

**JUSTIFICATION FOR NON-MATERIAL CHANGE FOR THE INFORMATION
COLLECTION REQUIREMENTS OF REGULATIONS CONTAINING
PROCEDURES FOR HANDLING OF RETALIATION COMPLAINTS
OFFICE OF MANAGEMENT AND BUDGET (OMB) CONTROL NO. 1218-0236
(February 2022)**

OSHA is requesting a non-substantive change to the currently approved collection of information requirements contained in the “Regulations Containing Procedures for Handling of Retaliation Complaints” ICR to incorporate the Interim Final Rule (IFR), 29 CFR Part 1989, Procedures for Handling Retaliation Complaints Under the Taxpayer First Act (TFA)”. The agency will add the regulatory citation 29 CFR 1989 to the IC List and the IFR as a supplementary document. As further explained in the next paragraph, the underlying statutory provision already is included as an authority for this collection and the interim final rule does not materially change the information collection process currently in existence. The non-material change process where OSHA is simply adding a citation is outlined in the last paragraph of item 1 of the current ICR justification supporting statement.

The Taxpayer First Act (TFA) was enacted on July 1, 2019. Section 1405(b) of the Taxpayer First Act, P.L. 116-25, “Protection Against Retaliation,” codified at 26 U.S.C. 7623(d), “Civil Action to Protect Against Retaliation Cases,” provides protection to covered employees, and authorized representatives of such employees, against retaliation because they engaged in activity protected by the Act. OSHA began enforcement of the TFA on July 1, 2019, using its statutory authority and general procedures. The TFA statute was referenced in the previous ICR as a statutory authority (see ICR Reference No: 201908-1218-002 (10/08/19)).

In addition, TFA complaints received by OSHA are already accounted for in the estimated complaints reported in the most recently approved ICR (see ICR Reference No: 201911-1218-004 (02/04/21)). Thus, promulgation of the IFR will not change the process, estimated number of responses, burden hours or costs of this ICR.

Because whistleblower statutes are effective upon enactment, OSHA begins to enforce the laws on the date of enactment using its statutory authority and general procedures. Thus, the Agency sought OMB approval prior to the promulgation of the procedural rule for handling complaints under the TFA statute. OSHA has previously submitted similar non-substantive change requests to OMB to add different whistleblower CFR citations to the ICR. For the most recent example, see ICR Reference No. 2021021510-1218-002 (05/21/21).