevant for DLA purposes.

(4) *Restriction on maintenance of certain records.* Maintenance of records describing how individuals exercise rights guaranteed by the First Amendment are prohibited unless expressly authorized by Federal statute or by the individual concerned, unless pertinent to and within the scope of an authorized law enforcement activity. The exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and the press, and the right of assembly, and to petition.

(5) *Rules of conduct.* Heads of HQ DLA PSEs and Heads of PLFAs will assure that persons including Government contractors or their employees, involved in the design, development, operation, or maintenance of any system of records, as defined in § 1286.3, are informed of all requirements to protect the privacy of

the individuals who are subjects of the records. The following sanctions will be emphasized to personnel:

(i) There are criminal penalties for knowingly and willfully disclosing a record about an individual without the written consent or the written request of that individual, or unless disclosure is for one of the reasons listed in paragraph (d) of this section.

(ii) DLA may be subject to civil suit due to failure to comply with the Act.

(6) *Safeguarding personal information in records systems.* (i) System managers will establish administrative and physical safeguards to protect information from unauthorized or unintentional access, disclosure, modification, or destruction. These safeguards will apply to systems of records, in whatever medium in which personal information is processed or stored. Such safeguards will be tailored to the requirements of each system of records. Where a greater degree of protection is not prescribed by other regulations, as a minimum, all records will be afforded the same degree of protection as "For Official Use Only" documents.

(ii) Access to personal information will be restricted to those persons whose official duties require access and the individual concerned in accordance with paragraph (b) of this section.

(iii) System managers will ensure that all persons whose official duties require access to or processing and maintenance of personal information are trained in the proper safeguarding and use of such information.

(iv) Personal records and documents will be stored so as to reasonably preclude unauthorized disclosure.

(v) Disposal of records containing personal information which are no longer required will be accomplished in such a manner that will prevent the contents from being disclosed (e.g., tearing or shredding the record into pieces or burial or in the case of magnetic tapes by degaussing).

§ 1286.6 Forms and reports.

(a) An annual report will be prepared by DLA-XA for the preceding calendar year on its implementation of the Privacy Act of 1974 as follows:

(1) *Summary.* A brief management summary of the status of actions taken to comply with the Act, the results of these efforts, any problems encountered and recommendations for any changes in legislation, policies, or procedures.

(2) *Accomplishments.* A summary of major accomplishments; i.e., improvements in agency information practices and safeguards.

(3) *Plans.* A summary of major plans for activities in the upcoming year, e.g., area of emphasis, additional securing of facilities planned.

(4) *Exemptions.* A list of systems which are exempted during this year from any of the operative provisions of this law permitted under the terms of subsections (j) and (k) of the Act, whether or not the exemption was obtained during the year, the number of

records in each system exempted from each specific provision and reasons for invoking the exemption.

(5) *Number of systems.* A brief summary of changes to the total inventory of personal data systems subject to the provisions of the Act, including reasons for major changes; e.g., the extent to which review of the relevance of and necessity for records has resulted in elimination of all or portions of systems of records or any reduction in the number of individuals on whom records are maintained.

(6) *Operational experiences.* A general description of operational experiences including estimates of the number of individuals (in relation to the total number of records in the system) requesting information on the existence of records pertaining to them, refusing to provide information, requesting access to their records, appealing initial refusals to amend records, and seeking redress through the courts.

(7) *Any available data, or estimates, of the cost of administering the Act.*

(8) *Six copies of the annual report* will be furnished to the Assistant Secretary of Defense (Comptroller) on or before 31 March of each year for transmittal to the Office of Management and Budget.

(b) An annual feeder report on the actions of the preceding year will be prepared by Heads of PLFAs and Heads of HQ DLA PSEs for submission in duplicate to DLA-XA on or before 10 March of each year. The report will contain:

(1) *Summary.* A brief management summary of the status of actions taken to comply with the Act, the results of these efforts, any problems encountered and recommendations for any changes in legislation, policies or procedures.

(2) *Accomplishments.* A summary of major accomplishments; i.e., improvements in agency information practices and safeguards.

(3) *Plans.* A summary of major plans for activities in the upcoming year, e.g., area of emphasis, additional securing of facilities planned.

(4) *Exemptions.* A list of systems which are exempted during the year from any of the operative provisions of this law permitted under the terms of subsection (j) and (k) of the Act, whether or not the exemptions were obtained during the year, the number of records in each system exempted from each specific provision and reason for invoking the exemption.

(5) *Number of systems.* A brief summary of changes to the total inventory of personal data systems subject to the provisions of the Act, including reasons for major changes; e.g., the extent to which review of the relevance of and necessity for records has resulted in elimination of all or portions of systems of records or any reduction in the number of individuals on whom records are maintained.

(6) *Operational experiences.* A general description of operational experiences including estimates of the number of individuals (in relation to the total number of records in the system) requesting information on the existence of records

pertaining to them, refusing to provide information, requesting access to their records, appealing initial refusals to amend records, and seeking redress through the courts.

(7) *Any available data, or estimates, of the costs of administering the Act.*

(c) Each PLFA will submit to HQ DLA, ATTN: DLA-XA during the last week in January, April, July, and October each year, a consolidated listing of those locally controlled and subordinate echelon forms affected by the Act. The listing will contain the form designation and number in numeric sequence, the edition date, and the complete title. Each group of forms will be identified by activity name. To provide the input for this consolidated listing, the forms management officer at all levels must prepare and maintain current, a listing of those forms for which they control and which are within the purview of the Act.

(d) The Reports Control Symbol for these reports will be RCS DD(A) 1379.

APPENDIX A

INSTRUCTIONS FOR PREPARATION OF RECORD SYSTEM NOTICES

SECTION I. GENERAL INSTRUCTIONS

A. For each system of records submit information in the sequence as shown in section II below. Show in this sequence even though an entry may not be required for all items.

B. Use keywords shown below (i.e., *SYS-NAME, RECORD-CATEGORY*, etc.). Explanations of keywords are shown in parentheses, but do not use.

C. Do not use paragraph or subparagraph numbers or letters.

D. Do not underline any part of the text.

E. Do not use hyphenation at the end of a line or subdivide a word at the end of a line.

G. Each system of records notice will be typed double-spaced on a separate sheet(s) of paper, with the originating office symbol entered in the upper right corner.

H. Do not use military or Government terminology which may not be understood by the public. Authorized abbreviations may be used, provided they are first spelled out in each system notice, e.g., Defense Logistics Agency (DLA).

I. Refer to section III below for systems which may qualify for exemption.

J. Number the pages separately for each draft system notice.

K. New and revised system notices shall be prepared in accordance with instructions contained herein. All notices are to be submitted in full, i.e., no partial system notice shall be accepted.

L. For the purpose of identifying record systems and preparing system of records notices, there are five distinguished categories of record systems subject to the Act:

1. *Category 1. Automated (ADP) systems* of records identified by distinctive number and title and normally maintained according to ADP manuals. As a general rule, these systems are not individually or specifically identified by DLA 5015.1. Files Maintenance and Disposition, although their output may be functionally identifiable through the manual. For preparation of systems notices, there are three recognizable types of ADP systems:

a. Class A and B systems managed by HQ DLA. Most of these systems are identified in the DoD Automated Data Systems Catalog LSPC 3-70-1.

b. Class C Systems. Individually designed, established, and maintained by DLA field activities.

c. DLA field activities systems which are not yet approved are classified as Class C systems, i.e., unauthorized systems.

2. **Category 2. Exclusive of ADP Systems.** Those systems of records established and maintained pursuant to and specifically prescribed by statute, executive order, or DLAR.

3. **Category 3. Exclusive of ADP Systems.** Those systems of records established under a function authorized by statute, Executive Order or DLAR rather than specifically prescribed by the statute, Executive Order or DSAR, that are accumulated DLA-wide by offices with similar or identical functions. Normally, decentralized segments of such systems vary only in scope and volume and not in content, for example, name files which are established in processing requests under the Freedom of Information Act. In most instances, these systems are identified in DLAM 5015.1.

4. **Category 4. Exclusive of ADP Systems.** Those systems of records established and maintained entirely in response to local needs. Although often difficult to describe, these systems have certain common characteristics which can be used in identifying them for preparation of systems notices:

a. Normally, they are unique to the accumulating office.

b. They are not accumulated DLA-wide in other elements or activities which perform like functions.

c. They are seldom specifically identified in DLAM 5015.1.

5. **Category 5.** Those in the custody of DLA temporarily, which "belong" to other Federal agencies. For example, official civilian personnel files on DLA civilian employees belong to the U.S. Civil Service Commission. Most such systems are identified by DLAM 5015.1.

M. Responsibility for preparation of system of records notices.

1. For Category 1 (ADP) Systems of Records:

a. Managers of Class A and B systems of records are responsible for preparing system of record notices applicable to their automated data systems (ADS).

b. Proponents of Categories 2, 3, 4, and 5 (manual) systems of records are responsible for including in their systems of record notices all Class C and unauthorized ADP systems of records which, in effect, are automated segments of their systems of records.

c. Managers are responsible for preparation and submission of system of record notices applicable to those Class C and unauthorized ADP system of records which are not automated segments of a manual system of records.

2. For Category 2 and 3 system or records, the office having DLA-wide staff responsibility for the function or process involved is considered to be the system of records proponent. Such proponents are responsible for including in their system of record notices coverage of all decentralized segments of the particular system of records.

3. Proponents of Category 4 (local) systems of records are responsible for preparation and submission of system notices applicable to their systems.

4. For Category 5, the proponent is the Federal agency to which a system of records belongs. It is responsible for system of records notices applicable to its records that are temporarily in DLA custody. For example, the CSC will publish system of records notices applicable to all systems of records prescribed by the Federal Personnel Manual. CSC will not, however, be responsible for any modifications or additions to a CSC system of record. The DLA proponent of such modifications or additions is therefore responsible for preparing a system of records notice for the portion added by him. DSA

proponents should contact the appropriate Federal agency for other systems of records temporarily in DSA custody to determine and fix responsibility for preparing applicable system of records notices. In instances where a Federal agency to which the records belong declines to cover a system of records temporarily in DLA custody, the DLA proponent will be responsible for preparing the applicable system of records notice.

SECTION II. SEQUENCE OF SUBMISSIONS AND INSTRUCTIONS

A. **Manual or Automated.** Indicate whether the system is manual or automated. An automated system would include records processed, maintained, or both, in a machine readable processing tapes and cards, etc. A manual system would include records processed, maintained, or both, in a human readable or vertical file cards, microfiche, roll microfilm, photographs, etc. A mechanized file which requires substantial human intervention for processing or maintenance is considered to be manual, rather than automated.

B. **Synonym (System Name).** Whenever applicable, identify the system by number and title prescribed in your files or records disposition manual. Use locally originated titles for files which are not described specifically and adequately in the manual or which are otherwise unique to the reporting office. If more than one system is covered by a file description, identify each system. If several files, separately described in DLAM 5015.1, are a part of a single system, identify the system only (see paragraph F below for identification of separate files which form a system). Provide system and file title in unclassified form. Do not use abbreviations, nicknames, or acronyms unless spelled out the first time used. Place acronyms in parentheses immediately following the title.

C. **Security.** Specify the Defense or other security classification for the system of records if classified pursuant to the provisions of DoD 5200.1-R, Information Security Program Regulation, DLAM 5205.1, Safeguarding of Classified Information, and implementing directives. Do not cite as a security classification For Official Use Only, Internal Working Paper, Eyes Only, or similar marking used for internal control or other handling purposes. If unclassified, including FOUO, state unclassified.

D. **Location.** If the system is maintained in a single location, provide the exact name of the office, organization, and correspondence or routine symbol. On the other hand, if it is geographically or organizationally decentralized, specify each type of organization or element that maintains a segment of the system. For example, if the system was comprised of clinical records, then medical centers and hospitals, and the National Personnel Records Center would be listed as locations. Where automated data systems encompass a central computer facility, with input/output terminals at several geographical locations, list by category, each location under this heading. In all instances where multiple locations are referred to by type of organization, state that official mailing addresses are in the Department of Defense directory in the appendix to the DLA system of record notices. However, in all cases, give the official mailing address if the office maintaining the system is not listed in the Federal Register. If the address is classified, so state. Be sure to list each type of organization maintaining a segment or duplicate of the system, since maintenance by a type of organization not reported herein will constitute a violation of the Act. When indicating domestic addresses, use the United States Postal Service two letter state abbreviation and the Zip Code.

E. **Individual-Category (Categories of Individuals Covered by the System).** The purpose of this requirement is to permit an individual to determine whether or not information on him might be in the system of records. Categories of individuals, therefore, should be stated in easily understood, non-technical terms and include all categories of individuals on whom records are maintained. Avoid using broad general descriptions, such as "all civilian personnel" unless the system applies to all civilian personnel. For example, Civilian Individual Pay Record applies to all civilian employees of DLA, while a system of records of Individual Retirement Records would apply only to civilian employees covered by the Civil Service Retirement program. All categories of individuals included in the system must be listed, regardless of the frequency of inclusion or the number of records involved. All future changes to the system, which broaden or increase the categories of individuals covered, will require preparation and publication of a revised record system notice in the Federal Register.

F. **Record Category (Categories of Records in the System).** Briefly describe in nontechnical terms all types of records in the system. For example, under the Automatic Payroll Cost and Personnel System (APCAPS), the types would include, but not be limited to individual pay record, substantiating documents, such as certificates for deductions and retained leave and earning statements, records of travel payments, personnel actions, and time and attendance cards. For automated systems, do not list source documents unless they are retained and filed by name, SSN, or other individual identifier. Instead, list the categories of information stored in the system. Be sure to include all types of records in the system regardless of their frequency or volume of accumulation, since future additions of new types of records will require preparations and publication of revised public notices in the Federal Register.

G. **Authority (Authority for Maintenance of the System).** Cite the specific provision of a Federal statute or Executive Order of the President, including the title thereof which authorizes, or provides a legal basis for, maintenance of the system. Do not cite regulations. In this connection, authority for a system may be derived from a statute or Executive Order which:

1. Explicitly authorizes or directs the agency to maintain a system of records.

2. Authorizes or directs DLA to perform a function, the discharge of which requires maintenance of the system of records.

Note.—Check with the appropriate Counsel for assistance in determining the statutory or regulatory basis for the system.

H. **Routine Uses (Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses)**

1. Essentially, this requirement calls for the following information in nontechnical terms:

a. The purpose(s) for which information in the system is collected.

b. Each category of user.

c. The specific use(s) made of the information by each user.

2. Each category of user and each use must be reported. Any proposed new use or category of user, or change in an existing use, which has the effect of expanding the availability of the information in the system, will require publication of a revised notice in the Federal Register. Any such proposed change in a routine use must also be described in an advanced notice in the Federal Register to permit 30 days for public comment before it is implemented.

3. As defined by 5 U.S.C. 522a, the term "routine use" means with respect to the disclosure of a record, the use of such record for

a purpose which is compatible with the purpose for which it was collected.

4. "Uses" can be distinguished from "purposes" in that "purposes" describe the objective for collecting or maintaining information. "Uses" are the specific ways or processes in which the information is employed, including the persons or organizations to whom the record may be disclosed. For example, the purposes for collecting information may be to evaluate an application for a veteran's benefit and to issue checks. "Uses" might include verification of certain information with the appropriate Military Service and release of check data to the Department of the Treasury. List under routine uses if contractors are engaged to perform a service, such as key punch, optical scan, or telecommunications in connection with the operation of an automated data system. List also Federal agencies to which personal-type information is disclosed, including automated system interfaces, and the purposes for which the disclosures are made.

5. Each proponent of a system (i.e., that office or organization proposing, directing, or otherwise responsible for the system) must prescribe the "routine" uses of the records. Routine use does not merely encompass the common and ordinary uses to which records are put, but also includes all of the proper and necessary uses regardless of frequency. For example, individual income tax returns are routinely used by the Internal Revenue Service to audit the amount of tax due and for assistance on collection of such tax by civil proceedings. They are used less often, however, for referral to the Department of Justice for possible criminal prosecution of fraud or tax evasion. Therefore, the "routine" use of such records would include referrals to the Department of Justice. In addition, description of "routine use" shall include the fact that any individual records in a system of records might be transferred to any component of the Department of Defense. It should be expected normally that "routine use" would include disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

1. *Policy-practice (Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System)*. Describe how records in the system are managed during their life-cycle. When feasible, extract pertinent information from your files or DLA 5015.1.

1. *Storage*. In describing records storage, specify the medium in which they are maintained, such as paper records in file folders, visible or vertical file cards, computer magnetic tapes, or disks, computer paper printouts, aperture cards, microfiche, roll microfilm, photographs, video-tape, etc.

2. *Retrievability*. Specify how information is accessed and retrieved, such as by name, SSN, Military Service number, or other identification number, classification or personal characteristics, such as fingerprint classification, voice print identifier, etc. Indicate further whether conventional or computerized indices are required to retrieve individual records from the system.

3. *Safeguards*. Describe what measures are taken to prevent unauthorized disclosure of the records and state the categories of individuals authorized access to the records. Specify system safeguards, such as safes, vaults, locked cabinets or rooms, guards, personnel screening, visitor registers, computer "fail-safe" systems software, etc.

NOTE—Do not describe security safeguards in such detail as to increase the risk of unauthorized access to the records.

4. *Retention (Retention and Disposal)*. State rules on how long the records are to be maintained; if and when they are moved to Federal Records Centers, or to the National Archives or other designated depository; and if, when and how they are destroyed, or otherwise disposed of. Changes in this item will not normally require immediate publication of a revised public notice unless they reflect an expansion in the availability of or access to the system of records.

J. *Sysmanager (Title and Duty Address of the Agency Officials Responsible for the System)*. In all cases, enter the title of the official who is responsible for policies and procedures governing the system; i.e., Staff Director, Civilian Personnel, HQ DLA. If the title of the official is unknown or unknowable (such as for locally evolved systems), specify the Commander or the Head of the Office as the responsible official. In addition, for geographically or organizationally decentralized system, where individuals may deal directly with agency officials at each location to exercise their rights under the Act, give the position or duty title of each category of official responsible for the system, or a segment thereof. For example, in the case of individual accident case report records, the entries should be: Staff Director, Civilian Personnel, HQ DLA, and Safety Officers of PLFAs. Do not include the duty address if already listed in organizational directories mentioned in paragraph D above.

K. *Notification (Procedure Whereby Individuals Can Be Notified at Their Request if the System Contains Records Pertaining to Them)*.

1. Indicate whether or not requests from individuals should be addressed to the above SYSMANAGER as in paragraph J above. If requests are to be addressed to any other officials, list them by duty or position titles.

2. Specify what information will be required from the requesting individual to determine whether or not the system contains a record about him, such as full name, military status, SSN or service number, resident or nonresident, etc.

3. List by specific name, or categories, those offices which the requester may visit to obtain information on whether the system contains records pertaining to him or her.

4. For personnel visits, specify what data the requester must present as proof of identity, such as a combination of full name, date and place of birth, parent's name, driver's license, or medicare card, etc. Do not require verification of identity for records which are disclosable under the Freedom of Information Act.

L. *Access (Procedures Whereby an Individual Can Be Notified at His Request How He Can Gain Access to Any Record Pertaining to Himself contained in the system of records)*. Include the title or category of officials who can provide assistance, if those officials are other than the SYSMANAGER above. If the mailing addresses are listed in the organizational directory, state that official mailing addresses are in the Department of Defense directory in the appendix to the DLA systems notice. Specific locations and telephone numbers of offices may be indicated for unique or centralized systems.

M. *Content (Rules for Access and Contesting Contents of Records)*. To comply with this requirement, merely, state: "The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER".

N. *Source (Categories of Sources of Records in the System)*. List by type each source of information in the system, e.g., previous employers, financial institutions, educational institutions, trade associations, automated sys-

tem interfaces, etc. Specific individuals or institutions need not be identified by name. Again, be sure to include all types, since collection of information from types of sources other than listed will require publication of a revised public notice in the FEDERAL REGISTER before any information is collected from those sources.

SECTION III. SYSTEMS QUALIFIED AND PROPOSED FOR EXEMPTION

Generally, the following records may be exempted from the provisions of K, L, and N of section II above (subsection (e) (4) (G), (H), and (I) of the Act):

1. Records maintained by the Central Intelligence Agency.

2. Records compiled to ensure protection of the President or other officials, classified records, records required by statute to be maintained and used solely as statistical records.

3. Investigatory records, compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Military Service, Federal contracts, or access to classified information, but only to the extent as outlined in subsection (k) (5) of the Act.

4. Certain testing and examination material.

5. Certain material used to evaluate potential for promotion in the Armed Services. (All items in section II, above will be completed for systems proposed for exemption, except for K, L, M, and N). Cite the system name and specific provisions of the Act, from which the system is to be exempted and the reasons therefor. Consult with Counsel for detailed guidance for systems which may be eligible for exemption. Proponents of systems dealing with the above types of records should contact the appropriate records management staff for addition guidelines, if necessary, for preparing exemption notices for publication in the FEDERAL REGISTER (NOTE: No system of records is exempted from the public notice requirements of the Act). Failure to publish a notice constitutes a criminal violation.

APPENDIX B

DETAILED INSTRUCTIONS FOR FORMS AND INFORMATION REQUIREMENTS SUBJECT TO THE PRIVACY ACT OF 1974

1. Fill-in information on the preprinted blank Privacy Act Statement format will be completed by the functional element responsible for the form. It will be completed by typewriter, for use as camera copy to reproduce and distribute to users to the form to which the statement applies.

2. The forms management office will assign an edition date in the block provided, and when revised, a new edition date will be assigned. Edition dates assigned the Privacy Act Statements may differ from the date of the form described in the Statement since each may be revised without revision to the other. The same edition dates will be assigned to both form and related statement when processed simultaneously as new or revised actions. When Privacy Act Statements are revised, previous editions will always be obsolete. A supersession notice obsoleting the previous edition will be shown in the bottom border of the statement in the same manner as shown on forms when superseding a previous edition. No form number is assigned to the blank Privacy Act Statement format since it may be confused with the applicable form number entered in the space provided in the lower left hand corner.

3. When referencing a specific approved Privacy Act Statement, it will be referred to by the related form number followed by the words "Privacy Act Statement". For example,

if DLA Form 0000 is entered in the lower left corner of the Statement, the Statement will thereafter be referred to as DLA Form 0000-Privacy Act Statement. This will facilitate the requisitioning of supplies of the filled-in printed Statement and for making references in correspondence.

4. Strict attention is invited to item number 1 on the Statement, "Authority". This item, when completed, must be coordinated with Counsel for validation. The entry in the "Authority" block must be a "Statute" or "Executive Order". When a SSN is requested, in addition to other items of personal information, the authority for requesting the SSN, if different from the authority for the other items, will also be shown in this block. When a SSN is the only personal information requested, only item numbers 1, 3, and 4 of the Privacy Act Statement apply.

5. A supply of blank "Privacy Act Statements" will be maintained by the local forms management office for issuance on request from functional staff elements. PLFAs will locally reproduce future needs of the blank statement. HQ DLA and DASC staff elements will obtain additional supplies from DLA-XA.

6. Completed and officially approved statements applicable to DD, DLA, DLAH, and DSC forms will be processed for initial distribution in accordance with information contained in block 9 of DLA Form 1424, Request for Processing Privacy Act Statement. HQ DLA and DASC staff elements can obtain additional copies from DASC-PD. Completed statements applicable to DD and DLA forms will be initially distributed to PLFAs, who will redistribute needs to subordinate echelons. PLFAs will locally reproduce additional needs. PLFAs will develop local procedures for printing and distributing supplies of completed and approved Privacy Act Statements applicable to locally designated and controlled forms.

7. DLA Form 1424 will be prepared by functional elements responsible for each statement. It will serve as a source document for preparing a requisition for reproduction and distribution of the approved completed statement to all users of the form to which it is applicable. The forms management office will be the source of supply for blank copies of DLA Form 1424.

8. HQ DLA and PLFA forms management offices will maintain a file on each approved Privacy Act Statement along with a copy of the supporting DLA Form 1424, DD Form 843, Requisition for Printing and Binding Service, and DD Form 844, Requisition for Local Duplicating Service. The method of filing is left to the discretion of local forms management officers.

APPENDIX C

EXEMPTED RECORD SYSTEMS

All systems of records maintained by the Defense Logistics Agency shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k) (1) to the extent that the system contains any information properly classified under Executive Order 11652, and which is required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain isolated items of information which have been properly classified.

A. ID: S150.20 DLA-T (Specific Exemption)

Sys name:

Security Violation Files.

Exemption:

This system of records is exempted from the following provisions of the title 5, United States Code, section 552a: (c) (3); (d); and (e) (1).

Authority:

5 U.S.C. 553a(k) (2).

Reasons:

Granting individuals access to information relating to law enforcement could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and jeopardize the safety and well being of informants, witnesses and their families and investigative personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of privacy of individuals only incidentally related to an investigation. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government. The exemption of the individual's right of access to his records and the reasons therefor necessitate the exemptions of this system of records from the requirements of the other cited provisions.

B. ID: S153.01 DLA-T (Specific Exemption)

Sys Name:

Personnel Security Files.

Exemption:

This system of records is exempt from the following provisions of title 5, United States Code, section 552a subsection (d).

Authority:

5 U.S.C. 552a (k) (2) and (5).

Reasons:

Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government.

C. ID: S160.50 DLA-T (Specific Exemption)

Sys name:

Criminal Incident/Investigations File.

Exemption:

This system of records is exempted from the following provisions of the title 5, United States Code, section 552a: (c) (3); (d); and (e) (1).

Authority:

5 U.S.C. 552a (k) (2).

Reasons:

Granting individuals access to information collected and maintained by this component relating to the enforcement of crim-

inal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government. The exemption of the individual's right of access to his records and the reasons therefor necessitate the exemption of this system of records from the requirements of the other cited provisions.

D. ID: S155.53 DLA-NS (Specific Exemption)

Sys name:

Industrial Personnel Security Clearance File.

Exemption:

This system of records is exempt from the following provisions of title 5, United States Code, Section 552a; subsection (d).

Authority:

5 U.S.C. 552a (k) (5).

Reasons:

Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government.

[FR Doc. 77-26596 Filed 9-12-77; 8:45 am]

Title 37—Patents, Trademarks and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 76-1; Rules Doc. C]

PART 201—GENERAL PROVISIONS

Termination of Transfers and Licenses Covering Extended Renewal Term

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting a new regulation pertaining to the termination of transfers and licenses covering the extended renewal term of copyright. The regulation is adopted to implement section 304(c) of the Act for General Revision of the Copyright Law. The effect