

Philadelphia, PA 19103, or John DuPree, U.S. EPA, 401 M Street SW Room M3802 (1802), Washington DC 20460. The FPA and related documents are also available via the Internet at the following location: <http://www.epa.gov/ProjectXL>. In addition, public files on the project, including the FPA, are located at Marion County Library, 321 Monroe Street, Fairmont, WV 26554, (304) 366-1210. Questions to EPA regarding the documents can be directed to Melissa Whittington at (215) 814-3225 or John DuPree at (202) 260-4468. To be included on the Exxon Project XL mailing list about future public meetings, XL progress reports and other mailings from Exxon on the XL project, contact Art Chin at (908) 474-7295, Exxon Company, U.S.A., P.O. Box 728, Linden, NJ 07036. For information on all other aspects of the XL Program contact Christopher Knopes at the following address: Office of Reinvention, United States Environmental Protection Agency, 401 M Street, SW Room M3802 (Mail Code 1802), Washington, DC 20460. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet at <http://www.epa.gov/ProjectXL>.

Dated: April 2, 1999.

**Lisa Lund,**

*Deputy Associate Administrator, Office of Reinvention.*

[FR Doc. 99-9064 Filed 4-9-99; 8:45 am]

BILLING CODE 6560-50-U

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6322-6]

### Atlantic Wood Industries, Inc. Superfund Site CERCLA § 122(h) Administrative Settlement; Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C.

9622(i), notice is hereby given of a proposed administrative cost recovery settlement concerning the Atlantic Wood Industries, Inc. Superfund Site, Portsmouth, Virginia (Proposed Settlement). The Proposed Settlement with Atlantic Wood Industries, Inc. and the United States Department of the Navy (Settling Parties) has been approved by the Attorney General, or her designee, of the United States Department of Justice. The Proposed Settlement was signed by the Regional Administrator of the U.S. Environmental Protection Agency (EPA), Region III, on April 1, 1999, pursuant to section 122(h) of CERCLA, 42 U.S.C. 9622(h), and is subject to review by the public pursuant to this document.

The Proposed Settlement resolves EPA's claim for past response costs under section 107 of CERCLA, 42 U.S.C. 9607, against the Settling Parties, and requires the Settling Parties to pay to the EPA Hazardous Substance Superfund \$864,000 in reimbursement of Past Response Costs, which had totaled 1,133,287.51. This sum includes \$700,000 reimbursement for Removal and RI/FS Oversight/Response Costs and \$164,000 reimbursement for other non-oversight response costs. Atlantic Wood Industries, Inc. and the Navy have agreed among themselves that they will each pay 50% of the \$864,000.

For thirty (30) days following the date of publication of this document, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any written comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

**DATES:** Comments must be provided on or before May 12, 1999.

**ADDRESSES:** The proposed settlement agreement is available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed settlement agreement may be obtained from Suzanne Canning, Regional Docket Clerk (3RC00), U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103; telephone number (215) 814-2476. Comments should reference the "Atlantic Wood Industries, Inc. Superfund Site" and

"EPA Docket No. III-98-014-DC" and should be forwarded to Suzanne Canning at the above address.

**FOR FURTHER INFORMATION CONTACT:** Charles Hayden (3RC44), (215) 814-2668, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Dated: April 1, 1999.

**Thomas Voltaggio,**

*Acting Regional Administrator, Region III.*

[FR Doc. 99-8948 Filed 4-9-99; 8:45 am]

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## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### DEPARTMENT OF LABOR

#### Coordination of Functions; Memorandum of Understanding

**AGENCIES:** Equal Employment Opportunity Commission and Department of Labor.

**ACTION:** Final notice.

**SUMMARY:** the Equal Employment Opportunity Commission (EEOC) and the Department of Labor (DOL), Office of Federal Contract Compliance Programs (OFCCP) have adopted final revisions to their 1981 Memorandum of Understanding, originally published at 46 FR 7435, Jan. 23, 1981. The revisions include updated charge processing procedures to increase coordination and efficiency and to minimize duplication in the agencies' overlapping EEO enforcement activities. Modeled on the 1992 joint rule for processing disability complaints under Section 503 of the Rehabilitation Act and Title I of the Americans with Disabilities Act, the revisions authorize OFCCP to act as EEOC's agent to process and resolve the Title VII component of complaints/charges dual filed with OFCCP under Executive Order 11246, as amended, and Title VII of the Civil Rights Act of 1964, as amended. The revisions also add a paragraph to address Title VII's confidentiality requirements. Additional minor changes have been made to update other sections of the 1981 agreement, such as changes in the titles of agency officials.

**EFFECTIVE DATE:** April 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Carol R. Miaskoff, Assistant Legal Counsel For Coordination, Equal Employment Opportunity Commission, (202) 663-4639 (voice), 202-663-7026 (TTY); or James I. Melvin, Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs,

Department of Labor, (202) 693-0102 (voice), (202) 693-1308 (TTY).

**SUPPLEMENTARY INFORMATION:** The revised Memorandum of Understanding (MOU) sets forth complaint processing and information sharing procedures, as did the original 1981 MOU, to coordinate enforcement efforts under Executive Order 11246 and Title VII. The revised MOU retains the same general division of labor between the agencies as set forth in the 1981 agreement regarding Executive Order 11246 complaints filed with OFCCP. OFCCP will normally refer dual-filed complaints/charges of an individual nature to EEOC for processing, and will normally retain systemic or class dual-filed complaints/charges. The revised MOU authorizes OFCCP to act as EEOC's agent in processing and resolving the Title VII component of dual-filed complaints/charges that OFCCP retains under the agreement.

The agencies published a proposed notice on December 14, 1998, at 63 FR 68764, inviting public comment on the proposed changes to the 1981 MOU's charge processing provisions and the proposed new paragraph addressing Title VII's confidentiality requirements.

The agencies received 27 comments from a variety of stakeholders. Many of the commenters endorsed the proposed changes as steps that would strengthen EEO enforcement and increase the agencies' efficiency and effectiveness. One commenter criticized the proposed revisions on the grounds that they are an unauthorized expansion of OFCCP's powers. Another commenter challenged the general distribution of responsibilities between the agencies for systemic and class claims. Set out below are specific points and suggestions for changes raised by various commenters and the agencies' response.

Numerous commenters recommended broadening the scope of the MOU to authorize OFCCP to act as EEOC's agent in the course of OFCCP compliance reviews, in the interests of further maximizing the efficiency and effectiveness of the agencies' enforcement efforts. Three commenters opposed this view, and two commenters asked that the MOU explicitly provide that OFCCP's authority to act as EEOC's agent is limited to complaints and charges and does not extend to compliance reviews. An agency can delegate no more authority than it has. Because EEOC's enforcement authority under Title VII is premised on the receipt of charges, there can be no delegation to OFCCP when there is no charge/complaint. Therefore, the revised MOU retains the language published in

the proposed notice stating that OFCCP is authorized to act as EEOC's agent only with respect to the Title VII component of complaints or charges filed with, and retained by, OFCCP pursuant to paragraph 7 of the MOU.

Numerous commenters recommended that the agencies consider the complainant's preference when requesting deviation from the MOU's normal charge referral procedures. Normally, OFCCP retains systemic or class claims and refers individual claims to EEOC. However, EEOC may request referral of systemic or class claims and OFCCP may request retention of individual claims, in appropriate cases. It is not necessary to consult with the complainant when OFCCP requests retention of an individual claim, given that the complaint/charge was filed with OFCCP in the first instance. When EEOC requests referral of systemic or class claims, it will consult with the charging party when appropriate and practical to do so. In any instance of charge referral under the MOU, OFCCP will continue to notify the complainant/charging party that her/his charge has been referred to the EEOC for processing.

Two commenters focused on the standards to be used by OFCCP when it processes Title VII claims pursuant to the MOU. The commenters mistakenly believed that the revised MOU omits language in the 1981 MOU that addressed the agencies' use of consistent internal enforcement standards and procedures. This language has not been omitted; it is included in its entirety as paragraph 9 in the revised MOU. One of the commenters remarked, in particular, that, in conciliating Title VII claims, OFCCP should follow EEOC's remedies policy, under which cases may be settled for "substantial" rather than "full" relief. This concern is addressed both by paragraph 9 of the revised MOU and, more explicitly, by language in paragraph 7 explaining that OFCCP's efforts to obtain relief in Title VII claims shall be "consistent with EEOC's standards for remedies." More generally, the two commenters emphasized that OFCCP should adhere to Title VII law on liability and damages when processing Title VII claims as EEOC's agent. This is consistent with the agencies' intent and the new MOU's delegation of authority, and we have therefore added a provision to this effect in the new MOU.

One commenter recommended that systemic or class Title VII claims in complaints filed with OFCCP be referred to EEOC in the first instance. The commenter argued that OFCCP

should pursue only those systemic or class claims that EEOC has decided not to pursue. The division of labor between the agencies as contemplated by the revised MOU is a long-standing arrangement that, in the agencies' experience, has been and remains an effective means of coordinating enforcement functions. Since adoption of the 1981 MOU, OFCCP has retained systemic or class claims, with allowance for EEOC to request referral of these claims in appropriate cases. OFCCP is well-suited to process systemic and class claims given its thirty-plus years of systemic enforcement experience.

Two commenters opposed the revised MOU on the belief that it is an unauthorized expansion of OFCCP's powers. One commenter assumed that OFCCP will act as EEOC's agent in OFCCP compliance reviews which, for the reasons discussed above, will not be the case. The other commenter argued that the decision whether to delegate authority to OFCCP to investigate and seek damages in individual Title VII charges should be left to Congress. The revised MOU's delegation of authority to OFCCP to process and resolve the Title VII component of certain charges/complaints is consistent with EEOC's authority under Title VII and Executive Order 12067 to implement agreements and procedures that minimize duplication and maximize efficiency and coordination in EEO compliance and enforcement.

New paragraph 8 of the MOU addressed the application of Title VII's confidentiality provisions to OFCCP's receipt of certain information. After consideration by the agencies, the text of subparagraphs 8(a) and 8(b) of the MOU, as published in the proposed notice, has been revised to add references to the confidentiality provisions of the Trade Secrets Act and the Privacy Act, in addition to Title VII.

The text of new paragraphs 7 and 8 of the MOU is set out below. The entire text of the MOU is included as an Appendix. It is also available on EEOC's Home Page at [www.eeoc.gov](http://www.eeoc.gov), and on DOL's Employment Standards

Administration Home Page at  
www.dol.gov/dol/esa.

**Ida L. Castro,**

*Chairwoman, Equal Employment Opportunity Commission.*

**Alexis M. Herman,**

*Secretary of Labor.*

**Bernard E. Anderson,**

*Assistant Secretary, Employment Standards Administration.*

**Shirley J. Wilcher,**

*Deputy Assistant Secretary for Federal Contract Compliance.*

### **New Paragraphs 7 and 8 of the Memorandum of Understanding**

#### **7. Processing of Complaints Filed With OFCCP**

(a) **Dual-Filed Complaints/Charges—**Complaints of employment discrimination filed with OFCCP under Executive Order 11246 will be considered charges simultaneously filed under Title VII whenever the complaints also fall within the jurisdiction of Title VII. For the purpose of determining the timeliness of such a charge, which will be considered dual filed under this paragraph, the date the matter was received by OFCCP shall be deemed to be the date it was received by EEOC.

(b) **Systemic or Class Allegations—**OFCCP will retain, investigate, and resolve allegations of discrimination of a systemic or class nature on the basis of race, color, religion, sex, or national origin, over which it has jurisdiction. OFCCP shall promptly notify EEOC's Director, Office of Field Programs, of OFCCP's receipt of complaints/charges that include such allegations, by forwarding a copy of the complaint/charge (and third party certificate, if any). In addition, OFCCP shall make available to EEOC, upon request, information obtained in the investigation and processing of such allegations, pursuant to paragraphs 1 and 6(b) herein. In appropriate cases, may request that it be referred systemic or class allegations under Title VII so as to avoid duplication and assure effective law enforcement.

(c) **Individual Allegations—**OFCCP will refer to the appropriate EEOC field office allegations of discrimination of an individual nature on the basis of race, color, religion, sex, or national origin in dual filed complaints/charges. In appropriate cases OFCCP may request that it retain such allegations so as to avoid duplication and assure effective law enforcement.

(d) **Appointment of OFCCP as EEOC's Agent—**OFCCP will act as EEOC's agent for the purposes of receiving, investigating, and processing the Title

VII component of complaints/charges that it retains under this paragraph. OFCCP shall investigate and process such dual filed complaints/charges as set forth in this subparagraph, and in a manner consistent with Title VII principles on liability and damages.

(1) **Notice of Receipt of Complaint/Charge—**Within ten days of receipt of the complaint/charge, OFCCP shall notify the contractor/respondent that it has received a charge of employment discrimination under Executive Order 11246 and Title VII. This notification shall state the date, place, and circumstances of the alleged unlawful employment practice(s).

(2) **Fair Employment Practice Agency Deferral Period—**Pursuant to work-sharing agreements between EEOC and state and local agencies designated as fair employment practice agencies, the deferral for dual filed Title VII charges that OFCCP received will be waived.

(3) **Not Reasonable Cause Findings—**If the OFCCP investigation of a dual filed complaint/charge results in a not reasonable cause finding under Title VII, OFCCP will issue a Title VII dismissal and notice of right-to-sue. OFCCP will close the Title VII component of the complaint/charge and promptly notify EEOC's Director, Office of Field Programs, of the closure.

(4) **Reasonable Cause Findings—**  
(i) **Successful Conciliation—**If the OFCCP investigation of a dual filed complaint/charge results in a reasonable cause finding under Title VII, OFCCP will issue a reasonable cause finding under Title VII. OFCCP will attempt conciliation to obtain relief, consistent with EEOC's standards for remedies, for all aggrieved persons covered by the Title VII charge. If conciliation is successful, the conciliation agreement will state that the complaint/charging party agrees to waive the right to pursue the subject issues further under Title VII. OFCCP will close the Title VII component of the complaint/charge, and promptly notify EEOC's Director, Office of Field Programs, of the closure.

(ii) **Unsuccessful Conciliation—**When conciliation is not successful, the Executive Order 11246 component of the complaint/charge will be considered for further OFCCP processing consistent with OFCCP's usual procedures. At the conclusion of OFCCP processing, OFCCP shall transmit the Title VII charge component to EEOC for any action EEOC deems appropriate. If EEOC declines to pursue further action, EEOC will close the Title VII charge and issue a notice of right-to-sue.

(5) **Issuance of Notice of Right-to-Sue Upon Request—**Consistent with the Title VII procedures set forth at 29 CFR

1601.28, after 180 days from the date the complaint/charge was filed, OFCCP shall promptly issue upon request a notice of right-to-sue on the Title VII component of a complaint/charge that it retains. Issuance of a notice of right-to-sue shall terminate further OFCCP processing of the Title VII component of the complaint/charge unless it is determined at that time or at a later time that it would effectuate the purposes of Title VII to further process the Title VII component of the complaint/charge.

(6) **Subsequent Attempts to File an EEOC Charge Covering the Same Facts and Issues—**If an individual who has already filed an OFCCP complaint/charge that is deemed dual filed under Title VII subsequently files a Title VII charge with EEOC covering the same facts and issues, EEOC will forward the charge to OFCCP for consolidated processing.

#### **8. Confidentiality**

(a) When EEOC provides information to OFCCP, then the confidentiality requirements of sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964 apply to that information. When OFCCP receives the same information from a source independent of EEOC, the preceding sentence does not preclude disclosure of the information received from the independent source. However, OFCCP will also observe any confidentiality requirements imposed on such information by the Trade Secrets Act or the Privacy Act.

(b) When OFCCP obtains information from its receipt, investigation, and processing of the Title VII component of a dual filed charge, or when OFCCP creates documents that exclusively concern the Title VII component of a dual filed charge, OFCCP will observe any confidentiality requirements imposed on such information by the Trade Secrets Act, the Privacy Act, and sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964.

(c) Questions concerning confidentiality under Title VII shall be directed to EEOC's Deputy Legal Counsel for Legal Services, Office of Legal Counsel.

(d) Questions concerning confidentiality under Executive Order 11246, as amended, or 38 U.S.C. 4212 (Section 402 of VEVRAA) shall be directed to OFCCP, Director, Division of Program Operations.

### **Appendix: Memorandum of Understanding**

This Memorandum of Understanding (MOU) between the U.S. Department of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC) is being

implemented to further the objectives of Congress under Section 715 of title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972; of Executive Order 12067, 43 FR 28967; and Section 6 of Reorganization Plan No. 1 of 1978 (43 FR 19807). These objectives are to develop and implement agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, completion, duplication and inconsistency among the operations, functions and jurisdictions of the parties to the MOU.

The parties to this MOU agree as follows:

1. The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration (ESA), DOL shall make available to the appropriate requesting official of the EEOC or his or her designee for inspection and copying and/or loan, any documents in its possession pertaining to the effective enforcement of administration of (a) Title VII of the Civil Rights Act of 1964, as amended; or (b) Reorganization Plan No. 1 of 1978 and Executive Order 12067. All documents will be made available within ten days of such request. Disclosure of such material by EEOC shall be in accordance with paragraph 5 of this Agreement. All transfers of information under this and other paragraphs of this MOU shall only be made where not otherwise prohibited by law.

2. The EEOC shall make available to the appropriate requesting official of the OFCCP or his or her designee for inspection had copying and/or loan any documents pertaining the enforcement and administration of Executive Order 11246; 38 U.S.C. 4212 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974; Section 503 of the Rehabilitation Act of 1973; and Executive Order 12067. All documents in its possession (or to which it has access through a work-sharing agreement as described in paragraph 5(b) of this Agreement) will be made available within ten days of such request. Disclosure of such material by OFCCP shall be in accordance with paragraphs 5 and 8 of this Agreement.

3. "Appropriate Requesting Officials" shall, for the purpose of this Agreement, include the following officials, or their successors, or their designees:

(a) For the EEOC:

1. The Chair
2. The Executive Director
3. The General Counsel
4. Any Regional Attorney
5. Any Assistant and Associate General Counsel
6. Any District or Area Office Director
7. The Legal Counsel
8. Director, Office of Field Programs

(b) For the DOL:

1. The Secretary or Deputy Secretary of Labor
2. The Solicitor of Labor
3. Assistant Secretary for Employment Standards
4. The Deputy Assistant Secretary or Deputy Director, OFCCP
5. Associate Solicitor of Labor
6. Any OFCCP Area Office Director
7. Any Regional Solicitor of Labor
8. Any OFCCP Division Director
4. Requests directed to a headquarters office of one agency from a field office of the

other shall first be forwarded through the headquarters of the requesting agency. Responses to all requests for information shall be made to the official making such request, or his/her designee.

5. (a) All requests by third parties for disclosure of information shall be coordinated with the agency which initially compiled or collected the information.

(b) Subparagraph 5(a), above, is not applicable to requests for data in EEOC files made by any state or local agency designated as a 706 agency with whom EEOC has a current charge resolution contract and a work-sharing agreement containing provisions required by Sections 706 and 709 of Title VII of the Civil Rights Act of 1964, as amended. Provided, however, that any such agency shall not disclose any of the information, initially compiled by OFCCP, to the public without express written approval by the Deputy Assistant secretary for OFCCP.

6. EEOC and OFCCP shall establish procedures for notification and consultation at various stages of their respective compliance activities in order to increase efficiency and ensure coordination and minimize duplication. Such procedures shall include:

(a) Establishment of an ongoing Compliance Coordination Committee (CCC) which shall meet at least quarterly to review pending and future compliance plans, the schedule of establishments to be reviewed, potential Commissioner Charges, and potential litigation, and to take such other steps as may be appropriate to increase efficiency and eliminate competition and duplication. Such committees shall be established both in headquarters and in the field. At the conclusion of each quarterly meeting, each field CCC shall forward to the Director, Office of Field Programs, EEOC, and the Director, Division of Program Operations, OFCCP, a report of the results of such meeting.

(b) Contact by each agency at the commencement of and during a field investigation or compliance review where appropriate to obtain information in the possession of the agency on the employer being investigated.

(c) Notification to OFCCP, in appropriate instances, when EEOC has made a finding of cause and has determined that attempts at conciliation are unsuccessful and that no lawsuit will be filed by EEOC.

(d) Consultation with the appropriate field office of OFCCP when an EEOC field office is contemplating recommending a Commissioner Charge or litigation, and coordination of its activities.

(e) Consultation with the appropriate field office of EEOC when an OFCCP Regional Office is contemplating recommending the issuance of an administrative complaint and coordination of its activities.

7. Processing of Complaints Filed with OFCCP.

(a) Dual-Filed Complaints/Charges—Complaints of employment discrimination filed with OFCCP under Executive Order 11246 will be considered charges simultaneously filed under Title VII whenever the complaints also fall within the jurisdiction of Title VII. For the purpose of determining the timeliness of such a charge,

which will be considered dual filed under this paragraph, the date the matter was received by OFCCP shall be deemed to be the date it was received by EEOC.

(b) Systemic or Class Allegations—OFCCP will retain, investigate, and resolve allegations of discrimination of a systemic or class nature on the basis of race, color, religion, sex, or national origin, over which it has jurisdiction. OFCCP shall promptly notify EEOC's Director, Office of Field Programs, of OFCCP's receipt of complaints/charges that include such allegations, by forwarding a copy of the complaint/charge (and third party certificate, if any). In addition, OFCCP shall make available to EEOC, upon request, information obtained in the investigation and processing of such allegations, pursuant to paragraphs 1 and 6(b) herein. In appropriate cases, EEOC may request that it be referred systemic or class allegations under Title VII so as to avoid duplication and assure effective law enforcement.

(c) Individual Allegations—OFCCP will refer to the appropriate EEOC field office allegations of discrimination of an individual nature on the basis of race, color, religion, sex, or national origin in dual filed complaints/charges. In appropriate cases, OFCCP may request that it retain such allegations so as to avoid duplication and assure effective law enforcement.

(d) Appointment of OFCCP as EEOC's Agent—OFCCP will act as EEOC's agent for the purposes of receiving, investigating, and processing the Title VII component of complaints/charges that it retains under this paragraph. OFCCP shall investigate and process such dual filed complaints/charges as set for in this subparagraph, and in a manner consistent with Title VII principles on liability and damages.

(1) Notice of Receipt of complaint/charge—Within ten days of receipt of the complaint/charge, OFCCP shall notify the contractor/respondent that it has received a charge of employment discrimination under Executive Order 11246 and Title VII. This notification shall state the date, place, and circumstances of the alleged unlawful employment practice(s).

(2) Fair Employment Practice Agency Deferral Period—Pursuant to work-sharing agreements between EEOC and state and local agencies designated as fair employment practice agencies, the deferral period for dual filed Title VII charges that OFCCP receives will be waived.

(3) Not Reasonable Cause Findings—If the OFCCP investigation of a dual filed complaint/charge results in a not reasonable cause finding under Title VII, OFCCP will issue a Title VII dismissal and notice of right-to-sue. OFCCP will close the Title VII component of the complaint/charge and promptly notify EEOC's Director, Office of Field Programs, of the closure.

(4) Reasonable Cause Findings—

(i) Successful Conciliation—If the OFCCP investigation of a dual filed complaint/charge results in a reasonable cause finding under Title VII, OFCCP will issue a reasonable cause finding under Title VII. OFCCP will attempt conciliation to obtain relief, consistent with EEOC's standards for

remedies, for all aggrieved persons covered by the Title VII charge. If conciliation is successful, the conciliation agreement will state that the complainant/charging party agrees to waive the right to pursue the subject issues further under Title VII. OFCCP will close the Title VII component of the compliant/charge, and promptly notify EEOC's Director, Office of Field Programs, of the closure.

(ii) Unsuccessful Conciliation—When conciliation is not successful, the Executive Order 11246 component of the compliant/charge will be considered for further OFCCP processing consistent with OFCCP's usual procedures. At the conclusion of OFCCP processing, OFCCP shall transmit the Title VII charge component to EEOC for any action EEOC deems appropriate. If EEOC declines to pursue further action, EEOC will close the Title VII charge and issue a notice of right-to-sue.

(5) Issuance of Notice of Right-to-Sue Upon Request—Consistent with the Title VII procedures set forth at 29 CFR 1601.28, after 180 days from the date the complaint/charge was filed, OFCCP shall promptly issue upon request a notice of right-to-sue on the Title VII component of a compliant/charge that it retains. Issuance of a notice of right-to-sue shall terminate further OFCCP processing of the Title VII component of the complaint/charge unless it is determined at that time or at a later time that it would effectuate the purposes of Title VII to further process the Title VII component of the compliant/charge.

(6) Subsequent Attempts to File an EEOC Charge Covering the Same Facts and Issues—If an individual who has already filed an OFCCP complaint/charge that is deemed dual filed under Title VII subsequently files a Title VII charge with EEOC covering the same facts and issues, EEOC will forward the charge to OFCCP for consolidated processing.

#### 8. Confidentiality.

(a) When EEOC provides information to OFCCP, then the confidentiality requirements of sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964 apply to that information. When OFCCP receives the same information from a source independent of EEOC, the preceding sentence does not preclude disclosure of the information received from the independent source. However, OFCCP will also observe any confidentiality requirements imposed on such information by the Trade Secrets Act or the Privacy Act.

(b) When OFCCP obtains information from its receipt, investigation, and processing of the Title VII component of a dual filed charge, or when OFCCP creates documents that exclusively concern the Title VII component of a dual filed charge, OFCCP will observe any confidentiality requirements imposed on such information by the Trade Secrets Act, the Privacy Act, and sections 706(b) and 709(e) of the Civil Rights Act of 1964.

(c) Questions concerning confidentiality under Title VII shall be directed to EEOC's Deputy Legal Counsel for Legal Services, Office of Legal Counsel.

(d) Questions concerning confidentiality under Executive Order 11246, as amended, or 38 U.S.C. 4212 (Section 402 of VEVRAA)

shall be directed to OFCCP, Director, Division of Program Operations.

9. OFCCP and EEOC seek to ensure consistent compliance and enforcement standards and procedures that will facilitate consistency of compliance determinations. The agencies also seek to make the most efficient use of their available resources through coordination. Accordingly, the CCC shall advise in the development of standards and procedures for both agencies, including, but not limited to:

- Criteria and mechanisms for selecting industries and organizations for review and investigation;
- Procedures for routine access to and exchanges of electronic data bases, including, but not limited to, lists of proposed and completed compliance reviews, systemic, ELI and individual cases and conciliation agreements and settlements;
- Consistent analytical approaches to identifying and defining employment discrimination and determining appropriate remedies;
- Uniform training programs and training materials;
- Joint Policy statements;
- Procedures for coordinated collection, sharing and analysis of data;
- Joint projects to develop consistent definitions and to share expertise, foster consistency, and reduce duplicative efforts in such areas as: analysis of employee selection procedures, labor market availability and use of employment statistics;
- Procedures to be utilized in obtaining compliance with OFCCP or EEOC requests for data and information, pursuant to investigations under either Title VII or Executive Order 11246.

10. EEOC and OFCCP shall conduct periodic reviews of the implementation of this agreement, on an ongoing basis.

[FR Doc. 99-9065 Filed 4-9-99; 8:45 am]

BILLING CODE 6570-01-M and 4510-27-M

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### Department of Labor

#### Coordination of Functions; Memorandum of Understanding

AGENCY: Equal Employment Opportunity Commission and Department of Labor.

ACTION: Final notice.

**SUMMARY:** The Equal Employment Opportunity Commission (EEOC) and the Department of Labor (DOL), Employment Standards Administration (ESA) have adopted a Memorandum of Understanding to maximize the effectiveness of the laws they enforce that prohibit unlawful compensation discrimination.

**EFFECTIVE DATE:** April 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Carol R. Miaskoff, Assistant Legal

Counsel For Coordination, Equal Employment Opportunity Commission, (202) 663-4639 (voice), 202-663-7026 (TTY); or James I. Melvin, Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs, Employment Standards Administration, Department of Labor, (202) 693-0102 (voice), (202) 693-1308 (TTY).

**SUPPLEMENTARY INFORMATION:** The Memorandum of Understanding will enhance enforcement of the federal laws prohibiting compensation discrimination, which are enforced by the EEOC and by the SOL's ESA. The agreement will reduce duplication of effort and result in increased enforcement activity on the issue of compensation discrimination through training of ESA personnel, and through sharing of information and data concerning potential issues of compensation discrimination.

EEOC enforces the Equal Pay Act of 1963 (EPA) and Title VII of the Civil Rights Act of 1964, which prohibit pay discrimination on the basis of sex. ESA's Office of Federal Contract Compliance Programs (OFCCP) enforces nondiscrimination requirements that apply to federal government contractors, primarily Executive Order 11246, and include prohibitions against discrimination in compensation. ESA's Wage and Hour Division enforces federal standards for wages and hours of work.

**Ida L. Castro,**

*Chairwoman, Equal Employment Opportunity Commission.*

**Alexis M. Herman,**

*Secretary of Labor.*

**Bernard E. Anderson,**

*Assistant Secretary, Employment Standards Administration.*

**Shirley J. Wilcher,**

*Deputy Assistant Secretary for Federal Contract Compliance.*

#### MEMORANDUM OF UNDERSTANDING BETWEEN THE EMPLOYMENT STANDARDS ADMINISTRATION AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

##### I. Background and Purpose

The purpose of this Memorandum of Understanding (MOU) is to maximize the effectiveness of those laws enforced by the Employment Standards Administration (ESA) and the Equal Employment Opportunity Commission (EEOC) which prohibit unlawful compensation discrimination, and other unlawful compensation practices.

Historically, EEOC and ESA have maintained excellent working relationships in areas of mutual law