

**Register** document reflects recommendations made by the NACMPI HACCP Systems Validation Subcommittee. Most of the revisions recommended by NACMPI were to improve the clarity of the document. For example, in response to a NACMPI recommendation, the draft compliance guidance now clearly and concisely describes the distinction between validation and verification and explains how the establishment's HACCP plan reassessment fits into the process. The draft guidance reiterates that the establishment is required to reassess its HACCP plan annually and whenever changes occur that affect the hazard analysis or HACCP plan (9 CFR 417.2(a)). The draft guidance also makes clear that that to conduct an effective reassessment, establishments should review the records generated by the entire HACCP system and analyze these records to determine how the HACCP system is performing as a whole. Prerequisite programs are a critical part of the environment in which HACCP plans function and are therefore an important part of any HACCP plan reassessment. FSIS also updated the guidance to include guidance for validating cooking instructions for ground poultry patties.

The NACMPI report is available on the FSIS Web site at: [http://www.fsis.usda.gov/PDF/Validation\\_Issue\\_Paper\\_Final.pdf](http://www.fsis.usda.gov/PDF/Validation_Issue_Paper_Final.pdf).

In addition to comments on the draft guidance document, the NACMPI also made recommendations on FSIS's implementation and verification activities after the Agency issues final validation guidance. The NACMPI recommended that FSIS "phase in" its activities to ensure that establishments have appropriately validated HACCP systems by focusing first on those product categories that present the greatest public health risk. The NACMPI also recommended that at their next annual reassessment, existing establishments should be expected to have determined whether they need to collect additional in-plant data to complete their validation or whether the data they have collected meet the validation requirements. FSIS believes that both recommendations have merit and requests comments on them.

The revised draft guidance document is available for public viewing in the FSIS docket room and on the FSIS Web site at [http://www.fsis.usda.gov/Regulations\\_Policies/Compliance\\_Assistance/index.asp](http://www.fsis.usda.gov/Regulations_Policies/Compliance_Assistance/index.asp). FSIS again invites comments on the revised guidance document, as well as on the issues discussed in this **Federal Register** document. The Agency will also hold a public meeting to discuss the revised

draft guidance and to solicit additional input on validation requirements.

### Next Steps

After considering the public input and comments it receives on the revised draft guidance document, FSIS will issue a final guidance document on HACCP system validation and publish a **Federal Register** document to announce its availability. At that time, FSIS will also announce when Agency personnel will begin to take enforcement actions if it finds that an establishment has failed to conduct and document in-plant validation.

Until then, FSIS inspection personnel will continue to issue a noncompliance record (NR) if an establishment lacks the required scientific or technical support for its HACCP system, or if the scientific or technical support is inadequate. FSIS will also continue to issue an NOIE if, taken together with other relevant findings, an establishment's scientific or technical support is inadequate, and the Agency can support a determination that the establishment's HACCP system is inadequate for any of the reasons provided in 9 CFR 417.6.

FSIS will also continue to conduct Food Safety Assessments (FSAs). If, when conducting an FSA, an EIAO finds that an establishment has not completed the in-plant demonstration, the EIAO will note this finding in the FSA and inform the establishment. Until the enforcement date, FSIS will not issue NRs or take enforcement actions based solely on a finding that an establishment lacks in-plant validation data.

### Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this document, FSIS will announce it online through the FSIS Web page located at [http://www.fsis.usda.gov/regulations/2012\\_Notices\\_Index/](http://www.fsis.usda.gov/regulations/2012_Notices_Index/). FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS' policies, procedures, regulations, **Federal Register** notices, public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page.

Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at [http://www.fsis.usda.gov/news\\_and\\_events/email\\_subscription/](http://www.fsis.usda.gov/news_and_events/email_subscription/). Information is available about a variety of topics including recalls, exports, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and they have the option to password protect their accounts.

Done at Washington, DC, on May 1, 2012.

**Alfred V. Almanza,**  
*Administrator.*

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**BILLING CODE 3410-DM-P**

## EXPORT-IMPORT BANK OF THE UNITED STATES

### 12 CFR Part 404

[EXIM-OIG-2012-0010]

RIN 3048-AA02

### Privacy Act of 1974: Implementation of Exemptions; Export-Import Bank of the United States Office of Inspector General—Office of Inspector General Investigative Records

**AGENCY:** The Export-Import Bank of the United States.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Export-Import Bank of the United States (hereafter known as "Ex-Im Bank"), Office of Inspector General (hereafter known as "OIG" or "Ex-Im Bank OIG") is giving concurrent notice of a new system of records entitled, "EIB-35—Office of Inspector General Investigative Records." In this proposed rulemaking, Ex-Im Bank proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

**DATES:** Comments should be received on or before July 9, 2012 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by Docket Number EIB-2011-0010 by one of the following methods:

- Electronically through the eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Please search for EIB-2011-0010.
- By Mail/Hand Delivery/Courier: Alberto Rivera-Fournier, Ex-Im Bank,

Office of Inspector General/811 Vermont Avenue NW., Rm. 976, Washington, DC 20571. Please allow sufficient time for mailed comments to be received before the close of the comment period.

**Instructions:** All submissions received must include the agency name and docket number for this notice. All comments received before the end of the comment period will be posted on <http://www.regulations.gov> for public viewing, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Alberto Rivera-Fournier, Ex-Im Bank, Office of Inspector General, 811 Vermont Avenue NW., Rm. 976, Washington, DC 20571 or by telephone (202) 565-3908 or facsimile (202) 565-3988.

**SUPPLEMENTARY INFORMATION:**

Concurrently with the publication of this notice of proposed rulemaking, the Ex-Im Bank OIG is publishing a new system of records notice that is subject to the Privacy Act of 1974, 5 U.S.C. 552a. The system is entitled, “EIB-35—Office of Inspector General Investigative Records”. The system of records is necessary in order for Ex-Im Bank OIG to carry out its investigative responsibilities pursuant to the Inspector General Act of 1978, as amended.

Ex-Im Bank is proposing to exempt this system, in part, from certain provisions of the Privacy Act. The OIG is responsible for conducting and supervising independent and objective audits, inspections, and investigations of the programs and operations of Ex-Im Bank. The OIG promotes economy, efficiency, and effectiveness within the Ex-Im Bank and prevents and detects fraud, waste, and abuse in its programs and operations. The OIG’s Office of Investigations investigates allegations of criminal, civil, and administrative misconduct involving Ex-Im Bank employees, contractors, programs and activities. These investigations can result in criminal prosecutions, fines, civil monetary penalties, and administrative sanctions.

The new system of records assists the OIG with receiving and processing allegations of violation of criminal, civil, and administrative laws and regulations relating to Ex-Im Bank employees, contractors, and other individuals and entities associated with Ex-Im Bank. The system includes both paper investigative files and the “Inspector General Information System”

(IGIS), an electronic case management and tracking information system, which also generates reports. IGIS allows the OIG to manage information provided during the course of its investigations, and, in the process, to facilitate its management of investigations and investigative resources.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a “system of records.” A “system of records” is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request their own records that are maintained in a system of records in the possession or under the control of Ex-Im Bank by complying with Ex-Im Bank Privacy Act regulations, 12 CFR part 404.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals in finding such files within the agency.

The Privacy Act allows government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

Ex-Im Bank is claiming exemptions from certain requirements of the Privacy Act for the “EIB-35—Office of Inspector General Investigative Records” because information in this system of records relates to official law enforcement activities. These exemptions are needed to protect information relating to Ex-Im Bank OIG activities from disclosure to subjects of investigations and others related to these activities.

Specifically, the exemptions are required to preclude subjects of investigations from frustrating the investigative process; to avoid disclosure of investigative techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure Ex-Im Bank OIG’s ability to obtain

information from third parties and other sources; to protect the privacy of third parties; to fulfill commitments made to protect the confidentiality of sources; and to safeguard confidential information. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement exemptions exercised by a large number of Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

**List of Subjects in 12 CFR Part 404**

Information disclosure.

For the reasons stated in the preamble, Ex-Im Bank proposes to amend chapter IV of Title 12, Code of Federal Regulations, as follows:

**PART 404—INFORMATION DISCLOSURE**

1. The authority citation for part 404 continues to read as follows:

**Authority:** 5 U.S.C. 552 and 552a. Section 404.7 also issued under E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235. Section 404.21 also issued under 5 U.S.C. 552a note. Subpart C also issued under 5 U.S.C. 301, 12 U.S.C. 635.

**Subpart B—Access to Records Under the Privacy Act of 1974**

2. Add § 404.24 to subpart B to read as follows:

**§ 404.24 Exemptions: EIB-35—Office of Inspector General Investigative Records**

(a) *Criminal Law Enforcement.* (1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(j)(2), Ex-Im Bank hereby exempts the system of records entitled “EIB-35—Office of Inspector General Investigative Records” from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d)(1) through (4), (e)(1) through (3), (e)(4)(G) and (H), (e)(5), (e)(8), (f), and (g) because the system contains information pertaining to the enforcement of criminal laws. “EIB-35—Office of Inspector General Investigative Records” is maintained by the Ex-Im Bank Office of Inspector General (“OIG” or “Ex-Im Bank OIG”).

(2) *Reasons for exemption.* The reasons for asserting this exemption are:

(i) Disclosure to the individual named in the record pursuant to 5 U.S.C. 552a(c)(3), (c)(4), or (d)(1) through (4) could seriously impede or compromise

the investigation by alerting the target(s), subjecting a potential witness or witnesses to intimidation or improper influence, and leading to destruction of evidence. Disclosure could enable suspects to take action to prevent detection of criminal activities, conceal evidence, or escape prosecution.

(ii) Application of 5 U.S.C. 552a(e)(1) is impractical because the relevance of specific information might be established only after considerable analysis and as the investigation progresses. Effective law enforcement requires the OIG to keep information that may not be relevant to a specific OIG investigation, but which may provide leads for appropriate law enforcement and to establish patterns of activity that might relate to the jurisdiction of the OIG and/or other agencies.

(iii) Application of 5 U.S.C. 552a(e)(2) would be counterproductive to the performance of a criminal investigation because it would alert the individual to the existence of an investigation. In any investigation, it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation or prosecution.

(iv) Application of 5 U.S.C. 552a(e)(3) could discourage the free flow of information in a criminal law enforcement inquiry.

(v) The requirements of 5 U.S.C. 552a(e)(4)(G) and (H), and (f) would be counterproductive to the performance of a criminal investigation. To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual, or to grant access to an investigative file could interfere with investigative and enforcement proceedings, deprive co-defendants of a right to a fair trial or other impartial adjudication, constitute an unwarranted invasion of personal privacy of others, disclose the identity or confidential sources, reveal confidential information supplied by these sources and disclose investigative techniques and procedures. Nevertheless, Ex-Im Bank OIG has published notice of its notification, access, and contest procedures because access may be appropriate in some cases.

(vi) Although the OIG endeavors to maintain accurate records, application of 5 U.S.C. 552a(e)(5) is impractical because maintaining only those records that are accurate, relevant, timely, and complete and that assure fairness in determination is contrary to established investigative techniques. Information that may initially appear inaccurate, irrelevant, untimely, or incomplete may,

when collated and analyzed with other available information, become more pertinent as an investigation progresses.

(vii) Application of 5 U.S.C. 552a(e)(8) could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(viii) The provisions of 5 U.S.C. 552a(g) do not apply to this system if an exemption otherwise applies.

(b) *Other Law Enforcement.*

(1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(2), Ex-Im Bank hereby exempts the system of records entitled "EIB-35—Office of Inspector General Investigative Records" from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) and (H), and (f) for the same reasons as stated in paragraph (a)(2) of this section, that is, because the system contains investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2).

(2) *Reasons for exemption.* The reasons for asserting this exemption are because the disclosure and other requirements of the Privacy Act could substantially compromise the efficacy and integrity of OIG operations. Disclosure could invade the privacy of other individuals and disclose their identity when they were expressly promised confidentiality. Disclosure could interfere with the integrity of information which would otherwise be subject to privileges (see, e.g., 5 U.S.C. 552(b)(5)), and which could interfere with other important law enforcement concerns (see, e.g., 5 U.S.C. 552(b)(7)).

(c) *Federal Civilian or Contract Employment.* (1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(5), Ex-Im Bank hereby exempts the system of records entitled "EIB-35—Office of Inspector General Investigative Records" from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) and (H), and (f) because the system contains investigatory material compiled for the purpose of determining eligibility or qualifications for federal civilian or contract employment.

(2) *Reasons for exemption.* The reasons for asserting this exemption are the same as described in paragraph (a)(2) of this section.

Dated: May 1, 2012.

**Sharon A. Whitt,**

*Agency Clearance Officer.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2012-0425; Directorate Identifier 2011-NM-273-AD]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 717-200 airplanes. This proposed AD was prompted by multiple reports of cracks of overwing frames. This proposed AD would require repetitive inspections for cracking of the overwing frames, and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct such cracking that could sever a frame, which may increase the loading of adjacent frames, and result in damage to the adjacent structure and consequent loss of structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by June 25, 2012.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800-0019, Long Beach, California 90846-0001; telephone 206-544-5000, extension 2; fax 206-766-5683; email [dse.boecom@boeing.com](mailto:dse.boecom@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.