

judgment being filed by respondents, thereby placing greater burdens on both the Board and the General Counsel, and that the proposal would also place greater burdens on the Regions and Judges Division with respect to postponement of the hearing. As indicated above and in the NPR, the purpose of the proposal was to expedite the summary judgment process and reduce the administrative burden on the Board and its staff which is responsible for preparing and issuing such notices. If the AFL-CIO's predictions are correct, however, and we cannot say that they are unfounded, the proposal would actually increase the burdens not only on the Board, but also on the Regions and the Judges Division.

Given the Agency's reduced budget and staffing, we believe it would therefore be prudent for the Board to study further the issue before implementing the proposed change. It may be that there are other alternatives available to the Board which could significantly reduce the current burdens associated with issuing such notices. One such alternative, simplifying or streamlining the notice itself by reducing its length and eliminating unnecessary text, has recently been implemented based on the recommendation of Agency staff. Other alternatives will continue to be studied as part of the Agency's ongoing streamlining efforts.

As indicated in the NPR, although the Agency decided to give notice of proposed rulemaking with respect to the proposed rule changes, the changes involve rules of agency organization, procedure or practice and thus no notice of proposed rulemaking was required under section 553 of the Administrative Procedure Act (5 U.S.C. 553). Accordingly, the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*), does not apply to these rule changes.

List of Subjects in 29 CFR Parts 101 and 102

Administrative practice and procedure, Labor management relations.

For the reasons set forth above, 29 CFR parts 101 and 102 are amended as follows:

PART 101—STATEMENTS OF PROCEDURE

1. The authority citation for 29 CFR part 101 continues to read as follows:

Authority: Sec. 6 of the National Labor Relations Act, as amended (29 U.S.C. 151, 156), and sec. 522(a) of the Administrative Procedure Act (5 U.S.C. 552(a)). Section 101.14 also issued under sec. 2112(a)(1) of Pub. L. 100-236, 28 U.S.C. 2112(a)(1).

2. Section 101.39 is revised to read as follows:

§ 101.39 Initiation of advisory opinion case.

The question of whether the Board will assert jurisdiction over a labor dispute which is the subject of a proceeding in an agency or court of a State or territory is initiated by the filing of a petition with the Board. This petition may be filed only if:

(1) a proceeding is currently pending before such agency or court;

(2) the petitioner is the agency or court itself; and

(3) the relevant facts are undisputed or the agency or court has already made the relevant factual findings.

(b) The petition must be in writing and signed. It is filed with the Executive Secretary of the Board in Washington, DC. No particular form is required, but the petition must be properly captioned and must contain the allegations required by section 102.99 of the Board's Rules and Regulations. None of the information sought may relate to the merits of the dispute. The petition may be withdrawn at any time before the Board issues its advisory opinion determining whether it would or would not assert jurisdiction on the basis of the facts before it.

PART 102—RULES AND REGULATIONS

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 552a (j) and (k) of the Privacy Act (5 U.S.C. 552a (j) and (k)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

§ 102.98 [Amended]

2. Section 102.98, paragraph (a) and the paragraph designation (b) are removed.

§ 102.99 [Amended]

3. In § 102.99, paragraph (a) is removed and paragraphs (b) and (c) are redesignated paragraphs (a) and (b) respectively.

Dated: Washington, DC, December 6, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 96-31457 Filed 12-10-96; 8:45 am]

BILLING CODE 7545-01-P

29 CFR Part 102

Privacy Act of 1974; Implementation

AGENCY: National Labor Relations Board.

ACTION: Final rule exempting system of records from certain provisions of the Privacy Act.

SUMMARY: The National Labor Relations Board ["NLRB"] issues a final rule exempting a new system of records entitled "NLRB-20, Agency Disciplinary Case Files (Nonemployees)" from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11600, Washington, DC 20570. Phone: (202) 273-1940.

SUPPLEMENTARY INFORMATION: On October 26, 1993, the Board published in the Federal Register a notice of the establishment of a new system of records pursuant to the Privacy Act of 1974, entitled "NLRB-20, Agency Disciplinary Case Files" (58 FR 57633). The same day, the Board also published in the Federal Register a proposed rule exempting the new system of records from certain provisions of the Privacy Act (58 FR 57572). Both notices provided for a public comment period.

Thereafter, on March 28, 1996, the Board issued a notice amending the system name to read "NLRB-20, Agency Disciplinary Case Files (Nonemployees)," and amending four of the routine uses specified in the original notice (61 FR 13884). In the absence of any comments, the amendments to the system of records became final 30 days thereafter.

No comments were filed regarding the proposed rule exempting the system of records from certain provisions of the Privacy Act. Accordingly, the Board has decided to implement the proposed rule as a final rule.

These rules relate to individuals rather than small business entities, are concerned with the Agency's management of its Privacy Act system of records, and will not have any economic impact. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities. The NLRB further finds that the rule does not qualify as a "major rule" under Executive Order No. 12291 since it will not have an annual effect on the economy of \$100 million or more. Finally, the rule is not subject

to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, as it does not contain any information-collection requirements within the meaning of that Act.

List of Subjects in 29 CFR Part 102

Privacy, Reporting and recordkeeping requirements.

For the reasons stated above, 29 CFR part 102 is amended as follows:

PART 102—[AMENDED]

Subpart K—Records and Information

1. The authority citation for part 102 continues to read as follows:

Authority: Sec. 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117 also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 552a (j) and (k) of the Privacy Act (5 U.S.C. 552a (j) and (k)). Sections 102.143 through 102.155 also issued under sec. 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.117 is amended by adding paragraphs (p) and (q) as follows:

§ 102.117 [Amended]

* * * * *

(p) Pursuant to 5 U.S.C. 552a(k)(2), the system of records maintained by the NLRB containing Agency Disciplinary Case Files (Nonemployees) shall be exempted from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) insofar as the system contains investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2).

(q) The Privacy Act exemption set forth in paragraph (p) of this section is claimed on the ground that the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act, if applied to Agency Disciplinary Case Files, would seriously impair the ability of the NLRB to conduct investigations of alleged or suspected violations of the NLRB's misconduct rules, as set forth in paragraphs (o) (1), (3), (4), (7), (8), and (11) of this section.

Dated, Washington, DC, December 5, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 96-31458 Filed 12-10-96; 8:45 am]

BILLING CODE 7545-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL-5663-5]

National Toxics Rule: Remand of Water Quality Criteria for Dioxin and Pentachlorophenol to EPA for Response to Comments

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of availability of US EPA response to comments.

SUMMARY: In this document, the U.S. Environmental Protection Agency ("EPA") is publishing a document entitled "Response to Comments from American Forest and Paper Association ("AFPA") on Two of the Exposure Assumptions Used by EPA in Developing the Human Health Water Quality Criteria for Dioxin and Pentachlorophenol". AFPA challenged EPA's promulgation of human health water quality criteria for dioxin and pentachlorophenol. The District Court remanded these criteria to EPA for an adequate response to AFPA's comments regarding two exposure assumptions used by EPA in developing those criteria: an assumption that daily water consumption is 2 liters, and an assumption that all consumed fish are contaminated at criteria levels. EPA has prepared a response in accordance with the court's order, and is publishing that response in this document.

FOR FURTHER INFORMATION CONTACT: Denis R. Borum, Office of Science and Technology, Office of Water (4304), USEPA, 401 M Street, SW., Washington, D.C. 20460, (202) 260-8996.

SUPPLEMENTARY INFORMATION: In November 1991, EPA proposed chemical-specific, numeric criteria for priority toxic pollutants, including dioxin and pentachlorophenol, necessary to bring all States into compliance with the requirements of section 303(c)(2)(B) of the Clean Water Act. (The "National Toxics Rule" or "NTR", 56 FR 58420; codified at 40 CFR 131.36.) AFPA commented on a number of aspects of the proposal, including the exposure assumptions used in EPA's water quality criteria methodology. The NTR was promulgated in December 1992 (57 FR 60848; codified at 40 CFR 131.36). AFPA challenged the rule as arbitrary and capricious in violation of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* (Civil Action No. 93-CV-0694 (RMU), DCDC.) On September 4, 1996, the court issued an order remanding the human health criteria for

dioxin and pentachlorophenol to EPA for "an adequate response to AFPA's comments" regarding two of the exposure assumptions used by EPA in developing the criteria. These assumptions are that daily water consumption is 2 liters, and that all consumed fish are contaminated at the criteria levels.

The court directed EPA to respond to AFPA's comments on these two issues by December 13, 1996, or the human health criteria for dioxin and pentachlorophenol will be vacated automatically. This notice publishes EPA's response to AFPA's comments. Under the order, AFPA has 60 days from the publication of EPA's response to re-open the litigation; upon expiration of the 60 days, the action will stand dismissed with prejudice.

In accordance with section 553 of the Administrative Procedure Act, EPA has determined that there is good cause not to solicit public comment on this notice. In this notice, the Agency is simply responding to comments on the proposed NTR and such responses are not subject to further public comment. Moreover, the public has had ample opportunity to comment on the exposure assumptions addressed in this notice since the assumptions have been reflected in a number of Agency regulatory actions. For these reasons, EPA finds further public comment to be unnecessary.

Dated: December 5, 1996.

Robert Perciasepe,

Assistant Administrator for Water.

Response to Comments From the American Forest and Paper Association on Two Exposure Assumptions Used by EPA To Develop Human Health Water Quality Criteria for Dioxin and Pentachlorophenol

Background

The purpose of the Clean Water Act ("CWA") is to protect the nations waters, on which public health and the environment depend. Toward this end, the CWA requires those discharging into surface waters of the United States to have permits that limit the amount of pollutants discharged. To set such limits, "criteria" are established for each pollutant at a level necessary to preserve or achieve the uses designated for particular waterbodies by the States. In other words, for waterbodies designated as drinking water supplies, the criteria should assure that people can safely drink the water. Where waterbodies are to be used for fishing, swimming or recreation, the criteria should assure that people can safely eat fish that are taken from those waters, and safely use