

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by revising the existing entries for §§ 648.14 and 648.80 to read as follows:

§ 902.1 OMB control number assigned pursuant to the Paperwork Reduction Act.

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(b) * * *				
CFR part or section where the information collection requirement is located	Current OMB control number (All numbers begin with 0648—)			
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50 CFR				
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648.14	-0202, -0212, -0469, -0489, -0501, -0502, and -0602			
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648.80	-0202, -0422, -0489, -0521, and -0602			
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DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 10

RIN 1215-AB66

Claims for Compensation; Death Gratuity Under the Federal Employees' Compensation Act

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Final rule.

SUMMARY: On August 18, 2009, the Department of Labor (DOL) published an interim final rule in order to administer the death gratuity created by section 1105 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181. Section 1105 provides a death gratuity payment to eligible survivors of federal employees and non-appropriated fund instrumentality employees (NAFI employees) who die of injuries incurred in connection with service with an

Armed Force in a contingency operation.

Section 1105 amended the Federal Employees' Compensation Act (FECA) to add a new section, designated as section 8102a. The Secretary of Labor has the authority to administer and to decide all questions arising under FECA. 5 U.S.C. 8145. FECA authorizes the Secretary to prescribe rules and regulations necessary for the administration and enforcement of the Act. 5 U.S.C. 8149. The Secretary has delegated the authority provided by 5 U.S.C. 8145 and 8149 to the Director of the Office of Workers' Compensation Programs (OWCP), who is responsible for the administration and implementation of FECA. 20 CFR 1.1. Thus OWCP will administer the adjudication of claims and the payment of the death gratuity under new section 8102a.

At the same time the DOL published the interim final rule, it also invited written comments and advice from interested parties regarding possible changes to those regulations. This document amends the interim final rule based on the single comment received by the DOL.

DATES: *Effective Date:* This final rule is effective on April 5, 2010. *Applicability dates:* This final rule will apply to all claims filed on or after April 5, 2010. This rule will also apply to any claims that are pending on April 5, 2010.

FOR FURTHER INFORMATION CONTACT:

Shelby Hallmark, Director, Office of Workers' Compensation Programs, U.S. Department of Labor, Room S-3524, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: 202-693-0031 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Labor's (DOL) interim final rule governing the administration of the death gratuity created by section 1105 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, by the DOL was published in the **Federal Register** on August 18, 2009 (74 FR 41617). The rule took effect immediately and included a 60-day period for comment. During the comment period, DOL received one timely comment from an individual. This comment addressed the issue of timeliness for retroactive claims under § 10.912, as well as some comments regarding what forms should be used under §§ 10.903 and 10.911. The DOL's section-by-section analysis of the timely comment it received is set forth below.

I. Comments on the Interim Final Rule

The section numbers used in the headings of the following analysis are

those that were used in the interim final rule.

Sections 10.903 and 10.911

The commenter suggested that the interim final rule and forms be amended to indicate that, for retroactive claims under 5 U.S.C. 8102a, claimants would not need to submit the new forms CA-41 and CA-42 as other forms applied during the period prior to enactment of the death gratuity benefit on January 28, 2008 and that those forms be amended accordingly. The commenter also suggested that, in the alternative, the regulations could be amended at §§ 10.903 and 10.911 to reference that forms CA-5 and CA-6, which are used for death benefit claims under the FECA, could be used to file for the new death gratuity benefit. This comment, however, misconstrues the relationship between death benefits under the FECA and the new death gratuity benefit. Specifically, the death gratuity is a new benefit that did not exist prior to January 28, 2008, which involves different burdens of proof, different information, and potentially different beneficiaries than a claim for death benefits under the FECA. The new information sought in the new forms is required so that the DOL may make a proper determination as to eligibility under the new death gratuity benefit. Therefore, the suggested changes to §§ 10.903 and 10.911 have not been made.

Section 10.912

The commenter also suggested that § 10.912 be modified to indicate that a retroactive claim for the new death gratuity benefit is timely if a death benefit claim is filed for the same death within the three-year time limit for filing a FECA claim. The DOL notes that the regulation specifically covers such a situation, in that it states that a claim for the new death gratuity benefit is timely if it is filed within the time limits specified by the FECA pursuant to 5 U.S.C. 8122. That section of the FECA states that a claim for benefits is timely if it is filed within three years of the date of injury or death. That section further states that a claim for disability that is timely filed will be a timely filing for a death benefit based on the same injury. It is the position of the DOL that this section covers the circumstances noted by the commenter, and that the timely filing of a claim for death benefits under the FECA is a timely filing for a retroactive death gratuity benefit. Furthermore, the DOL notes that section 8122 of the FECA also states that a claim is also timely if an immediate supervisor had knowledge of an injury

within 30 days from the date of injury, which will cover the vast majority of retroactive death gratuity claims under section 8102a.

The commenter's contention that there is potential confusion regarding the time limitations for a retroactive death gratuity benefit, however, is well taken. The DOL notes that, since it would have been impossible to file a claim for a benefit that did not exist, Congress could not have intended for the statute of limitations to begin to run from the date of death for retroactive death gratuity claims. Furthermore, as DOL had no procedures for the filing of retroactive death gratuity claims prior to the enactment of the Interim Final Rule on August 18, 2009, the three-year time limitation for filing a retroactive death gratuity claim could not have begun to run until that date. Accordingly, the DOL has amended § 10.912(a) by adding a sentence at the end of that subsection to clarify when the statute of limitations started running for retroactive claims for the FECA death gratuity benefit. This section also has been slightly renumbered.

II. Administrative Requirements for the Rulemaking

Executive Order 12866

This regulatory action constitutes a "significant" rule within the meaning of Executive Order 12866 in that any executive agency could be required to participate in the development of claims for benefits under this regulatory action. The Department believes, however, that this regulatory action will not have a significant economic impact on the economy, or any person or organization subject to the changes, in that the annual amount of benefits paid under this section is expected to be approximately one million dollars. The changes have been reviewed by the Office of Management and Budget (OMB) for consistency with the President's priorities and the principles set forth in Executive Order 12866.

Regulatory Flexibility Act of 1980

This rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612. The Department has concluded that the rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

Paperwork Reduction Act (PRA)

This rule contains information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.* The requirements set out in §§ 10.909, 10.911, 10.912, 10.914 and 10.915 of this rule were both submitted to and approved by the OMB under the OMB Control Number 1215–0206 (expires May 31, 2010).

The National Environmental Policy Act of 1969

The Department certifies that this rule has been assessed in accordance with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA). The Department concludes that NEPA requirements do not apply to this rulemaking because this rule includes no provisions impacting the maintenance, preservation, or enhancement of a healthful environment.

Federal Regulations and Policies on Families

The Department has reviewed this rule in accordance with the requirements of section 654 of the Treasury and General Government Appropriations Act of 1999, 5 U.S.C. 601 note. These regulations were not found to have a potential negative effect on family well-being as it is defined thereunder.

Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The Department certifies that this rule has been assessed regarding environmental health risks and safety risks that may disproportionately affect children. These were not found to have a potential negative effect on the health or safety of children.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

The Department has reviewed this rule in accordance with the requirements of Exec. Order No. 13132, 64 FR 43225 (Aug. 10, 1999), and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, or tribal governments or by the private sector,

the Department has not prepared a budgetary impact statement.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has reviewed this rule in accordance with Exec. Order 13175, 65 FR 67,249 (Nov. 9, 2000), and has determined that it does not have "tribal implications." The rule does not "have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

The Department has reviewed this rule in accordance with Exec. Order 12630, 53 FR 8859 (Mar. 15, 1988), and has determined that it does not contain any "policies that have takings implications" in regard to the "licensing, permitting, or other condition requirements or limitations on private property use, or that require dedications or exactions from owners of private property."

Executive Order 13211: Energy Supply, Distribution, or Use

The Department has reviewed this regulation and has determined that the provisions of Exec. Order 13211, 66 FR 28355 (May 18, 2001), are not applicable as there are no direct or implied effects on energy supply, distribution, or use.

The Privacy Act of 1974, 5 U.S.C. 552a, as Amended

While claims filed under section 8102a of the FECA will be a separate claim file and bear a separate claim number from any other FECA claim file maintained on the covered employee, the collection and release of these files will be conducted under the provisions of the Privacy Act and the published systems of record notices for FECA claims files. Therefore, the Department has determined that this rule will require a minor revision of the current Privacy Act System of Records, DOL/GOVT–1, Office of Workers' Compensation Programs, Federal Employees' Compensation Act File, 67 FR 16826 (April 8, 2002).

Clarity of This Regulation

Executive Order 12866, 58 FR 51735 (September 30, 1993), and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. The Department

invites comments on how to make this rule easier to understand.

List of Subjects in 20 CFR Part 10

Administrative practice and procedure, Claims, Death gratuity, Government employees, Labor, Workers' compensation, NAFL.

Text of the Rule

■ For the reasons set forth in the preamble, the interim final rule, which added subpart J to 20 CFR Part 10 and which was published at 74 FR 41617 on August 18, 2009, is adopted as a final rule with the following change:

PART 10—CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED

Subpart J—Death Gratuity

■ 1. The authority citation for Part 10, Subpart J continues to read as follows:

Authority: 5 U.S.C. 8102a.

■ 2. Revise § 10.912 to read as follows:

§ 10.912 What is required to establish a claim for the death gratuity payment?

Claim form CA-41 describes the basic requirements. Much of the required information will be provided by the employing agency when it completes notification form CA-42. However, the claimant bears the burden of proof to ensure that OWCP has the evidence needed to establish the claim. OWCP may send any request for additional evidence to the claimant and to his or her representative, if any. Evidence should be submitted in writing. The evidence submitted must be reliable, probative, and substantial. Each claim for the death gratuity must establish the following before OWCP can pay the gratuity:

(a) That the claim was filed within the time limits specified by the FECA, as prescribed in 5 U.S.C. 8122 and this part. Timeliness is based on the date that the claimant filed the claim for the death gratuity under § 10.911, not the date the employing agency submitted form CA-42. As procedures for accepting and paying retroactive claims were not available prior to the publication of the interim final rule, the applicable statute of limitations began to run for a retroactive payment under this subpart on August 18, 2009.

(b) That the injured person, at the time he or she incurred the injury or disease, was an employee of the United States as defined in 5 U.S.C. 8101(1) and § 10.5(h) of this part, or a non-appropriated fund instrumentality

employee, as defined in 10 U.S.C. 1587(a)(1).

(c) That the injury or disease occurred and that the employee's death was causally related to that injury or disease. The death certificate of the employee must be provided. Often, the employing agency will provide the death certificate and any needed medical documentation. OWCP may request from the claimant any additional documentation that may be needed to establish the claim.

(d) That the employee incurred the injury or disease in connection with the employee's service with an Armed Force in a contingency operation. This will be determined from evidence provided by the employing agency or otherwise obtained by OWCP and from any evidence provided by the claimant.

(1) Section 8102a defines "contingency operation" to include humanitarian operations, peacekeeping operations, and similar operations. ("Similar operations" will be determined by OWCP.)

(i) A "contingency operation" is defined by 10 U.S.C. 101(a)(13) as a military operation that—

(A) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of [Title 10], chapter 15 of [Title 10], or any other provision of law during a war or during a national emergency declared by the President or Congress.

(ii) A "humanitarian or peacekeeping operation" is defined by 10 U.S.C. 2302(8) as a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.

(iii) "Humanitarian assistance" is defined by 10 U.S.C. 401(e) to mean medical, surgical, dental, and veterinary care provided in areas of a country that are rural or are underserved by medical, surgical, dental, and veterinary professionals, respectively, including education, training, and technical assistance related to the care provided; construction of rudimentary surface transportation systems; well drilling and construction of basic sanitation

facilities; rudimentary construction and repair of public facilities.

(2) A contingency operation may take place within the United States or abroad. However, operations of the National Guard are only considered "contingency operations" for purposes of this subpart when the President, Secretary of the Army, or Secretary of the Air Force calls the members of the National Guard into service. A "contingency operation" does not include operations of the National Guard when called into service by a Governor of a State.

(3) To show that the injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation, the claim must show that the employee incurred the injury or disease while in the performance of duty as that phrase is defined for the purposes of otherwise awarding benefits under FECA.

(4)(i) When the contingency operation occurs outside of the United States, OWCP will find that an employee's injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation if the employee incurred the injury or disease while performing assignments in the same region as the operation, unless there is conclusive evidence that the employee's service was not supporting the Armed Force's operation.

(ii) Economic or social development projects, including service on Provincial Reconstruction Teams, undertaken by covered employees in regions where an Armed Force is engaged in a contingency operation will be considered to be supporting the Armed Force's operation.

(5) To show that an employee's injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation, the claimant will be required to establish that the employee's service was supporting the Armed Force's operation. The death gratuity does not cover federal employees who are performing service within the United States that is not supporting activity being performed by an Armed Force.

(e) The claimant must establish his or her relationship to the deceased employee so that OWCP can determine whether the claimant is the survivor entitled to receive the death gratuity

payment according to the order of precedence prescribed in § 10.907.

Shelby Hallmark,

Director, Office of Workers' Compensation Programs.

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 548

Belarus Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is adding new part 548 to 31 CFR chapter V to implement Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus."

DATES: *Effective Date:* February 3, 2010.

FOR FURTHER INFORMATION CONTACT:

Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Assistant Director for Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (<http://www.treas.gov/ofac>). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Background

On June 16, 2006, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) ("IEEPA"), issued Executive Order 13405 (71 FR 35485, June 20, 2006) ("E.O. 13405"), effective at 12:01 a.m. eastern daylight time on June 19, 2006. In E.O. 13405, the President determined that the actions and policies of certain members of the Government of Belarus and other persons to undermine Belarus democratic processes or institutions,

which were manifested in the fundamentally undemocratic March 2006 elections, to commit human rights abuses related to political repression, including detentions and disappearances, and to engage in public corruption, including by diverting or misusing Belarusian public assets or by misusing public authority, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and declared a national emergency to deal with that threat.

Section 1(a) of E.O. 13405 blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, of: (1) The persons listed in the Annex to E.O. 13405; and (2) any person determined by the Secretary of the Treasury, after consultation with the Secretary of State: (i) To be responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus; (ii) to be responsible for, or to have participated in, human rights abuses related to political repression in Belarus; (iii) to be a senior-level official, a family member of such an official, or a person closely linked to such an official who is responsible for or has engaged in public corruption related to Belarus; (iv) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described above or any person listed in or designated pursuant to E.O. 13405; or (v) to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person listed in or designated pursuant to E.O. 13405. The property and interests in property of the persons described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

In Section 1(b) of E.O. 13405, the President determined that the making of donations of certain articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, as specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to E.O. 13405 would seriously impair his ability to deal with the national emergency declared in E.O. 13405. The President therefore prohibited the donation of such items unless authorized by OFAC.

Section 1(c) of E.O. 13405 provides that the prohibition on any transaction

or dealing in blocked property or interests in property includes, but is not limited to, the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to E.O. 13405, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 2 of E.O. 13405 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in E.O. 13405, as well as any conspiracy formed to violate such prohibitions.

Section 5 of E.O. 13405 authorizes the Secretary of the Treasury, after consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, as may be necessary to carry out the purposes of E.O. 13405. Section 5 of E.O. 13405 also provides that the Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the U.S. Government. In furtherance of the purposes of E.O. 13405, OFAC is promulgating the Belarus Sanctions Regulations, 31 CFR part 548 (the "Regulations").

The Regulations implement targeted sanctions that are directed at certain persons who meet the criteria set forth above. The sanctions generally do not prohibit trade or the provision of banking or other financial services to the country of Belarus, unless the transaction or service in question involves a person whose property and interests in property are blocked pursuant to these sanctions.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements the prohibitions contained in sections 1 and 2 of E.O. 13405. *See, e.g.*, §§ 548.201 and 548.205. Persons identified in the Annex to E.O. 13405, designated by or under the authority of the Secretary of the Treasury pursuant to E.O. 13405, or otherwise subject to the blocking provisions of E.O. 13405 are referred to throughout the Regulations as "persons whose property and interests in property are blocked pursuant to § 548.201(a)." The names of persons listed in or designated pursuant to E.O. 13405 are published on OFAC's Specially Designated Nationals and Blocked Persons List, which is accessible via OFAC's Web site. Those names also are published in the **Federal**