

will distribute, dispense or prescribe mazindol in precisely the same manner as they had in the past. No additional recordkeeping, security or other reports are required by this action.

In accordance with the provisions of section 201(a) of the Controlled Substances Act (21 U.S.C. 811(a)), this scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Under the authority vested in the Attorney General by section 201(a) of the Act (21 U.S.C. 811(a)) and delegated to the Acting Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Acting Administrator hereby orders that Part 1308, Title 21, Code of Federal Regulations (CFR) be amended as follows:

§ 1308.13 [Amended]

1. By removing mazindol as item (5) of § 1308.13(b) and renumbering item (6) phendimetrazine as item (5); and
2. By revising paragraph (e) of § 1308.14 Title 21, Code of Federal Regulations (CFR), to include mazindol therein as item (2), to read as follows:

§ 1308.14 Schedule IV.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Diethylpropion.....	1610
(2) Mazindol	1605
(3) Pemoline (including organometallic complexes and chelates thereof).....	1530
(4) Phentermine.....	1640

Dated: October 19, 1981.

Francis M. Mullen, Jr.,
Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-30853 Filed 20-26-81; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[T.D. 7790]

Excise Tax; Net Income Limitation on Windfall Profit; Crude Oil

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the computation of the net income limitation on windfall profit under section 4988(b) of the Internal Revenue Code of 1954. These regulations provide the public with the guidance needed to compute the net income limitation. They are contained in a new Part 51 of Title 26 of the Code of Federal Regulations for final regulations under the Crude Oil Windfall Profit Tax Act of 1980.

DATE: The regulations are effective for periods after February 29, 1980.

FOR FURTHER INFORMATION CONTACT: Donald W. Stevenson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, Attention: CC:LR:T. 202-566-3516, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1981, the Federal Register published amendments (46 FR 1754) to proposed Excise Tax Regulations (26 CFR Part 51) that had been published on April 4, 1980 (45 FR 23400). The January 7, 1981, amendments were proposed under section 4988(b) of the Internal Revenue Code of 1954 to prescribe rules for computing the net income limitation on windfall profit pursuant to section 101(a) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 230). Numerous comments were received suggesting a number of changes to the proposed amendments. A public hearing on the proposed amendments was held on June 18, 1981. After consideration of the suggested changes to the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Two-Month Rule

The proposed regulations provided that in computing the taxable income from the property for the taxable year the taxpayer shall take into account all income received or accrued and all expenses paid or incurred during the taxable year and 2 months after the

close of the taxable year for oil removed during the taxable year (or during a previous taxable year if the gross income therefrom was received or accrued or the expenses were paid or incurred during the current taxable year more than 2 months after the close of the taxable year of removal).

Commenters stated that this rule requires a cash basis taxpayer to maintain additional sets of records using a modified accrual method of accounting. The commenters argued that the statute did not require a strict matching of income and expenses for each barrel produced within a calendar year. They suggested that the Congressional intent would be served if taxable income from the property were determined under section 613(a), using the taxpayer's taxable year and method of accounting. This would minimize administrative burdens for all producers.

These comments were found to be persuasive. Consequently, this Treasury decision eliminates the 2-month rule and substitutes a rule that is based upon the section 613(a) taxable income from the property concept. It uses the taxpayer's own taxable year and method of accounting. The new rule further provides that, in computing the net income attributable to a barrel, the taxpayer shall divide taxable income from the property by the number of barrels of taxable crude oil sold within the taxable year.

Attribution of Expenditures to Gas and Oil

In computing taxable income from the property attributable to taxable crude oil where both taxable crude oil and gas or exempt oil are produced from the property, the proposed regulations required the producer to allocate all expenditures incurred in that year among taxable and exempt crude oil and gas based on a relative gross income ratio. Several commenters stated that in many instances the producer can specifically identify certain expenses which relate solely to taxable crude oil or solely to other production and recommended that the proposed regulations be modified to provide that if an incurred expense can be specifically attributed to gas, or to exempt or taxable crude oil production, then the producer should allocate those expenses directly to that production.

The final regulations are modified to provide for allocation to taxable crude oil production of those expenditures which are attributable solely to taxable crude oil production and of a proportionate amount (determined by

the relative gross income ratio) of expenditures attributable to both taxable crude oil and gas or exempt oil.

Hypothetical Cost Depletion Deduction

Section 4988(b)(3)(C) provides that, in computing the net income limitation, taxable income from the property is reduced by a hypothetical cost depletion deduction. The proposed regulations provided that, in order to compute the hypothetical cost depletion deduction allowable for the taxable year, a cost depletion deduction is computed for every year from the year of acquisition until the current taxable year, taking into account the taxpayer's cost basis, section 263(c) costs and qualified tertiary injectant expenses. Several commenters questioned whether original reserve estimates used in this computation could be revised in subsequent years' computations. Others stated that the computation was cumbersome and, in cases where properties were acquired long ago, historical data such as reserve estimates may not be available.

The proposed regulations also provided that each element of the cost depletion deduction must be substantiated by adequate records. If the taxpayer establishes that the failure to produce adequate records is not due to the taxpayer's negligent or willful action or omission, the cost depletion element is deemed to be substantiated if the best evidence available clearly supports it. Commenters argued that the phrase "clearly supports it" is vague and suggests a higher than usual substantiation requirement with regard to cost depletion deductions. The comments suggest that a cost depletion deduction should be allowed regardless of the reason for the absence of adequate records so long as the "preponderance of evidence" supports it.

In response to these comments, the regulations are modified to clarify that the taxpayer shall determine original reserves by reference to estimates for the first year of production (rather than the year of acquisition) and shall take into account revisions in reserves estimates in making subsequent years' computations. The regulations are also amended to eliminate the special substantiation requirement.

Computation of the Net Income Limitation for the Taxable Year That Includes March 1, 1980

The proposed regulations provided that in computing the net income limitation for the taxable year that includes March 1, 1980, the taxpayer shall take into account only barrels of

taxable crude oil removed from the premises after February 29, 1980, and the income from and the production costs incurred with respect to those barrels. Several commenters pointed out that it will be difficult for most small producers to identify specifically the income and expenses attributable solely to taxable crude oil removed after February 29, 1980, and that the administrative burden of matching these barrels with income and expenses is unwarranted.

While, in theory, the rule in the proposed regulations correctly applies the rationale underlying the net income limitation, elimination of the administrative burden cited by the commenters clearly outweighs the need to strictly match the income and expenses with the barrels removed prior to March 1, 1980. Consequently, this rule is modified in the final regulations to provide that in computing the net income limitation for the taxable year that includes March 1, 1980, income and costs arising before March 1, 1980, shall not be treated as attributable to taxable crude oil and barrels sold before that date are not to be included in the barrels by which net income is divided to determine the net income attributable to a barrel of taxable crude oil.

Definition of Property

The proposed regulations provided that any election made by the taxpayer under section 614 and regulations thereunder for depletion purposes is binding in determining the definition of property for purposes of the net income limitation. One commenter stated that elections made prior to the enactment of the windfall profit tax should not be binding since many of these elections were made for percentage depletion purposes before depletion was repealed for some producers in 1975. This recommendation was not adopted in the final regulations. The legislative intent with respect to the calculation of the net income limitation was to retain the pre-existing income tax definition of property. Since regulations under section 614 provide, in effect, that elections made under section 614 are binding for all subsequent years unless consent to make a change is obtained from the Commissioner, that rule continues to apply.

Rule for Partnerships

The proposed regulations provided that in the case of a partnership, the net income limitation shall be computed separately for each partner. Commenters stated that the net income limitation should be computed on the basis of the partnership's taxable year

rather than the partner's taxable year. Another comment suggested that the regulations should specifically state that the net income limitation is computed separately for each partner, taking into account the provisions of the partnership agreement and all other relevant factors in determining the partner's net income from the property.

The final regulations provide that the net income limitation is computed for each partner separately using data based upon the partnership's taxable year and accounting method used for income tax purposes. Special allocations of partnership income and expenses that are effective for income tax purposes are also effective for net income limitation purposes.

Computation of Net Income Limitation Under Notice of Proposed Rulemaking

In the case of any producer who, prior to October 27, 1981, has filed an annual return of windfall profit tax, a claim for credit or refund of that tax, or an annual reconciliation of deposits of windfall profit tax, based on a net income limitation computed under the rules set forth in the notice of proposed rulemaking published on January 7, 1981 (46 FR 1754), the net income limitation for the taxable year covered by the annual return of windfall profit tax, the claim for credit or refund of that tax, or the annual reconciliation of deposits of windfall profit tax shall be determined under those rules unless the producer elects to follow the rules set forth in this Treasury decision.

Drafting Information

The principal author of these regulations is Donald W. Stevenson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulation

Accordingly, a new part, Part 51, is added in the appropriate place in Title 26 of the Code of Federal Regulations. The new part contains § 51.4988-2 which provides regulations under section 4988(b) of the Internal Revenue Code of 1954. Section 51.4988-2 is adopted as proposed, except that paragraphs (b) and (c) (3) and (4) are revised, a new paragraph (c)(6) is added, and the first sentence of paragraph (d)(1) is revised. These revised and new

provisions and the title and table of contents of the new part read as follows:

Part 51—Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980

Sec.

51.4988-1 [Reserved]

51.4988-2 Net income limitation on windfall profit.

Authority: Sec. 4997, 7805, Internal Revenue Code of 1954 (94 Stat. 249, 68A Stat. 917; (26 U.S.C. 4997, 7805))

§ 51.4988-2 Net income limitation on windfall profit.

(b) *Calculation of net income limitation—*
(1) *In general.* Except to the extent provided otherwise in paragraph (c) of this section, the net income limitation with respect to a barrel shall be computed in the following manner:

(i) Determine the taxpayer's gross income from the property (from which the barrel was produced) that is attributable to taxable crude oil for the taxable year. Where the taxpayer has several depletable properties under section 612 of the Code in a single property as defined by the energy regulations, the taxpayer must compute the gross income (and net income limitation) separately for each depletable property.

(ii) Determine the taxpayer's taxable income from the property attributable to taxable crude oil for the taxable year by reducing the taxpayer's gross income from the property determined under paragraph (b)(1)(i) of this section by all allowable deductions attributable to the production of taxable crude oil that would be subtracted in determining taxable income from the property under section 613 (a) (except windfall profit tax, section 263(c) costs, and qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies) and by the cost depletion deduction (described in paragraph (b)(3) of this section) allowable for the taxable year.

(iii) Determine the taxpayer's net income attributable to the barrel of taxable crude oil by dividing the taxpayer's taxable income from the property determined under paragraph (b)(1)(ii) of this section by the number of units (barrels of taxable crude oil) sold within the taxable year (as that phrase is defined in § 1.611-2(a)(2)).

(iv) Determine the net income limitation per barrel by multiplying the net income attributable to a barrel of taxable crude oil by 90 percent and rounding to the nearest cent.

(2) *Determining expenditures attributable to taxable crude oil.* In the case where both taxable crude oil and gas or exempt oil are produced from the property, the amount of expenditures attributable to taxable crude oil is the sum of all expenditures that can be clearly identified as relating solely to the production of taxable crude oil and a proportionate amount of all expenditures that cannot be clearly identified as relating solely to the production of taxable crude oil or solely to the production of gas or exempt oil. The proportionate amount is determined by multiplying the total amount of all

expenditures that cannot be clearly identified as relating solely to the production of taxable crude oil or solely to the production of gas or exempt oil by a fraction, the numerator of which is the gross income from the property attributable to taxable crude oil and the denominator of which is the total gross income from the property.

(3) *Taxable income from the property reduced by cost depletion.* (i) Taxable income from the property shall be reduced by the cost depletion deduction that would have been allowable to the taxpayer for the taxable year with respect to the property if for all taxable years—

(A) All—

(1) Section 263 (c) costs, and

(2) Qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies,

incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

(B) Cost depletion had been used by the taxpayer with respect to the property.

(ii) The cost depletion deduction that would be allowable for the taxable year is computed by first determining the depletable basis of the property as of the date of its acquisition by the taxpayer. With regard to transfers of properties before 1979, the taxpayer's original basis in the property is determined under section 1012. The basis of proven oil or gas properties transferred after 1978 is determined under paragraph (c) of this section. Adjustments to basis are then made for expenditures properly chargeable to capital account and depletable under section 612, section 263(c) costs, and qualified tertiary injectant expenses (to which an election under section 4988(b)(3)(E) applies) incurred during the year. A unit cost is then found in accordance with accepted cost depletion principles using the estimated recoverable reserves determined for income tax purposes as of the beginning of the first taxable year in which those reserves were depleted by the taxpayer (whether or not the estimate later proves to be inaccurate). A cost depletion allowance is determined for that year and is subtracted from the depletable basis. The depletable basis minus the cost depletion allowance for that year is carried over to the next taxable year and the same computation is performed for each succeeding year (taking account of revisions of estimated reserves used for that year) until

the current year. The cost depletion allowance for the current taxable year is then multiplied by the fraction described in paragraph (b)(2) of this section to determine the cost depletion deduction attributable to taxable crude oil that would be allowable for the taxable year.

(iii) For purposes of computing the net income limitation, intangible drilling and development costs with respect to a nonproductive well shall be deducted from gross income from the property in the taxable year these costs are paid or incurred. However, section 263(c) costs with respect to a productive well may be deducted only as a part of the cost depletion deduction. For purposes of this paragraph, a nonproductive well is any well that has been abandoned or is reasonably expected never to produce oil or gas in commercial quantities. If the taxpayer is unable to determine with reasonable certainty by the later of the end of the taxable year or the time the return is filed whether a well will produce oil or gas in commercial quantities, the taxpayer shall treat the well as a productive well. If the well later proves to be a nonproductive well, the taxpayer may file an amended return or a claim for credit or refund.

(4) *Example.* The following example illustrates the principles set forth in this paragraph:

Example. (i) In 1982 A, the owner of a 50 percent working interest in Blackacre and a cash-basis, calendar-year taxpayer, received \$750,000 for the sale of and gas produced from Blackacre. Of this amount \$600,000 was attributable to the production of the oil and gas was \$362,500. Of these expenditures \$250,000 could be clearly identified as relating solely to the production of oil and \$50,000 could be clearly identified as relating solely to the production of gas. Accordingly, in computing taxable income from the property for purposes of the net income limitation, A reduces \$600,000, the gross income from the property attributable to taxable crude oil, by \$300,000 (\$250,000 plus \$50,000 × \$62,500

\$750,000

(expenses not solely oil or solely gas)).

(ii) Assume further that A purchased his interest in Blackacre in 1977 for \$200,000, that production began in 1980, and that estimated recoverable reserves, units sold, IDC, and tertiary injectant expenses for 1980, 1981, and 1982 were as indicated below.

A's allocated share	1980	1981	1982
Estimated recoverable reserves at beginning of tax year ¹	100,000	60,000	70,000
Units sold during taxable year	10,000	20,000	25,000
Depletable basis, beginning of period	\$200,000	\$270,000	\$280,000
+ IDC incurred during taxable year ¹	100,000	60,000	0
+ Tertiary injectant expenses incurred during taxable year	0	0	0
Adjusted depletable basis	\$300,000	\$330,000	\$280,000
- Cost depletion for taxable year	30,000	80,000	100,000
Depletable basis end of period	\$270,000	\$250,000	\$180,000

A's hypothetical cost depletion deduction for 1982 for net income limitation purposes is \$80,000 (\$100,000 × \$600,000 / \$750,000)

¹ Includes gas converted to units of oil.

(iii) A computes the net income limitation for 1982 in the following manner (all figures reflect only amounts attributable to taxable crude oil):

Gross income from property	\$600,000
Production expenses	300,000
Cost depletion deduction	80,000
Taxable income from property	\$220,000
Barrels of taxable crude oil sold within the taxable year	20,000
Net income attributable to a barrel	\$11.00
Net income limitation per barrel (rounded to the nearest cent)	\$9.90

(c) *Special rules.*

(3) *Rule applicable to partnerships.* In the case of a partnership, the net income limitation shall be computed separately for each partner. The partnership's taxable year and method of accounting used for income tax purposes shall be used in determining the net income attributable to each barrel of crude oil removed (or deemed removed) from the premises during the partnership's taxable year. If the partnership and partner have different taxable years, a net income limitation shall be computed for each of the two partnership taxable years partially included in the partner's taxable year and each amount so computed shall be applied to barrels removed (or deemed removed) from the premises during the appropriate portion of the partner's taxable year. To the extent that special allocations of partnership income and expenses are effective for purposes of determining the partner's taxable income from the property under section 613(a), they shall also be effective for purposes of section 4988(b). In any case in which a partnership computes the net income limitation for any partner, the partnership shall maintain in its books and records any information and documents bearing on the accuracy of its net income limitation computation so long as they are relevant in connection with the administration of any Internal Revenue law.

Example. Partnership XYZ, a fiscal year partnership, determines that the crude oil production of each of its partners is subject to a \$9.00 per barrel net income limitation for the fiscal year ending June 30, 1981 and a \$10.00 per barrel net income limitation for the fiscal year ending June 30, 1982. XYZ so notifies its partners and keeps in its records all information and documentation bearing on the amount of the net income limitation. Its partners are calendar year taxpayers. They apply the \$9.00 per barrel net income limitation against their potential windfall profit tax liability for the period January 1, 1981 through June 30, 1981 and the \$10.00 per barrel net income limitation against their potential windfall profit tax liability for the remainder of 1981 (and for January through June 1982).

(4) *Computation of the net income limitation for the taxable year that includes March 1, 1980.* For purposes of computing the net income limitation under paragraph (b)(1) of this section for the taxable year that includes March 1, 1980, income received or

accrued and costs (including depreciation) paid or incurred before March 1, 1980, shall not be treated as attributable to taxable crude oil. Also, units sold before that date, although taken into account in determining the cost depletion allowable under paragraph (b)(3)(ii) of this section, shall not be treated as sold within that taxable year under paragraph (b)(1)(iii).

(6) *Computation of the net income limitation before October 27, 1981 under notice of proposed rulemaking.* In the case of any producer who, prior to October 27, 1981, has filed an annual return of windfall profit tax, a claim for credit or refund of that tax, or an annual reconciliation of deposits of windfall profit tax, based on a net income limitation computed under the rules set forth in the notice of proposed rulemaking published on January 7, 1981 (46 FR 1754), the net income limitation for the taxable year for which the return, claim for credit or refund, or the annual reconciliation was filed shall be determined by making the computations prescribed in those rules unless the producer elects to follow the rules set forth in the preceding subparagraphs of this paragraph. Any such election shall be made by filing a return or claim for credit or refund based upon a net income limitation computed under those subparagraphs.

(d) *Definitions.* (1) Except where otherwise indicated in paragraph (b)(1)(i), the term "property" when used in this section has the same meaning as that term is given in section 614 of the Code and regulations thereunder.

This Treasury decision is issued under the authority contained in sections 4997 and 7805 of the Internal Revenue Code of 1954 (94 Stat. 249; 68A Stat. 917; 26 U.S.C. 4997, 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: October 19, 1981.

John E. Chapoton,
Assistant Secretary of the Treasury.

Amendments to the Regulations

26 CFR is amended by the addition of new Part 51 consisting of § 51.4988-1 which is reserved and § 51.4988-2. Part 51 reads as set forth below:

PART 51—EXCISE TAX REGULATIONS UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980

Sec.
51.4988-1 [Reserved]

51.4988-2 Net income limitation on windfall profit.

Authority: Secs. 4997, 7805, Internal Revenue Code of 1954 (94 Stat. 249, 68A Stat. 917; [26 U.S.C. 4997, 7805]).

§ 51.4988-1 [Reserved]

§ 51.4988-2 Net income limitation on windfall profit.

(a) *In general.* The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to that barrel.

(b) *Calculation of net income limitation—(1) In general.* Except to the extent provided otherwise in paragraph (c) of this section, the net income limitation with respect to a barrel shall be computed in the following manner.

(i) Determine the taxpayer's gross income from the property (from which the barrel was produced) that is attributable to taxable crude oil for the taxable year. Where the taxpayer has several depletable properties under section 614 of the Code in a single property as defined by the energy regulations the taxpayer must compute the gross income (and net income limitation) separately for each depletable property.

(ii) Determine the taxpayer's taxable income from the property attributable to taxable crude oil for the taxable year by reducing the taxpayer's gross income from the property determined under paragraph (b)(1)(i) of this section by all allowable deductions attributable to the production of taxable crude oil that would be subtracted in determining taxable income from the property under section 613(a) (except windfall profit tax, section 263(c) costs, and qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies) and by the cost depletion deduction (described in paragraph (b)(3) of this section) allowable for the taxable year.

(iii) Determine the taxpayer's net income attributable to the barrel of taxable crude oil by dividing the taxpayer's taxable income from the property determined under paragraph (b)(1)(ii) of this section by the number of units (barrels of taxable crude oil) sold within the taxable year (as that phrase is defined in § 1.611-2(a)(2)).

(iv) Determine the net income limitation per barrel by multiplying the net income attributable to a barrel of taxable crude oil by 90 percent and rounding to the nearest cent.

(2) *Determining expenditures attributable to taxable crude oil.* In the case where both taxable crude oil and gas or exempt oil are produced from the property, the amount of the expenditures

attributable to taxable crude oil is the sum of all expenditures that can be clearly identified as relating solely to the production of taxable crude oil and a proportionate amount of all expenditures that cannot be clearly identified as relating solely to the production of taxable crude oil or solely to the production of gas or exempt oil. The proportionate amount is determined by multiplying the total amount of all expenditures that cannot be clearly identified as relating solely to the production of taxable crude oil or solely to the production of gas or exempt oil by a fraction, the numerator of which is the gross income from the property attributable to taxable crude oil and the denominator of which is the total gross income from the property.

(3) *Taxable income from the property reduced by cost depletion.* (i) Taxable income from the property shall be reduced by the cost depletion deduction that would have been allowable to the taxpayer for the taxable year with respect to the property if for all taxable years—

(A) All—

(1) Section 263(c) costs, and

(2) Qualified tertiary injectant expenses to which an election under section 4988(b)(3)(E) applies, incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

(B) Cost depletion had been used by the taxpayer with respect to the property.

(ii) The cost depletion deduction that would be allowable for the taxable year is computed by first determining the depletable basis of the property as of the date of its acquisition by the taxpayer. With regard to transfers of properties before 1979, the taxpayer's original basis in the property is determined under section 1012. The basis of proven oil or gas properties transferred after 1978 is determined under paragraph (c) of this section. Adjustments to basis are then made for expenditures properly chargeable to capital account and depletable under section 612, section 263(c) costs, and qualified tertiary injectant expenses (to which an election under section 4988(b)(3)(E) applies) incurred during the year. A unit cost is then found in accordance with accepted cost depletion principles using the estimated recoverable reserves determined for income tax purposes as of the beginning of the first taxable year in which those reserves were depleted by the taxpayer (whether or not the estimate later proves to be inaccurate).

A cost depletion allowance is determined for that year and is subtracted from the depletable basis. The depletable basis minus the cost depletion allowance for that year is carried over to the next taxable year and the same computation is performed for each succeeding year (taking account of revisions of estimated reserves used for that year) until the current year. The cost depletion allowance for the current taxable year is then multiplied by the fraction described in paragraph (b)(2) of this section to determine the cost depletion deduction attributable to taxable crude oil that would be allowable for the taxable year.

(iii) For purposes of computing the net income limitation, intangible drilling and development costs with respect to a nonproductive well shall be deducted from gross income from the property in the taxable year these costs are paid or incurred. However, section 263(c) costs with respect to a productive well may be deducted only as a part of the cost depletion deduction. For purposes of this paragraph, a nonproductive well is any well that has been abandoned or is reasonably expected never to produce oil or gas in commercial quantities. If the taxpayer is unable to determine with reasonable certainty by the later of the end of the taxable year or the time the return is filed whether a well will produce oil or gas in commercial quantities, the taxpayer shall treat the well as a productive well. If the well later proves to be a nonproductive well, the taxpayer may file an amended return or a claim for credit or refund.

(4) *Example.* The following example illustrates the principles set forth in this paragraph:

Example. (i) In 1982 A, the owner of a 50 percent working interest in Blackacre and a cash-basis, calendar-year taxpayer, received \$750,000 for the sale of oil and gas produced from Blackacre. Of this amount \$600,000 was attributable to the sale of taxable crude oil. A's share of all expenditures attributable to the production of the oil and gas was \$362,500. Of these expenditures \$250,000 could be clearly identified as relating solely to the production of oil and \$50,000 could be clearly identified as relating solely to the production of gas. Accordingly, in computing taxable income from the property for purposes of the net income limitation, A reduces \$600,000, the gross income from the property attributable to taxable crude oil, by \$300,000 (\$250,000 plus

$$\frac{\$600,000}{\$750,000} \times \$62,500$$

(expenses not solely oil or solely gas)).

(ii) Assume further that A purchased his interest in Blackacre in 1977 for \$200,000, that production began in 1980,

and that estimated recoverable reserves, units sold, IDC, and tertiary injectant expenses for 1980, 1981, and 1982 were as indicated below.

A's allocated share	1980	1981	1982
Estimated recoverable reserves at beginning of tax year ¹	\$100,000	\$90,000	\$70,000
Units sold during taxable year ¹	10,000	20,000	25,000
Depletable basis, beginning of period	200,000	270,000	280,000
Plus IDC incurred during taxable year	100,000	90,000	6
Plus tertiary injectant expenses incurred during taxable year	0	0	0
Adjusted depletable basis	300,000	360,000	280,000
Minus cost depletion for taxable year	30,000	80,000	100,000
Depletable basis end of period	270,000	280,000	180,000

¹ Includes gas converted to units of oil.

A's hypothetical cost depletion deduction for 1982 for net income limitation purposes is \$80,000

$$(\$100,000 \times \frac{\$600,000}{\$750,000})$$

(iii) A computes the net income limitation for 1982 in the following manner (all figures reflect only amounts attributable to taxable crude oil):

Gross income from property	\$800,000
Production expenses	—\$300,000
Cost depletion deduction	—\$80,000
Taxable income from property	\$220,000
Barrels of taxable crude oil sold within the taxable year	20,000
Net income attributable to a barrel	\$11.00
Net income limitation per barrel (rounded to the nearest cent)	\$9.90

(c) *Special Rules—*(1) *Applying the cost depletion deduction to transfers of proven oil or gas properties.* In the case of a transfer of an interest in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)) after 1978 which (but for section 4988(b)(4)(A)) would result in an increase in the amount determined under section 4988(b)(3)(C), the latter section shall be applied with respect to the transferee by taking into account only amounts which would have been allowable with respect to the transferor under that section and costs incurred by the transferee during periods after the transfer. For purposes of this paragraph, the term "transfer" means any change in legal or equitable ownership by sale, exchange, gift, bequest, devise, lease, sublease, assignment, contract, or other disposition (including creation of a production payment that gives the transferee an economic interest in the property, a distribution by an estate, and any contribution to or any

distribution by a corporation, partnership, or trust).

Example. E acquires F's 50 percent working interest in a producing oil lease on Blackacre for \$400,000 on January 1, 1982. F's depletable basis in the property as of the end of 1981 (after taking the hypothetical cost depletion) was \$280,000. E's basis in his interest in the oil property, for purposes of the determination of cost depletion under section 4988(b)(3)(C), is \$280,000. E may add to his basis any section 263(c) costs and qualified tertiary injectant expenses E incurs with respect to the lease after its acquisition.

(2) **Rule applicable to production payments.** For purposes of determining the net income limitation, if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from the portion shall be included in the gross income from the property of both the person holding the production payment and the person holding the interest from which the production payment was created.

(3) **Rule applicable to partnerships.** In the case of a partnership, the net income limitation shall be computed separately for each partner. The partnership's taxable year and method of accounting used for income tax purposes shall be used in determining the net income attributable to each barrel of crude oil removed (or deemed removed) from the premises during the partnership's taxable year. If the partnership and partner have different taxable years, a net income limitation shall be computed for each of the two partnership taxable years partially included in the partner's taxable year and each amount so computed shall be applied to barrels removed (or deemed removed) from the premises during the appropriate portion of the partner's taxable year. To the extent that special allocations of partnership income and expenses are effective for purposes of determining the partner's taxable income from the property under section 613(a), they shall also be effective for purposes of section 4988(b). In any case in which a partnership computes the net income limitation for any partner, the partnership shall maintain in its books and records any information and documents bearing on the accuracy of its net income limitation computation so long as they are relevant in connection with the administration of any internal revenue law.

Example. Partnership XYZ, a fiscal year partnership, determines that the crude oil production of each of its partners is subject to a \$9.00 per barrel net income limitation for the fiscal year ending June 30, 1981 and a \$10.00 per barrel net income limitation for the fiscal year ending June 30, 1982. XYZ so

notifies its partners and keeps in its records all information and documentation bearing on the amount of the net income limitation. Its partners are calendar year taxpayers. They apply the \$9.00 per barrel net income limitation against their potential windfall profit tax liability for the period January 1, 1981 through June 30, 1981 and the \$10.00 per barrel net income limitation against their potential windfall profit tax liability for the remainder of 1981 (and for January through June 1982).

(4) **Computation of the net income limitation for the taxable year that includes March 1, 1980.** For purposes of computing the net income limitation under paragraph (b)(1) of this section for the taxable year that includes March 1, 1980, income received or accrued and costs (including depreciation) paid or incurred before March 1, 1980, shall not be treated as attributable to taxable crude oil. Also, units sold before that date, although taken into account in determining the cost depletion allowable under paragraph (b)(3)(ii) of this section, shall not be treated as sold within that taxable year under paragraph (b)(1)(iii) of this section.

(5) **Election to capitalize qualified tertiary injectant expenses—(i) General.** With respect to any property, any taxpayer may elect to capitalize qualified tertiary injectant expenses for purposes of the determination of taxable income from the property under paragraph (b)(1)(ii) of this section. The election is irrevocable and shall apply to all qualified tertiary injectant expenses allocable to the property for which the election is made for the taxable year for which the election is made and for all subsequent taxable years. If the taxpayer elects not to capitalize these expenses, the taxpayer may deduct these expenses from gross income but may not take these expenses into account in determining the cost depletion deduction.

(ii) **Time and manner of making election.** An election to capitalize qualified tertiary injectant expenses shall be made by a statement to that effect on the producer's return of windfall profit tax, or claim for credit or refund of overpayment of windfall profit tax, for the first taxable year for which the election is to be effective.

(6) **Computation of the net income limitation before October 27, 1981, under notice of proposed rulemaking.** In the case of any producer who, prior to October 27, 1981, has filed an annual return of windfall profit tax, a claim for credit or refund of that tax, or an annual reconciliation of deposits of windfall profit tax, based on a net income limitation computed under the rules set forth in the notice of proposed

rulemaking published on January 7, 1981 (46 FR 1754), the net income limitation for the taxable year for which the return, claim for credit or refund, or the annual reconciliation was filed shall be determined by making the computations prescribed in those rules unless the producer elects to follow the rules set forth in the preceding subparagraphs of this paragraph. Any such election shall be made by filing a return or claim for credit or refund based upon a net income limitation computed under those subparagraphs.

(d) **Definitions.** (1) Except where otherwise indicated in paragraph (b)(1)(i) the term "property" when used in this section has the same meaning as that term is given in section 614 of the Code and regulations thereunder. Any election made by the taxpayer under section 614 and regulations thereunder for depletion purposes is binding in determining the definition of property for purposes of the net income limitation.

(2) The term "section 263(c) costs" means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of the Internal Revenue Code of 1954 (other than section 4988(b)(3)). Such term shall not include costs incurred in drilling a nonproductive well.

(3) The term "qualified tertiary injectant expenses" means any expenses that are deductible under section 193 of the Code.

This Treasury decision is issued under the authority contained in sections 4997 and 7805 of the Internal Revenue Code of 1954 (94 Stat. 249; 68A Stat. 917; 26 U.S.C. 4997, 7805).

(FR Doc. 81-30804 Filed 10-26-81; 8:45 am)
BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Ch. I

[Order No. 960-81]

Reorganization Regulations

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends Parts 0 through 60, Title 28 of the Code of Federal Regulations to reflect a reorganization of the Department of Justice. The reorganization restructures the focus of authorities and responsibilities vested in the Deputy

Attorney General and the Associate Attorney General.

EFFECTIVE DATE: October 15, 1981.

FOR FURTHER INFORMATION CONTACT: Kevin D. Rooney, Assistant Attorney General for Administration, Department of Justice, Room 1111, 10th and Pennsylvania Avenue NW., Washington, D.C. 20530 (202-633-3101).

SUPPLEMENTARY INFORMATION: The Deputy Attorney General will serve as the principal assistant to the Attorney General in fulfilling Department-wide management responsibilities and will supervise and direct functions related to civil law enforcement and litigation. The Associate Attorney General will coordinate and direct functions related to criminal law enforcement.

This order reflects the establishment of the Office of Legal Policy and the consolidation within the Office of Legal Policy of the authorities and functions previously conducted by the Office of Information Law and Policy, the Office of Privacy and Information Appeals, and the Office for the Improvements in the Administration of Justice. Furthermore, this order reflects the inclusion of the Foreign Claims Settlement Commission, as a separate agency, within the Department of Justice.

This order also contains various nomenclature changes and editorial amendments to Chapter I of Title 28, Code of Federal Regulations to reflect the current organization, internal procedures and general statements of policy of the Department of Justice.

This regulation is exempt from the requirements of Executive Order 12291 as a regulation related to agency organization and management. Furthermore, this regulation will not have a significant economic impact on a substantial number of small entities because its effect is internal to the Department of Justice.

By virtue of the authority vested in me, as Attorney General, by 28 U.S.C. 509 and 510, 5 U.S.C. 301 and 8 U.S.C. 1103, Chapter I of Title 28, Code of Federal Regulations is hereby amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

§ 0.0 [Removed]

1. Section 0.0 is removed.
2. Section 0.1 is amended by revising the list of offices, Bureaus and Boards to read as follows:

§ 0.1 Organizational units.

* * *

Offices

Office of the Attorney General

Office of the Deputy Attorney General
Office of the Associate Attorney General
Office of the Solicitor General
Office of Legal Counsel
Office of Legislative Affairs
Office of Professional Responsibility
Office of Legal Policy
Office of Public Affairs
Office of the Pardon Attorney
Office of Intelligence Policy and Review
Community Relations Service
Executive Office for United States Attorneys
Executive Office for United States Trustees
INTERPOL—United States National Central Bureau

* * *

Bureaus

Federal Bureau of Investigation
Bureau of Prisons
Drug Enforcement Administration
Immigration and Naturalization Service
Office of Justice Assistance, Research and Statistics (and related agencies)
United States Marshals Service

Boards

Board of Immigration Appeals
United States Parole Commission
Foreign Claims Settlement Commission

§ 0.6 [Removed]

3. Section 0.6 is removed.

§§ 0.7 through 0.9 [Removed]

4. Sections 0.7–0.9 [Reserved] are removed.

5. Section 0.10 is amended by revising the introductory test of paragraph (b) and paragraph (b)(5) to read as follows:

§ 0.10 Attorney General's Advisory Committee of United States Attorneys.

* * *

- (b) The Committee shall make recommendations to the Attorney General, to the Deputy Attorney General and to the Associate Attorney General concerning any matters which the Committee believes to be in the best interests of justice, including, but not limited to, the following:

* * *

- (5) Aiding the Attorney General, the Deputy Attorney General and the Associate Attorney General in formulating new programs for improvement of the criminal justice system at all levels, including proposals relating to legislation and court rules.

* * *

6. Section 0.11 is revised to read as follows:

§ 0.11 Incentive Awards Board.

The Incentive Awards Board shall consist of the Deputy Attorney General or a designee of the Deputy Attorney General, who shall be the chairperson, and four members designated by the Attorney General from among the Assistant Attorneys General, bureau

heads or persons of equivalent rank in the Department. The duties of the Board shall be:

- (a) Consider and make recommendations to the Attorney General concerning honorary awards and cash awards in excess of \$5,000 to be granted for suggestions, inventions, superior accomplishment, or other personal effort which contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork.

- (b) Consider and make recommendations to the Attorney General for transmittal to the Office of Personnel Management and the President for Presidential awards under 5 U.S.C. 4504 and 5403.

- (c) Evaluate periodically the effectiveness of the employee recognition program and recommend needed improvements to the Attorney General.

§ 0.12 [Amended]

7. Section 0.12 is amended by removing the words "three members" and inserting in their place the words "four members" and by removing the words "Director of Public Information" and inserting in their place the words "Director of Public Affairs".

8. Section 0.15 is revised to read as follows:

§ 0.15 Deputy Attorney General.

- (a) The Deputy Attorney General is authorized to exercise all the power and authority of the Attorney General specified in § 0.5 of Subpart B of this part, unless any such power or authority is required by law to be exercised by the Attorney General personally or has been specifically delegated exclusively to another Department official.

- (b) The Deputy Attorney General shall advise and assist the Attorney General in formulating and implementing Department policies and programs and in providing overall supervision and direction to all organizational units of the Department. Subject to the general supervision of the Attorney General, the Deputy Attorney General shall direct the activities of the Associate Attorney General and the following organizational units: Office of Legislative Affairs; Justice Management Division; Office of Public Affairs; Antitrust Division; Civil Division; Civil Rights Division; Land and Natural Resources Division; Tax Division; Office of Justice Assistance, Research and Statistics; Community Relations Service; Executive Office for United States Trustees; and United States Trustees.

The Foreign Claims Settlement Commission is under the supervision of the Deputy Attorney General for administrative purposes. In addition, the Deputy Attorney General shall:

(1) Except as assigned to the Associate Attorney General by § 0.19(a)(1), exercise the power and authority vested in the Attorney General to take final action in matters pertaining to:

(i) The employment, separation, and general administration of personnel in the Senior Executive Service and in General Schedule grades GS-16 through GS-18, or the equivalent, and of attorneys and law students regardless of grade or pay in the Department;

(ii) The appointment of special attorneys and special assistants to the Attorney General (28 U.S.C. 515(b));

(iii) The appointment of Assistant United States Trustees and fixing of their compensation; and

(iv) The approval of the appointment by United States Trustees of standing trustees and the fixing of their maximum annual compensation and percentage fees as provided in 28 U.S.C. 586(e).

(2) Administer the Attorney General's recruitment program for honor law graduates and judicial law clerks.

(3) Coordinate Departmental liaison with White House Staff and the Executive Office of the President.

(4) Coordinate and control the Department's reaction to civil disturbances and terrorism.

(5) Perform such other duties and functions as may be assigned from time to time by the Attorney General.

(c) The Deputy Attorney General may redelegate the authority provided in paragraphs (b)(1)(i), (ii), and (iii) of this section to take final action in matters pertaining to the employment, separation, and general administration of attorneys and law students in grades GS-15 and below, to appoint special attorneys and special assistants to the Attorney General pursuant to 28 U.S.C. 515(b), and to appoint Assistant United States Trustees and fix their compensation, to the official in the Office of the Deputy Attorney General responsible for attorney personnel management.

(d) The Deputy Attorney General may redelegate the authority provided in paragraph (b)(1)(iv) of this section to take final action in matters pertaining to the approval of the appointment by United States Trustees of standing trustees and the fixing of their maximum annual compensation and percentage fees as provided in 28 U.S.C. 586(e) to the Director of the Executive Office for United States Trustees.

§ 0.16 [Redesignated as § 0.22 and Revised]

9. Section 0.16, Executive Office for U.S. Attorneys, is redesignated as § 0.22, Subpart D-1. (See item 14 for a revision to new § 0.22)

§ 0.17 [Redesignated as § 0.28 and Revised]

10. Section 0.17, Office of Public Affairs, is redesignated as § 0.28, Subpart E-2. (See item 19 for a revision to new § 0.28)

11. Section 0.19 is amended by revising it to read as follows:

§ 0.19 Associate Attorney General.

(a) The Associate Attorney General shall advise and assist the Attorney General and the Deputy Attorney General in formulating and implementing Departmental policies and programs pertaining to criminal matters. The Associate Attorney General shall also provide overall supervision and direction for the following organizational units: Criminal Division; Drug Enforcement Administration; Immigration and Naturalization Service; Executive Office for United States Attorneys; Bureau of Prisons; Federal Prison Industries, Inc.; Office of Pardon Attorney; Board of Immigration Appeals; United States Marshals Service; and the United States National Central Bureau, INTERPOL. The United States Parole Commission is under the supervision of the Associate Attorney General for administrative purposes. In addition the Associate Attorney General shall:

(1) Exercise the power and authority vested in the Attorney General to take final action in matters pertaining to the employment, separation, and general administration of attorneys and law students in pay grades GS-15 and below in organizational units subject to his direction and of Assistant United States Attorneys and other attorneys to assist United States Attorneys when the public interest so requires and fixing their salaries.

(2) Perform such other duties as may be especially assigned from time to time by the Attorney General.

(b) The Associate Attorney General may redelegate the authority provided in paragraph (a)(1) of this section to the official in the Office of the Deputy Attorney General responsible for attorney personnel management.

§ 0.19a [Redesignated as § 0.23a and Revised]

12. Section 0.19a is redesignated as 0.23a. (See item 15 for a revision to new § 0.23a)

13. Section 0.20 is amended by revising the introductory paragraph and

paragraphs (b), (c), and (e) and by removing (d) and redesignating paragraph (e) as (d), to read as follows:

§ 0.20 General functions.

The following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Solicitor General, in consultation with each agency or official concerned:

(b) Determining whether, and to what extent, appeals will be taken by the Government to all appellate courts (including petitions for rehearing *en banc* and petitions to such courts for the issuance of extraordinary writs) and, in accordance with § 0.163, advising on the approval of settlements of cases in which he had determined that an appeal would be taken.

(c) Determining whether a brief *amicus curiae* will be filed by the Government, or whether the Government will intervene, in any appellate court.

(d) Assisting the Attorney General, the Deputy Attorney General and the Associate Attorney General in the development of broad Department program policy.

14. Subpart D-1 consisting of newly redesignated § 0.22 is added and redesignated § 0.22 is revised to read as follows:

Subpart D-1—Executive Office for U.S. Attorneys

§ 0.22 General functions.

The Executive Office for United States Attorneys shall be under the direction of a Director who shall:

(a) Provide general executive assistance and supervision to the offices of the United States Attorneys, including:

(1) Evaluating the performance of the offices of the United States Attorneys, making appropriate reports and inspections and taking corrective action where indicated.

(2) Coordinating and directing the relationship of the offices of the United States Attorneys with other organizational units of the Department of Justice.

(b) Publish and maintain a United States Attorneys' Manual and a United States Attorneys' Bulletin for the internal guidance of the United States Attorneys' offices and those other organizational units of the Department concerned with litigation.

(c) Supervise the operation of the Office of Legal Education, the Attorney General's Advocacy Institute and the Legal Education Institute, which shall

develop, conduct and authorize the training of all Federal legal personnel.

(d) Provide the Attorney General's Advisory Committee of United States Attorneys with such staff assistance and funds as are reasonably necessary to carry out the Committee's responsibilities (28 CFR 0.10(d)).

15. Subpart D-2 consisting of newly redesignated §§ 0.23, 0.23a, 0.23b and 0.23c. Redesignated 0.23, 0.23a, 0.23b and 0.23c are revised. Subpart D-2 reads as follows:

Subpart D-2—Office of Legal Policy

§ 0.23 General functions.

The Office of Legal Policy shall be headed by an Assistant Attorney General. The principal responsibilities of the Office shall be to plan, develop, and coordinate the implementation of major policy initiatives of high priority to the Department and to the Administration. In addition, the Assistant Attorney General, Office of Legal Policy, shall:

(a) Examine and study legislation and other policy proposals and coordinate Departmental efforts to secure enactment of those of special interest to the Department and the Administration.

(b) Assist the Attorney General and the Deputy Attorney General in fulfilling responsibilities of the Federal Legal Council to promote coordination and communication among Federal legal offices with the goal of achieving effective, consistent, and efficient management of legal resources throughout the Federal Government.

(c) Manage and coordinate the discharge of Departmental responsibilities related to the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a), including coordination and implementation of policy development and compliance within executive agencies and Departmental units relative to the Freedom of Information Act and within Departmental units relative to the Privacy Act; and, except as otherwise directed by the Attorney General, act on appeals taken from Departmental denials of access to records under the Privacy Act and the Freedom of Information Act.

(d) Advise and assist the Attorney General and the Deputy Attorney General regarding the selection and appointment of Federal judges.

(e) Administer the Federal Justice Research Program.

(f) Represent the Department on the Administrative Conference of the United States and, as appropriate, on regulatory reform matters.

(g) Participate, as appropriate, in internal budget hearings of the Department with regard to policy implications of resource allocations and resource implications of major policy initiatives; and advise the Assistant Attorney General for Administration with regard to information requirements for Departmental policy formulation.

(h) Advise appropriate Departmental officials, from time to time, on investigation, litigation, negotiation, penal, or correctional policies to insure the compatibility of those policies with overall Departmental goals.

(i) Through appropriate participation in meetings or conferences with national, state and local law enforcement and justice system officials, promote the priorities of the Department for the Nation's justice system.

(j) Perform such other duties and functions as may be specially assigned by the Attorney General and the Deputy Attorney General.

In carrying out his responsibilities under this section, the Assistant Attorney General, Office of Legal Policy, shall have the right to call upon the relevant Departmental units for personnel and other assistance.

§ 0.23a Office of Privacy and Information Appeals.

The Office of Privacy and Information Appeals is established in the Office of Legal Policy under the supervision of the Assistant Attorney General, Office of Legal Policy, to assist in acting on information and privacy appeals under §§ 16.7 and 16.47, respectively, of this chapter, except that in the case of appeals from initial decisions in which the Assistant Attorney General, Office of Legal Policy, participated this assistance shall be provided by the Office of Legal Counsel. The Office of Privacy and Information Appeals shall provide staff support to the Department Review Committee, established by § 17.38 of this chapter.

§ 0.23b Office of Information Law and Policy.

There is established, in the Office of Legal Policy, the Office of Information Law and Policy to be headed by the Director of the Office of Information Law and Policy. Under the general supervision and direction of the Assistant Attorney General, Office of Legal Policy, the Director shall:

(a) Advise executive agencies and organizational units of the Department on questions relating to interpretation and application of the Freedom of Information Act and advise the Department on questions relating to

interpretation and application of the Privacy Act.

(b) Coordinate the development and implementation of and compliance with Freedom of Information Act policy within the executive agencies and all organizational units of the Department.

(c) Undertake, arrange, or support training and informational programs concerning both acts for the executive agencies and the Department.

(d) Undertake such other responsibilities as may be assigned by the Assistant Attorney General, Office of Legal Policy.

§ 0.23c Freedom of Information Committee.

(a) The Freedom of Information Committee is established to encourage agency compliance with the Freedom of Information Act throughout the executive branch. The Committee consists of Justice Department attorneys designated by the Assistant Attorney General, Office of Legal Policy.

However, attorneys in other organizational units of the Department shall be so designated only with the consent of the head of the other organizational unit. The Committee, through the Office of Information Law and Policy, shall provide assistance and encouragement to Federal agencies in complying with the letter and spirit of the Freedom of Information Act through training of Federal personnel and consultation with agencies on particular matters arising under the Freedom of Information Act. The Office of Information Law and Policy may also undertake studies and make recommendations to carry out the intent of this subsection.

(b) All Federal agencies which intend to deny requests for records under the Freedom of Information Act should consult with the Freedom of Information Committee through the Director of the Office of Information Law and Policy, to the fullest extent practicable.

16. Section 0.25 is amended as follows:

A. The introductory paragraph is revised.

B. Paragraphs (c), (i), (j) and (k) are removed.

C. Paragraphs (g), (l), (m), (n), and (o) are revised.

D. After revising paragraphs (g), (l), (m), (n) and (o), redesignate paragraphs (d) through (o) and paragraphs (c) through (k), respectively.

E. The affected portions of § 0.25 read as follows:

§ 0.25 General functions.

The following-described matters are assigned to, and shall be conducted,

handled, or supervised by, the Assistant Attorney General, Office of Legal Counsel:

(c) Rendering opinions to the Attorney General and to the heads of the various organizational units of the Department on questions of law arising in the administration of the Department.

(d) Approving proposed orders of the Attorney General, and orders which require the approval of the Attorney General, as to form and legality and as to consistency and conformity with existing orders and memoranda.

(e) Except as to proposed legislation, acting in a liaison capacity for cooperation with the Council of State Governments.

(f) Coordinating the work of the Department of Justice with respect to the participation of the United States in the United Nations and related international organizations and advising with respect to the legal aspects of treaties and other international agreements.

(g) When requested, advising the Attorney General in connection with his review of decisions of the Board of Immigration Appeals and other organizational units of the Department.

(h) Designating within the Office of Legal Counsel (1) a liaison officer, and an alternate, as a representative of the Department in all matters concerning the filing of departmental documents with the Office of the Federal Register, and (2) a certifying officer, and an alternate, to certify copies of documents required to be filed with the Office of the Federal Register (1 CFR 16.1).

(i) Approving certain blind trusts, as required by section 202(f)(4)(B) of the Ethics in Government Act of 1978, 92 Stat. 1843.

(j) Consulting with the Director of the Office of Government Ethics regarding the development of policies, rules, regulations, procedures and forms relating to ethics and conflicts of interest, as required by section 402 of the Ethics in Government Act of 1978, 92 Stat. 1862.

(k) Performing such special duties as may be assigned by the Attorney General, the Deputy Attorney General, or the Associate Attorney General from time to time.

17. Section 0.27 is amended by revising the introductory paragraph and paragraph (d) to read as follows:

§ 0.27 General functions.

The following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant

Attorney General, Office of Legislative Affairs:

(d) Performing such other duties respecting legislative matters as may be assigned by the Attorney General, the Deputy Attorney General, or the Associate Attorney General.

§§ 0.28, 0.29, and 0.29a [Redesignated as §§ 0.23, 0.23b, and 0.23c and Revised]

18. Sections 0.28, 0.29 and 0.29a are redesignated as new §§ 0.23, 0.23b, and 0.23c. The full text appears in Subpart D-2. (See item 15 for a revision to new §§ 0.23, 0.23b and 0.23c).

19. Subpart E-2 consisting of redesignated § 0.28 is added and redesignated § 0.28 is revised to read as follows:

Subpart E-2—Office of Public Affairs

§ 0.28 General functions.

The Office of Public Affairs is headed by a Director of Public Affairs who shall:

(a) Handle matters pertaining to relations with the public generally.

(b) Disseminate information to the press, the radio and television services, the public, members of Congress, officials of Government, schools, colleges, and civic organizations.

(c) Coordinate the relations of the Department of Justice with the news media.

(d) Serve as a central agency for information relating to the work and activities of all agencies of the Department.

(e) Prepare public statements and news releases.

(f) Coordinate Department publications.

(g) Assist the Attorney General and other officials of the Department in preparing for news conferences, interviews and other contacts with the news media.

20. Section 0.30 is amended by revising the introductory paragraph to read as follows:

§ 0.30 General functions.

The following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Director of the Community Relations Service:

21. Section 0.33a is revised to read as follows:

§ 0.33a Organization.

The Office of Intelligence Policy and Review shall be headed by a Counsel for Intelligence Policy, appointed by the Attorney General.

22. Section 0.33b is amended by revising paragraphs (b) and (c) to read as follows:

§ 0.33b Functions.

(b) Serve as the Department representative on interdepartmental boards, committees and other groups dealing with intelligence and counterintelligence matters.

(c) Perform other duties pertaining to intelligence activities as may be assigned by the Attorney General.

23. Subpart F-2, consisting of § 0.34, is added to read as follows:

Subpart F-2—INTERPOL—United States National Central Bureau

§ 0.34 General functions.

The following functions are assigned to, and shall be conducted, handled, or supervised by, the Chief of the United States National Central Bureau, International Criminal Police Organization (INTERPOL—U.S. National Central Bureau), as authorized by statute and within guidelines prescribed by the Department of Justice, in conjunction with the Department of Treasury:

(a) Facilitate international law enforcement cooperation as the United States representative with the International Criminal Police Organization (INTERPOL), on behalf of the Attorney General, pursuant to 22 U.S.C. 263a.

(b) Represent the United States National Central Bureau at criminal law enforcement and international law enforcement conferences and symposia.

(c) Establish and serve as the secretary to a policy advisory group consisting of the designees of the United States Representative to INTERPOL (the Attorney General) and the alternate representative (the Secretary of the Treasury), and of the heads of the participating law enforcement agencies, which will review and develop INTERPOL programs and policies.

(d) Transmit information of a criminal justice, humanitarian, or other law enforcement related nature between National Central Bureaus of INTERPOL member countries, and law enforcement agencies within the United States and abroad; and respond to requests by law enforcement agencies, and other legitimate requests by appropriate organizations, institutions and individuals, when in agreement with the INTERPOL constitution.

(e) Coordinate and integrate information for investigations of an

international nature and identify those involving patterns and trends of criminal activities.

(f) Conduct analyses of patterns of international criminal activities, when specific patterns are observed.

24. Section 0.35 is revised to read as follows:

§ 0.35 Applications for clemency.

The Pardon Attorney shall have charge of the receipt, investigation, and disposition of applications to the President for pardon and other forms of Executive clemency.

25. Section 0.36 is revised to read as follows:

§ 0.36 Recommendations.

The Pardon Attorney shall submit all recommendations in clemency cases to the Attorney General.

26. Sections 0.37 and 0.38 of Subpart G-1 are revised to read as follows:

§ 0.37 Organization.

The Executive Office for United States Trustees shall be headed by a Director appointed by the Attorney General.

§ 0.38 Functions.

The Director shall have responsibility for assisting the Attorney General and the Deputy Attorney General in supervising and providing general coordination and assistance to United States Trustees. The Director shall perform such duties relating to such functions and others under the Bankruptcy Reform Act of 1978 as may be assigned by the Attorney General or the Deputy Attorney General.

27. Section 0.40 is amended by revising the introductory paragraph and paragraphs (a), (b), (d) and (f) and by adding paragraph (j), to read as follows:

§ 0.40 General functions.

The following functions are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Antitrust Division:

(a) General enforcement, by criminal and civil proceedings, of the Federal antitrust laws and other laws relating to the protection of competition and the prohibition of restraints of trade and monopolization, including conduct of surveys of possible violations of antitrust laws, conduct of grand jury proceedings, issuance and enforcement of civil investigative demands, civil actions to obtain orders and injunctions, civil actions to recover forfeitures or damages for injuries sustained by the United States as a result of antitrust law violations, proceedings to enforce compliance with final judgments in antitrust suits and negotiation of

consent judgments in civil actions, civil actions to recover penalties, criminal actions to impose penalties including actions for the imposition of penalties for conspiring to defraud the Federal Government by violation of the antitrust laws, participation as *amicus curiae* in private antitrust litigation; and prosecution or defense of appeals in antitrust proceedings.

(b) Intervention or participation before administrative agencies functioning wholly or partly under regulatory statutes in administrative proceedings which require consideration of the antitrust laws or competitive policies, including such agencies as the Civil Aeronautics Board, Interstate Commerce Commission, Federal Communications Commission, Federal Maritime Commission, Federal Energy Regulatory Commission, Federal Reserve Board, Federal Trade Commission, Nuclear Regulatory Commission, and Securities and Exchange Commission, except proceedings referred to any agency by a federal court as an incident to litigation being conducted under the supervision of another Division in this Department.

(d) As the delegate of the Attorney General furnishing reports and summaries thereof respecting the competitive factors involved in proposed mergers or consolidations of insured banks required by the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(c)), furnishing reports respecting the competitive factors involved in proposed acquisitions under the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730a(e)), furnishing advice regarding the proposed disposition of surplus Government property required by the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 488), furnishing reports regarding deepwater port licenses under the Deepwater Port Act of 1974 (33 U.S.C. 1506), furnishing advice and reports regarding federal coal leases under the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 184(1)), furnishing advice on oil and gas leasing under the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1334(a) 1334(f)(3), 1337), furnishing reports and recommendations regarding the issuance of licenses for exploration or permits for commercial recovery of deep seabed hard minerals pursuant to the Deep Seabed Hard Minerals Resources Act (30 U.S.C. 1413(d)), furnishing advice or reports regarding contracts or operating agreements concerning exploration, development or production

of petroleum reserves under the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7430(g)(1)), and furnishing advice regarding nuclear licenses under the Atomic Energy Act of 1954 (42 U.S.C. 2135).

(f) Assembling information and preparing reports required or requested by the Congress or the Attorney General as to the effect upon the maintenance and preservation of competition under the free enterprise system of various Federal laws or programs, including the Defense Production Act of 1950, the Small Business Act, the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 208-2), the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7431(b)(2)), and the joint resolution of July 28, 1955, giving consent to the Interstate Compact to Conserve Oil and Gas.

(j) Preparing the annual report to the Congress concerning the administration of the Attorney General's functions under the Truth in Lending Act (Title 1 of the Consumer Credit Protection Act) (15 U.S.C. 1613).

28. Section 0.41 is amended by revising the introductory paragraph and paragraphs (b) and (h) to read as follows:

§ 0.41 Special functions.

The following functions are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General, Antitrust Division:

(b) Upon appropriate certification by the Federal Trade Commission, the institution of criminal proceedings under the Federal Trade Commission Act (15 U.S.C. 56(b)), the determination whether the Attorney General will commence, defend or intervene in civil proceedings under the Federal Trade Commission Act (15 U.S.C. 50(a)), and the determination under the Consumer Product Safety Act (15 U.S.C. 2076(b)(7)), whether the Attorney General will initiate, prosecute, defend or appeal an action relating to the Consumer Product Safety Commission.

(h) All litigation arising under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*), the Fair Packaging and Labeling Act (15 U.S.C. 1451 *et seq.*), the Automobile Information Disclosure Act (15 U.S.C. 1231 *et seq.*), the odometer requirements section of the Motor Vehicle Information and Cost Savings

Act (15 U.S.C. 1981 *et seq.*), the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 *et seq.*), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 *et seq.*), the Federal Cautic Poison Act (15 U.S.C. 401 note), the Consumer Credit Protection Act (15 U.S.C. 1611, 1681q and 1681r), the Wool Products Labeling Act of 1939 (15 U.S.C. 68 *et seq.*), the Fur Products Labeling Act (15 U.S.C. 69 *et seq.*), the Textile Fiber Products Identification Act (15 U.S.C. 70 *et seq.*), the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*), the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*), the Refrigerator Safety Device Act (15 U.S.C. 1211 *et seq.*), and Title I of the Magnuson-Moss Warranty—Federal Trade Commission Improvements Act (15 U.S.C. 2301 *et seq.*).

29. Section 0.45 is amended by revising the introductory paragraph and paragraphs (c) and (d) to read as follows:

§ 0.45 General functions.

The following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General, Civil Division:

(c) International Trade—all litigation before the Court of International Trade, including suits instituted pursuant to 28 U.S.C. 1581(i) and suits by the United States to recover customs duties, to recover upon a bond relating to the importation of merchandise required by the laws of the United States or by the Secretary of the Treasury and to recover a civil penalty under sections 592, 704(i)(2), or 734(i)(2) of the Tariff Act of 1930, and the presentation of appeals in the Court of International Trade.

(d) Fraud Cases—civil claims arising from fraud on the Government (other than antitrust, land and tax frauds), including alleged claims under the False Claims Act, the Surplus Property Act of 1944, the Anti-Kickback Act, the Contract Settlement Act of 1944, the Contract Disputes Act of 1978, 19 U.S.C. 1592 and common law fraud.

30. Section 0.45(h) is amended by removing the words "Tax Court" and inserting in their place, the words, "Court of Claims".

§ 0.45a [Removed]

31. Section 0.45a is removed.

32. Section 0.48, Service in customs litigation, is revised to read as follows:

§ 0.48 International trade litigation.

The Attorney-in-Charge, International Trade Field Office, at 26 Federal Plaza, New York, New York 10007, in the Office of the Assistant Attorney General, Civil Division, is designated to accept service of notices of appeals to the Court of Customs and Patent Appeals and all other papers filed in the Court of International Trade, when the United States is an adverse party. (28 U.S.C. 2633(c); 28 U.S.C. 2001(b)).

33. Section 0.50 is amended by revising the introductory paragraph and the introductory text of paragraph (a) to read as follows:

§ 0.50 General functions.

The following functions are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General, Civil Rights Division:

(a) Enforcement of all Federal statutes affecting civil rights, including those pertaining to elections and voting, public accommodations, public facilities, school desegregation, employment (including 42 U.S.C. 2000e–(6)), housing, abortion, sterilization, credit, and constitutional and civil rights of Indians arising under 25 U.S.C. 1301 *et seq.*, and of institutionalized persons, and authorization of litigation in such enforcement, including criminal prosecutions and civil actions and proceedings on behalf of the Government and appellate proceedings in all such cases. Notwithstanding the provisions of the foregoing sentence, the responsibility for the enforcement of the following described provisions of the United States Code is assigned to the Assistant Attorney General, Criminal Division:

34. Section 0.55 is amended by revising the introductory paragraph and paragraphs (b), (d), and (s) to read as follows:

§ 0.55 General functions.

The following functions are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Criminal Division:

(b) Cases involving criminal frauds against the United States except cases assigned to the Antitrust Division by § 0.40(a) involving conspiracy to defraud the Federal Government by violation of the antitrust laws, and tax fraud cases assigned to the Tax Division by Subpart N of this part.

(d) Libels or civil penalty actions (including petitions for remission or mitigation of civil penalties and

forfeitures, offers in compromise, and related proceedings) under the Federal Aviation Act of 1958, the Contraband Transportation Act, the Copyrights Act, the customs laws (except those assigned to the Civil Division which involve sections 592, 704(i)(2) or 734(i)(2) of the Tariff Act of 1930), the Export Control Act of 1949, the Federal Alcohol Administration Act, the Federal Seed Act, the Gold Reserve Act of 1934, the Hours of Service Act, the Animal Welfare Act, the Immigration and Nationality Act, the neutrality laws, laws relating to cigarettes, liquor, narcotics and dangerous drugs, other controlled substances, gambling, war materials, pre-Columbian artifacts, coinage, and firearms, locomotive inspection (45 U.S.C. 22, 23, 28–34), the Organized Crime Control Act of 1970, prison-made goods (18 U.S.C. 1761–1762), the Safety Appliance Act, standard barrels (15 U.S.C. 231–242), the Sugar Act of 1948, and the Twenty-Eight Hour Law.

(s) Civil proceedings in which the United States is the plaintiff filed under the Organized Crime Control Act of 1970, 18 U.S.C. 1963–1968.

§ 0.60 [Removed]

35. Section 0.60 [Reserved] is removed.

36. Section 0.61 is amended by removing paragraphs (e), (f), (i) and (n), by revising the introductory paragraph, (a) and (c), by revising paragraphs (j), (h) and (k) and by redesignating paragraphs (g) as (e), (h) as (f), (j) as (g), (k) as (h) and (l) as (i) respectively. The affected portions of § 0.61 read as follows:

§ 0.61 Functions relating to internal security.

The following functions are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Criminal Division:

(a) Enforcement of all criminal laws relating to subversive activities and kindred offenses directed against the internal security of the United States, including the laws relating to treason, sabotage, espionage, and sedition; enforcement of the Foreign Assets Control Regulations issued under the Trading With the Enemy Act (31 CFR 500.101 *et seq.*); criminal prosecutions under the Atomic Energy Act of 1954, the Smith Act, the neutrality laws, the Arms Export Control Act, the Federal Aviation Act of 1958 (49 U.S.C. 1523) relating to offenses involving the security control of air traffic, and 18 U.S.C. 799; and criminal prosecutions for

offenses, such as perjury and false statements, arising out of offenses relating to national security.

(c) Administration and enforcement of the Internal Security Act of 1950, as amended.

(f) Libels and civil penalty actions (including petitions for remission or mitigation of civil penalties and forfeitures, offers in compromise and related proceedings) arising out of violations of the Trading with the Enemy Act, the neutrality statutes and the Arms Export Control Act.

(g) Enforcement and administration of the provisions of 2 U.S.C. 441e relating to contributions by foreign nationals.

(h) Enforcement and administration of the provisions of 18 U.S.C. 219, relating to officers and employees of the United States acting as agents of foreign principals.

Subpart L—[Removed]

37. Subpart L [Reserved] is removed.
38. Section 0.65 is amended by removing paragraph (i) and redesignating paragraph (j) as paragraph (i), and revising the introductory paragraph to read as follows:

§ 0.65 General functions.

The following functions are assigned to and shall be conducted, handled, or supervised by the Assistant Attorney General in charge of the Land and Natural Resources Division:

39. Section 0.70 is amended by revising the introductory paragraph to read as follows:

§ 0.70 General functions.

The following functions are assigned to and shall be conducted, handled, or supervised by the Assistant Attorney General, Tax Division:

40. Section 0.75 is amended by revising the introductory paragraph and paragraphs (d), (f), (h), (i), (j), (k), and (p) and by adding paragraph (r) to read as follows:

§ 0.75 Policy functions.

The Assistant Attorney General for Administration shall head the Justice Management Division and shall provide advice relating to basic Department policy for budget and financial management, program evaluation, auditing, personnel management and training, procurement, information processing and telecommunications, security and for all matters pertaining to

organization, management, and administration. The following matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General for Administration:

(d) Plan, direct, and coordinate Department-wide personnel management programs, and develop and issue Department-wide policy in all personnel program areas, including training, position classification and pay administration, staffing, employee performance evaluation, employee development, employee relations and services, employee recognition and incentives, equal employment opportunity programs, including the equal opportunity recruitment program (5 U.S.C. 7201), personnel program evaluation, labor management relations, adverse action hearings and appeals, employee grievances, and employee health programs.

(f) Supervise and direct the operation of the Department's central payroll system, automated information services, publication services, library services and any other Department-wide central services which are established by or assigned to the Justice Management Division.

(h) Formulate Department-wide audit policies, standards and procedures; develop, direct and supervise independent and comprehensive internal audits, including examinations authorized by 28 U.S.C. 526, of all organizations, programs, and functions of the Department, and audits of expenditures made under the Department's contracts and grants to ensure compliance with laws, regulations and generally accepted accounting principles; economy and efficiency in operation; and that desired results are being achieved.

(i) Develop and direct a Department-wide directives management program and administer the directives management system.

(j) Plan, direct, administer, and monitor compliance with Department-wide policies, procedures, and regulations concerning records, reports, procurement, printing, graphics, audiovisual activities (including the approval or disapproval of production and equipment requests), forms management, supply management, motor vehicles, real and personal property, space assignment and utilization, and all other administrative services functions.

(k) Formulate Department policies, standards, and procedures for

information systems and the management and use of automatic data processing equipment; review the use and performance of information systems with respect to Department objectives, plans, policies, and procedures; provide technical leadership and support to new Department-wide information systems; review and approve all contracts for information processing let by the Department, and provide the final review and approval of systems and procedures and standards for use of data elements and codes.

(p) Direct all Department security programs including personnel, physical, document, information processing and telecommunications, special intelligence, and employee health and safety programs and formulate and implement Department defense mobilization and contingency planning.

(r) Develop and implement a legal information coordination system for the use of the Department of Justice and, as appropriate, the Federal Government as a whole.

41. Section 0.76 is amended by revising the introductory paragraph and paragraphs (f), (j), and (q) and by removing (l) and (t), respectively, and redesignating paragraphs (m) through (w) as paragraphs (l) through (t), to read as follows:

§ 0.76 Specific functions.

The functions delegated to the Assistant Attorney General for Administration by this Subpart 0 shall also include the following specific policy functions:

(f) Prescribing regulations providing for premium pay pursuant to 5 U.S.C. 5541-5550a.

(j) Excluding the Office of Justice Assistance, Research and Statistics, supervising and directing the Department's procurement and contracting functions and assuring that equal employment opportunity is practiced by the Department's contractors and subcontractors and in federally assisted programs under the Department's control.

(l) Making the certificate required with respect to the necessity for including illustrations in printing (44 U.S.C. 1104).

(m) Making the certificates with respect to the necessity of long distance telephone calls (31 U.S.C. 680a).

(n) Making certificates of need for space (68 Stat. 518, 519).

(o) Exercising, except for the authority conferred in §§ 0.15(b)(1), 0.19(a)(1), 0.137, and 0.138 of Part 0, the power and authority vested in the Attorney General to take final action on matters pertaining to the employment, separation, and general administration of personnel in General Schedule grade GS-1 through GS-15, and in wage board positions; classify positions in the Department under the General Schedule and wage board systems regardless of grade; postaudit and correct any personnel action within the Department; and inspect at any time any personnel operations of the various organizational units of the Department.

(p) Selecting and assigning employees for training by, in, or through non-Government facilities, paying the expenses of such training or reimbursing employees therefor, and preparing and submitting the required annual report to the Office of Personnel Management (5 U.S.C. 4103-4118).

(q) Exercising authority for the temporary employment of experts or consultants of organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)).

(r) Providing assistance in furnishing information to the public under the Public Information Section of the Administrative Procedure Act (5 U.S.C. 552).

(s) Representing the Department in its contacts on matters relating to administration and management with the Congressional Appropriations Committees, Office of Management and Budget, the General Accounting Office, the Office of Personnel Management, the General Services Administration, the Joint Committee on Printing, the Government Printing Office and all other Federal departments and agencies.

(t) Taking final action, including making all required determinations and findings, in connection with the acquisition of real property for use by the Department of Justice.

42. Section 0.77 is amended by revising the introductory paragraph and by revising paragraphs (l) and (m) to read as follows:

§ 0.77 Operational functions.

The Assistant Attorney General for Administration shall provide all direct administrative support services to the Offices, Boards and Divisions of the Department and to the United States Marshals Service, except where independent administrative authority

has been conferred. These services shall include the following:

(l) Taking final action, including making all required determinations and findings, in connection with negotiated purchases and contracts as provided in 41 U.S.C. 252(c) (1)-(11), (14), (15) except that the authority provided in 41 U.S.C. 252(c)(11) shall be limited not to exceed an expenditure of \$25,000 per contract and shall not be further delegated.

(m) Serving as Contracting Officer for the Offices, Boards and Divisions, with authority of redelegation to the Deputy Assistant Attorney General, Office of Personnel and Administration, Justice Management Division. The authority so delegated includes the authority of redelegation to subordinates and to officials within the Offices, Boards and Divisions.

43. Section 0.78 is amended by revising the introductory paragraph to read as follows:

§ 0.78 Implementation of financial disclosure requirements.

The Assistant Attorney General for Administration shall serve as the designated agency ethics official under Title II of the Ethics in Government Act of 1978, 92 Stat. 1836, for purposes of administering the public and confidential financial disclosure programs applicable to officers and employees of the Department of Justice. His duties shall include the following:

44. Section 0.85 is amended by revising the introductory paragraph and paragraphs (b), (h), (i) and (j) to read as follows:

§ 0.85 General functions.

The Director of the Federal Bureau of Investigation shall:

(b) Conduct the acquisition, collection, exchange, classification and preservation of fingerprint cards and identification records from criminal justice and other governmental agencies, including fingerprint cards voluntarily submitted by individuals for personal identification purposes; provide expert testimony in Federal, State and local courts as to fingerprint examinations; and provide fingerprint training and provide identification assistance in disasters and for other humanitarian purposes.

(h) Make recommendations to the Office of Personnel Management in connection with applications for retirement under 5 U.S.C. 8336(c).

(i) Investigate alleged fraudulent conduct in connection with operations of the Department of Housing and Urban Development and other alleged violations of the criminal provisions of the National Housing Act, including 18 U.S.C. 1010.

(j) Exercise the power and authority vested in the Attorney General to approve and conduct exchanges of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing; and exercise the power and authority vested in the Attorney General by 15 U.S.C. 78q(f)(2) and 7 U.S.C. 12a, to approve and conduct exchanges of identification records with certain segments of the securities industry and the Commodity Futures Trading Commission, respectively.

45. Section 0.85a is revised to read as follows:

§ 0.85a Criminal justice policy coordination.

The Federal Bureau of Investigation shall report to the Attorney General on all its activities.

46. Section 0.86 is revised to read as follows:

§ 0.86 Seizure of gambling devices.

The Director, Associate Director, Assistants to the Director, Executive Assistant Directors, Assistant Directors, inspectors and agents of the Federal Bureau of Investigation are authorized to exercise the power and authority vested in the Attorney General to make seizures of gambling devices (18 U.S.C. 1955(d), 15 U.S.C. 1171 *et seq.*) and wire or oral communication intercepting devices (18 U.S.C. 2513).

47. Subpart P-1 is revised, including the subpart heading to read as follows:

Subpart P-1—Office of Justice Assistance, Research and Statistics and Related Agencies

Sec.

0.90 Office of Justice Assistance, Research and Statistics.

0.91 National Institute of Justice.

0.92 Bureau of Justice Statistics.

0.93 Office of Juvenile Justice and Delinquency Prevention.

0.94 The Law Enforcement Assistance Administration.

Authority: 28 U.S.C. 509 and 510, 5 U.S.C. 301 and 8 U.S.C. 1103.

Subpart P-1—Office of Justice Assistance, Research and Statistics and Related Agencies

§ 0.90 Office of Justice Assistance, Research and Statistics.

The Office of Justice Assistance, Research and Statistics is headed by a Director. Under the general authority and policy control of the Attorney General, the Director provides staff support to, and coordinates the activities of, the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention and the Law Enforcement Assistance Administration.

§ 0.91 National Institute of Justice.

The National Institute of Justice is headed by a Director. Under the general authority of the Attorney General the Director performs functions and administers programs, including grantmaking, under 42 U.S.C. 3721-3724, 3781-3789o to support basic and applied research into justice issues.

§ 0.92 Bureau of Justice Statistics.

The Bureau of Justice Statistics is headed by a Director. Under the general authority of the Attorney General the Director performs functions and administers programs, including grantmaking, under 42 U.S.C. 3731-3735, 3781-3789o to provide a variety of statistical services for the criminal justice community.

§ 0.93 Office of Juvenile Justice and Delinquency Prevention.

The Office of Juvenile Justice and Delinquency Prevention is headed by an Administrator. Under the general authority of the Attorney General the Administrator performs functions and administers programs, including grantmaking, under 42 U.S.C. 3781-3789o, 5601 *et seq.*, relating to juvenile delinquency and the improvement of juvenile justice systems.

§ 0.94 The Law Enforcement Assistance Administration.

The Law Enforcement Assistance Administration is headed by an Administrator. Under the general authority of the Attorney General the Administrator performs functions and administers programs, including grantmaking, under 42 U.S.C. 3711-3713, 3741 *et seq.*, 3781-3789o, relating to the administration of criminal justice systems. The Administrator also administers Public Safety Officers Death Benefits (42 U.S.C. 3796 *et seq.*).

(a) Subject to the general supervision and direction of the Attorney General, the Administrator of the Law Enforcement Assistance Administration

is authorized to exercise the power and authority vested in the Attorney General by Executive Order No. 11755 of December 29, 1973, with respect to certification and revoking certification of work-release laws or regulations.

(b) The Administrator of LEAA is authorized to redelegate to any of his subordinates any of the authority delegated to him by § 0.94(a).

48. Section 0.95 is amended by revising the introductory paragraph and paragraph (h) to read as follows:

§ 0.95 General functions.

The Director of the Bureau of Prisons shall direct all activities of the Bureau of Prisons, including:

(h) Conduct of studies and the preparation and submission of reports and recommendations to committing courts respecting disposition of cases in which defendants have been committed for such purposes pursuant to 18 U.S.C. 4205(c).

49. Section 0.96 is amended by removing paragraphs (l), (m) and (n) and redesignating paragraphs (o) through (t) as (l) through (q), respectively, and adding paragraph (r) to read as follows:

§ 0.96 [Amended]

(r) Establishing and designating Bureau of Prisons Institutions (18 U.S.C. 4001, 4042, 4082).

Appendix to Subpart Q—[Amended]

50. Appendix to Subpart Q, Part O is amended by removing the words "Deputy Attorney General" and inserting in their place, the words, "Associate Attorney General" in the undesignated paragraph following paragraph (b)(3).

51. Section 0.100 is amended by revising the introductory paragraph to read as follows:

§ 0.100 General functions.

The following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Administrator of the Drug Enforcement Administration:

52. Section 0.101 is amended by revising the introductory paragraph to read as follows:

§ 0.101 Specific functions.

The Administrator of the Drug Enforcement Administration shall be responsible for:

§ 0.102 [Removed]

53. Section 0.102 [Reserved] is removed.

Appendix to Subpart R—[Amended]

54. Section 3(b) of the Appendix to Subpart R, Part O, is amended by removing the words "Civil Service Commission" and inserting in their place the words "Office of Personnel Management".

55. Section 0.105 is amended by revising the introductory paragraph to read as follows:

§ 0.105 General functions.

The Commissioner of the Immigration and Naturalization Service shall:

56. Section 0.111 is amended by revising the introductory paragraph and paragraphs (e), (h), (i), (j), (k) and (o), by removing paragraph (g), by redesignating paragraphs (h) through (j) as (g) through (i), respectively, and by adding a new paragraph (j), to read as follows:

§ 0.111 General functions.

The Director of the United States Marshals Service shall direct and supervise all activities of the United States Marshals Service including:

(e) Protection of Federal jurists, court officers, and other threatened persons in the interests of justice where criminal intimidation impedes the functioning of the Federal judicial process.

(g) Direction and supervision of a training school for United States Marshals Service personnel.

(h) Disbursement of appropriated funds to satisfy Government obligations incurred in the administration of justice pursuant to 28 U.S.C. 571.

(i) Maintenance of custody and control of money and property seized pursuant to 18 U.S.C. 1955(d), when seized property is turned over to the United States Marshals Service.

(j) Receipt, processing and transportation of prisoners held in the custody of a marshal or transported by the United States Marshals Service under cooperative or intergovernmental agreements.

(k) Sustention of custody of Federal prisoners from the time of their arrest by a marshal or their remand to a marshal by the court, until the prisoner is committed by order of the court to the custody of the Attorney General for the service of sentence, otherwise released from custody by the court, or returned to

the custody of the United States Parole Commission or the Bureau of Prisons.

(o) Acquisition of adequate and suitable detention space, health care and other services and materials required to support prisoners under the custody of the United States Marshal who are not housed in Federal facilities.

57. Section 0.115 is amended by revising the introductory paragraph and paragraphs (b), (d) and (e), by redesignating paragraphs (f) and (g) as (g) and (h), respectively, and by adding new paragraphs (f) and (i) to read as follows:

§ 0.115 General functions.

The Board of Immigration Appeals shall review and determine:

(b) Appeals from decisions of district directors and special inquiry officers on applications for the exercise of the discretionary authority contained in the Immigration and Nationality Act (8 U.S.C. 1182(c)) and from decisions of district directors and officers in charge on applications for the advance exercise of the discretionary authority contained in 8 U.S.C. 1182(d)(3)).

(d) Appeals from decisions of district directors on familial visa petitions filed in accordance with the Immigration and Nationality Act (8 U.S.C. 1154) and from decisions revoking the approval of such petitions in accordance with 8 U.S.C. 1155.

(e) Appeals from determinations of special inquiry officers or district directors relating to the bond, conditional parole or detention of an alien under 8 U.S.C. 1252.

(f) Appeals from decisions of special inquiry officers in rescission of adjustment of status cases under the Immigration and Nationality Act (8 U.S.C. 1256).

(g) Cases involving the decisions referred to in paragraphs (a) through (d) of this section which may be certified to the Board by the Commissioner, or any duly authorized officer of the Service, or which the Board may require to be certified to it.

(h) Cases in which the Board has rendered a decision which are reopened or reconsidered in accordance with 8 CFR 3.2.

(i) Recommendations of regional commissioners regarding the suspension or disbarment of attorneys or representatives from practice before the Service and the Board under 8 CFR 292.3.

58. Section 0.116 is amended by revising the introductory paragraph and adding paragraph (d) to read as follows:

§ 0.116 Decisions subject to review by the Attorney General.

The Board shall refer to the Attorney General for review of its decision all cases which:

(d) Involve the suspension or disbarment, by the Board, of an attorney or representative, from practice before the Service and the Board.

59. Section 0.124 is added to Subpart V to read as follows:

The United States Parole Commission is composed of nine Commissioners of whom one is designated Chairman. The Commission:

§ 0.124 United States Parole Commission.

(a) Has authority, under 18 U.S.C. 4201 *et seq.*, to grant, modify, or revoke paroles of eligible U.S. prisoners serving sentences of more than 1 year, and is responsible for the supervision of parolees and prisoners mandatorily released prior to the expiration of their sentences, and for the determination of supervisory conditions and terms;

(b) Has responsibility in cases in which the committing court specifies that the Parole Commission shall determine the date of parole eligibility of the prisoner;

(c) Has responsibility for determining, in accordance with the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504), whether the service as officials in the field of organized labor or in labor oriented management positions of persons convicted of certain crimes is contrary to the purposes of that act; and

(d) Has responsibility under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111), for determining whether persons convicted of certain crimes may provide services to, or be employed by, employment benefit plans.

60. Sections 0.128, 0.128a, and 0.128b, Subpart V-1, Foreign Claims Settlement Commission, is added to Part 0 to read as follows:

Subpart V-1—Foreign Claims Settlement Commission

Sec.

0.128 Organization.

0.128a General functions.

0.128b Regulations.

Authority: 22 U.S.C. 1622a; 22 U.S.C. 1622 note; 50 U.S.C. app. 2001; 22 U.S.C. 1621-1645o; 50 U.S.C. app. 2001-2017p.

Subpart V-1—Foreign Claims Settlement Commission

§ 0.128 Organization.

The Foreign Claims Settlement Commission of the United States is a separate agency within the Department of Justice. It is composed of a full-time Chairman, and two part-time Commissioners. All functions, powers, and duties of the Commission not directly related to adjudicating claims are vested in the Chairman of the Commission, including the functions set forth in Section 3 of Reorganization Plan No. 1 of 1954 and the authority to issue rules and regulations. The Attorney General provides necessary administrative support and services to the Commission.

§ 0.128a General functions.

The Foreign Claims Settlement Commission has been authorized to determine claims of United States nationals for loss of property in specific foreign countries as a result of nationalization or other taking by the government of those countries by the International Claims Settlement Act of 1949, as amended, (22 U.S.C. 1621-1645o); and to determine claims of United States nationals and organizations in territories of the United States for damage and loss of property as a result of military operations during World War II and claims of United States military personnel and civilian American citizens for having been held in a captured status in specified areas during World War II, the Korean conflict and the Vietnam conflict by the War Claims Act of 1948, as amended (50 U.S.C. app. 2001-2017p).

§ 0.128b Regulations.

All rules of practice and regulations applicable to the management of the affairs of and the adjudication of claims by the Foreign Claims Settlement Commission of the United States are published in 45 CFR Chapter V.

§ 0.130 [Amended]

61. Section 0.130 paragraph (b) is amended by removing the words "Director of the Bureau of the Budget" and inserting in their place the words "Director of the Office of Management and Budget".

§ 0.134 through 0.136 [Removed]

62. Sections 0.134 and 0.135-0.136 [Reserved] are removed.

63. Section 0.137 is revised to read as follows:

§ 0.137 Federal Bureau of Investigation.

Except as to persons in the positions of Associate Director, Assistant to the Director, Executive Assistant Director, and Assistant Director of the Federal Bureau of Investigation, the Director of the Federal Bureau of Investigation is authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, classification, and separation) of personnel, including personnel in wage board positions in the Federal Bureau of Investigation. All personnel actions taken under this section shall be subject to postaudit and correction by the Assistant Attorney General for Administration.

§ 0.138 [Amended]

64. Section 0.138 is amended by removing the words "and Law Enforcement Assistance Administration" from the title and by removing the words "and the Administrator of the Law Enforcement Assistance Administration," from the section and by removing the words "Wage Grade positions" and inserting in their place the words "wage board positions".

65. Section 0.139 is amended by revising paragraphs (a) and (c) to read as follows:

§ 0.139 Procurement matters.

(a) The Assistant Attorney General for Administration is authorized to exercise the authority vested in the Attorney General by law with respect to contractual actions executed on behalf of the Offices, Boards and Divisions. In accordance with the limitations specified in 41 CFR 28-1.404-51 respecting redelegation of contracting authority, the Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, Inc., the Commissioner of the Immigration and Naturalization Service, the Administrator of the Drug Enforcement Administration, the Director of the Office of Justice Assistance, Research and Statistics, and the Director of the United States Marshals Service are, as to their respective jurisdictions, authorized to exercise the authority vested in the Attorney General by law with respect to procurement matters. The Department of Justice Contract Review Committee will review contracts, prior to award, as specified in paragraph (b) of this section, except that

contracts of the Federal Bureau of Investigation shall be reviewed within that Bureau.

(c) The Assistant Attorney General for Administration is authorized to postaudit any procurement transactions throughout the Department and direct that corrective actions be taken wherever deemed necessary, and to inspect at any time the procurement operations of the Federal Bureau of Investigation, Bureau of Prisons, Federal Prison Industries, Inc., Immigration and Naturalization Service, Drug Enforcement Administration, United States Marshals Service and Office of Justice Assistance, Research and Statistics.

§ 0.140 [Amended]

66. Section 0.140, introductory paragraph, is amended by removing the words "Administrators of the Law Enforcement Assistance Administration" and inserting in their place the words "Director of the Office of Justice Research and Statistics" and by removing the words "U.S. Marshals Services" and inserting in their place the words "United States Marshals Service" and paragraph (a) is amended by removing the words "section 3828 of the Revised Statutes of the United States (44 U.S.C. 324)." and inserting "44 U.S.C. 3702."

§ 0.141 [Amended]

67. Section 0.141 is amended by removing the words "Administrators of the Law Enforcement Assistance Administration" and inserting in their place "Director of the Office of Justice Assistance, Research and Statistics".

68. Section 0.142 is amended by revising the introductory paragraph and by adding paragraph (f) to read as follows:

§ 0.142 Per Diem and travel allowances.

The Director of the Federal Bureau of Investigation, Director of the Bureau of Prisons, Commissioner of Federal Prison Industries, Inc., Commissioner of Immigration and Naturalization, Administrator of the Drug Enforcement Administration, Director of the United States Marshals Service, and Director of the Office of Justice Assistance, Research and Statistics, as to their respective jurisdictions, and the Assistant Attorney General for Administration, as to all other organizational units of the Department (including United States Attorneys), except as provided in paragraph (f) below, are authorized to exercise the authority of the Attorney General to

take final action in the following matters:

(f) The heads of Offices, Boards and Divisions, in addition to the Bureaus, have the authority to approve the use of cash in excess of \$100 in lieu of Government Transportation Requests in emergency circumstances, in accordance with regulations prescribed by the Administrator of the General Services Administration.

§ 0.143 [Amended]

69. Section 0.143 is amended by removing the words "Administrators of the Law Enforcement Assistance Administration" and inserting in their place the words "Director of the Office of Justice Assistance, Research and Statistics" and by removing the amount "\$1,000" and inserting in its place, the amount, "5,000".

70. Section 0.144 is revised to read as follows:

§ 0.144 Determination of basic workweek.

The Director of the Federal Bureau of Investigation, Director of the Bureau of Prisons, Commissioner of Federal Prison Industries, Inc., Commissioner of the Immigration and Naturalization Service, Administrator of the Drug Enforcement Administration, Director of the Office of Justice Assistance, Research and Statistics, Director of the Executive Office for United States Attorneys and Director of the United States Marshals Service, as to their respective jurisdictions, and the Assistant Attorney General for Administration, as to all other organizational units of the Department, are authorized to exercise the authority vested in the Attorney General by 5 U.S.C. 6101(a), to determine that the organizational unit concerned would be seriously handicapped in carrying out its functions or that costs would be substantially increased except upon modification of the basic workweek, and when such determination is made to fix the basic workweek of officers and employees of the unit concerned.

§§ 0.145 and 0.146 [Amended]

71. Sections 0.145 and 0.146 are amended by removing the words "Administrator(s) of the Law Enforcement Assistance Administration" and inserting in their place "Director of the Office of Justice Assistance, Research and Statistics".

72. Section 0.147 is revised to read as follows:

§ 0.147 Certification of obligations.

The following-designated officials are authorized to make the certifications required by 31 U.S.C. 200(c): for the Federal Bureau of Investigation, the Assistant Director, Administrative Services Division; for the Bureau of Prisons, the Assistant Director for Planning and Development; for the Federal Prison Industries, Inc., the Secretary; for the Immigration and Naturalization Service, the Assistant Commissioner, Administrative Division; for the Drug Enforcement Administration, the Director of the Office of Administration and Management; for the Office of Justice Assistance, Research and Statistics, the Comptroller; and for all other organizational units of the Department (including United States Attorneys and United States Marshals), the Deputy Assistant Attorney General, Office of the Controller, Justice Management Division.

73. Section 0.148 is revised to read as follows:

§ 0.148 Certifying officers.

The following-named officials are authorized to designate employees to certify vouchers (31 U.S.C., 82b): for the Federal Bureau of Investigation, the Director; for the Bureau of Prisons, the Director and the Associate Commissioner, Federal Prison Industries, Inc.; for the Federal Prison Industries, Inc., the Associate Commissioner and the Director, Bureau of Prisons; for the Immigration and Naturalization Service, the Commissioner; for the Drug Enforcement Administration, the Administrator; for the Office of Justice Assistance, Research and Statistics, the Director; for the United States Marshals Service, the Director; and for all other organizational units of the Department (including United States Attorneys), the Assistant Attorney General for Administration.

74. Section 0.149 is revised to read as follows:

§ 0.149 Disbursing employees.

The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of the Federal Prison Industries, Inc., the Commissioner of the Immigration and Naturalization Service, the Administrator of the Drug Enforcement Administration, the Director of the United States Marshals Service, and the Director of the Office of Justice Assistance, Research and Statistics, as to their respective jurisdictions, and the Assistant Attorney General for Administration, as to all other

organizational units of the Department (including United States Attorneys), are authorized to request Treasury Department designation of disbursing employees (including cashiers). Existing authorizations to request designations shall remain in effect until terminated by the official who by this section would be authorized to request such designations.

§§ 0.151 and 0.152 [Amended]

75. Section 0.151 and 0.152 are amended by removing the words "Administrators of the Law Enforcement Assistance Administration" and inserting in their place the words "Director of the Office of Justice Assistance, Research and Statistics".

76. Section 0.153 is revised to read as follows:

§ 0.153 Selection and assignment of employees for training.

The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, Inc., the Commissioner of the Immigration and Naturalization Service, the Administrator of the Drug Enforcement Administration, the Director of the Office of Justice Assistance, Research and Statistics, the Director of the Executive Office for United States Attorneys and the Director of the United States Marshals Service, as to their respective jurisdictions, and the Assistant Attorney General for Administration, as to all other organizational units of the Department, are hereby authorized to exercise the authority vested in the Attorney General by 5 U.S.C. 4109, with respect to the selection and assignment of employees for training by, in, or through Government facilities and the payment or reimbursement of expenses for such training.

§§ 0.154 and 0.155 [Amended]

77. Sections 0.154 and 0.155 are amended by removing the words "Administrators of the Law Enforcement Assistance Administration" and inserting in their place "Director of the Office of Justice Assistance, Research and Statistics".

§§ 0.157 and 0.158 [Removed]

78. Sections 0.157 and 0.158 [Reserved] are removed.

79. Section 0.160 is revised to read as follows:

§ 0.160 Offers which may be accepted by Assistant Attorneys General.

(a) Subject to the limitations set forth in paragraph (c) of this section the

Assistant Attorneys General of the litigating divisions are authorized, with respect to matters assigned to their divisions, to:

(1) Accept offers in compromise of claims on behalf of the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$750,000 or 10 percent of the original claim, whichever is greater.

(2) Accept offers in compromise of, or settle administratively, claims against the United States in all cases where the principal amount of the proposed settlement does not exceed \$750,000;

(3) Accept offers to compromise all nonmonetary cases.

(b) Subject to the limitations set forth in paragraph (c) of this section, the Assistant Attorney General, Tax Division, is authorized to accept offers in compromise of, or settle administratively, claims against the United States, regardless of the amount of the proposed settlement, in any case where the Joint Committee on Taxation has indicated it has no adverse criticism of the settlement.

(c) Any settlement, regardless of the amount or circumstances, should be referred to the Deputy Attorney General:

(1) When for any reason, the compromise of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the \$750,000 designated in the preceding part of this section.

(2) When the Assistant Attorney General is of the opinion that because of a question of law or policy presented, or because of opposition to the proposed settlement by the agency or agencies involved, or for any other reason, the offer should receive the personal attention of the Deputy Attorney General.

80. Section 0.161 is revised to read as follows:

§ 0.161 Acceptance of certain offers by the Deputy Attorney General.

(a) In all cases in which the amount of the offer in proposed settlement exceeds the applicable amount specified in § 0.160, and in any case falling within any of the exceptions enumerated in § 0.160(c), the Assistant Attorney General concerned shall, if in his opinion the offer of compromise, or administrative action to settle, should be accepted, transmit his recommendation to that effect to the Deputy Attorney General.

(b) The Deputy Attorney General is authorized to exercise the settlement authority of the Attorney General as to

all claims on behalf of, and all claims against, the United States.

§ 0.162 [Amended]

81. Section 0.162 is amended by removing the words "within paragraph (b) of § 0.160" and inserting in their place "under § 0.160(c)(2)" and by removing from the title the words "Assistant Attorney Generals" and inserting in their place the words "Assistant Attorneys General".

§§ 0.164 and 0.165 [Amended]

82. Sections 0.164 and 0.165 are amended by removing the amount "\$250,000" and inserting, in its place, the amount, "\$750,000" and by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

Section 0.167 is amended by revising paragraphs (a) and (b) to read as follows:

§ 0.167 [Amended]

(a) Any proposed allowance by the Director, without hearing, of a title or debt claim.

(b) Any final determination of a title of debt claim, whether by allowance or disallowance.

* * *

§ 0.168 [Amended]

84. Section 0.168(b) is amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

85. Section 0.171 is amended by revising paragraph (a) to read as follows:

§ 0.171 Judgments, fines, penalties and forfeitures.

(a) Each Assistant Attorney General shall be responsible for conducting, handling, or supervising such litigation or other actions as may be appropriate to accomplish the satisfaction, collection, or recovery, as the case may be, or judgments, fines, penalties, and forfeitures (including bailbond forfeitures) arising in connection with cases under his jurisdiction. In order to assure the efficient and effective performance of the functions described in the first sentence of this paragraph, each Assistant Attorney General shall designate an individual or unit in his division to be responsible for the performance of those functions.

* * *

Appendix to Subpart Y—[Amended]

86. In the Appendix to Subpart Y, remove Civil Division Directive No. 110-

78 and add in lieu thereof, Civil Division Directive No. 145-81 to read as follows:

Directive No. 110-78—[Removed]

Directive No. 145-81—Redelegation of Authority of Branch Directors, Heads of Offices and United States Attorneys in Civil Division Cases

Section 1. Authority to compromise or close cases.

(a) Delegation to Deputy Assistant Attorneys General. The Deputy Assistant Attorneys General are authorized to act for, and to exercise the authority of, the Assistant Attorney General in charge of the Civil Division with respect to the institution of suits, the acceptance or rejection of compromise offers, and the closing of claims or cases, unless any such authority is required by law to be exercised by the Assistant Attorney General personally or has been specifically delegated to another Department official.

(b) Delegation to Branch Directors, the Director of the Appellate Staff, the Chief of the Judgment Enforcement Unit and the Director of the Office of Foreign Litigation. Subject to the limitations imposed by paragraph (d) of this section, Branch Directors, the Director of the Appellate Staff, the Chief of the Judgment Enforcement Unit and the Director of the Office of Foreign Litigation are hereby authorized, with respect to matters assigned to their respective components, to reject any offer in compromise and to accept offers in compromise and close cases in the manner and to the same extent as Deputy Assistant Attorneys General, except that Branch Directors, the Director of the Appellate Staff, the Chief of the Judgment Enforcement Unit and the Director of the Office of Foreign Litigation cannot accept or reject any offers in compromise of, or settle administratively, any case against the United States where the principal amount to be paid by the United States exceeds \$150,000. Nor can these Civil Division officials accept or reject any offers in compromise of claims on behalf of the United States in which the difference between the gross amount of the original claim and the proposed settlement exceeds \$150,000 or 10 percent of the original claim, whichever is greater. Branch Directors, the Chief of the Judgment Enforcement Unit and the Director of the Office of Foreign Litigation are further authorized to file suits, counterclaims, and cross-claims, or to take any other action necessary to protect the interests of the United States in all nonmonetary cases, in all routine loan collection and foreclosure cases, and in other monetary cases where the gross amount of the claim does not exceed \$150,000.

(c) Delegation to U.S. Attorneys and Attorneys-in-Charge of Field Offices. Subject to the limitations imposed by paragraph (d) of this section, United States Attorneys and Attorneys-in-Charge of field offices are authorized in any case for which they have primary responsibility, to:

(1) Reject any offer to settle a monetary claim on behalf of the United States where the amount offered is below \$100,000 or below an amount previously indicated by the

appropriate Civil Division official to be an acceptable minimum.

(2) Prior to entry of final judgment in the trial court, accept or reject offers to compromise cases and close claims which have been delegated to them by the Civil Division, as set forth in section 4 (a) and (b) of this directive, in the same manner and to the same extent as Branch Directors, except that United States Attorneys and Attorneys-in-Charge of Field Offices cannot accept or reject any offers in compromise of any case against the United States where the principal amount of the proposed settlement exceeds \$100,000. Nor can United States Attorneys or Attorneys-in-Charge of Field Offices accept or reject any offers in compromise of claims in behalf of the United States in which the differences between the gross amount of the original claim and the proposed settlement exceeds \$100,000 or 10 percent of the original claim, whichever is greater. United States Attorneys may redelegate this authority to Assistant United States Attorneys who supervise other Assistant United States Attorneys who handle civil litigation.

(d) Limitations on delegations. The authority to compromise cases, file suits, counterclaims, and cross-claims, or take any other action necessary to protect the interests of the United States, delegated by paragraphs (a), (b) and (c) of this section, may not be exercised, and the matter shall be submitted for resolution to the Assistant Attorney General, Civil Division, when:

(1) For any reason, the proposed action, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the respective amounts designated in the above paragraphs.

(2) Because a novel question of law or a question of policy is presented, or for any other reason, the proposed action should, in the opinion of the officer or employee concerned, receive the personal attention of the Assistant Attorney General, Civil Division.

(3) The agency or agencies involved are opposed to the proposed action. (The views of an agency must be solicited with respect to any significant proposed action if it is a party, if it has asked to be consulted with respect to any such proposed action, or if such proposed action in a case would adversely affect any of its policies.)

(4) The U.S. Attorney involved is opposed to the proposed action and requests that the decision be submitted to the Assistant Attorney General for reconsideration.

Section 2. Action Memoranda.

(a) Whenever a United States Attorney compromises a case or closes a claim pursuant to the authority delegated by this Directive, a memorandum fully explaining the basis for the action taken shall be executed and placed in the file. A copy of the memorandum must be sent to the appropriate branch of the Civil Division.

(b) The compromising of cases or closing of claims which a United States Attorney is not authorized to approve shall be referred to the Civil Division official having the requisite approval authority. The referral memorandum shall contain a detailed description of the matter, the United States

Attorney's recommendation, and a full statement of the reasons therefor.

(c) Whenever an official of the Civil Division accepts or rejects a compromise or closes a claim pursuant to the authority delegated by this Directive, a memorandum containing a detailed statement of the matter and a full statement of the reasons for the action taken shall be placed in the file.

Section 3. Return of civil judgment cases to agencies. Claims arising out of judgments in favor of the United States which cannot be permanently closed as uncollectible may be returned to the referring Federal agency for servicing and surveillance whenever all conditions set forth in USAM 4-2.230 have been met.

Section 4. Authority for direct reference and delegation of Civil Division cases to United States Attorneys.

(a) Direct reference to United States Attorneys by agencies. The following civil actions under the jurisdiction of the Assistant Attorney General, Civil Division, may be referred by the agency concerned directly to the United States Attorney for handling in trial courts and United States Attorneys are hereby delegated the authority to take all necessary steps to protect the interests of the United States, without prior approval of the Assistant Attorney General, Civil Division, or his representatives. Agencies may, however, if special handling is desired, refer these cases to the Civil Division. Also, when constitutional questions or other significant issues arise in the course of such litigation, or when an appeal is taken by any party, the Civil Division should be consulted.

(1) Money claims by the United States (except penalties and forfeitures) where the gross amount of the original claim does not exceed \$100,000.

(2) Single family dwelling house foreclosures arising out of loans made or insured by the Department of Housing and Urban Development, the Veterans Administration and the Farmers Home Administration.

(3) Suits to enjoin violations of, and to collect penalties under, the Agricultural Adjustment Act of 1938, 7 U.S.C. 1376, the Packers and Stockyards Act, 7 U.S.C. 203, 207(g), 213, 215, 216, 222, and 228a, the Perishable Agricultural Commodities Act, 1930, 7 U.S.C. 499c(a) and 499h(d), the Egg Products Inspection Act, 21 U.S.C. 1031 *et seq.*, the Potato Research and Promotion Act, 7 U.S.C. 2611 *et seq.*, the Cotton Research and Promotion Act of 1986, 7 U.S.C. 2101 *et seq.*, the Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*, and the Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. 601 *et seq.*

(4) Suits by social security beneficiaries under the Social Security Act, 42 U.S.C. 402 *et seq.*

(5) Social security disability suits under 42 U.S.C. 423 *et seq.*

(6) Black lung beneficiary suits under the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 921 *et seq.*

(7) Suits by Medicare beneficiaries under 42 U.S.C. 1395ff.

(8) Garnishment actions authorized by 42 U.S.C. 659 for child support or alimony payments.

(9) Judicial review of actions of the Secretary of Agriculture under the food stamp program, pursuant to the provisions of 7 U.S.C. 2022 involving retail food stores.

(10) Cases referred by the Department of Labor for the collection of penalties or for injunctive action under the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970.

(11) Cases referred by the Department of Labor solely for the collection of civil penalties under the Farm Labor Contractor Registration Act of 1963, 7 U.S.C. 2048(b).

(12) Cases referred by the Interstate Commerce Commission to enforce orders of the Interstate Commerce Commission or to enjoin or suspend such orders pursuant to 28 U.S.C. 1336.

(13) Cases referred by the United States Postal Service for injunctive relief under the nonmailable matter laws, 39 U.S.C. 3001 *et seq.*

(b) Delegation to United States Attorneys. Branch and office directors and unit chiefs of the Civil Division may delegate to United States Attorneys any claims or suits, including those involving amounts up to \$150,000, where the circumstances warrant such delegations. Upon the recommendation of branch and office directors and unit chiefs, the Assistant Attorney General, Civil Division, may delegate to United States Attorneys any claims or suits involving amounts up to \$750,000, where the circumstances warrant such delegations. All delegations pursuant to this subsection shall be in writing and no United States Attorney shall have authority to compromise or close any such delegated case or claim except as is specified in the required written delegation. The limitations of section 1(d) of this directive remain applicable in any case or claim delegated hereunder.

(c) Cases not covered. Regardless of the amount in controversy, the following matters will normally not be referred to United States Attorneys for handling but will be retained and handled by the appropriate branch within the Civil Division:

(1) Civil Actions in the Court of Claims.

(2) Cases within the jurisdiction of the commercial branch involving patents, trademarks, copyrights, etc. (See USAM 4-1.225).

(3) Cases before the United States Court of International Trade and the Court of Customs and Patent Appeals.

(4) Any case involving bribery, conflict of interest, breach of fiduciary duty, breach of employment contract, or exploitation of public office; or any False Claims Act case where the amount of single damages, plus forfeitures, exceeds \$100,000.

(5) Any case involving vessel-caused pollution in navigable waters.

(6) Cases on appeal, except as determined by the Director of the Appellate Staff.

(7) Any case involving litigation in a foreign court.

Section 5. Adverse decisions. All final judicial decisions adverse to the Government involving any delegated case must be reported promptly to the Assistant Attorney General, Civil Division, attention Director, Appellate Staff. Consult Title 2 of the United States Attorney's Manual for procedures and time limitations.

Section 6. This directive supersedes Civil Division Directive No. 110-78 regarding redelegation of the Assistant Attorney General's authority in Civil Division cases to branch directors, heads of offices, and United States Attorneys. This directive clarifies the intent set forth in Directive 110-78 which this directive supersedes.

87. In the Appendix to Subpart Y, Part O, Tax Division Directive No. 40, Redlegation of Authority to Compromise and Close Civil Claims, Tax Division Directive No. 40 is redesignated as Directive No. 41 and amended as follows:

Directive No. 40—[Redesignated as Directive No. 41]

Directive No. 41—Redlegation of Authority to Compromise and Close Civil Claims

Directive No. 41—[Amended]

(a) Section 3, the comma appearing after the number "6" is removed.

(b) Section 4, paragraph (E), a comma is added after the word "concessions".

(c) Section 6, paragraph (c) is amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

(d) Section 7 is amended to read as follows: Section 7. This directive supersedes Tax Division Directive No. 40, effective December 10, 1980.

(e) Section 8 is amended to read as follows: Section 8. This directive shall become effective on the date of its publication in the Federal Register.

§ 0.175 [Amended]

88. Section 0.175(a) is amended by removing the words "sections 2514 and 6003, of Title 18, United States Code" and inserting in their place the words "18 U.S.C. 6003" and by removing the words "section 6004 of Title 18, United States Code" and inserting in their place the citation "18 U.S.C. 6004".

89. Section 0.175(b) is amended by removing the words "Assistant Attorney Generals" and inserting in their place "Assistant Attorneys General", and by removing the words "Internal Security Division", and by removing the words "section 2514 and 6003 of Title 18, United States Code" and inserting in their place the citation "18 U.S.C. 6003".

90. Section 0.175(c) is amended by removing the words "Assistant Attorney Generals" and inserting in their place the words "Assistant Attorneys General".

§ 0.176 [Amended]

91. Section 0.176 is amended by removing the words "section 6005 of Title 18, United States Code" and inserting in their place the citation "18 U.S.C. 6005", and by removing the words

"Assistant Attorney Generals" and inserting in their place "Assistant Attorneys General".

§ 0.178 [Amended]

92. Section 0.178(a) is amended by removing the words "Assistant Attorney Generals" and inserting in their place "Assistant Attorneys General" and by removing the words "Deputy Assistant Attorney Generals" and inserting in their place "Deputy Assistant Attorneys General".

93. Section 0.190 is amended to read as follows:

§ 0.190 Changes within organizational units.

(a) The head of each Office, Board, Division or Bureau may from time to time propose the establishment, transfer, reorganization or termination of major functions within his organizational unit as he may deem necessary or appropriate. In each instance, the head of the Office, Board, Division or Bureau shall submit the proposed change in writing to the Assistant Attorney General for Administration. The Assistant Attorney General for Administration shall evaluate the proposal and shall submit the proposed change, along with his recommendation, to the Associate Attorney when appropriate, and in all other cases directly to the Deputy Attorney General. Where the Associate Attorney General has received a proposed change, he shall evaluate it, and shall submit it along with his recommendation, to the Deputy Attorney General. The Deputy Attorney General shall then approve or disapprove the change.

(b) The approval shall be final in the case of changes which do not affect the overall structure of the Department. Proposed changes which are determined by the Deputy Attorney General to affect the overall structure of the Department's organization shall be forwarded by the Deputy Attorney General to the Attorney General for final approval prior to implementation, and shall be effectuated by issuance of an Attorney General's order, in accordance with Subpart AA of this part.

PART 1—EXECUTIVE CLEMENCY

94. Section 1.1 is revised to read as follows:

§ 1.1 Submission of petition; form to be used.

Persons seeking Executive clemency, by pardon or by commutation of sentence, including remission of fine, shall execute formal petitions therefor which shall be addressed to the

President of the United States and which, except those relating to military or naval offenses, shall be submitted to the Attorney General of the United States. Appropriate forms for such petitions will be furnished by the Department of Justice, Washington, D.C., upon application therefor. Forms for petition for commutation of sentence may also be obtained from the warden of Federal penal institutions. A petitioner applying for Executive clemency with respect to military or naval offenses should submit his petition directly to the Secretary of the military department which had original jurisdiction over the court-martial trial and conviction of the petitioner. In such instance, a form furnished by the Department of Justice may be used but should be modified to meet the needs of the particular case.

§ 1.4 [Amended]

95. Section 1.4 is amended by removing the words "Board of Parole" and inserting in their place the words "Parole Commission".

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

§§ 2.1 and 2.27 [Amended]

96. Sections 2.1(c) and 2.27(a) are amended by removing the words "Washington, D.C." and inserting in their place the words "Chevy Chase, Maryland".

§ 2.27 [Amended]

97. Section 2.27(b) is amended by removing the words "320 First Street, NW, Washington, D.C. 20537" and inserting in their place the words "5550 Friendship Boulevard, Chevy Chase, Maryland 20815-7286".

§ 2.40 [Amended]

98. Section 2.40(a)(1) is amended by removing the words "Washington, D.C. 20537" and inserting in their place the words "Chevy Chase, Maryland 20815-7286".

§ 2.56 [Amended]

99. Section 2.56(d) is amended by removing the words "Office of Privacy and Information Appeals (Associate Attorney General)" and inserting in their place the words "Assistant Attorney General, Office of Legal Policy".

PART 3—GAMBLING DEVICES

100. Section 3.2 is revised to read as follows:

§ 3.2 Assistant Attorney General, Criminal Division.

The Assistant Attorney General, Criminal Division, is authorized to exercise the power and authority of and to perform the functions vested in the Attorney General by the Act. (See also 28 CFR 0.55(f).)

101. Section 3.5 is revised to read as follows:

§ 3.5 Seizure of gambling devices.

The Director, Associate Director, Assistants to the Director, Executive Assistant Directors, Assistant Directors, inspectors and agents of the Federal Bureau of Investigation are authorized to exercise the power and authority vested in the Attorney General to make seizures of gambling devices.

102. Section 3.6 is revised to read as follows:

§ 3.6 Seized gambling devices.

All gambling devices seized pursuant to the Act shall be held for or turned over to, the United States Marshal for the district in which the seizure is made. Except for the power and authority conferred by section 3.5 and the power described in the last sentence of this section, United States Marshals are, in accordance with the proviso in the Act, authorized and designated as the officers to perform the various duties with respect to seizures and forfeitures of gambling devices under the Act which are comparable to the duties performed by collectors of customs or other persons with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws. The power to authorize remission or mitigation of seizure or forfeiture of gambling devices under the Act shall be exercised only by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General, Criminal Division.

PART 4—PROCEDURE GOVERNING APPLICATIONS FOR CERTIFICATES OF EXEMPTION UNDER THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959, AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

§§ 4.3 and 4.17 [Amended]

103. Sections 4.3 and 4.17 are amended by removing the words "320 First St., N.W., Washington, D.C. 20537" and inserting in their place the words, "5550 Friendship Boulevard, Chevy Chase, Maryland 20815-7286".

PART 5—ADMINISTRATION AND ENFORCEMENT OF FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

§ 5.200 [Amended]

104. Section 5.200(b) is amended by removing the words "DJ-301" and inserting in their place the words "OBD-63".

§ 5.201 [Amended]

105. Section 5.201(a)(1) is amended by removing the words "DJ-306" and inserting in their place the words "OBD-67".

§ 5.201 [Amended]

106. Section 5.201(a)(2) is amended by removing the words "DJ-304" and inserting in their place the words "OBD-65".

§ 5.202 [Amended]

107. Section 5.202(e) is amended by removing the words "DJ-305" and inserting in their place the words "OBD-66".

§ 5.203 [Amended]

108. Section 5.203(a) is amended by removing the words "DJ-302" and inserting in their place the words "OBD-64".

§ 5.204 [Amended]

109. Section 5.204(a) is amended by removing the words "DJ-307" and inserting in their place the words "OBD-68".

§ 5.205 [Amended]

110. Section 5.205(a) is amended by removing the words "DJ-302" and inserting in their place the words "OBD-64".

§ 5.401 [Amended]

111. Section 5.401(b) is amended by removing the words "DJ-310" and inserting in their place the words "OBD-69".

PART 8—CONFISCATION OF WIRE OR ORAL COMMUNICATION INTERCEPTING DEVICES

112. Section 8.1 is revised to read as follows:

§ 8.1 Seizure of intercepting devices.

The Director, Associate Director, Assistant to the Director, Executive Assistant Directors, Assistant Directors, inspectors and agents of the Federal Bureau of Investigation are authorized to exercise the power and authority vested in the Attorney General (18 U.S.C. 2513) to make seizures of wire or oral communication intercepting devices.

PART 9—REMISSION OR MITIGATION OF CIVIL FORFEITURES

§§ 9a.5 and 9a.7 [Amended]

113. Sections 9a.5 and 9a.7 and the table of contents are amended by removing the amount "\$2,500" and inserting in its place the amount "\$10,000".

PART 12—REGISTRATION OF CERTAIN PERSONS HAVING KNOWLEDGE OF FOREIGN ESPIONAGE, COUNTERESPIONAGE, OR SABOTAGE MATTERS UNDER THE ACT OF AUGUST 1, 1956

§ 12.3 [Amended]

114. Section 12.3, the heading to the section and table of contents are amended by removing the words "Foreign Agents Registration Section" and inserting in their place the words "Foreign Agents Registration Unit".

PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

115. Section 14.1 is revised to read as follows:

§ 14.1 Scope of regulations.

These regulations shall apply only to claims asserted under the Federal Tort Claims Act. The terms "Federal agency" and "agency", as used in this part, include the executive departments, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States but do not include any contractor with the United States.

§ 14.2 [Amended]

116. Section 14.2(a) is amended by removing the words "section 2672 of Title 28, United States Code" and inserting in their place the citation "28 U.S.C. 2401(b) and 2672".

117. Section 14.2(b)(1) is amended by adding the following sentence to the end of the paragraph: "A claim shall be presented as required by 28 U.S.C. 2401(b) as of the date it is received by the appropriate agency."

118. Section 14.2(b)(2) is revised to read as follows:

§ 14.2 Administrative claim; when presented.

* * *

(b)(1) * * *

(2) When more than one Federal agency is or may be involved in the events giving rise to the claim, an agency with which the claim is filed shall contact all other affected agencies in order to designate the single agency which will thereafter investigate and

decide the merits of the claim. In the event that an agreed upon designation cannot be made by the affected agencies, the Department of Justice shall be consulted and will thereafter designate an agency to investigate and decide the merits of the claim. Once a determination has been made, the designated agency shall notify the claimant that all future correspondence concerning the claim shall be directed to that Federal agency. All involved Federal agencies may agree either to conduct their own administrative reviews and to coordinate the results or to have the investigations conducted by the designated Federal agency, but, in either event, the designated Federal agency will be responsible for the final determination of the claim.

* * *

§ 14.5 [Amended]

119. Section 14.5 is amended by removing the amount "\$2,500" and inserting in its place the amount "\$5,000".

PART 15—DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES, AND CERTIFICATION AND DEFENSE OF CERTAIN SUITS AGAINST PROGRAM PARTICIPANTS UNDER THE NATIONAL SWINE FLU IMMUNIZATION PROGRAM OF 1976

§ 15.1 [Amended]

120. Section 15.1(a) is amended by removing the words "Chief of the Torts Section" and inserting in their place the words "Branch Director of the Torts Branch".

121. Section 15.1(b) is amended by removing the words "Assistant Section Chief for Swine Flu Litigation, Torts Section" and inserting in their place the words "Branch Director, Torts Branch", and by removing the words "Assistant Section Chief for Swine Flu Litigation" and inserting in their place the words "Branch Director", and by removing the word "attorney" and inserting in its place the word "Attorney".

§ 15.2 [Amended]

122. Section 15.2(a) is amended by removing the words "Chief of the Torts Section" and inserting in their place the words "Branch Director of the Torts Branch".

123. Section 15.2(b) is amended by removing the words "Assistant Section Chief for Swine Flu Litigation, Torts Section" and inserting in their place the words "Branch Director, Torts Branch".

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

§ 16.1 [Amended]

124. Section 16.1(a) is amended by removing the words "Office of Public Information" and inserting in their place the words "Office of Public Affairs".

125. Section 16.1(b) is amended by removing the words "The Office of Information Law and Policy after appropriate coordination" and inserting in their place the words "After appropriate coordination the Office of Legal Policy".

126. Section 16.2 is revised to read as follows:

§ 16.2 Public reference facilities.

Each office listed below will maintain in a public reading room or public reading area, the materials relating to that office which are required by 5 U.S.C. 552(a)(2) and 552(a)(4) to be made available for public inspection and copying:

- United States Attorneys and United States Marshals—at the principal offices of the United States Attorneys listed in the United States Government Organization Manual;
- Bureau of Prisons—at its principal office at 101 Indiana Avenue, N.W., Washington, D.C. 20537;
- United States Parole Commission—at its principal office at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815-7286;
- Foreign Claims Settlement Commission—See 45 CFR 503.1(g).
- Federal Bureau of Investigation—at the J. Edgar Hoover Bldg., 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20535;
- Community Relations Service—at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815-7286;
- Criminal Division, Internal Security Section (for registrations of foreign agents and others pursuant to 28 CFR Parts 5, 10 and 12) at Room 458, Federal Triangle Building, 315 Ninth Street, N.W., Washington, D.C. 20530;
- Board of Immigration Appeals—at Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041;
- Immigration and Naturalization Service—see 8 CFR 103.9;
- Office of Justice Assistance, Research and Statistics—at 633 Indiana Avenue, N.W., Washington, D.C. 20530;
- All other Offices, Divisions, and Bureaus of the Department of Justice—at the Department of Justice, 10th & Pennsylvania Avenue, N.W., Washington, D.C. 20530.

§ 16.3 [Amended]

127. Section 16.3(a) is amended by removing the words "Deputy Attorney General" and inserting in their place the

words "Assistant Attorney General for the Office of Legal Policy" and by removing the words "Law Enforcement Assistance Administration—Administrator, Law Enforcement Assistance Administration" and inserting in their place the words "Office of Justice Assistance, Research and Statistics—Director, Office of Justice Assistance, Research and Statistics".

§ 16.4 [Amended]

128. Section 16.4 paragraphs (a), (b) and (c) are amended by removing the words "Associate Attorney General" and inserting in their place the words "Assistant Attorney General, Office of Legal Policy".

129. Section 16.4(a) is amended by removing the words "Law Enforcement Assistance Administration" and inserting in their place the words, "Office of Justice Assistance, Research and Statistics".

§ 16.5 [Amended]

130. Section 16.5(e) is amended by removing the words "Associate Attorney General" and inserting in their place the words "Assistant Attorney General, Office of Legal Policy".

§§ 16.6 and 16.7 [Amended]

131. Sections 16.6(b)(3) and 16.7(a) are amended by removing the words "Freedom of Information Appeals Unit" or "Appeals Unit" and inserting in their place the words "Office of Legal Policy".

§§ 16.7 and 16.8 [Amended]

132. Sections 16.7(b) and (g) and 16.8(a), (b) and (c) are amended by removing the words "Associate Attorney General" and inserting in their place the words "Assistant Attorney General, Office of Legal Policy".

§ 16.10 [Amended]

133. Section 16.10(b)(2) is amended by removing the words "Freedom of Information Appeals Unit" and "Appeals Unit" and inserting in their place the words "Office of Legal Policy" and removing the words "Associate Attorney General" and inserting in their place the words "Assistant Attorney General, Office of Legal Policy".

134. The Appendix to Subpart B, Part 16 is revised to read as follows:

Appendix to Subpart B—Redelegation of Authority to the Deputy Assistant Attorney General for Litigation, Antitrust Division, To Authorize Production or Disclosure of Material or Information

1. By virtue of the authority vested in me by

28 CFR 16.23(b)(1) the authority delegated to me by that section to authorize the production of material and disclosure of information described in 28 CFR 16.21(a) is hereby redelegated to the Deputy Assistant Attorney General for Litigation, Antitrust Division.

2. This directive shall become effective on the date of its publication in the Federal Register.

135. Section 16.31 is revised to read as follows:

§ 16.31 Definition of identification record.

An FBI identification record, often referred to as a "rap sheet", is a listing of certain information taken from fingerprint cards submitted to and retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprint cards submitted in connection with Federal employment, naturalization, or military service. The identification record includes the name of the agency or institution which submitted the fingerprint card to the FBI. If the fingerprint card concerns a criminal offense, the identification record includes the date arrested or received, the arrest charge, and the disposition of the arrest if known to the FBI. All arrest data included in an identification record are obtained from fingerprint cards, disposition reports and other reports submitted by agencies having criminal justice responsibilities. Therefore, the FBI Identification Division is not the source of the arrest data reflected on an identification record.

§§ 16.45, 16.47 and 16.48 [Amended]

136. Sections 16.45(a) and (b)(5), 16.47 and 16.48(b), (c), (d) and (e) are amended by removing the words "Associate Attorney General" and inserting in their place the words "Assistant Attorney General, Office of Legal Policy".

§ 16.52 [Amended]

137. Section 16.52(a) is amended by removing the words "Law Enforcement Assistance Administration" and inserting in their place the words "Office of Justice Assistance, Research and Statistics".

§ 16.57 [Amended]

138. Section 16.57(a) is amended by removing the words "Associate Attorney General" and inserting in their place the words "Assistant Attorney General, Office of Legal Policy".

§§ 16.72 through 16.75 [Removed]**§§ 16.77 through 16.78 [Removed]****§ 16.80 [Removed]****§§ 16.82 and 16.83 [Removed]****§§ 16.86 and 16.87 [Removed]****§ 16.89 [Removed]****§§ 16.94 and 16.95 [Removed]**

139. Sections 16.72-16.75, 16.77-16.78, 16.80, 16.82-16.83, 16.86-16.87, 16.89, and 16.94-16.95 [Reserved] are removed.

§ 16.204 [Amended]

140. Section 16.204(a) is amended by removing the words "Office of Public Information" and inserting in their place the words "Office of Public Affairs".

§§ 16.204 and 16.207 [Amended]

141. Section 16.204(a) and 16.207(a) are amended by removing the words "320 First Street, NW, Washington, D.C." and inserting in their place the words "5550 Friendship Boulevard, Chevy Chase, Maryland 20815-7286".

PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS**§ 20.3 [Amended]**

142. Section 20.3(b) is corrected by adding a space before the last sentence.

PART 25—RECOMMENDATIONS TO THE PRESIDENT ON CIVIL AERONAUTICS BOARD DECISIONS

143. Section 25.4 is amended by removing the words "(Room 3305, Main Justice Building, telephone: 202-739-2481)" and inserting in their place "(Main Justice Building, 10th & Pennsylvania Avenue, NW., Washington, D.C. 20530)".

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

144. Section 42.1 is revised to read as follows:

§ 42.1 Policy.

It is the policy of the Department of Justice to seek to eliminate discrimination on the basis of race, color, religion, sex, national origin, political affiliation, marital status, physical or mental handicap, or age in employment within the Department and to assure equal employment opportunity for all employees and applicants for employment in the Department, in conformity with the policies and requirements of Executive Order No. 11478 of August 8, 1969, relating to equal employment opportunity in the Federal Government, the Civil Rights Act of

1964, as amended (42 U.S.C. 2000e-16), the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 633a); the Rehabilitation Act of 1973, as amended (29 U.S.C. 791), the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2014), and the regulations of the Equal Employment Opportunity Commission which are recodified as 29 CFR 1613.201-806 relating to equal employment opportunity.

§ 42.2 [Amended]

145. Section 42.2(a) is amended by removing the words "Office of Personnel Management (5 CFR Part 713)" and inserting in their place the words "Equal Employment Opportunity Commission (29 CFR 1613.204(c))".

146. Section 42.2(b) is amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

§ 42.3 [Amended]

147. Section 42.3 is amended by removing the words "Associate Attorney General" and inserting in their place the words "Assistant Attorney General for Administration".

§§ 42.50 through 42.59 [Reserved]

148. Sections 42.50-42.59, Subpart B of Part 42, are removed and reserved.

§ 42.102 [Amended]

149. Section 42.102(a) is amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

§ 42.302 [Amended]

150. Section 42.302(c) is amended by removing the words "Health, Education, and Welfare" and inserting in their place the words "Health and Human Service".

Subpart F [Amended]

151. Subpart F is amended by removing from the preceding Authority clause the words "Executive Order 11764 (39 FR 2575)" and inserting in their place the words "Executive Order 12250".

§ 42.401 [Amended]

152. Section 42.401, introductory paragraph, is amended by removing the words "Executive Order 11764" and inserting in their place the words "Executive Order 12250".

§ 42.403 [Amended]

153. Section 42.403(c)(3) is amended by removing the words "Executive

Order 11764" and inserting in their place the words "Executive Order 12250".

154. Section 42.412(a) is revised to read as follows:

§ 42.412 Coordination.

(a) The Attorney General's authority under Executive Order 12250 is hereby delegated to the Assistant Attorney General, Civil Rights Division.

* * *

Subpart G [Amended]

155. Subpart G, Part 42 is amended by removing from the title the words "and Executive Order 11914".

Appendix B [Removed]

156. Appendix B, Analysis of Final Rule, Part 42 is removed.

Part 45—Standards of Conduct

157. Section 45.735.1 is amended by revising paragraph (b) to read as follows:

§ 45.735-1 Purpose and scope.

* * *

(b) This part, among other things, reflects prohibitions and requirements imposed by the criminal and civil laws of the United States. However, the paraphrased restatements of criminal and civil statutes contained in this part are designed for informational purposes only and in no way constitute an interpretation or construction thereof that is binding upon the Department of Justice or the Federal Government. Moreover, this part does not purport to paraphrase or enumerate all restrictions or requirements imposed by statutes, Executive orders, regulations or otherwise upon Federal employees and former Federal employees. The omission of a reference to any such restriction or requirement in no way alters the legal effect of that restriction or requirement, as the case may be, continues to be applicable to employees and former employees in accordance with its own terms. Furthermore, attorneys employed by the Department should be guided in their conduct by the Code of Professional Responsibility of the American Bar Association. Interpretations and applications of the Code to an attorney's official duties should be obtained pursuant to § 45.735-2(e).

158. Section 45.735-2 is amended by removing paragraphs (b), (c) and (d) and by revising paragraph (e) and redesignating it as new paragraph (b) to read as follows:

§ 45.735-2 [Amended]

(b) Employees should discuss with their immediate supervisors any problems concerning ethics or professional conduct that they cannot resolve personally by reference to the standards set forth in this part. Supervisors should ascertain all pertinent information bearing upon any such problem coming to their attention and shall take prompt action to see that problems that cannot be readily resolved are submitted to the Assistant Attorney General or other official in charge of the employees' Office, Board or Division. In the case of personnel employed by the United States Attorneys, problems may be referred to the Director of the Executive Office for United States Attorneys.

§§ 45.735-3 and 45.735-5 [Amended]

159. Sections 45.735-3(b) and 45.735-5(a)(2) are amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

§ 45.735-4 [Reserved]

160. Section 45.735-4 is removed and reserved.

161. Section 45.735.9 is amended by revising paragraph (a) to read as follows:

§ 45.735-9 Private professional practice and outside employment.

(a) No professional employee shall engage in the private practice of his profession, including the practice of law, except as may be authorized by or under paragraph (c) or (e) of this section. Acceptance of a forwarding fee shall be deemed to be within the foregoing prohibition. Teaching will not be considered "professional practice" for purposes of this rule. Employees who wish to undertake teaching engagements should consult § 45.735-12.

162. Section 45.735-9(c) and (e) are amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

163. Section 45.735.12, the title is amended to read as follows:

§ 45.735-12 Speeches, publications and teaching.

164. Section 45.735-12(c) is amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

§ 45.735-13 [Removed]

165. Section 45.735-13 is removed.

166. Section 45.735-14 is amended by removing paragraphs (c) (5) and (6) and revising paragraph (b) to read as follows:

§ 45.735-14 Gifts, entertainment, and favors.

(b) Except as provided in paragraph (c) of this section, a special Government employee shall be subject to the prohibition set forth in paragraph (a)(4) of this section.

167. Section 45.735-14a is added to read as follows:

§ 45.735-14a Reimbursement for travel and subsistence; acceptance of awards.

(a) Employees may not accept reimbursement for travel or expenses incident to travel on official business from any source other than the Federal Government. However, employees may accept such reimbursement, from organizations that are exempt from taxation under the Internal Revenue Code, 26 U.S.C. 501(c)(3) for expenses incident to training or the attendance at meetings in accordance with 5 U.S.C. 4111 and 5 CFR 410.702.

(b) Employees may accept reimbursement for travel or expenses incident to travel of a nonofficial nature, so long as the circumstances are such that acceptance of the reimbursement is compatible with other restrictions set forth in this part.

(c) Employees will not be deemed to be on official business when they attend the meetings of a charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization if they have not been directed by the Department to attend the meeting and if they do not receive Government reimbursement for their travel or other expenses incident to attendance at the meetings.

(d) Employees may accept awards from the organizations described in paragraph (c) of this section, so long as the circumstances are such that acceptance is compatible with other restrictions set forth in this part.

(e) Employees may accept reimbursement for travel or expenses incident to travel from an organization described in paragraphs (a) or (c) of this section for the actual expenses of an accompanying spouse in connection with the employee's attendance at the meetings of the organization or acceptance of an award from the organization. The acceptance of spousal expenses under this paragraph shall not depend upon the official or nonofficial nature of the employee's travel, but it must be otherwise compatible with the

restrictions set forth in this part. In particular, employees may not accept spousal expenses from an organization that:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Department.

(2) Conducts operations or activities that are regulated by the Department.

(3) Is engaged, either as principal or attorney, in proceedings before the Department or in court proceedings in which the United States is an adverse party.

(4) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.

§ 45.735-18 [Removed]

168. Section 45.735-18 is removed.

169. Section 45.735-19 is amended by revising paragraph (a) to read as follows:

§ 45.735-19 Partisan political activities.

(a) While certain political activities are prohibited by the criminal statutes of the United States (see 18 U.S.C. Chapter 29), the basic restrictions on political activity of employees are set forth in 5 U.S.C. 7321-7328.

170. Section 45.735-21 is amended by adding paragraphs (o) and (p) to read as follows:

§ 45.735-21 Miscellaneous statutory provisions.

(o) Engaging in violation of merit system principles (5 U.S.C. 2301).

(p) Engaging in prohibited personnel practices (5 U.S.C. 2302).

171. Section 45.735-22 is amended by revising the introductory text of paragraph (a), and paragraphs (b) and (c) to read as follows:

§ 45.735-22 Reporting of outside interests by persons other than special Government employees.

(a) Each employee occupying a position designated in paragraph (c) of this section, and who is not required to submit a financial disclosure report under § 45.735-27 of this title, shall submit to the head of his division a statement on a form made available through the appropriate division administrative office, setting forth the following information:

(b) Each employee designated in paragraph (c) of this section who enters upon duty after the date of this order, and who is not required to submit a financial disclosure report under

§ 45.735-27 of this title, shall submit such statement not later than 30 days after the date of his entrance on duty or 90 days after the effective date of this order, whichever is later.

(c) Statements of employment and financial interest are required of the following employees:

(1) Office of the Attorney General:

Counsellor
Special Assistants
Special Counsels

(2) Office of the Deputy Attorney General:

Associate Deputy Attorneys General
Executive Assistant

(3) Office of the Associate Attorney General:

Deputy Associate Attorneys General
Special Assistants

(4) Office of the Solicitor General:
Tax Assistant

(5) Office of Legal Counsel:

Deputy Assistant Attorneys General

(6) Office of Legal Policy:

Deputy Assistant Attorneys General

(7) Office of Legislative Affairs:

Deputy Assistant Attorneys General
Chief, Legislative and Legal Section

(8) Justice Management Division:

Deputy Assistant Attorneys General
Staff Directors
Administrative Counsel

(9) Office of Professional Responsibility:

Counsel on Professional Responsibility
Deputy Counsel
Assistant Counsels

(10) Community Relations Service:

Deputy Director
Associate Director
Chief Counsel
Regional Directors

(11) Antitrust Division:

Deputy Assistant Attorney General
Director of Economic Policy Office
Director of Operations
Deputy Director of Operations
Director, Policy Planning Office
Section Chiefs
Field Office Chiefs

(12) Civil Division:

Deputy Assistant Attorney General
Section Chiefs

(13) Civil Rights Division:

Deputy Assistant Attorneys General
Special Assistants
Executive Officer
Section Chiefs
Director(s) of Offices

(14) Criminal Division:

Deputy Assistant Attorneys General

Section Chiefs

(15) Land and Natural Resources Division:

Deputy Assistant Attorneys General
Section Chiefs

(16) Tax Division:

Deputy Assistant Attorneys General
Section Chiefs

(17) Federal Bureau of Investigation:

Assistant Director, Administrative Services Division

(18) National Institute of Corrections (Bureau of Prisons):

Director, National Institute of Corrections
Employees classified at GS-13 or above who are in positions involving: (i) Contracting or procurement, or (ii) administering, auditing or monitoring grants and contracts

(19) Drug Enforcement

Administration:

Assistant Administrators
Office Directors
Chief Counsel
Chief Inspector
Controller
Laboratory Directors
Regional Directors
Chief, Administrative Services Division
Contract and Procurement Officer
Contract Specialists, GS-13 and above
Chief, Compliance Division
Section Chiefs, Compliance Division
Project Officer, GS-13 and above

(20) Immigration and Naturalization Service:

Associate Commissioner, Management
Assistant Commissioner, Administration
Regional Commissioners
Deputy Regional Commissioners
Associate Deputy Regional Commissioners, Management

(21) Office of Justice Assistance, Research and Statistics:

Assistant Directors
Special Assistants to the Director and the Assistant Directors
General Counsel
Administrator, Law Enforcement Assistance Administration
Administrator, Office of Juvenile Justice and Delinquency Prevention
Director, National Institute of Justice
Director, Bureau of Justice Statistics
All Deputy Administrators of the above offices
Employees classified at GS-13 or above who are in positions involving: (i) Contracting or procurement, or (ii) administering, auditing or monitoring grants and contracts.

(22) United States Marshals Service:

Director
Deputy Director
United States Marshals

* * *

172. Section 45.735-26 is revised to read as follows:

§ 45.735-26 Designated Agency Ethics Official.

(a) The Assistant Attorney General for Administration is the "designated agency ethics official (DAEO)" for this Department.

(b) In addition to the duties listed in 5 CFR 738.203, the DAEO shall provide for the regular distribution of conduct regulations to employees, and otherwise assist the Offices, Boards and Divisions in meeting their responsibilities under this part.

(c) The above responsibilities of the DAEO shall not be interpreted to diminish the primary responsibility of each Office, Board or Division to provide for the education and counseling of its own employees on matters of conduct and professional ethics.

PART 50—STATEMENTS OF POLICY

§ 50.1 [Removed]

173. Section 50.1 [Reserved] is removed.

§ 50.4 [Removed]

174. Section 50.4 is removed.

§ 50.9 [Amended]

175. Section 50.9(d)(1) is amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

§ 50.9 [Amended]

176. Section 50.9(d)(2) is amended by removing the words "Deputy Attorney General" and inserting in their place the words "Associate Attorney General".

PART 55—IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Appendix [Amended]

177. The Appendix, Part 55, the entry for the State of Alaska, Election District 16 is amended by removing the superscript "1".

178. The Appendix, Part 55, the entry for the State of Alaska, Election District 17, is amended by removing the words "Alaskan Natives.¹" and inserting in their place the word "Do."

179. The Appendix, Part 55, the entry for the State of Alaska, Election District 18 is amended by removing the words "Alaskan Natives.¹" and inserting in their place the word "Do."

180. The Appendix, Part 55, the entry for the State of California is amended by removing the word "Ocalifornia" and

inserting in its place the word "California".

181. The Appendix, Part 55, the entry for the State of Florida, Hendry County, Hillsborough County and Monroe County is amended by removing the word ".....do....." and inserting in its place the word "Do."

182. The Appendix, Part 55, the entry for the State of Nebraska is amended by removing the word "Turuston" and inserting in its place the word "Thurston".

183. The Appendix, Part 55, the entry for the State of New York, Kings County is amended by removing the word "do....." and inserting in its place the word "Do."

184. The Appendix, Part 55, the entry for the State of Oklahoma, is amended by removing the words "Mayers County" and inserting in their place the words "Mayes County".

185. The Appendix, Part 55, the entry for the State of South Dakota is revised to read as follows:

South Dakota:		
Bennett County.....	American	Indian.
Charles Mix County.....	do.	
Corson County.....	do.	
Lyman County.....	do.	
Mellette County.....	do.	
Shannon County.....	American	Indian.
Todd County.....	Do.	
Washabaugh County.....	American	Indian.

186. The Appendix, Part 55, the entry for the State of Texas, Bee County, is amended by moving the entry to the right to align it with the other entries in the column.

187. The Appendix, Part 55, the entry for the State of Texas, Bexar County, is amended by inserting the word "Do." in the column designated Coverage under section 203(c).

188. The Appendix, Part 55, the entry for the State of Texas, Blanco County, is amended by moving the word "Do." to align it with the other entries in the column.

189. The Appendix, Part 55, the entry for the State of Texas is amended by removing the words "Upton county" and inserting in their place the words "Upton County".

190. The Appendix, Part 55, the entry for the State of Virginia is amended by reformatting the entry as follows:

Virginia:		
Charles City County.....	Do.	

PART 58—REGULATIONS RELATING TO THE BANKRUPTCY REFORM ACT OF 1978

§ 58.2 [Amended]

191. Section 58.2 is amended by removing the words "Associate Attorney General" and inserting in their place the words "Deputy Attorney General".

§ 58.5 [Amended]

192. Section 58.5 is amended by removing the words "United States Civil Service Commission" and inserting in their place the words "Office of Personnel Management".

PART 60—AUTHORIZATION OF FEDERAL LAW ENFORCEMENT OFFICERS TO REQUEST THE ISSUANCE OF A SEARCH WARRANT

§ 60.3 [Amended]

193. Section 60.3(a)(3) is amended by removing the words "Department of Health, Education, and Welfare" and inserting in their place the words "Department of Health and Human Services".

Authority

194. The general authority citation for these amendments is 28 U.S.C. 509, 510 and 5 U.S.C. 301. The authority citation for § 0.115 is 8 U.S.C. 1103. Any other authority citation is noted where it applies in the text of these regulations.

Dated: October 15, 1981.

William French Smith,
Attorney General.

[FR Doc. 81-30955 Filed 10-26-81; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of the Utah Industrial Hygiene Field Operations Manual

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This notice gives approval of amendments to the Utah Industrial Hygiene Field Operations Manual. Amendments to the Utah manual were made to bring it into conformity with program and policy changes made by the Occupational Safety and Health Administration in its Industrial Hygiene Field Operations Manual.

EFFECTIVE DATE: October 27, 1981.

FOR FURTHER INFORMATION CONTACT:

Charles Y. Boyd, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3619, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8081.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and Part 1902 of this chapter. On January 10, 1973, notice was published in the *Federal Register* of the approval of the Utah plan and of the adoption of Subpart E of Part 1952 containing the decision (38 FR 1178). On June 23, 1981, the State of Utah submitted a supplement to the plan involving Federal program changes (see Subpart C of 29 CFR Part 1953).

Description of the Plan Supplement

The Amendments to the Utah Industrial Hygiene Field Operations Manual generally parallel the Federal manual. However, the Utah manual differs from the Federal manual in its methods for technical equipment operations, maintenance, and calibration as well as its procedures for the analytical laboratory. Responsibilities and titles are changed to reflect the State's organizational structure.

Location of the Plan and its Supplement for Inspection and Copying

A copy of the plan and the supplement may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 15010, Federal Building, 1961 Stout Street, Denver, Colorado 80202; the Utah Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah 84111, and the Office of the Director for State Programs, Room N-3613, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Public Participation

Under § 953.2(c) of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as Assistant Secretary) may prescribe alternative procedures to expedite the review