

Section 8. This order is intended to supplement, and not to restrict or diminish, any confidentiality protections that otherwise apply to statistical information.

Section 9. The Office of Information and Regulatory Affairs of the Office of Management and Budget will provide appropriate guidance regarding this order.

Section 10. This order is effective 30 days after final publication in the **Federal Register**.

Appendix A—Designated Statistical Agencies or Units

The following agencies or units have been determined by the Office of Management and Budget to be "statistical agencies or units" for purposes of this order (this list may be revised from time to time):

Department of Agriculture
Economic Research Service
National Agricultural Statistics Service
Department of Commerce
Bureau of the Census
Bureau of Economic Analysis
Department of Education
National Center for Education Statistics
Department of Energy
Energy End Use and Integrated Statistics
Division of the Energy Information Administration
Department of Health and Human Services
National Center for Health Statistics
Department of Justice
Bureau of Justice Statistics
Department of Labor
Bureau of Labor Statistics
Department of Transportation
Bureau of Transportation Statistics
Department of the Treasury
Statistics of Income Division of the Internal Revenue Service
National Science Foundation
Division of Science Resources Studies

Appendix B—Confidentiality Pledges

Statistical agencies or units subject to this order shall, whenever they collect information for exclusively statistical purposes and have determined that they may fully comply with the disclosure and use standards of subsections 2(a) and 2(b) of this order, incorporate the following or equivalent language into confidentiality pledges made to respondents:

"This information collection complies with the Federal Statistical Confidentiality Order. Therefore, by law, your responses may be used only for statistical purposes and may not be disclosed, or used, in identifiable form for any other purpose."

When a confidentiality pledge is made by a statistical agency or unit for any information collection that does not satisfy the disclosure and use standards of subsections 2(a) and 2(b) of this order [e.g., when the purposes of the collection are not exclusively statistical (see Section 3) or when the data may be disclosed in a form or manner that may permit use of the data in identifiable form by other agencies or persons for purposes other than statistical purposes

(see subsection 2(c))], such pledge may not include any language that might reasonably be confused with the language specified above.

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OFFICE OF MANAGEMENT AND BUDGET

Extending the Coverage of Energy Statistical Programs under the Federal Statistical Confidentiality Order

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President.

ACTION: Notice of proposed amendment to appendix A of the Federal Statistical Confidentiality Order.

SUMMARY: The final Federal Statistical Confidentiality Order announced in this issue of the **Federal Register** lists the Energy End Use and Integrated Statistics Division of the Energy Information Administration (EIA) as a unit determined by the Office of Management and Budget to be subject to the coverage of the order. While retaining that Division in Appendix A (as proposed) in the final order, we are today inviting further public comment on a proposal to amend Appendix A to include all of EIA (i.e., to determine, through the analyses prescribed in the order, which other EIA programs may conform to the confidentiality standards of that order).

DATES: Comments must be received on or before August 26, 1997.

ADDRESSES: Please address all written comments to Katherine K. Wallman, Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503. Comments may be submitted via facsimile to 202/395-7245. Electronic mail comments may be submitted via SMTP to Wallman_K@a1.eop.gov or via X.400 to G=Katherine, S=Wallman, PRMD=gov+eop, ADMD+telemail, C=us. Comments submitted via electronic mail should include the commenter's name, affiliation, postal address, and email address in the text of the message.

FOR FURTHER INFORMATION CONTACT: Jerry L. Coffey, Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503. Inquiries may be submitted via facsimile to 202/395-7245. Electronic mail inquiries may be submitted via SMTP to Coffey_J@a1.eop.gov or via X.400 to G=Jerry, S=Coffey, PRMD=gov+eop, ADMD+telemail, C=us. Electronic mail inquiries should include the commenter's name, affiliation, postal

address, and email address in the text of the message.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Statistical Confidentiality Order issued by the Office of Management and Budget (OMB) establishes policies to assure "fair information practices" (as advocated by the Privacy Protection Study Commission and the Commission on Federal Paperwork) for respondents and subjects of statistical inquiries, based on the concept of "functional separation" developed by the Privacy Protection Study Commission. The order permits functional separation to be achieved by two means—1) identifying an agency or unit that is purely statistical, or 2) distinguishing statistical from nonstatistical functions within a single agency or unit.

By establishing a uniform policy for the principal statistical agencies, this order will reduce public confusion, uncertainty, and concern about the treatment of confidential statistical information by different agencies. By establishing consistent rational principles and processes to buttress confidentiality pledges, the order will eliminate unsupportable confidentiality claims and ambiguous decision processes that have created uncertainties under FOIA. Such consistent protection of confidential statistical information will, in turn, reduce the perceived risks of more efficient working relationships among statistical agencies, relationships that can reduce both the cost and reporting burden imposed by statistical programs.

B. Proposed Amendment to Appendix A

Appendix A of the Federal Statistical Confidentiality Order contains a list of "statistical agencies and units" determined by OMB to be principally subject to that order and includes a unit of EIA whose functions are widely considered to be predominantly statistical, specifically, the Energy End Use and Integrated Statistics (EEUIS) Division. During review of comments on the proposed order, consideration was given to other agencies or units that should be included. In the case of EIA, other units within the agency collect statistics on petroleum supply and marketing, natural gas, reserves, coal, electric and renewable energy, and general information about energy markets. It is not clear that the EEUIS Division is the only unit in EIA that might operate some exclusively statistical programs.

Many data collection programs within EIA were originally authorized to support energy regulation as well as EIA's statistical mission. However as regulatory programs were terminated, these data collections were restructured to support statistical priorities alone. While many of the original statutes were crafted to authorize regulatory data collections, Congress has repeatedly reauthorized and funded the restructured (statistical) programs that describe segments of the energy economy that are no longer regulated.

Amending Appendix A of the Federal Statistical Confidentiality Order to

include all of EIA will set in motion the analyses required by the order to determine which multiple uses of such programs still remain and conversely which programs are now justified by statistical priorities only.

These analyses under Sections 6 and 7 of the order may also identify statutory provisions that are no longer needed or appropriate, and clarify the standards of review (e.g., the administrative or statistical test of practical utility) that should be applied to these programs under the Paperwork Reduction Act (see, for example, 5 C.F.R. 1320.3(l)).

Accordingly, OMB proposes to amend Appendix A of the Federal Statistical Confidentiality Order by inserting "Energy Information Administration" in lieu of "Energy End Use and Integrated Statistics Division of the Energy Information Administration" under the heading "Department of Energy".

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

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