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**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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## MERIT SYSTEMS PROTECTION BOARD

### Privacy Act of 1974; Amendment of Privacy Act System of Records

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Notice of amendment to system of records.

**SUMMARY:** The Merit Systems Protection Board (MSPB) is issuing public notice of its intent to amend a Government-wide system of records that it maintains subject to the Privacy Act of 1974 (5 U.S.C. 552a). MSPB/GOVT–1, “Appeals and Case Records,” is being amended to reflect that its location is in the Office of the Clerk of the Board.

Also, the purpose(s) under the authority for maintenance of the system was amended to reflect that these records may be used to document and adjudicate appeals and other matters arising under the Board’s appellate and original jurisdiction; locate appeal documents and files, physical or electronic; provide statistical data for reports, staff productivity, and other management functions; and provide information to support other statutory functions of the Board, such as studies of the civil service under 5 U.S.C. 1204(a)(3), and review of regulations of the Office of Personnel Management (OPM) under 5 U.S.C. 1204(f), and reporting under 5 U.S.C. 1206. The MSPB is also adding a routine use: release to the public, including via the agency’s Web site following issuance of a decision.

## MSPB/GOVT–1

### SYSTEM NAME:

Appeals and Case Records.

### SYSTEM LOCATION:

Office of the Clerk of the Board, Merit Systems Protection Board (MSPB), Suite 500, 1615 M Street NW., Washington, DC 20419, and MSPB regional and field offices (see list of office addresses in the Appendix).

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees, applicants for employment, annuitants, and other individuals who have filed appeals with MSPB or its predecessor agency, or with respect to whom the Office of Special Counsel (OSC) or another Federal agency has petitioned MSPB concerning any matter over which MSPB has jurisdiction.

b. Current and former employees of State and local governments who have been investigated by OSC and have had an appeal before MSPB concerning possible violation of the Hatch Act.

### CATEGORIES OF RECORDS IN THE SYSTEM:

a. These records contain information or documents such as briefs, pleadings, motions, exhibits, hearing transcripts, and MSPB decisions, which comprise the administrative records of appeals and other matters arising under the adjudicatory authority of the Board. These records may also contain individual appellants’ names, social security numbers, home addresses, veterans’ status, race, sex, national origin, and disability status data.

b. This system also includes the Board’s case processing system (CPS). The CPS was designed to manage all documents created by the Board during the processing of a case, as well as documents that are received electronically from the parties. At the present time, the CPS includes: a document assembly system to create documents; a document management system to manage and store documents; a case management system to record activities in cases, track the location of case files, and produce statistical reports on cases; and an electronic filing and electronic publishing system to allow the parties to send and receive case documents electronically.

Note: This system includes records and documents compiled by Federal agencies in processing adverse actions and actions based on unacceptable performance, covered by OPM/GOVT–3, when such actions are appealed to MSPB.

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1204.

Purpose(s):

These records may be used to:

- a. Document and adjudicate appeals and other matters arising under the Board’s appellate and original jurisdiction;
- b. Locate appeal documents and files, whether physical or electronic;
- c. Provide statistical data for reports, staff productivity, and other management functions; and
- d. Provide information to support other statutory functions of the Board, such as studies of the civil service under 5 U.S.C. 1204(a)(3), review of regulations of the Office of Personnel Management under 5 U.S.C. 1204(f), and reporting under 5 U.S.C. 1206.

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from the record may be disclosed:

- a. To officials of the Equal Employment Opportunity Commission (EEOC) or a Special Panel convened under authority of 5 U.S.C. 7702 when requested in connection with the performance of their authorized duties;
- b. To officials of the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), EEOC, and OSC in connection with the performance of their authorized duties;
- c. To the Government Accountability Office (GAO) in response to an official inquiry or investigation;
- d. To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of that individual;
- e. To an appropriate Federal or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation;
- f. To the Office of Management and Budget (OMB) at any stage in the legislative process in connection with private relief legislation as set forth in OMB Circular No. A–19;
- g. To the Department of Justice (DOJ) when:
  - (1) The Board, or any component thereof; or
  - (2) Any employee of the Board in the employee’s official capacity; or
  - (3) Any employee of the Board in the employee’s individual capacity where the Department of Justice (DOJ) has agreed to represent the employee; or
  - (4) The United States is a party to litigation or has an interest in such

litigation and the use of such records is deemed to be relevant and necessary to the litigation, providing that the disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected, or approval or consultation is required;

h. In any proceeding before a court or adjudicative body before which the Board is authorized to appear when:

(1) The Board, or any component thereof; or

(2) Any employee of the Board in the employee's official capacity; or

(3) Any employee of the Board in the employee's individual capacity where the DOJ has agreed to represent the employee; or

(4) The United States is a party to litigation and the use of such records is deemed to be relevant and necessary to the litigation, providing that the disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected, or approval or consultation is required;

i. To any person making a status inquiry regarding a proceeding before MSPB;

j. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906;

k. In response to a request for discovery or for appearance of a witness, if the requested information is relevant to the subject matter involved in a pending judicial or administrative proceeding;

l. To Federal and State agencies for the purpose of providing MSPB with information concerning MSPB appellants, which information will be used, absent personal identifiers, in MSPB research projects mandated by 5 U.S.C. 1204(a)(3);

m. To officials of the United States Court of Appeals for the Federal Circuit in connection with the performance of their judicial functions;

n. To officials of State or local bar associations or disciplinary boards or committees when they are investigating complaints against attorneys in connection with their representation of a party before the Board; and

o. To the public, including to the agency's Web site following issuance of a decision.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are maintained in file folders and binders and in computer storage media.

**RETRIEVABILITY:**

These records are retrieved by the names of the individuals on whom they are maintained and by MSPB docket numbers.

**SAFEGUARDS:**

Access to these records is limited to persons whose official duties require such access. Personal screening is employed to prevent unauthorized disclosure. Automated records in this system are maintained in a secure computer room in a building with restricted access. Automated records are protected from unauthorized access through password identification procedures and other system-based protection methods.

**RETENTION AND DISPOSAL:**

Paper records are maintained for up to one year after a final determination by MSPB or, in some instances, other administrative authorities or the courts. Thereafter, they are transferred to Regional Federal Records Centers or other appropriate facilities. Paper records are destroyed by the Federal Records Centers when the records are seven years old. Electronic records of the case management system may be maintained indefinitely, or until the Board no longer needs them.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Clerk of the Board, Merit Systems Protection Board, Suite 500, 1615 M Street NW., Washington, DC 20419, and MSPB regional and field offices (see list of office addresses in the Appendix).

**NOTIFICATION PROCEDURES:**

Individuals wishing to inquire whether this system of records contains information about them should contact the Clerk of the Board and must follow the MSPB Privacy Act regulations at 5 CFR part 1205 regarding such inquiries.

**RECORD ACCESS PROCEDURES:**

Individuals requesting access to their records should contact the Clerk of the Board. If the requester has reason to believe the records in question are located in a regional or field office, it is appropriate to submit the request to that office. Such requests should be addressed to the regional director or chief administrative judge (see list of office addresses in the Appendix). Requests for access to records must

follow the MSPB Privacy Act regulations at 5 CFR part 1205.

**CONTESTING RECORD PROCEDURES:**

Individuals requesting amendment should write to the Clerk of the Board. If the requester has reason to believe the records in question are located in a regional or field office, it is appropriate to submit the request to that office. Such requests should be addressed to the regional director or chief administrative judge (see list of office addresses in the Appendix).

Requests for amendment of records must follow the MSPB Privacy Act regulations at 5 CFR part 1205.

These provisions for amendment of the record are not intended to permit the alteration of evidence presented in the course of adjudication before MSPB either before or after MSPB has rendered a decision on the appeal.

**RECORD SOURCE CATEGORIES:**

The sources of these records are:

a. The individual to whom the record pertains;

b. The agency employing the above individual;

c. The MSPB, OPM, EEOC, OSC; and

d. Other individuals or organizations from whom MSPB has received testimony, affidavits or other documents.

**Appendix**

Regional and Field Offices of the Merit Systems Protection Board:

1. Atlanta Regional Office, Merit Systems Protection Board, 401 W. Peachtree Street, NE., Suite 1050, Atlanta, Georgia 30308.

2. Central Regional Office, Merit Systems Protection Board, 230 South Dearborn Street, 31st Floor, Chicago, Illinois 60604.

3. Dallas Regional Office, Merit Systems Protection Board, 1100 Commerce Street, Room 620, Dallas, Texas 75242.

4. Denver Field Office, Merit Systems Protection Board, 165 South Union Blvd., Suite 318, Lakewood, Colorado 80228.

5. New York Field Office, Merit Systems Protection Board, 26 Federal Plaza, Room 3137-A, New York, New York 10278.

6. Northeastern Regional Office, Merit Systems Protection Board, 1601 Market Street, Suite 1700, Philadelphia, Pennsylvania 19103.

7. Western Regional Office, Merit Systems Protection Board, 201 Mission Street, Suite 2310, San Francisco, California 94105.

8. Washington, DC Regional Office, Merit Systems Protection Board, 1800 Diagonal Road, Suite 205, Alexandria, VA 22314.

**DATES:** Comments on this amendment must be received by the Clerk of the Board on or before November 26, 2012. (The Privacy Act, at 5 U.S.C.

552a(e)(11), requires that the public be provided a 30-day period in which to comment on an agency's intended use of information in a system of records.

Appendix I to Office of Management and Budget (OMB) Circular A-130 requires an additional 10-day period—for a total of 40 days—in which to make such comments). The amended system of records will be effective, as proposed, at the end of the comment period unless the Board determines, upon review of the comments received, that changes should be made. In that event, the Board will publish a revised notice in the **Federal Register**.

**ADDRESSES:** Submit comments to William D. Spencer, Clerk of the Board, Merit Systems Protection Board, Suite 500, 1615 M St., NW., Washington, DC 20419. Comments may be submitted by regular mail to this address, by facsimile to (202) 653-7130, or by email to [mspb@mspb.gov](mailto:mspb@mspb.gov).

**FOR FURTHER INFORMATION CONTACT:** William Spencer, Clerk of the Board, at (202) 653-7200.

**William D. Spencer,**  
Clerk of the Board.

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**BILLING CODE 7400-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 070-3098; NRC-2011-0081]

### Notice of Consideration of Approval of Application Regarding Proposed Indirect Transfer of Control of the Construction Authorization for the Mixed Oxide Fuel Fabrication Facility in Aiken, SC

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Application for approval of an indirect transfer of a construction authorization; opportunity to request a hearing or provide written comments.

**DATES:** Submit comments by November 26, 2012. A request for a hearing must be filed by November 14, 2012.

**FOR FURTHER INFORMATION CONTACT:** David H. Tiktinsky, Sr. Project Manager, Mixed Oxide and Deconversion Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, DC 20555-0001 telephone: 301-492-3229; fax number: 301-492-3359; email: [David.Tiktinsky@nrc.gov](mailto:David.Tiktinsky@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for approval of an indirect transfer of

control regarding construction authorization (CA) CAMOX-001. The application, dated August 30, 2012 (ADAMS Accession No. ML12243A498), was supplemented on October 1, 2012 (ADAMS Accession No. ML12276A108). This notice of the application (in section II below) discusses the procedures applicable to submitting requests for a hearing, which are set forth in Title 10 of the *Code of Federal Regulations* (10 CFR), part 2. In accordance with 10 CFR 2.1305(a), written comments on the application may be submitted as an alternative to requesting a hearing, as discussed in section IV below.

The CA was originally issued to Duke Cogema Stone and Webster on March 25, 2005. The CA was modified in 2006, to change the name of the CA holder to Shaw AREVA MOX Services (MOX Services) (ADAMS Accession No. ML063110298). Under the CA, MOX Services is now constructing a Mixed Oxide Fuel Fabrication Facility (MFFF) at the Department of Energy (DOE) Savannah River Site in Aiken, South Carolina. MOX Services has separately requested the NRC's authorization to operate the MFFF, which is currently under review.

In its August 30, 2012, application, MOX Services proposes to make changes in its ownership structure, whereby its ultimate parent corporation ("The Shaw Group, Inc.") would become a wholly-owned subsidiary of Chicago Bridge and Iron Company NV Shaw (CB&I Shaw), based on a purchase transaction agreement dated July 30, 2012 (ADAMS Accession No. ML12269A340). MOX Services would continue to hold the CA, and no physical changes to the MFFF are being proposed. An NRC administrative review, documented in an email sent to MOX Services on September 11, 2012 (ADAMS Accession No. ML12269A087), found the application acceptable to begin a more detailed technical review.

If the August 30, 2012 application is granted, the CA would be amended for administrative purposes to reflect the indirect transfer. No physical changes would be made at the MFFF site as a result of the indirect transfer. An environmental assessment of the proposed action will not be prepared because such transfers are actions which are categorically excluded from the need to conduct any further environmental review, pursuant to 10 CFR 51.22(c)(21). If the application is granted, an evaluation will document the approval of the indirect transfer of control, and the evaluation would contain the required findings as discussed further below.

Pursuant to 10 CFR 70.36, no license granted under 10 CFR part 70, and no right thereunder to possess or utilize special nuclear material (SNM), shall be transferred, assigned, or in any manner disposed of, directly or indirectly, through transfer of control of any license to any person unless the Commission, after securing full information, finds that the transfer is in accordance with the Atomic Energy Act (AEA), and gives its consent in writing. The CA does not authorize MOX Services to use SNM at the MFFF—it only authorizes MOX Services to construct the MFFF. The CA is thus analogous to a construction permit, and it has served as the mechanism under which the NRC has overseen the MFFF construction activities. Because the term "license", as defined in 10 CFR 2.4, includes a construction permit, and because the Administrative Procedure Act's definition of the term "license", in 5 U.S.C. 551(8), includes any agency approval or other form of permission, the NRC finds that the 10 CFR 70.36 requirements are applicable here.

The NRC will approve the August 30, 2012, application for the indirect transfer of the CA if it determines that the proposed restructuring and reorganization will not affect the qualifications of MOX Services to hold the CA, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and any NRC orders that may be applicable.

##### II. Opportunity To Request a Hearing and Leave To Intervene

Requirements for submitting hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing requests, petitions to intervene, requirements for standing, and contentions." Interested persons should consult 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike, Mail Stop: O1-F21, Rockville, MD 20852. You may also call the PDR at 1-800-397-4209 or 301-415-4737. The NRC regulations are also accessible electronically from the NRC Library on the NRC Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>

Pursuant to 10 CFR 2.309(a), any person whose interest may be affected by this proceeding, and who wishes to participate as a party in the proceeding must file a written request for hearing and petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. Pursuant to 10