

§ 2400.4 Collection and disclosure of personal information.

(a) The following rules govern the collection of personal information throughout OSHRC operations:

(1) The OSHRC shall:

(i) Solicit, collect and maintain only such personal information as is relevant and necessary to accomplish a purpose required by statute or executive order.

(ii) Collect information, to the greatest extent practicable, directly from the subject individual when such information may result in adverse determinations about an individual's rights, benefits or privileges.

(iii) Inform any individual requested to disclose personal information whether that disclosure is mandatory or voluntary, by what authority it is solicited, the principal purposes for which it is intended to be used, the routine uses which may be made of it, and any penalties or consequences known to the OSHRC which shall result to the individual from such non-disclosure.

(2) OSHRC shall not discriminate against any individual who fails to provide personal information unless that information is required or necessary for the conduct of the system or program in which the individual desires to participate. See § 2400.4(a)(1)(i).

(3) No information shall be collected or maintained which describes how individuals exercise rights guaranteed by the First Amendment unless the Commission specifically determines that such information is relevant and necessary to carry out a statutory purpose of the OSHRC, and the collection is expressly authorized by statute or by the individual about whom the record is maintained.

(4) OSHRC shall not require disclosure of any individual's Social Security account number or deny a right, privilege or benefit because of the individual's refusal to disclose the number unless disclosure is required by Federal law.

(b) *Disclosures—(1) Limitations.* OSHRC shall not disseminate personal information unless reasonable efforts have been made to assure that the information is accurate, complete, timely and relevant and

(i) The individual to whom the record pertains has requested in writing that the information be disseminated, or

(ii) It has obtained the prior written consent of the individual to whom the record pertains, or

(iii) The dissemination is in accordance with paragraph (b)(2) of this section.

(2) Dissemination of personal information may be made:

(i) To a person pursuant to a requirement of the Freedom of Information Act (5 U.S.C. 552);

(ii) To those officers and employees of OSHRC who have a need for such information in the performance of their duties;

(iii) For a routine use as contained in the system notices published in the FEDERAL REGISTER;

(iv) To a recipient who has provided adequate advance written assurance that the information shall be used solely as a statistical reporting or research record, and to whom the information is transferred in a form that is not individually identifiable;

(v) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13, U.S. Code;

(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;

(vii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure notification is transmitted to the last known address of such individual;

(viii) To a Federal agency or an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, if such activity is authorized by law and if the head of the agency or instrumentality has made a written request to the OSHRC specifying the particular portion of the record desired and the

law enforcement activity for which the record is sought;

(ix) To either House of Congress or its committees or subcommittees to the extent of matter within their jurisdiction;

(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;

(xii) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual. The consent implied from such a written request applies only to congressional inquiries.

(3) *Employee credit references.* The Personnel Office shall verify the following information provided by an employee to a credit bureau or commercial firm from which an employee is seeking credit: length of service, job title, grade, salary, tenure of employment, and Civil service status.

(4) *Employee job references.* Prospective employers of an OSHRC employee or a former OSHRC employee may be furnished with the information in §2400.4(b)(3) above, in addition to the date and reason for separation if applicable, upon the request of the employee or former employee.

(c) *Correction disclosure.* Any person or other agency to which a personal record has been or is to be disclosed shall be informed of any corrections or be provided copies of statements of dispute, and notifications specifying the portions of the record relating thereto affecting the accuracy, timeliness or relevance of that personal record.

(d) *Record of disclosure.* (1) An accurate accounting of each disclosure shall be kept in all instances except those in which disclosure is made to OSHRC employees in the performance of their duties or is required by the Freedom of Information Act (5 U.S.C. 552), in conformance with section 552a(c) of the Privacy Act.

(2) The accounting shall be maintained for at least five (5) years or the life of the record, whichever is longer.

(3) The accounting shall be made available to the individual named in

the record upon inquiry, except for disclosures made pursuant to provision paragraph (b)(2)(viii) of this section relating to law enforcement activities.

§ 2400.5 Notification.

(a) *Notification of systems.* The following procedures permit individuals to determine the types of personal records systems maintained by OSHRC.

(1) Upon written request, OSHRC shall notify any individual whether a specific system named by him contains a record pertaining to him. See §2400.6 for suggested form of request.

(2) OSHRC shall publish annually in the FEDERAL REGISTER a notice of existence and character of all personal systems of records. This notice shall contain the following information:

(i) Name and location of the system,

(ii) Nature and purposes of the system,

(iii) Categories of individuals on whom records are maintained and categories of records generally maintained in the system,

(iv) Confidentiality requirements and the extent to which access controls apply to such information,

(v) OSHRC policies and standards regarding the safeguarding and disclosure of information, retrievability of information, information storage, duration of retention of information, and disposal of such information from the system,

(vi) Each routine use made by OSHRC of the personal information contained in the system, including the categories of users and the purpose of the use,

(vii) Title and official address of the custodian,

(viii) Procedures by which an individual can be informed if a system contains personal information pertaining to himself, gain access to such information, and contest the content, accuracy, completeness, timeliness, relevance and necessity for retention of the information,

(ix) Categories of sources of such personal information,

(x) System status—either developmental or operational.

(b) *Notification of disclosure.* OSHRC shall make reasonable efforts to serve