

(e) If a Utility (e.g., garbage collection) is charged on a fixed price basis, the full amount of the price shall be incorporated into the allowance. A reasonable allowance shall be set for a fixed price service if the tenant, who purchases the utility, has a choice between providers of services.

§ 965.477 Surcharges for excess consumption of PHA-furnished utilities.

(a) For dwelling units subject to Allowances for PHA-Furnished Utilities where Checkmeters have been installed, the PHA shall establish Surcharges for Utility consumption in excess of the Allowances. Surcharges may be computed on a straight per unit of purchase basis (e.g., cents per kilowatt hour of electricity) or for stated blocks of excess consumption, and shall be based on the PHA's average utility rate. The basis for calculating such Surcharges shall be described in the PHA's Schedule of Allowances. Changes in the dollar amounts of Surcharges based directly on changes in the PHA's average utility rate shall not be subject to the advance notice requirements of § 965.473(c).

(b) For dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed, the PHA shall establish schedules of Surcharges indicating additional dollar amounts tenants will be required to pay by reason of estimated Utility consumption attributable to tenant-owned major appliances or to optional functions, such as air conditioning, of PHA-furnished equipment. Such Surcharge schedules shall state the tenant-owned equipment (or functions of PHA-furnished equipment) for which Surcharges shall be made and the amounts of such charges, which shall be based on the cost to the PHA of the Utility consumption estimated to be attributable to reasonable usage of such equipment.

§ 965.478 Review and revision of allowances.

(a) *Annual review.* The PHA shall review at least annually the basis on which Utility Allowances have been established and, if reasonably required in order to continue adherence to the standards stated in § 965.476, shall establish revised Allowances. The review shall include all changes in circumstances (including completion of Comprehensive or Special Purpose Modernization under the Comprehensive Improvement Assistance Program and/or other energy conservation measures implemented by

the PHA) indicating probability of a significant change in reasonable consumption requirements and changes in utility rates.

(b) *Revision due to rate changes.* The PHA may revise its Allowances for Tenant-Purchased Utilities between annual reviews if there is a rate change (including fuel adjustments) and shall be required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such Allowances were based. Adjustments to Tenant Rent as a result of such changes shall be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective.

(Approved by the Office of Management and Budget under OMB Control Number 2577-0062.)

§ 965.479 Individual relief.

Requests for relief from Surcharges for excess consumption of PHA-Furnished Utilities, or from payment of Utility supplier billings in excess of the Allowances for Tenant-Purchased Utilities, may be granted by the PHA on such reasonable grounds, such as special needs of elderly, ill or handicapped tenants, or special factors affecting utility usage not within the control of the tenant, as the PHA shall deem appropriate. The PHA's criteria for granting such relief, and procedures for requesting such relief, shall be adopted at the time the PHA adopts the methods and procedures for determining utility allowances. Notice of the availability of such procedures (including identification of the PHA representative with whom initial contact may be made by tenants), and the PHA's criteria for granting such relief, shall be included in each notice to tenants given pursuant to § 965.473(c) and in the information given to new tenants upon admission.

§ 965.480 Transition provisions.

PHA's shall establish Allowances in accordance with the standards stated in § 965.476 not later than 180 days after the effective date of this rule, unless for good cause shown an extension of such date is allowed by the Assistant Secretary for Public and Indian Housing.

Authority: Secs. 2, 3, 6, and 9, United States Housing Act of 1937 (42 U.S.C. 1437(2), 1437a and 1437j); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 31, 1984.

Warren T. Lindquist,
Assistant Secretary for Public and Indian Housing.

[FR Doc. 84-20819 Filed 8-6-84; 8:45 am]

BILLING CODE 4210-27-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; Title VII of the Civil Rights Act of 1964, as Amended

AGENCY: Equal Employment Opportunity Commission.

ACTION: Procedural regulations, amendment.

SUMMARY: On October 18, 1982, the EEOC at 47 FR 46275 last amended its procedural regulations for the issuance of written interpretations or opinions under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e et seq. This notice will amend the language contained in 29 CFR 1601.33(e) which sets forth what an employer may rely on as a "written interpretation or opinion" of the Commission within the meaning of Section 713 of Title VII.

EFFECTIVE DATE: August 7, 1984.

FOR FURTHER INFORMATION CONTACT: John Pagano, Office of Legal Counsel, Legal Services, EEOC, 2401 E Street, NW., Room 214, Washington, D.C. 20507, telephone (202) 634-6592.

SUPPLEMENTARY INFORMATION: EEOC's regulations at 29 CFR 1601.33 sets forth what an employer may rely on as a "written interpretation or opinion of the Commission" within the meaning of Section 713 of Title VII. The Commission's regulation at 29 CFR 1601.33(a) specifically mentions "opinion letters" issued on behalf of the Commission by EEOC's Legal Counsel or, if issued in the conduct of litigation, by the General Counsel. This current amendment will now include language specifying that these opinion letters are issued on behalf of and as approved by the Commission. Thus, the purpose of this amendment is simply to state explicitly the Commission's practice of approving all opinion letters issued by the Legal Counsel and General Counsel.

These regulations do not constitute a "major rule" and a regulatory impact analysis is not required by Executive Order 12291.

Similarly, the Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this rule will not result in a significant economic impact on a

substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 16 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

The Commission's regulation at 29 CFR 1601.33 is hereby revised to read as follows:

§ 1601.33 Opinions—Title VII.

Only the following may be relied upon as a "written interpretation or opinion of the Commission" within the meaning of Section 713 of Title VII:

(a) A letter entitled "opinion letter" and signed by the Legal Counsel on behalf of and as approved by the Commission, or, if issued in the conduct of litigation, by the General Counsel on behalf of and as approved by the Commission, or

(b) Matter published and specifically designated as such in the Federal Register, including the Commission's Guidelines on Affirmative Action, or

(c) A Commission determination of no reasonable cause, issued, under the circumstances described in § 1608.10 (a) or (b) of the Commission's Guidelines on Affirmative Action, 29 CFR Part 1608, when such determination contains a statement that it is a "written interpretation or opinion of the Commission."

(Sec. 713(a), Title VII, Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12(a))

Signed at Washington, D.C., this 1st day of August, 1984.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

(PR Doc. 84-20758 Filed 8-6-84; 8:45 am)

BILLING CODE 6570-06-M

29 CFR Part 1621

Equal Pay Act; Procedures

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final procedural regulations.

SUMMARY: On July 1, 1979, pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), responsibility and authority for enforcement of the Equal Pay Act, 29 U.S.C. 206(d), was transferred from the Department of Labor to the Equal Employment Opportunity Commission. The following regulations advise the public as to the

procedures the Commission will follow in issuing written interpretations and opinions under the Equal Pay Act.

EFFECTIVE DATE: August 7, 1984.

FOR FURTHER INFORMATION CONTACT:

John Pagano, Office of Legal Counsel, Legal Services, EEOC, 2401 E Street, NW., Room 214, Washington, D.C. 20507, telephone (202) 634-6592.

SUPPLEMENTARY INFORMATION: The Commission publishes the regulations herein with the desire to provide conformity with the Commission's procedural regulations for the issuance of interpretations and opinion letters under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.*, inasmuch as the Commission's authority for the issuance of opinion letters under the Age Discrimination in Employment Act and the Equal Pay Act is derived from the same statutory basis, section 10 of the Portal to Portal Act of 1947, 29 U.S.C. 259.

These regulations do not constitute a "major rule" and a regulatory impact analysis is not required by Executive Order 12291.

Similarly, the Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this rule will not result in a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 29 CFR Part 1621

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

Accordingly, 29 CFR Part 1621 is hereby added to the Commission's regulations to read as follows:

PART 1621—PROCEDURES—THE EQUAL PAY ACT

Sec.

1621.1 Purpose.

1621.2 Definitions.

1621.3 Procedures for requesting an opinion letter.

1621.4 Effect of opinions and interpretations of the Commission.

Authority: Secs. 1-19, 52 Stat. 1060, as amended, Secs. 10-16, 61 Stat. 84, Pub. L. 88-38, 77 Stat. 56 (29 U.S.C. 201 *et seq.*); Sec. 1, Reorgan. Plan No. 1 of 1978, 43 FR 19807; Executive Order No. 12144, 44 FR 37193.

§ 1621.1 Purpose.

The regulations set forth in this part contain the procedures established by the Equal Employment Opportunity Commission for issuing opinion letters under the Equal Pay Act.

§ 1621.2 Definitions

For purposes of this part, the term "the Act" shall mean the Equal Pay Act the "Commission" shall mean the Equal Employment Opportunity Commission or any of its designated representatives.

§ 1621.3 Procedure for requesting an opinion letter.

(a) A request for an opinion letter should be submitted in writing to the Chairman, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20507, and shall contain:

(1) A concise statement of the issues for which an opinion is requested;

(2) A full statement of the relevant facts and law; and

(3) The names and addresses of the person(s) making the request and other interested persons.

(b) Issuance of an opinion letter by the Commission is discretionary.

(c) Informal advice: When the Commission, at its discretion, determines that it will not issue an opinion letter as defined in § 1621.4, the Commission may provide informal advice or guidance to the requestor. An informal letter of advice does not represent the formal position of the Commission and does not commit the Commission to the views expressed therein. Any letter other than those defined in § 1621.4 will be considered a letter of advice and may not be relied upon by any employer within the meaning of Section 10 of the Portal to Portal Act of 1947, 29 U.S.C. 255.

§ 1621.4 Effect of opinions and interpretations of the Commission.

(a) Section 10 of the Portal to Portal Act of 1947, 29 U.S.C. 255, which applies to the Equal Pay Act of 1963, 29 U.S.C. 206(d), provides that:

In any action or proceeding based on any act or omission on or after the date of the enactment of this Act, no employer shall be subject to any liability or punishment * * * if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval or interpretation * * * or any administrative practice or enforcement policy of [the Commission].

The Commission has determined that only the following documents may be relied upon by any employer as a "ruling, approval or interpretation" or as "evidence of any administrative practice or enforcement policy" of the Commission within the meaning of the statutory provisions quoted above.

(1) A written document, entitled "opinion letter," signed by the Legal

Counsel on behalf of and as approved by the Commission;

(2) A written document issued in the conduct of litigation, entitled "opinion letter," signed by the General Counsel on behalf of and as approved by the Commission;

(3) A matter published and specifically designated as such in the Federal Register.

(b) An opinion letter issued pursuant to § 1621.4 (a)(1) or (a)(2) above, when issued to a specific addressee, has no effect upon circumstances beyond the situation of the specific addressee.

Signed at Washington, D.C. this 1st day of August, 1984.

For the Commission.

Clarence Thomas,
Chairman, Equal Employment Opportunity Commission.

[FR Doc. 84-20756 Filed 8-6-84; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Abandoned Mine Reclamation Fund; Fee Payment Responsibility

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of clarification.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is providing further guidance regarding fee collection requirements for the Abandoned Mine Reclamation Fund. The notice clarifies which persons are responsible for payment of reclamation fees.

FOR FURTHER INFORMATION CONTACT: Dr. Phyllis G. Thompson, Chief, Abandoned Mine Land Reclamation Division, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Room 5401-L, Washington, D.C. 20240, Telephone (202) 343-7937.

SUPPLEMENTARY INFORMATION: On July 5, 1984, the Office of Surface Mining (OSM) published regulations (49 FR 27493) implementing certain debt collection and record keeping requirements relating to payment of Abandoned Mine Reclamation Fees. Section 402 of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (SMCRA), requires that all operators pay a reclamation fee based on coal produced, and section 701(13) defines "operator" as the person * * * engaged in coal mining who

removes * * * the coal. OSM recognizes, however, that in light of the number and variety of business arrangements employed in the coal industry, the term operator is not limited to the party which actually removes the coal. Congress intended the burden of fee payment to fall upon the person or persons who stand to benefit directly from the sale, transfer, or use of coal. This intent will continue to guide the office in making decisions as to who is liable for the fee. The identification will continue to be made in light of the realities of the business world and will not necessarily turn solely on a literal interpretation of the word "removes."

The preamble to the final rules stated that OSM would use the operator-mine identification numbers currently assigned by the Mine Safety and Health Administration (MSHA) as an identifier for persons or entities engaged in coal production under SMCRA. OSM wishes to clarify that the MSHA identification number is assigned by MSHA for purposes of the Federal Mine Safety and Health Act of 1977. That number will not necessarily identify every entity responsible for payment of Abandoned Mine Land (AML) fees under SMCRA. OSM will use the MSHA identification number as an administrative and record maintenance tool. This system will aid OSM in making an initial identification of parties involved in removal of coal, either as a contract operator or as owner of the mineral exercising control over its removal. OSM's use of the MSHA operator-mine identification number should not be construed as an intent to consider the entity listed on the OSM-1 form as solely responsible for payment of AML fees.

OSM will consider as responsible for payment of AML fees, any or all of the following persons: The person or entity who stands to benefit directly from the sale, transfer or use of the coal; the MSHA-identified operator; or a person or entity having a contract with the MSHA-identified operator. This list is not all-inclusive. Moreover, it should be recognized that OSM will not be bound by private arrangements. Thus OSM will continue to pursue a policy of joint and several liability of involved parties for recovery of AML fees where appropriate.

Dated: July 30, 1984.

J. Lisle Reed,
Deputy Under Secretary.

[FR Doc. 84-20629 Filed 8-6-84; 8:45 am]

BILLING CODE 4310-05-M

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2003

National Security Information; Standard Forms

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: This amendment to 32 CFR Part 2003 authorizes the witnessing and acceptance of the Standard Form 189, "Classified Information Nondisclosure Agreement," to be accomplished, as circumstances may require, by different persons.

EFFECTIVE DATE: August 7, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO. Telephone (202) 535-7251.

SUPPLEMENTARY INFORMATION: This amendment to 32 CFR Part 2003 is issued pursuant to section 5.2(b)(7) of Executive Order 12356. ISOO has coordinated this amendment with those agencies that will be primarily affected by it.

List of Subjects in 32 CFR Part 2003

Classified information, National security information.

PART 2003—NATIONAL SECURITY INFORMATION—STANDARD FORMS

Subpart B—Prescribed Forms

Section 2003.20 of 32 CFR, Part 2003 is amended by adding the following new paragraph (g):

§ 2003.20 Classified Information Nondisclosure Agreement: SF 189.

* * * * *

(g) An authorized representative of a contractor, grantee or licensee, acting on behalf of the United States, may witness the execution of SF 189 by another contractor, grantee or licensee employee, provided that an authorized United States Government official subsequently signs the SF 189 as an acceptance of the nondisclosure agreement by the United States. Also, an employee of a United States agency may witness the execution of the SF 189 by an employee, contractor, grantee or licensee of another United States agency, provided that an authorized United States Government official subsequently signs the SF 189 as an acceptance of the nondisclosure agreement by the United States.

(Sec. 5.2(b)(7), E.O. 12356)