

Justification of Nonmaterial, Nonsubstantive Change in ICR for No. 1210-0118

The Department of Labor (the Department) has an approved information collection request relating to a model application for its Voluntary Fiduciary Correction Program (VFCP) under OMB Control Number 1210-0118, which is scheduled to expire on May 31, 2009. The VFCP is designed to encourage employers to comply voluntarily with the ERISA by self-correcting certain violations. Many workers can benefit from the program as a result of the restoration of plan assets and payment of additional benefits. The program describes how to apply, the 15 specific transactions covered, acceptable methods for correcting violations and examples of potential violations and corrective actions. In addition, the Department of Labor provides immediate relief from payment of excise taxes under a Class Prohibited Transaction Exemption 2002-51.

The Department is making a nonmaterial, nonsubstantive change to the model application to clarify Item 7. The Department's field offices have reported that many respondents do not answer Item 7 correctly, because they mistakenly think the Class Exemption number (PTE 2002-51) is the number for the VFCP itself. Therefore, the respondents frequently mark "Yes" to Item 7 of the model application, which asks whether the respondent wants to take advantage of PTE 2002-51, when that is not always the case. The Department's change to the form is intended to reduce burden and to ensure complete and accurate compliance with the VFCP requirements. A red-lined version of the revised application has been uploaded into ROCIS as an Information

Collection Instrument, and the current version of the form had been loaded into ROCIS
as a Supplemental Document.