

withhold information, or give erroneous information.

(5) From subsection (4) (G) and (H) because the application of these provisions would present a serious impediment to law enforcement efforts.

(6) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance and the accuracy of such information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability to collect information for law enforcement purposes, may prevent the eventual development of the necessary criminal intelligence, or otherwise impede law enforcement or delay trained law enforcement personnel from timely exercising their judgment in managing the arrestee.

(7) From subsection (e)(8) to the extent that such notice may impede, interfere with, or otherwise compromise law enforcement and security efforts.

(8) From subsection 5 U.S.C. 552a(f) to the extent that compliance with the requirement for procedures providing individual access to records could impede, compromise, or interfere with law enforcement efforts.

(9) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 552

RIN 1215-AA82

Application of the Fair Labor Standards Act to Domestic Service

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: This document reopens and extends the period for filing written comments on proposed revisions to regulations under the Fair Labor Standards Act (FLSA) pertaining to the exemption for companionship services

in 29 CFR Part 552, which were published in the **Federal Register** on January 19, 2001 (66 FR 5481). The Department is continuing to consider this proposal, and is taking this action in order to obtain additional comments from interested parties.

DATES: Comments are due on or before July 23, 2001.

ADDRESSES: Submit written comments to Thomas M. Markey, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Attention: Fair Labor Standards Team, Room S-3516, 200 Constitution Avenue NW., Washington, D.C. 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped postcard, or to submit comments by certified mail, return receipt requested. As a convenience, commenters may transmit comments by facsimile ("FAX") machine to (202) 693-1432. This is not a toll free number. If comments are transmitted by FAX and a hard copy is also submitted by mail, please indicate on the hard copy that it is a duplicate copy of the FAX transmission.

FOR FURTHER INFORMATION CONTACT:

Richard M. Brennan, Deputy Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3510, 200 Constitution Avenue, NW., Washington, D.C. 20210; telephone: (202) 693-0745. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On January 19, 2001, the Department published a Notice of Proposed Rulemaking (66 FR 5481) (NPRM) inviting public comments for 60 days on proposed revisions to the regulations defining and interpreting the minimum wage and overtime exemption under section 13(a)(15) of the Fair Labor Standards Act (FLSA) for employees employed in domestic service employment to provide "companionship services" to individuals unable to care for themselves because of age or infirmity. This exemption was enacted in 1974 at the same time that Congress amended the FLSA to cover domestic service employees generally. The pertinent regulations governing this exemption have not been changed since they were promulgated in 1975. The NPRM stated that, due to significant changes in the home care industry over the last 25 years, workers who today provide in-home care to individuals needing assistance with activities of daily living are performing types of duties and

working in situations that were not envisioned when the companionship services regulations were promulgated. The number of workers providing these services has also greatly increased. In addition, the NPRM stated that the Department had reevaluated the regulations and determined that, as currently written, they exempted types of employees beyond those whom Congress intended to exempt when it enacted section 13(a)(15). Accordingly, the Department proposed to amend the regulations to revise the definition of "companionship services," which sets out the duties that a companion must be employed to perform in order to qualify for the exemption. The Department proposed three alternatives for defining companionship services that varied in the degree to which time must be spent in fellowship activities as compared to other care duties, and requested comments on all three alternatives. The Department also proposed to amend the regulations to clarify the criteria used to judge whether employees qualify as trained personnel, who are not recognized as exempt companions. Finally, the Department proposed to amend the regulations pertaining to employment by a third party. This change would make the companionship services exemption inapplicable if the worker is employed by someone other than a member of the family in whose home he or she works. It would similarly provide that the exemption for live-in domestics, who are exempt from the FLSA's overtime requirements pursuant to section 13(b)(21), would not apply if they are employed by someone other than a member of the family in whose home they reside and work. Interested parties were requested to submit written comments on the proposed revisions on or before March 20, 2001.

Because of continuing interest that has been expressed in this proposal and to address requests from interested parties, the Department believes that it is desirable to reopen and extend the comment period for all interested parties. Accordingly, the comment period for the NPRM published on January 19, 2001, is reopened and extended through July 23, 2001.

Signed at Washington, DC on this 17th day of April, 2001.

Thomas M. Markey,

*Acting Administrator, Wage and Hour
Division, Employment Standards
Administration.*

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