From: <Saved by Windows Internet Explorer 8>
Subject: Electronic Code of Federal Regulations:
Date: Wed, 9 Feb 2011 12:02:11 -0500
MIME-Version: 1.0
Content-Type: multipart/related;
	type="text/html";
	boundary="----=_NextPart_000_0000_01CBC851.2EB59770"
X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2900.3028

This is a multi-part message in MIME format.

------=_NextPart_000_0000_01CBC851.2EB59770
Content-Type: text/html;
	charset="iso-8859-1"
Content-Transfer-Encoding: quoted-printable
Content-Location: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?
c=ecfr&sid=e94b2dfd6265049fd654439f9f738212&rgn=div5&view=text&node=20:3.0.3.1.2
&idno=20

```
<!DOCTYPE HTML PUBLIC "-//W3C//DTD HTML 4.0 Transitional//EN">
<HTML><HEAD><TITLE>Electronic Code of Federal Regulations:</TITLE>
<META content=3D"text/html; charset=3Diso-8859-1" =
http-equiv=3DContent-Type><!-- InstanceBegin =
template=3D"/Templates/NEW_ecfr.dwt" codeOutsideHTMLIsLocked=3D"false" =
--><!-- #BeginEditable "doctitle" --><!-- #EndEditable -->
<META content=3D"text/html; charset=3Diso-8859-1" =
HTTP=3D'equiv=3D"Content-Type"'><LINK=20
rel=3Dstylesheet type=3Dtext/css=20
href=3D"http://ecfr.gpoaccess.gov/e/ecfr/styles/styles.css"><LINK =
rel=3Dstylesheet=20
type=3Dtext/css =
href=3D"http://ecfr.gpoaccess.gov/e/ecfr/styles/print.css"=20
media=3Dprint><!-- InstanceBeginEditable name=3D"head" --><!-- =
InstanceEndEditable -->
<STYLE>.white {
	PADDING-BOTTOM: 0px; MARGIN: 0px; PADDING-LEFT: 0px; PADDING-RIGHT: =
0px; COLOR: #ffffff; PADDING-TOP: 0px
}
</STYLE>

<SCRIPT>
<!-- Cloak code
function leapto(form)
{
var site=3Dform.dest.selectedIndex;

if (site>=3D1)

{ location=3Dform.dest.options[site].value; }

}
// Decloak -->
</SCRIPT>
<NOSCRIPT>
<META name=3DGENERATOR content=3D"MSHTML 8.00.6001.18928"></HEAD>
<BODY leftMargin=3D0 topMargin=3D0><A=20
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#content"><IMG=20
border=3D0 alt=3D"Skip to content."=20
src=3D"http://www.gpoaccess.gov/images/spacer.gif"></A><A=20
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#links"><IMG=20
```

```
border=3D0 alt=3D"Skip to side navigation."=20
src=3D"http://www.gpoaccess.gov/images/spacer.gif"></A> Quick =
Navigation:=20
<UL>
  <LI><A href=3D"http://www.gpoaccess.gov/topics/index.html" =
SELECTED>Resources by=20
  Topic</A>=20
  <LI><A href=3D"http://www.gpoaccess.gov/topics/business.html">Business =
&amp;=20
  Economy</A>=20
  <LI><A =
href=3D"http://www.gpoaccess.gov/topics/education.html">Education</A>=20
  <LI><A =
href=3D"http://www.gpoaccess.gov/topics/environment.html">Environment</A>=
=20

  <LI><A href=3D"http://www.gpoaccess.gov/topics/food.html">Food &amp; =
Drugs</A>=20
  <LI><A href=3D"http://www.gpoaccess.gov/topics/grants.html">Grants =
&amp;=20
  Awards</A>=20
  <LI><A href=3D"http://www.gpoaccess.gov/topics/health.html">Health =
&amp;=20
  Safety</A>=20
  <LI><A href=3D"http://www.gpoaccess.gov/topics/military.html">Military =
&amp;=20
  Security</A>=20
  <LI><A href=3D"http://www.gpoaccess.gov/topics/science.html">Science =
&amp;=20
  Technology</A>=20
  <LI><A href=3D"http://www.gpoaccess.gov/topics/programs.html">Social=20
  Programs</A>=20
  <LI><A=20
  =
href=3D"http://www.gpoaccess.gov/topics/transportation.html">Transportati=
on</A>=20
  </LI></UL></NOSCRIPT><!-- Beginning of top navigation. Do not modify. =
-->
<TABLE border=3D0 cellSpacing=3D0 cellPadding=3D0 width=3D"100%">
  <TBODY>
  <TR id=3Dtopnav><A=20
    =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#content"><IMG=20
    border=3D0 alt=3D"Skip to content."=20
    src=3D"http://www.gpoaccess.gov/images/spacer.gif"></A><A=20
    =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#links"><IMG=20
    border=3D0 alt=3D"Skip to side navigation."=20
    src=3D"http://www.gpoaccess.gov/images/spacer.gif"></A></TR>
  <TR>
    <TD id=3Dtopnav bgColor=3D#333399=20
    background=3Dhttp://www.gpoaccess.gov/images/bg.gif>
      <TABLE border=3D0 cellSpacing=3D0 cellPadding=3D0 width=3D700>
        <TBODY>
        <TR>
          <TD bgColor=3D#ffffff vAlign=3Dbottom rowSpan=3D2><A=20
            href=3D"http://www.gpoaccess.gov/"><IMG border=3D0=20
            alt=3D"GPO Access Home Page."=20
            src=3D"http://www.gpoaccess.gov/images/nav_01.gif" =
width=3D132=20
```

```
            height=3D69></A></TD>
          <TD>
            <TABLE border=3D0 cellSpacing=3D0 cellPadding=3D2 =
width=3D568 height=3D38>
              <TBODY>
              <TR>
                <FORM name=3DquickNav>
                <TD bgColor=3D#ffffff height=3D3 vAlign=3Dbottom =
colSpan=3D2=20
                  align=3Dleft><DIV align=3Dright><LABEL class=3Dwhite=20
                  for=3Dlabel_for_menu>Quick Navigation:</LABEL> <SELECT =

                  style=3D"MARGIN: 0px; WIDTH: 145px; FONT-FAMILY: =
Arial, Helvetica, sans-serif; FONT-SIZE: 9pt"=20
                  id=3Dlabel_for_menu size=3D1 name=3DquickNavBar> =
<OPTION selected=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/index.html>Resources=20
                    by Topic</OPTION> <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/business.html>Business=20
                    &amp;amp; Economy</OPTION> <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/education.html>Education</OPTION>=
=20
                    <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/environment.html>Environment</OPT=
ION>=20
                    <OPTION =
value=3Dhttp://www.gpoaccess.gov/topics/food.html>Food=20
                    &amp;amp; Drugs</OPTION> <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/grants.html>Grants=20
                    &amp;amp; Awards</OPTION> <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/health.html>Health=20
                    &amp;amp; Safety</OPTION> <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/military.html>Military=20
                    &amp;amp; Security</OPTION> <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/science.html>Science=20
                    &amp;amp; Technology</OPTION> <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/programs.html>Social=20
                    Programs</OPTION> <OPTION=20
                    =
value=3Dhttp://www.gpoaccess.gov/topics/transportation.html>Transportatio=
n</OPTION></SELECT>=20
                  <A title=3D"Jump to selected topic."=20
                  =
href=3D"javascript:location=3Ddocument.quickNav.quickNavBar.options[docum=
ent.quickNav.quickNavBar.selectedIndex].value"><IMG=20
                  border=3D0 hspace=3D0 alt=3D"Jump to selected topic."=20
                  align=3DabsBottom =
src=3D"http://www.gpoaccess.gov/images/go.gif"=20
                  VALUE=3D""></A></DIV></TD></FORM><A name=3Dsearch></A>
                <FORM name=3Dquery=20
                action=3Dhttp://www.firstgov.gov/fgsearch/index.jsp>
                <TD bgColor=3D#ffffff vAlign=3Dbottom width=3D70 =
align=3Dmiddle>
                  <DIV class=3Dsearch align=3Dright><LABEL =
for=3Dxmw0>Site=20
```

```
                  Search:</LABEL> <BR><A=20
                  =
href=3D"http://www.gpoaccess.gov/advancedsearch.html"><SPAN=20
                  class=3Dsearch>advanced</SPAN></A></DIV></TD>
                 <TD bgColor=3D#ffffff vAlign=3Dbottom width=3D151 =
align=3Dleft>
                  <DIV align=3Dright><INPUT=20
                  style=3D"MARGIN: 0px; WIDTH: 110px; FONT-FAMILY: =
Arial, Helvetica, sans-serif; FONT-SIZE: 9pt"=20
                  id=3Dxmw0 maxLength=3D50 align=3DabsMiddle name=3Dmw0> =
<INPUT=20
                  onkeypress=3Ddocument.query.submit();=20
                  onclick=3Ddocument.query.submit(); border=3D0 =
alt=3D"Submit Search"=20
                  align=3DabsMiddle =
src=3D"http://www.gpoaccess.gov/images/go.gif"=20
                  type=3Dimage> <INPUT value=3D0010 type=3Dhidden =
name=3Dadv> <INPUT=20
                  value=3D10 type=3Dhidden name=3Dnr> <INPUT value=3Dwww =
type=3Dhidden=20
                  name=3Ddb> <INPUT value=3D0 type=3Dhidden name=3Dfr> =
<INPUT value=3Dall=20
                  type=3Dhidden name=3Dmt0> <INPUT value=3Dshould =
type=3Dhidden=20
                  name=3Dms0> <INPUT value=3Ddetailed type=3Dhidden =
name=3Dde> <INPUT=20
                  value=3Ddomain type=3Dhidden name=3Dpl> <INPUT=20
                  value=3D"gpoaccess.gov, gpo.gov" type=3Dhidden =
name=3Ddomain>=20
                 </DIV></TD></FORM></TR></TBODY></TABLE></TD></TR>
        <TR>
          <TD><IMG border=3D0 alt=3D"Navigation Bar"=20
            src=3D"http://www.gpoaccess.gov/images/nav_03.gif" =
width=3D568 height=3D44=20
            =
useMap=3D#Map></TD></TR></TBODY></TABLE></TD></TR></TBODY></TABLE><MAP=20
  name=3DMap><AREA href=3D"http://www.gpoaccess.gov/about/index.html" =
shape=3Dpoly=20
  alt=3DAbout. coords=3D470,2,529,2,515,19,457,18><AREA=20
  href=3D"http://www.gpoaccess.gov/help/index.html" shape=3Dpoly =
alt=3DHelp.=20
  coords=3D407,2,466,2,452,19,394,18><AREA title=3D"A-Z Resource List."=20
  href=3D"http://www.gpoaccess.gov/databases.html" shape=3Drect=20
  alt=3D"A-Z Resource List." coords=3D1,23,121,43><AREA=20
  title=3D"Locate a Federal Depository Library."=20
  href=3D"http://www.gpoaccess.gov/libraries.html" shape=3Drect=20
  alt=3D"Locate a Federal Depository Library." =
coords=3D124,24,332,43><AREA=20
  title=3D"Buy Publications." href=3D"http://bookstore.gpo.gov/" =
shape=3Drect=20
  alt=3D"Buy Publications." coords=3D335,22,444,43><AREA =
title=3DLegislative.=20
  href=3D"http://www.gpoaccess.gov/legislative.html" shape=3Drect =
alt=3DLegislative.=20
  coords=3D0,1,115,21><AREA title=3DExecutive.=20
  href=3D"http://www.gpoaccess.gov/executive.html" shape=3Drect =
alt=3DExecutive.=20
  coords=3D119,1,223,20><AREA title=3DJudicial.=20
  href=3D"http://www.gpoaccess.gov/judicial.html" shape=3Drect =
alt=3DJudicial.=20
  coords=3D227,1,310,21></MAP><!--End of top navigation. -->
<TABLE border=3D0 cellSpacing=3D0 cellPadding=3D0 width=3D700>
  <TBODY>
  <TR>
```

```
    <TD id=3Dleftnav bgColor=3D#333399 vAlign=3Dtop width=3D5><IMG =
alt=3D" "=20
      src=3D"http://ecfr.gpoaccess.gov/e/ecfr/images/spacer.gif" =
width=3D5></TD>
    <TD id=3Dleftnav bgColor=3D#333399 vAlign=3Dtop width=3D135>
      <DIV align=3Dcenter><A name=3Dlinks></A><IMG=20
      alt=3D"National Archives and Records Administration logo."=20
      src=3D"http://ecfr.gpoaccess.gov/e/ecfr/images/narablue.gif" =
width=3D120=20
      height=3D122> </DIV><!-- #BeginLibraryItem "/library/leftnav.lbi" =
-->
      <TABLE border=3D0 cellSpacing=3D0 cellPadding=3D0 width=3D137 =
bgColor=3D#ffffff>
        <TBODY>
        <TR vAlign=3Dtop align=3Dleft>
          <TD height=3D12 colSpan=3D2>
            <DIV align=3Dcenter><IMG alt=3D"Database Features."=20
            =
src=3D"http://ecfr.gpoaccess.gov/images/applicationfeatures.gif"=20
            width=3D137 height=3D16></DIV></TD></TR>
        <TR vAlign=3Dtop align=3Dleft>
          <TD height=3D5 colSpan=3D2><IMG alt=3D" "=20
            src=3D"http://ecfr.gpoaccess.gov/images/spacer.gif" =
height=3D5></TD></TR>
        <TR vAlign=3Dtop align=3Dleft>
          <TD class=3Dside height=3D2 width=3D13>
            <DIV align=3Dcenter>=95</DIV></TD>
          <TD class=3Dside height=3D20><A=20
            =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3D%2Findex.tpl">Browse</A></TD><=
/TR>
        <TR vAlign=3Dtop align=3Dleft>
          <TD class=3Dside height=3D2>
            <DIV align=3Dcenter>=95</DIV></TD>
          <TD class=3Dside height=3D20><A=20
            =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;page=3Dsimple">Simple=20
            Search </A></TD></TR>
        <TR vAlign=3Dtop align=3Dleft>
          <TD class=3Dside height=3D19>
            <DIV align=3Dcenter>=95</DIV></TD>
          <TD class=3Dside height=3D19><FONT color=3D#000011=20
            face=3D"Arial, Helvetica, sans-serif">Advanced Search =
</FONT></TD></TR>
        <TR vAlign=3Dtop align=3Dleft>
          <TD class=3Dside height=3D2>
            <DIV align=3Dcenter></DIV></TD>
          <TD class=3Dside height=3D20>*<A=20
            =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;page=3Dboolean">=20
            Boolean</A></TD></TR>
        <TR align=3Dmiddle>
          <TD height=3D20> </TD>
          <TD class=3Dside align=3Dleft>* <A=20
            =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;page=3Dproximity">Proximity</A></TD>=
</TR>
        <TR vAlign=3Dtop align=3Dleft>
          <TD class=3Dside height=3D2 align=3Dmiddle>=95</TD>
          <TD class=3Dside height=3D20><A=20
```

```
            =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;page=3Dhistory">Search=20
            History</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2 align=3Dmiddle>=95</TD>
            <TD class=3Dside height=3D20><A=20
            =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3Dsearch.tpl">Search=20
            Tips</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D20><A=20
            =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3Dcorrectionspage.tpl">Correctio=
ns</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D20>
              <P><A=20
              =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3Dupdate.tpl">Latest=20
              Updates</A></P></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2 align=3Dmiddle>=95</TD>
            <TD class=3Dside height=3D20><A=20
              =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3Dabout.tpl">User=20
              Info</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2 align=3Dmiddle>=95</TD>
            <TD class=3Dside height=3D20><A=20
              =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3Dfaq.tpl">FAQs</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D20><A=20
              =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3D%2Fagencylist.tpl">Agency=20
              List</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D35><A=20
              =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3Dibr.tpl">Incorporation=20
              by Reference</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D20><A=20
              =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=3Db20343e296ce6=
59516874204ae1e26ec&amp;c=3Decfr&amp;tpl=3D%2Findex.tpl">e-CFR=20
```

```
            Main Page</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD height=3D2 colSpan=3D2><IMG alt=3D" "=20
              src=3D"http://ecfr.gpoaccess.gov/images/bottom.gif" =
width=3D137=20
              height=3D16></TD></TR></TBODY></TABLE>
        <TABLE border=3D0 cellSpacing=3D0 cellPadding=3D0 width=3D137 =
bgColor=3D#ffffff>
          <TBODY>
          <TR vAlign=3Dtop align=3Dleft>
            <TD height=3D12 colSpan=3D2>
              <DIV align=3Dcenter><IMG alt=3D"Related Resources"=20
              src=3D"http://ecfr.gpoaccess.gov/e/ecfr/images/related.gif" =
width=3D137=20
              height=3D16></DIV></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD height=3D5 colSpan=3D2><IMG alt=3D" "=20
              src=3D"http://ecfr.gpoaccess.gov/e/ecfr/images/spacer.gif"=20
          height=3D5></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2 width=3D13>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D35><A=20
              href=3D"http://www.gpoaccess.gov/cfr/index.html">Code of =
Federal=20
              Regulations</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D20><A=20
              href=3D"http://www.gpoaccess.gov/fr/index.html">Federal=20
          Register</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D35><A=20
              href=3D"http://www.gpoaccess.gov/lsa/index.html">List of=20
              CFR<BR>Sections Affected</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D20 width=3D132><A=20
              =
href=3D"http://www.regulations.gov/">Regulations.gov</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D20 width=3D132><A=20
              href=3D"http://www.gpoaccess.gov/ua/index.html">Unified=20
          Agenda</A></TD></TR>
          <TR vAlign=3Dtop align=3Dleft>
            <TD class=3Dside height=3D2>
              <DIV align=3Dcenter>=95</DIV></TD>
            <TD class=3Dside height=3D20 width=3D132><A=20
              href=3D"http://www.gpoaccess.gov/nara/index.html">All NARA=20
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      F=97Occupational Disease Which Does Not Immediately Result in =
Death or=20
      Disability</A></CENTER></STRONG></FONT><BR><FONT size=3D-1><A=20
      =
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20:3.0.3.1.2&amp;idno=3D20#20:3.0.3.1.2.6.88.1">=A7 702.601 &nb=
sp; Definitions.</A></FONT><BR><FONT=20
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      =
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20:3.0.3.1.2&amp;idno=3D20#20:3.0.3.1.2.6.88.2">=A7 702.602 &nb=
sp; Notice=20
      and claims.</A></FONT><BR><FONT size=3D-1><A=20
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20:3.0.3.1.2&amp;idno=3D20#20:3.0.3.1.2.6.88.3">=A7 702.603 &nb=
sp; Determining=20
      the payrate for compensating occupational disease claims which =
become=20
      manifest after retirement.</A></FONT><BR><FONT size=3D-1><A=20
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20:3.0.3.1.2&amp;idno=3D20#20:3.0.3.1.2.6.88.4">=A7 702.604 &nb=
sp; Determining=20
      the amount of compensation for occupational disease claims which =
become=20
      manifest after retirement.</A></FONT><BR><FONT size=3D-1><A=20
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      <P><FONT size=3D-1><B>Authority:</B>   5 U.S.C. 301, =
8171 <I>et=20
      seq., </I>Reorganization Plan No. 6 of 1950, 15 FR 3174, 3 CFR =
1949=961953,=20
      Comp., p. 1004, 64 Stat. 1263; 28 U.S.C. 2461, 33 U.S.C. 930, 36 =
D.C. Code=20
      501 <I>et seq., </I>42 U.S.C. 1651 <I>et seq., </I>43 U.S.C. 1331; =

      Secretary's Order 5=9696, 62 FR 107.</PSPACE></FONT>
      <P><FONT size=3D-1><B>Source:</B>   38 FR 26861, Sept. =
26, 1973,=20
      unless otherwise noted.</PSPACE></FONT><A name=3D20:3.0.3.1.2.1>
      <H5>Subpart A=97General Provisions</H5></A><A=20
      =
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      top</A><A name=3D20:3.0.3.1.2.1.61>
      <H5>Administration</H5></A><A=20
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      <H5>=A7 702.101   [Reserved]</H5></A><A=20
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      top</A><A name=3D20:3.0.3.1.2.1.61.2>
      <H5>=A7 702.102   Establishment and =
modification of=20
      compensation districts, establishment of suboffices and =
jurisdictional=20
      areas.</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>(a) The Director has, pursuant to section 39(b) of the =
Longshore and=20
      Harbor Workers' Compensation Act, 33 U.S.C. 939(b), established=20
      compensation districts as required for improved administration or =
as=20
      otherwise determined by the Director (see 51 FR 4282, Feb. 3, =
1986). The=20
      boundaries of the compensation districts may be modified at any =
time, and=20
      the Director shall notify all interested parties directly by mail =
of the=20
      modifications.</P>
      <P>(b) As administrative exigencies from time to time may require, =
the=20
      Director may, by administrative order, establish special areas =
outside the=20
      continental United States, Alaska, and Hawaii, or change or modify =
any=20
      areas so established, notwithstanding their inclusion within an=20
      established compensation district. Such areas shall be designated=20
      =93jurisdictional areas.=94 The Director shall also designate =
which of his=20

district directors shall be in charge thereof.</P>
<P>(c) To further aid in the efficient administration of the OWCP, =
the=20
Director may from time to time establish suboffices within =
compensation=20
districts or jurisdictional areas, and shall designate a person to =
be in=20
charge thereof.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 60 FR 51348, Oct. =
2,=20
1995]</P><A name=3D20:3.0.3.1.2.1.61.3>
<H5>=A7 702.103   Effect of establishment of =
suboffices=20
and jurisdictional areas.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Whenever the Director establishes a suboffice or jurisdictional =
area,=20
those reports, records, or other documents with respect to =
processing of=20
claims that are required to be filed with the district director of =
the=20
compensation district in which the injury or death occurred, may =
instead=20
be required to be filed at the suboffice, or office established =
for the=20
jurisdictional area.</P><A name=3D20:3.0.3.1.2.1.61.4>
<H5>=A7 702.104   Transfer of individual case=20
file.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) At any time after a claim is filed, the district director =
having=20
jurisdiction thereof may, with the prior or subsequent approval of =
the=20
Director, transfer such case to the district director in another=20
compensation district for the purpose of making an investigation, =
ordering=20
medical examinations, or taking such other action as may be =
necessary or=20
appropriate to further develop the claim. If, after filing a =
claim, the=20
claimant moves to another compensation district, the district =
director=20
may, upon request by the claimant or the employer and with the =
approval of=20
the Director, transfer the case to such other compensation =
district.</P>
<P>(b) The district director making the transfer may by letter or=20
memorandum to the district director to whom the case is =

transferred give=20
advice, comments, suggestions, or directions if appropriate to the =

particular case. The transfer of cases shall be by registered or =
certified=20
mail. All interested parties shall be advised of the transfer.</P>
<P>[42 FR 45301, Sept. 9, 1977]</P><A name=3D20:3.0.3.1.2.1.61.5>
<H5>=A7 702.105   Use of the title District =
Director in=20
place of Deputy Commissioner.</H5></A><A=20
=
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e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Wherever the statute refers to Deputy Commissioner, these =
regulations=20
have substituted the term District Director. The substitution is =
purely an=20
administrative one, and in no way effects the authority of or the =
powers=20
granted and responsibilities imposed by the statute on that =
position.</P>
<P>[55 FR 28606, July 12, 1990]</P><A name=3D20:3.0.3.1.2.1.62>
<H5>Records</H5></A><A=20
=
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top</A><A name=3D20:3.0.3.1.2.1.62.6>
<H5>=A7 702.111   Employer's =
records.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Every employer shall maintain adequate records of injury =
sustained by=20
employees while in his employ, and which shall also contain =
information of=20
disease, other impairments or disabilities, or death relating to =
said=20
injury. Such records shall be available for inspection by the OWCP =
or by=20
any State authority. Records required by this section shall be =
retained by=20
the employer for three years following the date of injury; this =
applies to=20
records for lost-time and no-lost-time injuries.</P>(Approved by =
the=20
Office of Management and Budget under control number 1215=960160)

<P>(Pub. L. No. 96=96511, 94 Stat. 2812 (44 U.S.C. 3501 <I>et seq. =
</I>))</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 47 FR 145, Jan. 5, =
1982; 50=20
FR 393, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.1.62.7>
<H5>=A7 702.112   Records of the =
OWCP.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>All reports, records, or other documents filed with the OWCP =
with=20
respect to claims are the records of the OWCP. The Director shall =
be the=20
official custodian of those records maintained by the OWCP at its =
national=20
office, and the district director shall be the official custodian =
of those=20
records maintained at the headquarters office in each compensation =

district.</P><A name=3D20:3.0.3.1.2.1.62.8>
<H5>=A7 702.113   Inspection of records of the =

OWCP.</H5></A><A=20
=
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=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Any party in interest may be permitted to examine the record of =
the=20
case in which he is interested. The official custodian of the =
record=20
sought to be inspected shall permit or deny inspection in =
accordance with=20
the Department of Labor's regulations pertaining thereto (see 29 =
CFR part=20
70). The original record in any such case shall not be removed =
from the=20
office of the custodian for such inspection. The custodian may, in =
his=20
discretion, deny inspection of any record or part thereof which is =
of a=20
character specified in 5 U.S.C. 552(b) if in his opinion such =
inspection=20
may result in damage, harm, or harassment to the beneficiary or to =
any=20
other person. For special provisions concerning release of =
information=20
regarding injured employees undergoing vocational rehabilitation, =
see=20
=A7702.508.</P><A name=3D20:3.0.3.1.2.1.62.9>
<H5>=A7 702.114   Copying of records of =

OWCP.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Any party in interest may request copies of records he has been =

permitted to inspect. Such requests shall be addressed to the =
official=20
custodian of the records sought to be copied. The official =
custodian shall=20
provide the requested copies under the terms and conditions =
specified in=20
the Department of Labor's regulations relating thereto (see 29 CFR =
part=20
70).</P><A name=3D20:3.0.3.1.2.1.63>
<H5>Forms</H5></A><A=20
=
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<H5>=A7 702.121   Forms.</H5></A><A=20
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=
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if">=20
top</A>
<P>The Director may from time to time prescribe, and require the =
use of,=20
forms for the reporting of any information required to be reported =
by the=20
regulations in this subchapter, or by the Act or any of its=20
extensions.</P><A name=3D20:3.0.3.1.2.1.64>
<H5>Representation</H5></A><A=20
=
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<H5>=A7 702.131   Representation of parties in =

interest.</H5></A><A=20
=
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=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Claimants, employers and insurance carriers may be =
represented in=20
any proceeding under the Act by an attorney or other person =
previously=20
authorized in writing by such claimant, employer or carrier to so =
act.</P>
<P>(b) The Secretary shall annually publish a list of individuals =
who are=20
disqualified from representing claimants under the Act. =
Individuals on=20
this list are not authorized to represent claimants under the Act =
subject=20
to the provision of section 31(b)(2)(C) of the Act, 33 U.S.C.=20
931(b)(2)(C), and they shall not have their representation fee =
approved as=20
provided in section 28(e), 33 U.S.C. 928(e).</P>
<P>(c) Individuals shall be included on the list mentioned in (b) =
if the=20
Secretary determines, after proceedings under =A7=A7702.432(b) =
through=20
702.434, that such individual:</P>
<P>(1) Has been convicted (without regard to pending appeal) of =
any crime=20
in connection with the representation of a claimant under this Act =
or any=20
workers' compensation statute;</P>
<P>(2) Has engaged in fraud in connection with the presentation of =
a claim=20
under this or any workers' compensation statute, including, but =
not=20
limited to, knowingly making false representations, concealing or=20
attempting to conceal material facts with respect to a claim, or=20
soliciting or otherwise procuring false testimony;</P>
<P>(3) Has been prohibited from representing claimants before any =
other=20
workers' compensation agency for reasons of professional =
misconduct which=20
are similar in nature to those which would be grounds for =
disqualification=20
under this section; or</P>
<P>(4) Has accepted fees for representing claimants under the Act =
which=20
were not approved, or which were in excess of the amount approved =
pursuant=20
to section 28 of the Act, 33 U.S.C. 928.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 394, Jan. 3,=20
1985]</P><A name=3D20:3.0.3.1.2.1.64.12>
<H5>=A7 702.132   Fees for =
services.</H5></A><A=20
=
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=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Any person seeking a fee for services performed on behalf =

of a=20
claimant with respect to claims filed under the Act shall make =
application=20
therefor to the district director, administrative law judge, =
Board, or=20
court, as the case may be, before whom the services were performed =
(See 33=20
U.S.C. 928(c)). The application shall be filed and serviced upon =
the other=20
parties within the time limits specified by such district =
director,=20
administrative law judge, Board, or court. The application shall =
be=20
supported by a complete statement of the extent and character of =
the=20
necessary work done, described with particularity as to the =
professional=20
status (e.g., attorney, paralegal, law clerk, or other person =
assisting an=20
attorney) of each person performing such work, the normal billing =
rate for=20
each such person, and the hours devoted by each such person to =
each=20
category of work. Any fee approved shall be reasonably =
commensurate with=20
the necessary work done and shall take into account the quality of =
the=20
representation, the complexity of the legal issues involved, and =
the=20
amount of benefits awarded, and when the fee is to be assessed =
against the=20
claimant, shall also take into account the financial circumstances =
of the=20
claimant. No contract pertaining to the amount of a fee shall be=20
recognized.</P>
<P>(b) No fee shall be approved for a representative whose name =
appears on=20
the Secretary's list of disqualified representatives under=20
=A7702.131(b).</P>
<P>(c) Where fees are included in a settlement agreement submitted =
under=20
=A7702.241, <I>et seq. </I>approval of that agreement shall be =
deemed=20
approval of attorney fees for purposes of this subsection for work =

performed before the Administrative Law Judge or district director =

approving the settlement.</P>
<P>[50 FR 394, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.1.64.13>
<H5>=A7 702.133   Unapproved fees; =
solicitation of=20
claimants; penalties.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Under the provisions of section 28(e) of the Act, 33 U.S.C. =
928(e), any=20
person who receives any fees, other consideration, or any gratuity =

on=20
account of services rendered as a representative of a claimant, =
unless=20
such consideration or gratuity is approved under =A7702.132, or =
who makes it=20
a business to solicit employment for an attorney, or for himself =
in=20
respect of any claim under the Act, shall upon conviction thereof, =
for=20
each offense be punished by a fine of not more than $1,000 or by=20
imprisonment for not more than 1 year, or by both fine and=20
imprisonment.</P><A name=3D20:3.0.3.1.2.1.64.14>
<H5>=A7 702.134   Payment of claimant's =
attorney's fees=20
in disputed claims.</H5></A><A=20
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if">=20
top</A>
<P>(a) If the employer or carrier declines to pay any compensation =
on or=20
before the 30th day after receiving written notice from the =
district=20
director of a claim for compensation having been filed, on the =
ground that=20
there is no liability for compensation within the provisions of =
this Act,=20
and the person seeking benefits shall thereafter have utilized the =

services of an attorney at law in the successful prosecution of =
his claim,=20
there shall be awarded, in addition to the award of compensation, =
in a=20
compensation order, a reasonable attorney's fee against the =
employer or=20
carrier in an amount approved by the person, administrative body =
or court=20
before whom the service was performed, which shall be paid =
directly by the=20
employer or carrier to the attorney for the claimant in a lump sum =
after=20
the compensation order becomes final (Act, section 28(a)).</P>
<P>(b) If the employer or carrier pays or tenders payment of =
compensation=20
without an award pursuant to =A7702.231 and section 14 (a) and (b) =
of this=20
Act, and thereafter a controversy develops over the amount of =
additional=20
compensation, if any, to which the employee may be entitled, the =
district=20
director, administrative law judge, or Board shall set the matter =
for an=20
informal conference and following such conference the district =
director,=20
administrative law judge, or Board shall recommend in writing a=20
disposition of the controversy. If the employer or carrier refuses =
to=20
accept such written recommendation, within 14 days after its =
receipt by=20

them, they shall pay or tender to the employee in writing the =
additional=20
compensation, if any, to which they believe the employee is =
entitled. If=20
the employee refuses to accept such payment or tender of =
compensation, and=20
thereafter utilizes the services of an attorney at law, and if the =

compensation thereafter awarded is greater than the amount paid or =

tendered by the employer or carrier, a reasonable attorney's fee =
based=20
solely upon the difference between the amount awarded and the =
amount=20
tendered or paid shall be awarded in addition to the amount of=20
compensation. The foregoing sentence shall not apply if the =
controversy=20
relates to degree or length of disability, and if the employer or =
carrier=20
offers to submit the case for evaluation by physicians employed or =

selected by the district director, as authorized by section 7(e) =
of the=20
Act and =A7702.408, and offers to tender an amount of compensation =
based=20
upon the degree or length of disability found by the independent =
medical=20
report at such time as an evaluation of disability can be made. If =
the=20
claimant is successful in review proceedings before the Board or =
court in=20
any such case an award may be made in favor of the claimant and =
against=20
the employer or carrier for a reasonable attorney's fee for =
claimant's=20
counsel in accord with the above provisions. In all other cases =
any claim=20
for legal services shall not be assessed against the employer or =
carrier=20
(see Act, section 28(b)).</P><A name=3D20:3.0.3.1.2.1.64.15>
<H5>=A7 702.135   Payment of claimant's =
witness fees and=20
mileage in disputed claims.</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>In cases where an attorney's fee is awarded against an employer =
or=20
carrier there may be further assessed against such employer or =
carrier as=20
costs, fees and mileage for necessary witnesses attending the =
hearing at=20
the instance of claimant. Both the necessity for the witness and =
the=20
reasonableness of the fees of expert witnesses must be approved by =
the=20
hearing officer, the Board, or the court, as the case may be. The =
amounts=20

awarded against an employer or carrier as attorney's fees, costs, =
fees and=20
mileage for witnesses shall not in any respect affect or diminish =
the=20
compensation payable under this Act (see Act, section 28 =
(d)).</P><A=20
name=3D20:3.0.3.1.2.1.65>
<H5>Information and Assistance for Claimants</H5></A><A=20
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top</A><A name=3D20:3.0.3.1.2.1.65.16>
<H5>=A7 702.136   Requests for information and =

assistance.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) <I>General assistance. </I>The Director shall, upon =
request,=20
provide persons covered by the Act with information and assistance =

relating to the Act's coverage and compensation and the procedures =
for=20
obtaining such compensation including assistance in processing a=20
claim.</P>
<P>(b) <I>Legal assistance to claimants. </I>The Secretary may, =
upon=20
request, provide a claimant with legal assistance in processing a =
claim=20
under the Act. Such assistance may be made available to a claimant =
in the=20
discretion of the Solicitor of Labor or his designee at any time =
prior to=20
or during which the claim is being processed and shall be =
furnished=20
without charge to the claimant. Legal representation of the =
claimant in=20
adjudicatory proceedings may be furnished in cases in which the=20
Secretary's interest in the case is not adverse to that of the=20
claimant.</P>
<P>(c) <I>Other assistance. </I>The district directors and their =
staff, as=20
designees of the Director, shall promptly and fully comply with =
the=20
request of a claimant receiving compensation for information =
about, and=20
assistance in obtaining, medical, manpower, and vocational =
rehabilitation=20
services (see also subparts D and E of this part).</P><A=20
name=3D20:3.0.3.1.2.1.66>
<H5>Commutation of Payments and Special Fund</H5></A><A=20
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top</A><A name=3D20:3.0.3.1.2.1.66.17>
<H5>=A7 702.142   Commutation of payments; =
aliens not=20
residents or about to become nonresidents.</H5></A><A=20
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href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Pursuant to section 9(g) of the Act, 33 U.S.C. 909(g), =
compensation=20
paid to aliens not residents, or about to become nonresidents, of =
the=20
United States or Canada shall be in the same amount as provided =
for=20
residents except that dependents in any foreign country shall be =
limited=20
to surviving spouse and child or children, or if there be no =
surviving=20
spouse or child or children, to surviving father or mother whom =
the=20
employee has supported, either wholly or in part, for the period =
of 1 year=20
prior to the date of injury, and except that the Director, OWCP, =
may, at=20
his option, or upon the application of the insurance carrier he =
shall,=20
commute all future installments of compensation to be paid to such =
aliens=20
by paying or causing to be paid to them one-half of the commuted =
amount of=20
such future installments of compensation as determined by the=20
Director.</P>
<P>(b) Applications for commutation under this section shall be =
made in=20
writing to the district director having jurisdiction, and =
forwarded by the=20
district director to the Director, for final action.</P>
<P>(c) Applications for commutations shall be made effective, if =
approved=20
by the Director, on the date received by the district director, or =
on a=20
later date if shown to be appropriate on the application.</P>
<P>(d) Commutations shall not be made with respect to a person =
journeying=20
abroad for a visit who has previously declared an intention to =
return and=20
has stated a time for returning, nor shall any commutation be made =
except=20
upon the basis of a compensation order fixing the right of the =
beneficiary=20
to compensation.</P>
<P>[50 FR 394, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.1.66.18>

<H5>=A7 702.143   Establishment of special=20
fund.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Congress, by section 44 of the Act, 33 U.S.C. 944, established =
in the=20
U.S. Treasury a special fund, to be administered by the Secretary. =
The=20
Treasurer of the United States is the custodian of such fund, and =
all=20
monies and securities in such fund shall be held in trust by the =
Treasurer=20
and shall not be money or property of the United States. The =
Treasurer=20
shall make disbursements from such funds only upon the order of =
the=20
Director, OWCP, as delegatee of the Secretary. The Act requires =
that the=20
Treasurer give bond, in an amount to be fixed and with securities =
to be=20
approved by the Secretary of the Treasury and the Comptroller =
General of=20
the United States, conditioned upon the faithful performance of =
his duty=20
as custodian of such fund.</P><A name=3D20:3.0.3.1.2.1.66.19>
<H5>=A7 702.144   Purpose of the special=20
fund.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>This special fund was established to give effect to a =
congressional=20
policy determination that, under certain circumstances, the =
employer of a=20
particular employee should not be required to bear the entire =
burden of=20
paying for the compensation benefits due that employee under the =
Act.=20
Instead, a substantial portion of such burden should be borne by =
the=20
industry generally. Section 702.145 describes this special =
circumstance=20
under which the particular employer is relieved of some of his =
burden.=20
Section 702.146 describes the manner and circumstances of the =
input into=20
the fund.</P><A name=3D20:3.0.3.1.2.1.66.20>
<H5>=A7 702.145   Use of the special =
fund.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) <I>Under section 10 of the Act. </I>This section provides =
for=20
initial and subsequent annual adjustments in compensation and =
continuing=20
payments to beneficiaries in cases of permanent total disability =
or death=20
which commenced or occurred prior to enactment of the 1972 =
Amendments to=20
this Act (Pub. L. 92=96576, approved Oct. 27, 1972). At the =
discretion of=20
the Director, such payments may be paid directly by him to =
eligible=20
beneficiaries as the obligation accrues, one-half from the special =
fund=20
and one-half from appropriations, or he may require insurance =
carriers or=20
self-insured employers already making payments to such =
beneficiaries to=20
pay such additional compensation as the amended Act requires. In =
the=20
latter case such carriers and self-insurers shall be reimbursed by =
the=20
Director for such additional amounts paid, in the proportion of =
one-half=20
the amount from the special fund and one-half the amount from=20
appropriations. To obtain reimbursement, the carriers and =
self-insurers=20
shall submit claims for payments made by them during previous =
periods at=20
intervals of not less than 6 months. A form has been prescribed =
for such=20
purpose and shall be used. No administrative claims service =
expense=20
incurred by the carrier or self-insurer shall be included in the =
claim and=20
no such expense shall be allowed. The amounts reimbursed to such =
carrier=20
or self-insurer shall be limited to amounts actually due and =
previously=20
paid to beneficiaries.</P>
<P>(b) Under section 8(f) of the Act (Second Injuries). In any =
case in=20
which an employee having an existing permanent partial disability =
suffers=20
injury, the employer shall provide compensation for such =
disability as is=20
found to be attributable to that injury based upon the average =
weekly=20
wages of the employee at the time of injury. If, following an =
injury=20
falling within the provisions of section 8(c)(1)=96(20), the =
employee with=20
the pre-existing permanent partial disability becomes permanently =
and=20
totally disabled after the second injury, but such total =
disability is=20
found not to be due solely to his second injury, the employer (or =

carrier)=20
shall be liable for compensation as provided by the provisions of =
section=20
8(c)(1)=96(20) of the Act, 33 U.S.C. 908(c)(1)=96(20) or for 104 =
weeks,=20
whichever is greater. However, if the injury is a loss of hearing =
covered=20
by section 8(c)(13), 33 U.S.C. 908(c)(13), the liability shall be =
the=20
lesser of these periods. In all other cases of a second injury =
causing=20
permanent total disability (or death), wherein it is found that =
such=20
disability (or death) is not due solely to the second injury, and =
wherein=20
the employee had a pre-existing permanent partial disability, the =
employer=20
(or carrier) shall first pay compensation under section 8(b) or =
(e) of the=20
Act, 33 U.S.C. 908(b) or (e), if any is payable thereunder, and =
shall then=20
pay 104 weeks compensation for such total disability or death, and =
none=20
otherwise. If the second injury results in permanent partial =
disability,=20
and if such disability is compensable under section 8(c)(1)=96(20) =
of the=20
Act, 33 U.S.C. 908(c)(1)=96(20), but the disability so compensable =
did not=20
result solely from such second injury, and the disability so =
compensable=20
is materially and substantially greater than that which would have =

resulted from the second injury alone, then the employer (or =
carrier)=20
shall only be liable for the amount of compensation provided for =
in=20
section 8(c)(1)=96(20) that is attributable to such second injury, =
or for=20
104 weeks, whichever is greater. However, if the injury is a loss =
of=20
hearing covered by section 8(c)(13), 33 U.S.C. 908(c)(13), the =
liability=20
shall be the lesser of these periods. In all other cases wherein =
the=20
employee is permanently and partially disabled following a second =
injury,=20
and wherein such disability is not attributable solely to that =
second=20
injury, and wherein such disability is materially and =
substantially=20
greater than that which would have resulted from the second injury =
alone,=20
and wherein such disability following the second injury is not =
compensable=20
under section 8(c)(1)=96(20) of the Act, then the employer (or =
carrier)=20
shall be liable for such compensation as may be appropriate under =
section=20
8(b) or (e) of the Act, 33 U.S.C. 908(b) or (e), if any, to be =
followed by=20
a payment of compensation for 104 weeks, and none other. The term=20
=93compensation=94 herein means money benefits only, and does not =
include=20

medical benefits. The procedure for determining the extent of the=20
employer's (or carrier's) liability under this paragraph shall be =
as=20
provided for in the adjudication of claims in subpart C of this =
part 702.=20
Thereafter, upon cessation of payments which the employer is =
required to=20
make under this paragraph, if any additional compensation is =
payable in=20
the case, the district director shall forward such case to the =
Director=20
for consideration of an award to the person or persons entitled =
thereto=20
out of the special fund. Any such award from the special fund =
shall be by=20
order of the Director or Acting Director.</P>
<P>(c) <I>Under sections 8 </I>(<I>g </I>) <I>and 39 </I>(<I>c =
</I>)(=20
<I>2 </I>) <I>of the Act. </I>These sections, 33 U.S.C. 908(g) and =

939(c)(2), respectively, provide for vocational rehabilitation of =
disabled=20
employees, and authorize, under appropriate circumstances, a =
maintenance=20
allowance for the employee (not to exceed $25 a week) in =
additional to=20
other compensation benefits otherwise payable for his =
injury-related=20
disability. Awards under these sections are made from the special =
fund=20
upon order of the Director or his designee. The district directors =
may be=20
required to make investigations with respect to any case and =
forward to=20
the Director their recommendations as to the propriety and need =
for such=20
maintenance.</P>
<P>(d) <I>Under section 39 </I>(<I>c </I>)(<I>2 </I>) <I>of the =
Act.=20
</I>In addition to the maintenance allowance for the employee =
discussed in=20
paragraph (c) of this section, the Director is further authorized =
to use=20
the fund in such amounts as may be necessary to procure the =
vocational=20
training services.</P>
<P>(e) <I>Under section 7 </I>(<I>e </I>) <I>of the Act. </I>This =

provision, 33 U.S.C. 907(e), authorizes payment by the Director =
from the=20
special fund for special medical examinations, <I>i.e. </I>, those =

obtained from impartial specialists to resolve disputes, when such =
special=20
examinations are deemed necessary under that statutory provision. =
The=20
Director has the discretionary power, however, to charge the cost =
of such=20
examination to the insurance carrier or self-insured employer.</P>
<P>(f) <I>Under section 18 </I>(<I>b </I>) <I>of the Act. =
</I>This=20
section, 33 U.S.C. 918(b), provides a source for payment of =
compensation=20
benefits in cases where the employer is insolvent, or other =

circumstances=20
preclude the payment of benefits due in any case. In such =
situations, the=20
district director shall forward the case to the Director for =
consideration=20
of an award from the special fund, together with evidence with =
respect to=20
the employer's insolvency or other reasons for nonpayment of =
benefits due.=20
Benefits, as herein used, means medical care or supplies within =
the=20
meaning of section 7 of the Act, 33 U.S.C. 907, and subpart D of =
this part=20
702, as well as monetary benefits. Upon receipt of the case, the =
Director=20
shall promptly determine whether an award from the special fund is =

appropriate and advisable in the case, having due regard for all =
other=20
current commitments from the special fund. If such an award is =
made, the=20
employer shall be liable for the repayment into the fund of the =
amounts=20
paid therefrom, as provided in 33 U.S.C. 918(b).</P>(The =
information=20
collection requirements contained in paragraph (a) were approved =
by the=20
Office of Management and Budget under control number 1215=960065. =
The=20
information collection requirements contained in paragraph (b) =
were=20
approved by the Office of Management and Budget under control =
number=20
1215=960073)
<P>(Pub. L. No. 96=96511)</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 49 FR 18294, Apr. =
30, 1984;=20
51 FR 4282, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.1.66.21>
<H5>=A7 702.146   Source of the special =
fund.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) All amounts collected as fines and penalties under the =
several=20
provisions of the Act shall be paid into the special fund (33 =
U.S.C.=20
44(c)(3)).</P>
<P>(b) Whenever an employee dies under circumstances creating a =
liability=20
on an employer to pay death benefits to the employee's =
beneficiaries, and=20
whenever there are no such beneficiaries entitled to such =
payments, the=20
employer shall pay $5,000 into the special fund (Act, section =
44(c)(1)).=20
In such cases, the compensation order entered in the case shall=20
specifically find that there is such liability and that there are =

no=20
beneficiaries entitled to death benefits, and shall order payment =
by the=20
employer into the fund. Compensation orders shall be made and =
filed in=20
accordance with the regulations in subpart C of this part 702, =
except that=20
for this purpose the district director settling the case under =
=A7702.315=20
shall formalize the memorandum of conference in a compensation =
order, and=20
shall file such order as provided for in =A7702.349.</P>
<P>(c) The Director annually shall assess an amount against =
insurance=20
carriers and self-insured employers authorized under the Act and =
part 703=20
of this subchapter to replenish the fund. That total amount to be =
charged=20
all carriers and self-insurers to be assessed shall be based upon =
an=20
estimate of the probable expenses of the fund during the calendar =
year.=20
The assessment against each carrier and self-insurer shall be =
based upon=20
(1) the ratio of the amount each paid during the prior calendar =
year for=20
compensation in relation to the amount all such carriers of =
self-insurers=20
paid during that period for compensation, and (2) the ratio of the =
amount=20
of payments made by the special fund for all cases being paid =
under=20
section 8(f) of the Act, 33 U.S.C. 908(f), during the preceding =
calendar=20
year which are attributable to the carrier or self-insurer in =
relation to=20
the total of such payments during such year attributable to all =
carriers=20
and self-insurers. The resulting sum of the percentages from =
paragraphs=20
(c) (1) and (2) of this section will be divided by two, and the =
resulting=20
percentage multiplied by the probable expenses of the fund. The =
Director=20
may, in his or her discretion, condition continuance or renewal of =

authorization under part 703 upon prompt payment of the =
assessment.=20
However, no action suspending or revoking such authorization shall =
be=20
taken without affording such carrier or self-insurer a hearing =
before the=20
Director or his/her designee.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 395, Jan. 3, =
1985; 51=20
FR 4282, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.1.66.22>
<H5>=A7 702.147   Enforcement of special fund=20
provisions.</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) As provided in section 44(d)(1) of the Act, 33 U.S.C. =
944(d)(1),=20
for the purpose of making rules, regulations, and determinations =
under the=20
special fund provisions in section 44 and for providing =
enforcement=20
thereof, the Director may investigate and gather appropriate data =
from=20
each carrier and self-insured employer, and may enter and inspect =
such=20
places and records (and make such transcriptions of records), =
question=20
such employees, and investigate such facts, conditions, practices, =
or=20
other matters as he may deem necessary or appropriate. The =
Director may=20
require the employer to have audits performed of claims activity =
relating=20
to this Act. The Director may also require detailed reports of =
payments=20
made under the Act, and of estimated future liabilities under the =
Act,=20
from any or all carriers of self-insurers. The Director may =
require that=20
such reports be certified and verified in whatever manner is =
considered=20
appropriate.</P>
<P>(b) Pursuant to section 44(d)(3) of the Act, 33 U.S.C. =
944(d)(3), for=20
the purpose of any hearing or investigation related to =
determinations or=20
the enforcement of the provisions of section 44 with respect to =
the=20
special fund, the provisions of 15 U.S.C. 49 and 50 as amended =
(the=20
Federal Trade Commission Act provisions relating to attendance of=20
witnesses and the production of books, papers, and documents) are =
made=20
applicable to the jurisdiction, powers, and duties of the =
Director, OWCP,=20
as the Secretary's delegatee.</P>
<P>(c) Civil penalties and unpaid assessments shall be collected =
by civil=20
suits brought by and in the name of the Secretary.</P>(Approved by =
the=20
Office of Management and Budget under control number 1215=960160)
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 395, Jan. 3,=20
1985]</P><A name=3D20:3.0.3.1.2.1.66.23>
<H5>=A7 702.148   Insurance carriers' and =
self-insured=20
employers' responsibilities.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Each carrier and self-insured employer shall make, keep, =

and=20
preserve such records, and make such reports and provide such =
additional=20
information as the Director prescribes or orders, which he =
considers=20
necessary or appropriate to effectively carry out his=20
responsibilities.</P>
<P>(b) Consistent with their greater direct liability stemming =
from the=20
amended assessment formula, employers and insurance carriers are =
given the=20
authority to monitor their claims in the special fund as outlined =
in=20
paragraph (c) of this section. For purposes of monitoring these =
claims,=20
employers and insurance carriers remain parties in interest to the =
claim=20
and are allowed access to all records relating to the claim. =
Similarly,=20
employers and insurance carriers can initiate proceeding to modify =
an=20
award of compensation after the special fund has assumed the =
liability to=20
pay benefits. It is intended that employers and insurance carriers =
have=20
neither a greater nor a lesser responsibility in this new role =
that they=20
not have with regard to cases that remain their sole liability. =
(See=20
=A7702.373(d).)</P>
<P>(c) An employer or insurance carrier may conduct any reasonable =

investigation regarding cases placed into the special fund by the =
employer=20
or insurance carrier. Such investigation may include, but shall =
not be=20
limited to, a semi-annual request for earnings information =
pursuant to=20
section 8(j) of the Act, 33 U.S.C. 908(j) (See =A7702.285) =
periodic medical=20
examinations, vocational rehabilitation evaluations, and requests =
for any=20
additional information needed to effectively monitor such a=20
case.</P>(Approved by the Office of Management and Budget under =
control=20
number 1215=960118)
<P>(Pub. L. No. 96=96511, 94 Stat. 2812 (44 U.S.C. 3501 <I>et seq. =

</I>))</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 47 FR 145, Jan. 5, =
1982; 50=20
FR 395, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.1.67>
<H5>Liens on Compensation</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A><A name=3D20:3.0.3.1.2.1.67.24>
<H5>=A7 702.161   Liens against assets of =
insurance=20

carriers and employers.</H5></A><A=20
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href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>Where payments have been made from the special fund pursuant to =
section=20
18(b) of the Act, 33 U.S.C. 918(b) and =A7704.145(f) the Secretary =
of Labor=20
shall, for the benefit of the fund, be subrogated to all the =
rights of the=20
person receiving such payments. The Secretary may institute =
proceedings=20
under either section 18 or 21(d) of the Act, 33 U.S.C. 918 or =
921(d), or=20
both, to recover the amount expended by the fund or so much as in =
the=20
judgement of the Secretary is possible, or the Secretary may =
settle or=20
compromise any such claim.</P>
<P>[50 FR 395, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.1.67.25>
<H5>=A7 702.162   Liens on compensation =
authorized under=20
special circumstances.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) Pursuant to section 17 of the Act, 33 U.S.C. 917, when a =
trust fund=20
which complies with section 302(c) of the Labor-Management =
Relations Act=20
of 1947, 29 U.S.C. 186(c) [LMRA], established pursuant to a =
collective=20
bargaining agreement in effect between an employer and an employee =

entitled to compensation under this Act, has paid disability =
benefits to=20
an employee which the employee is legally obligated to repay by =
reason of=20
his entitlement to compensation under this Act, a lien shall be =
authorized=20
on such compensation in favor of the trust fund for the amount of =
such=20
payments.</P>
<P>(b)(1) An application for such a lien shall be filed on behalf =
of the=20
trust fund with the district director for the compensation =
district where=20
the claim for compensation has been filed, 20 CFR 702.101. Such=20
application shall include a certified statement by an authorized =
official=20
of the trust fund that:</P>
<P>(i) The trust fund is entitled to a lien in its favor by reason =

of its=20
payment of disability payments to a claimant-employee (including =
his name=20
therein);</P>
<P>(ii) The trust fund was created pursuant to a collective =
bargaining=20
agreement covering the claimant-employee;</P>
<P>(iii) The trust fund complies with section 302(c) of the=20
Labor-Management Relations Act of 1947, 29 U.S.C. 186(c);</P>
<P>(iv) The trust agreement contains a subrogation provision =
entitling the=20
fund to reimbursement for disability benefits paid to the=20
claimant-employee who is entitled to compensation under the =
Longshoremen's=20
Act;</P>
<P>(2) The statement shall also state the amount paid to the named =

claimant-employee and whether such disability benefit payments are =

continuing to be paid.</P>
<P>(3) If the claimant has signed a statement acknowledging =
receipt of=20
disability benefits from the trust fund and/or a statement =
recognizing the=20
trust fund's entitlement to a lien against compensation payments =
which may=20
be received under the Longshoremen's and Harbor Worker's =
Compensation Act=20
as a result of his present claim and for which the fund is =
providing=20
disability payments, such statement(s) shall also be included with =
or=20
attached to the application.</P>
<P>(c) Upon receipt of this application, the district director =
shall,=20
within a reasonable time, notify the claimant, the employer and/or =
its=20
compensation insurance carrier that the request for a lien has =
been filed=20
and each shall be provided with a copy of the application. If the =
claimant=20
disputes the right of the trust fund to the lien or the amount =
stated, if=20
any, he shall, within 30 days after receipt of the application or =
such=20
other longer period as the district director may set, notify the =
district=20
director and he shall be given an opportunity to challenge the =
right of=20
the trust fund to, or the amount of, the asserted lien; notice to =
either=20
the employer or its compensation insurance carrier shall =
constitute notice=20
to both of them.</P>
<P>(d) If the claim for compensation benefits is resolved without =
a formal=20
hearing and if there is no dispute over the amount of the lien or =
the=20
right of the trust fund to the lien, the district director may =
order and=20
impose the lien and he shall notify all parties of the amount of =
the lien=20
and manner in which it is to be paid.</P>
<P>(e) If the claimant's claim for compensation cannot be resolved =

informally, the district director shall transfer the case to the Office of
the Chief Administrative Law Judge for a formal hearing, pursuant to
section 19(d) of the Act, 33 U.S.C. 919(d), and 20 CFR 702.317. The
district director shall also submit therewith the application for the lien
and all documents relating thereto.</P>
<P>(f) If the administrative law judge issues a compensation order in
favor of the claimant, such order shall establish a lien in favor of the
trust fund if it is determined that the trust fund has satisfied all of
the requirements of the Act and regulations.</P>
<P>(g) If the claim for compensation is not in dispute, but there is a
dispute as to the right of the trust fund to a lien, or the amount of the
lien, the district director shall transfer the matter together with all
documents relating thereto to the Office of the Chief Administrative Law
Judge for a formal hearing pursuant to section 19(d) of the Act, 33 U.S.C.
919(d), and 20 CFR 702.317.</P>
<P>(h) In the event that either the district director or the
administrative law judge is not satisfied that the trust fund qualifies
for a lien under section 17, the district director or administrative law
judge may require further evidence including but not limited to the
production of the collective bargaining agreement, trust agreement or
portions thereof.</P>
<P>(i) Before any such lien is approved, if the trust fund has provided
continued disability payments after the application for a lien has been
filed, the trust fund shall submit a further certified statement showing
the total amount paid to the claimant as disability payments. The claimant
shall likewise be given an opportunity to contest the amount alleged in
this subsequent statement.</P>
<P>(j) In approving a lien on compensation, the district director or
administrative law judge shall not order an initial payment to the trust
fund in excess of the amount of the past due compensation. The remaining
amount to which the trust fund is entitled shall thereafter be deducted
from the affected employee's subsequent compensation payments and paid to
the trust fund, but any such payment to the trust fund shall not exceed 10
percent of the claimant-employee's bi-weekly compensation
payments.</P>(Approved by the Office of Management and Budget under

control number 1215=960160)
<P>[42 FR 45301, Sept. 9, 1977, as amended at 50 FR 395, Jan. 3, =
1985; 51=20
FR 4282, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.1.68>
<H5>Certification of Exemption</H5></A><A=20
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<H5>=A7 702.171   Certification of exemption,=20
general.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>An employer may apply to the Director or his/her designee to =
certify a=20
particular facility as one engaged in the building, repairing or=20
dismantling of exclusively small vessels, as defined. Once =
certified,=20
injuries sustained at that facility would not be covered under the =
Act=20
except for injuries which occur over the navigable waters of the =
United=20
States including any adjoining pier, wharf, dock, facility over =
land for=20
launching vessels or for hauling, lifting or drydocking vessels. A =

facility otherwise covered under the Act remains covered until=20
certification of exemption is issued; a certification will be =
granted only=20
upon submission of a complete application (described in =
=A7702.174), and=20
only for as long as a facility meets the requirements detailed in =
section=20
3(d) of the Act, 33 U.S.C. 903(d). This exemption from coverage is =
not=20
intended to be used by employers whose facilities from time to =
time may=20
temporarily meet the criteria for qualification but only for =
facilities=20
which work on exclusively small vessels, as defined.</P>
<P>[50 FR 396, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.1.68.27>
<H5>=A7 702.172   Certification; =
definitions.</H5></A><A=20
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<P>For purposes of =A7=A7702.171 through 702.175 dealing with =
certification of=20
small vessel facilities, the following definitions are =
applicable.</P>
<P>(a)(1) =93Small vessel=94 means only those vessels described in =
section=20
3(d)(3) of the Act, 33 U.S.C. 903(d)(3), that is:</P>
<P>(i) A commercial barge which is under 900 lightship =
displacement tons=20
(long); or</P>
<P>(ii) A commercial tugboat, towboat, crewboat, supply boat, =
fishing=20
vessel or other work vessel which is under 1,600 tons gross.</P>
<P>(2) For these purposes: (i) One gross ton equals 100 cubic =
feet, as=20
measured by the current formula contained in the Act of May 6, =
1894 as=20
amended through 1974 (46 U.S.C. 77); (ii) one long ton equals =
2,240 lbs;=20
and (iii) =93Commercial=94 as it applies to =93vessel=94 means any =
vessel engaged=20
in commerce but does not include military vessels or Coast Guard=20
vessels.</P>
<P>(b) =93Federal Maritime Subsidy=94 means the construction =
differential=20
subsidy (CDS) or operating differential subsidy under the Merchant =
Marine=20
Act of 1936 (46 U.S.C. 1101 <I>et seq. </I>).</P>
<P>(c) <I>facility </I>means an operation of an employer at a =
particular=20
contiguous geographic location.</P>
<P>[51 FR 4283, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.1.68.28>
<H5>=A7 702.173   Exemptions; requirements,=20
limitations.</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) Injuries at a facility otherwise covered by the Act are =
exempted=20
only upon certification that the facility is: (1) Engaged in the =
building,=20
repairing or dismantling of exclusively small commercial vessels; =
and (2)=20
does not receive a Federal maritime subsidy.</P>
<P>(b) The exemption does not apply to: (1) Injuries at any =
facility which=20
occur over the navigable waters of the United States or upon any =
adjoining=20
pier, wharf, dock, facility over land for launching vessels or for =

hauling, lifting or drydocking vessels; or (2) where the employee =
at such=20
facility is not subject to a State workers' compensation law.</P>
<P>[50 FR 396, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.1.68.29>
<H5>=A7 702.174   Exemptions; necessary=20
information.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) <I>Application. </I>Before any facility is exempt from =
coverage=20
under the Act, the facility must apply for and receive a =
certificate of=20
exemption from the Director or his/her designee. The application =
must be=20
made by the owner of the facility; where the owner is a =
partnership it=20
shall be made by a partner and where a corporation by an officer =
of the=20
corporation or the manager in charge of the facility for which an=20
exemption is sought. The information submitted shall include the=20
following:</P>
<P>(1) Name, location, physical description and a site plan or =
aerial=20
photograph of the facility for which an exemption is sought.</P>
<P>(2) Description of the nature of the business.</P>
<P>(3) An affidavit (signed by a partner if the facility is owned =
by a=20
partnership or an officer if owned by a corporation) vertifying =
and/or=20
acknowledging that:</P>
<P>(i) the facility is, as of the date of the application, engaged =
in the=20
business of building, repairing or dismantling exclusively small=20
commercial vessels and that it does not then nor foreseeably will =
it=20
engage in the building, repairing or dismantling of other than =
small=20
vessels.</P>
<P>(ii) The facility does not receive any Federal maritime =
subsidy.</P>
<P>(iii) The signator has the duty to immediately inform the =
district=20
director of any change in these or other conditions likely to =
result in a=20
termination of an exemption.</P>
<P>(iv) the employer has secured appropriate compensation =
liability under=20
a State workers' compensation law.</P>
<P>(v) Any false, relevant statements relating to the application =
or the=20
failure to notify the district director of any changes in =
circumstances=20
likely to result in termination of the exemption will be grounds =
for=20
revocation of the exemption certificate and will subject the =
employer to=20
all provisions of the Act, including all duties, responsibilities =
and=20
penalties, retroactive to the date of application or date of =
change in=20
circumstances, as appropriate.</P>
<P>(b) <I>Action by the Director. </I>The Director or his/her =
designee=20
shall review the application within thirty (30) days of its =
receipt.</P>

<P>(1) Where the application is complete and shows that all =
requirements=20
under =A7702.173 are met, the Director shall promptly notify the =
employer by=20
certified mail, return receipt requested, that certification has =
been=20
approved and will be effective on the date specified. The employer =
is=20
required to post notice of the exemption at a conspicuous =
location.</P>
<P>(2) Where the application is incomplete or does not =
substantiate that=20
all requirements of section 3(d) of the Act, 33 U.S.C. 903(d), =
have been=20
met, or evidence shows the facility is not eligible for exemption, =
the=20
Director shall issue a letter which details the reasons for the =
deficiency=20
or the rejection. The employer/applicant may reapply for =
certification,=20
correcting deficiencies and/or responding to the reasons for the=20
Director's denial. The Director or his/her designee shall issue a =
new=20
decision within a reasonable time of reapplication following =
denial. Such=20
action will be the final administrative review and is not =
appealable to=20
the Administrative Law Judge or the Benefits Review Board.</P>
<P>(c) The Director or another designated individual at any time =
has the=20
right to enter on and inspect any facility seeking exemption for =
purposes=20
of verifying information provided on the application form.</P>
<P>(d) <I>Action by the employer. </I>Immediately upon receipt of =
the=20
certificate of exemption from coverage under the Act the employer =
shall=20
post:</P>
<P>(1) A general notice in a conspicuous place that the Act does =
not cover=20
injuries sustained at the facility in question, the basis of the=20
exemption, the effective date of the exemption and grounds for =
termination=20
of the exemption.</P>
<P>(2) A notice, where applicable, at the entrances to all areas =
to which=20
the exemption does not apply.</P>(Approved by the Office of =
Management and=20
Budget under control number 1215=960160)
<P>[50 FR 396, Jan. 3, 1985, as amended at 51 FR 4283, Feb. 3, =
1986]</P><A=20
name=3D20:3.0.3.1.2.1.68.30>
<H5>=A7 702.175   Effect of work on excluded =
vessels;=20
reinstatement of certification.</H5></A><A=20
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alt=3D""=20
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<P>(a) When a vessel other than a small commercial vessel, as =
defined in=20
=A7702.172, enters a facility which has been certified as exempt =
from=20
coverage, the exemption shall automatically terminate as of the =
date such=20
a vessel enters the facility. The exemption shall also terminate =
on the=20
date a contract for a Federal maritime subsidy is entered into, =
and, in=20
the situation where the facility undertakes to build a vessel =
other than a=20
small vessel, when the construction first takes on the =
characteristics of=20
a vessel, <I>i.e. </I>, when the keel is laid. All duties, =
obligations and=20
requirements imposed by the Act, including the duty to secure =
compensation=20
liability as required by sections 4 and 32 of the Act, 33 U.S.C. =
904 and=20
932, and to keep records and forward reports, are effective =
immediately.=20
The employer shall notify the Director or his/her designee =
immediately=20
where this occurs.</P>
<P>(b) Where an exemption certification is terminated because of=20
circumstances described in (a), the employer may apply for =
reinstatement=20
of the exemption once the event resulting in termination of the =
exemption=20
ends. The reapplication shall consist of a reaffirmation of the =
nature of=20
the business, an explanation of the circumstances leading to the=20
termination of exemption, and an affidavit by the appropriate =
person=20
affirming that the circumstances prompting the termination no =
longer=20
exists nor will they reoccur in the forseeable future and that the =

facility is engaged in building, repairing or dismantling =
exclusively=20
small vessels. The Director or the Director's designee shall =
respond to=20
the complete reapplication within ten working days of receipt.</P>
<P>[50 FR 397, Jan. 3, 1985, as amended at 51 FR 4283, Feb. 3, =
1986]</P><A=20
name=3D20:3.0.3.1.2.2>
<H5>Subpart B=97Claims Procedures</H5></A><A=20
=
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if">=20
top</A><A name=3D20:3.0.3.1.2.2.69>
<H5>Employer's Reports</H5></A><A=20
=
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e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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alt=3D""=20
=

src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A><A name=3D20:3.0.3.1.2.2.69.1>
<H5>=A7 702.201   Reports from employers of =
employee's=20
injury or death.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Within 10 days from the date of an employee's injury or =
death, or=20
10 days from the date an employer has knowledge of an employee's =
injury or=20
death, including any disease or death proximately caused by the=20
employment, the employer shall furnish a report thereof to the =
district=20
director for the compensation district in which the injury or =
death=20
occurred, and shall thereafter furnish such additional or =
supplemental=20
reports as the district director may request.</P>
<P>(b) No report shall be filed unless the injury causes the =
employee to=20
lose one or more shifts from work. However, the employer shall =
keep a=20
record containing the information specified in =A7702.202. =
Compliance with=20
the current OSHA injury record keeping requirements at 29 CFR part =
1904=20
will satisfy the record keeping requirements of this section for =
no lost=20
time injuries.</P>(Approved by the Office of Management and Budget =
under=20
control number 1215=960160)
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 397, Jan. 3, =
1985; 51=20
FR 4283, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.2.69.2>
<H5>=A7 702.202   Employer's report; form and=20
contents.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The employer's report of an employee's injury or death shall be =
in=20
writing and on a form prescribed by the Director for this purpose, =
and=20
shall contain:</P>
<P>(a) The name, address and business of the employer;</P>
<P>(b) The name, address, occupation and Social Security Number =
(SSN) of=20
the employee;</P>
<P>(c) The cause, nature, and other relevant circumstances of the =

injury=20
or death;</P>
<P>(d) The year, month, day, and hour when, and the particular =
locality=20
where, the injury or death occurred;</P>
<P>(e) Such other information as the Director may =
require.</P>(Approved by=20
the Office of Management and Budget under control numbers =
1215=960031 and=20
1215=960063)
<P>[58 FR 68032, Dec. 23, 1993]</P><A name=3D20:3.0.3.1.2.2.69.3>
<H5>=A7 702.203   Employer's report; how=20
given.</H5></A><A=20
=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The employer's report, an original and one copy, may be =
furnished by=20
delivering it to the appropriate office of the district director, =
or by=20
mailing it to said office.</P><A name=3D20:3.0.3.1.2.2.69.4>
<H5>=A7 702.204   Employer's report; penalty =
for failure=20
to furnish and or falsifying.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Any employer, insurance carrier, or self-insured employer who =
knowingly=20
and willfully fails or refuses to send any report required by =
=A7702.201, or=20
who knowingly or willfully makes a false statement or =
misrepresentation in=20
any report, shall be subject to a civil penalty not to exceed =
$10,000.00=20
for each such failure, refusal, false statement, or =
misrepresentation.=20
<I>Provided, however, </I>that for any violations occurring on or =
after=20
November 17, 1997 the maximum civil penalty may not exceed =
$11,000.00. The=20
district director has the authority and responsibility for =
assessing a=20
civil penalty under this section.</P>
<P>[62 FR 53956, Oct. 17, 1997]</P><A name=3D20:3.0.3.1.2.2.69.5>
<H5>=A7 702.205   Employer's report; effect of =
failure=20
to report upon time limitations.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Where the employer, or agent in charge of the business, or =
carrier has=20
been given notice or has knowledge of an employee's injury or =
death, and=20
fails, neglects, or refuses to file a report thereof as required =
by=20
=A7702.201, the time limitations provisions with respect to the =
filing of=20
claims for compensation for disability or death (33 U.S.C. 913(a), =
and see=20
=A7702.221) shall not begin to run until such report shall have =
been=20
furnished as required herein.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 397, Jan. 3,=20
1985]</P><A name=3D20:3.0.3.1.2.2.70>
<H5>Notice</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A><A name=3D20:3.0.3.1.2.2.70.6>
<H5>=A7 702.211   Notice of employee's injury =
or death;=20
designation of responsible official.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) In order to claim compensation under the Act, an employee =
or=20
claimant must first give notice of the fact of an injury or death =
to the=20
employer and also may give notice to the district director for the =

compensation district in which the injury or death occurred. =
Notice to the=20
employer must be given to that individual whom the employer has =
designated=20
to receive such notices. If no individual has been so designated =
notice=20
may be given to: (1) The first line supervisor (including foreman, =

hatchboss or timekeeper), local plant manager or personnel office=20
official; (2) to any partner if the employer is a partnership; or =
(3) if=20
the employer is a corporation, to any authorized agent, to an =
officer or=20
to the person in charge of the business at the place where the =
injury=20
occurred. In the case of a retired employee, the employee/claimant =

may=20
submit the notice to any of the above persons, whether or not the =
employer=20
has designated an official to receive such notice.</P>
<P>(b) In order to facilitate the filing of notices, each employer =
shall=20
designate at least one individual responsible for receiving =
notices of=20
injury or death; this requirement applies to all employers. The=20
designation shall be by position and the employer shall provide =
the name=20
and/or position, exact location and telephone number of the =
individual to=20
all employees by the appropriate method described below.</P>
<P>(1) <I>Type of individual. </I>Designees must be a first line=20
supervisor (including a foreman, hatchboss or timekeeper), local =
plant=20
manager, personnel office official, company nurse or other =
individual=20
traditionally entrusted with this duty, who is located full-time =
on the=20
premises of the covered facility. The employer must designate at =
least one=20
individual at each place of employment or one individual for each =
work=20
crew where there is no fixed place of employment (in that case, =
the=20
designation should always be the same position for all work =
crews).</P>
<P>(2) <I>How designated. </I>The name and/or title, the location =
and=20
telephone number of the individual who is selected by the employer =
to=20
receive all notices shall be given to the district director for =
the=20
compensation district in which the facility is located; posting on =
the=20
worksite in a conspicuous place shall fulfill this requirement. A=20
redesignation shall be effected by a change in posting.</P>
<P>(3) <I>Publication. </I>Every employer shall post the name =
and/or=20
position, the exact location and telephone number of the =
designated=20
official. The posting shall be part of the general posting =
requirement,=20
done on a form prescribed by the Director, and placed in a =
conspicuous=20
location. Posting must be done at each worksite.</P>
<P>(4) <I>Effect of failure to designate. </I>Where an employer =
fails to=20
properly designate and to properly publish the name and/or =
position of the=20
individual authorized to receive notices of injury or death, such =
failure=20
shall constitute satisfactory reasons for excusing the =
employee/claimant's=20
failure to give notice as authorized by section 12(d)(3)(ii) of =
the Act,=20
33 U.S.C. 912(d)(3)(ii).</P>(Approved by the Office of Management =
and=20
Budget under control number 1215=960160)
<P>[50 FR 397, Jan. 3, 1985, as amended at 51 FR 4283, Feb. 3, =
1986]</P><A=20
name=3D20:3.0.3.1.2.2.70.7>

<H5>=A7 702.212   Notice; when given; when =
given for=20
certain occupational diseases.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) For other than occupational diseases described in (b), the =
employee=20
must give notice within thirty (30) days of the date of the injury =
or=20
death. For this purpose the date of injury or death is:</P>
<P>(1) The day on which a traumatic injury occurs;</P>
<P>(2) The date on which the employee or claimant is or by the =
exercise of=20
reasonable diligence or by reason of medical advice, should have =
been=20
aware of a relationship between the injury or death and the =
employment;=20
or</P>
<P>(3) In the case of claims for loss of hearing, the date the =
employee=20
receives an audiogram, with the accompanying report which =
indicates the=20
employee has suffered a loss of hearing that is related to his or =
her=20
employment. (See =A7702.441).</P>
<P>(b) In the case of an occupational disease which does not =
immediately=20
result in disability or death, notice must be given within one =
year after=20
the employee or claimant becomes aware, or in the exercise of =
reasonable=20
diligence or by reason of medical advice, should have been aware, =
of the=20
relationship between the employment, the disease and the death or=20
disability. For purposes of these occupational diseases, =
therefore, the=20
notice period does not begin to run until the employee is =
disabled, or in=20
the case of a retired employee, until a permanent impairment =
exists.</P>
<P>(c) For purposes of workers whose coverage under this Act is =
dependent=20
on denial of coverage under a State compensation program, as =
described in=20
=A7701.401, the time limitations set forth above do not begin to =
run until a=20
final decision denying State coverage is issued under the State=20
compensation act.</P>(Approved by the Office of Management and =
Budget=20
under control number 1215=960160)
<P>[50 FR 397, Jan. 3, 1985, as amended at 51 FR 4283, Feb. 3, =
1986]</P><A=20
name=3D20:3.0.3.1.2.2.70.8>
<H5>=A7 702.213   Notice; by whom =
given.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=

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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Notice shall be given by the injured employee or someone on his =
behalf,=20
or in the case of death, by the deceased employee's beneficiary or =
someone=20
on his behalf.</P>
<P>[38 FR 26861, Sept. 26, 1973. Redesignated at 50 FR 397, Jan. =
3,=20
1985]</P><A name=3D20:3.0.3.1.2.2.70.9>
<H5>=A7 702.214   Notice; form and =
content.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Notice shall be in writing on a form prescribed by the Director =
for=20
this purpose; such form shall be made available to the employee or =

beneficiary by the employer. The notice shall be signed by the =
person=20
authorized to give notice, and shall contain the name, address and =
Social=20
Security Number (SSN) of the employee and, in death cases, also =
the SSN of=20
the person seeking survivor benefits, and a statement of the time, =
place,=20
nature and cause of the injury or death.</P>
<P>[58 FR 68032, Dec. 23, 1993]</P><A name=3D20:3.0.3.1.2.2.70.10>
<H5>=A7 702.215   Notice; how =
given.</H5></A><A=20
=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Notice shall be effected by delivering it=97by hand or by mail =
at the=20
address posted by the employer=97to the individual designated to =
receive=20
such notices. Notice when given to the district director, may be =
by hand=20
or by mail on a form supplied by the Secretary, or orally in =
person or by=20
telephone.</P>(Approved by the Office of Management and Budget =
under=20
control number 1215=960160)
<P>[50 FR 398, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.2.70.11>
<H5>=A7 702.216   Effect of failure to give=20

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      notice.</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>Failure to give timely notice to the employer's designated =
official=20
      shall not bar any claim for compensation if: (a) The employer, =
carrier, or=20
      designated official had actual knowledge of the injury or death; =
or (b)=20
      the district director or ALJ determines the employer or carrier =
has not=20
      been prejudiced: or (c) the district director excuses failure to =
file=20
      notice. For purposes of this subsection, actual knowledge shall be =
deemed=20
      to exist if the employee's immediate supervisor was aware of the =
injury=20
      and/or in the case of a hearing loss, where the employer has =
furnished to=20
      the employee an audiogram and report which indicates a loss of =
hearing.=20
      Failure to give notice shall be excused by the district director =
if: a)=20
      Notice, while not given to the designated official, was given to =
an=20
      official of the employer or carrier, and no prejudice resulted; or =
b) for=20
      some other satisfactory reason, notice could not be given. Failure =
to=20
      properly designate and post the individual so designated shall be=20
      considered a satisfactory reason. In any event, such defense to a =
claim=20
      must be raised by the employer/carrier at the first hearing on the =

      claim.</P>
      <P>[51 FR 4283, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.2.70.12>
      <H5>=A7 702.217   Penalty for false statement, =

      misrepresentation.</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
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20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>(a) Any claimant or representative of a claimant who knowingly =
and=20
      willfully makes a false statement or representation for the =
purpose of=20
      obtaining a benefit or payment under this Act shall be guilty of a =
felony,=20
      and on conviction thereof shall be punished by a fine not to =
exceed=20
      $10,000, by imprisonment not to exceed five years, or by both.</P>
```

<P>(b) Any person including, but not limited to, an employer, its =
duly=20
authorized agent or an employee of an insurance carrier, who =
knowingly and=20
willingly makes a false statement or representation for the =
purpose of=20
reducing, denying or terminating benefits to an injured employee, =
or his=20
dependents pursuant to section 9, 33 U.S.C. 909, if the injury =
results in=20
death, shall be punished by a fine not to exceed $10,000, by =
imprisonment=20
not to exceed five years, or both.</P>
<P>[50 FR 398, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.2.71>
<H5>Claims</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A><A name=3D20:3.0.3.1.2.2.71.13>
<H5>=A7 702.221   Claims for compensation; =
time=20
limitations.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Claims for compensation for disability or death shall be in =
writing=20
and filed with the district director for the compensation district =
in=20
which the injury or death occurred. The Social Security Number =
(SSN) of=20
the injured employee and, in cases of death, the SSN of the person =
seeking=20
survivor benefits shall also be set forth on each claim. Claims =
may be=20
filed anytime after the seventh day of disability or anytime =
following the=20
death of the employee. Except as provided below, the right to =
compensation=20
is barred unless a claim is filed within one year of the injury or =
death,=20
or (where payment is made without an award) within one year of the =
date on=20
which the last compensation payment was made.</P>
<P>(b) In the case of a hearing loss claim, the time for filing a =
claim=20
does not begin to run until the employee receives an audiogram =
with the=20
accompanying report which indicates the employee has sustained a =
hearing=20
loss that is related to his or her employment. (See=20
=A7702.441).</P>(Approved by the Office of Management and Budget =
under=20

control number 1215=960160)
<P>[50 FR 398, Jan. 3, 1985, as amended at 51 FR 4284, Feb. 3, =
1986; 58 FR=20
68032, Dec. 23, 1993]</P><A name=3D20:3.0.3.1.2.2.71.14>
<H5>=A7 702.222   Claims; exceptions to time=20
limitations.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Where a person entitled to compensation under the Act is =
mentally=20
incompetent or a minor, the time limitation provision of =
=A7702.221 shall=20
not apply to a mentally incompetent person so long as such person =
has no=20
guardian or other authorized representative, but =A7702.221 shall =
be=20
applicable from the date of appointment of such guardian or other=20
representative. In the case of minor who has no guardian before he =
or she=20
becomes of age, time begins to run from the date he or she becomes =
of=20
age.</P>
<P>(b) Where a person brings a suit at law or in admiralty to =
recover=20
damages in respect of an injury or death, or files a claim under a =
State=20
workers' compensation act because such person is excluded from =
this Act's=20
coverage by reason of section 2(3) or 3(d) of the Act (33 U.S.C. =
902(3) or=20
903(d)), and recovery is denied because the person was an employee =
and=20
defendant was an employer within the meaning of the Act, and such =
employer=20
had secured compensation to such employee under the Act, the time=20
limitation in =A7702.221 shall not begin to run until the date of=20
termination of such suit or proceeding.</P>
<P>(c) Notwithstanding the provisions in paragraph (a) of this =
section,=20
where the claim is one based on disability or death due to an =
occupational=20
disease which does not immediately result in death or disability, =
it must=20
be filed within two years after the employee or claimant becomes =
aware, or=20
in the exercise of reasonable diligence or by reason of medical =
advice,=20
should have been aware of the relationship between the employment, =
the=20
disease and the death or disability, or within one year of the =
date of=20
last payment of compensation, whichever is later. For purposes of=20
occupational disease, therefore, the time limitation for filing a =
claim=20
does not begin to run until the employee is disabled, or in the =
case of a=20
retired employee, where a permanent impairment exists.</P>

<P>(d) The time limitations set forth above do not apply to claims =
filed=20
under section 49 of the Act, 33 U.S.C. 949.</P>(Approved by the =
Office of=20
Management and Budget under control number 1215=960160)
<P>[50 FR 398, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.2.71.15>
<H5>=A7 702.223   Claims; time limitations; =
time to=20
object.</H5></A><A=20
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Notwithstanding the requirements of =A7702.221, failure to file =
a claim=20
within the period prescribed in such section shall not be a bar to =
such=20
right unless objection to such failure is made at the first =
hearing of=20
such claim in which all parties in interest are given reasonable =
notice=20
and opportunity to be heard.</P>
<P>[38 FR 26861, Sept. 26, 1973. Redesignated and amended at 50 FR =
397,=20
Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.2.71.16>
<H5>=A7 702.224   Claims; notification of =
employer of=20
filing by employee.</H5></A><A=20
=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Within 10 days after the filing of a claim for compensation for =
injury=20
or death under the Act, the district director shall give written =
notice=20
thereof to the employer or carrier, served personally or by =
mail.</P>
<P>[38 FR 26861, Sept. 26, 1973. Redesignated at 50 FR 397, Jan. =
3, 1985,=20
as amended at 60 FR 51348, Oct. 2, 1995]</P><A =
name=3D20:3.0.3.1.2.2.71.17>
<H5>=A7 702.225   Withdrawal of a =
claim.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) <I>Before adjudication of claim. </I>A claimant (or an =

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individual=20
      who is authorized to execute a claim on his behalf) may withdraw =
his=20
      previously filed claim: <I>Provided, </I>That:</P>
      <P>(1) He files with the district director with whom the claim was =
filed a=20
      written request stating the reasons for withdrawal;</P>
      <P>(2) The claimant is alive at the time his request for =
withdrawal is=20
      filed;</P>
      <P>(3) The district director approves the request for withdrawal =
as being=20
      for a proper purpose and in the claimant's best interest; and</P>
      <P>(4) The request for withdrawal is filed, on or before the date =
the OWCP=20
      makes a determination on the claim.</P>
      <P>(b) <I>After adjudication of claim. </I>A claim for benefits =
may be=20
      withdrawn by a written request filed after the date the OWCP makes =
a=20
      determination on the claim: <I>Provided, </I>That:</P>
      <P>(1) The conditions enumerated in paragraphs (a) (1) through (3) =
of this=20
      section are met; and</P>
      <P>(2) There is repayment of the amount of benefits previously =
paid=20
      because of the claim that is being withdrawn or it can be =
established to=20
      the satisfaction of the Office that repayment of any such amount =
is=20
      assured.</P>
      <P>(c) <I>Effect of withdrawal of claim. </I>Where a request for=20
      withdrawal of a claim is filed and such request for withdrawal is=20
      approved, such withdrawal shall be without prejudice to the filing =
of=20
      another claim, subject to the time limitation provisions of =
section 13 of=20
      the Act and of the regulations in this part.</P>
      <P>[38 FR 26861, Sept. 26, 1973. Redesignated at 50 FR 397, Jan. =
3,=20
      1985]</P><A name=3D20:3.0.3.1.2.2.72>
      <H5>Noncontroverted Claims</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A><A name=3D20:3.0.3.1.2.2.72.18>
      <H5>=A7 702.231   Noncontroverted claims; =
payment of=20
      compensation without an award.</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
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      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>Unless the employer controverts its liability to pay =
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compensation under=20
this Act, the employer or insurance carrier shall pay =
periodically,=20
promptly and directly to the person entitled thereto benefits =
prescribed=20
by the Act. For this purpose, where the employer furnishes to an =
employee=20
a copy of an audiogram with a report thereon, which indicates the =
employee=20
has sustained a hearing loss causally related to factors of that=20
employment, the employer or insurance carrier shall pay =
appropriate=20
compensation or at that time controvert the liability to pay =
compensation=20
under this Act.</P>
<P>[50 FR 399, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.2.72.19>
<H5>=A7 702.232   Payments without an award; =
when; how=20
paid.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The first installment of compensation shall become due by the=20
fourteenth (14th) day after the employer has been notified, =
through the=20
designated official or by any other means described in =A7702.211 =
<I>et=20
seq., </I>or has actual knowledge of the injury or death. All =
compensation=20
due on that fourteenth (14th) day shall be paid then and =
appropriate=20
compensation due thereafter must be paid in semi-monthly =
installments,=20
unless the district director determines otherwise.</P>
<P>[50 FR 399, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.2.72.20>
<H5>=A7 702.233   Penalty for failure to pay =
without an=20
award.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>If any installment of compensation payable without an award is =
not paid=20
within 14 days after it becomes due, there shall be added to such =
unpaid=20
installment an amount equal to 10 per centum thereof which shall =
be paid=20
at the same time as, but in addition to, such installment unless =
the=20
employer files notice of controversion in accordance with =
=A7702.261, or=20
unless such nonpayment is excused by the district director after a =

showing=20
      by the employer that owing to conditions over which he had no =
control such=20
      installment could not be paid within the period prescribed for the =

      payment.</P><A name=3D20:3.0.3.1.2.2.72.21>
      <H5>=A7 702.234 Report by employer of =
commencement and=20
      suspension of payments.</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>Immediately upon making the first payment of compensation, and =
upon the=20
      suspension of payments once begun, the employer shall notify the =
district=20
      director having jurisdiction over the place where the injury or =
death=20
      occurred of the commencement or suspension of payments, as the =
case may=20
      be.</P><A name=3D20:3.0.3.1.2.2.72.22>
      <H5>=A7 702.235 Report by employer of final =
payment of=20
      compensation.</H5></A><A=20
      =
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      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>(a) Within 16 days after the final payment of compensation has =
been=20
      made, the employer, the insurance carrier, or where the employer =
is=20
      self-insured, the employer shall notify the district director on a =
form=20
      prescribed by the Secretary, stating that such final payment has =
been=20
      made, the total amount of compensation paid, the name and address =
of the=20
      person(s) to whom payments were made, the date of the injury or =
death and=20
      the name of the injured or deceased employee, and the inclusive =
dates=20
      during which compensation was paid.</P>
      <P>(b) A =93final payment of compensation=94 for the purpose of =
applying the=20
      penalty provision of =A7702.236 shall be deemed any one of the=20
following:</P>
      <P>(1) The last payment of compensation made in accordance with a=20
      compensation order awarding disability or death benefits, issued =
by either=20
      a district director or an administrative law judge;</P>
      <P>(2) The payment of an agreed settlement approved under section =
8(i) (A)=20

or (B), of the Act, 33 U.S.C. 908(i);</P>
<P>(3) The last payment made pursuant to an agreement reached by =
the=20
parties through informal proceedings;</P>
<P>(4) Any other payment of compensation which anticipates no =
further=20
payments under the Act.</P>(Approved by the Office of Management =
and=20
Budget under control number 1215=960024)
<P>(Pub. L. No. 96=96511)</P>
<P>[42 FR 45302, Sept. 9, 1977, as amended at 49 FR 18294, Apr. =
30, 1984;=20
50 FR 399, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.2.72.23>
<H5>=A7 702.236   Penalty for failure to =
report=20
termination of payments.</H5></A><A=20
=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Any employer failing to notify the district director that the =
final=20
payment of compensation has been made as required by =A7702.235 =
shall be=20
assessed a civil penalty in the amount of $100.00. <I>Provided, =
however,=20
</I>that for any violation occurring on or after November 17, 1997 =
the=20
civil penalty will be $110.00. The district director has the =
authority and=20
responsibility for assessing a civil penalty under this =
section.</P>
<P>[62 FR 53956, Oct. 17, 1997]</P><A name=3D20:3.0.3.1.2.2.73>
<H5>Agreed Settlements</H5></A><A=20
=
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top</A><A name=3D20:3.0.3.1.2.2.73.24>
<H5>=A7 702.241   Definitions and =
supplementary=20
information.</H5></A><A=20
=
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e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) As used hereinafter, the term <I>adjudicator </I>shall mean =

district director or administrative law judge (ALJ).</P>
<P>(b) If a settlement application is submitted to an adjudicator =

and the=20
case is pending at the Office of Administrative Law Judges, the = Benefits=20
Review Board, or any Federal circuit court of appeals, the parties = may=20
request that the case be remanded to the adjudicator for = consideration of=20
the application. The thirty day period as described in paragraph = (f) of=20
this section begins when the remanded case is received by the=20
adjudicator.</P>
<P>(c) If a settlement application is first submitted to an ALJ, = the=20
thirty day period mentioned in paragraph (f) of this section does = not=20
begin until five days before the date the formal hearing is set. = This rule=20
does not preclude the parties from submitting the application at = any other=20
time such as (1) after the case is referred for hearing, (2) at = the=20
hearing, or (3) after the hearing but before the ALJ issues a = decision and=20
order. Where a case is pending before the ALJ but not set for a = hearing,=20
the parties may request the case be remanded to the district = director for=20
consideration of the settlement.</P>
<P>(d) A settlement agreement between parties represented by = counsel,=20
which is deemed approved when not disapproved within thirty days, = as=20
described in paragraph (f) of this section, shall be considered to = have=20
been filed in the office of the district director on the thirtieth = day for=20
purposes of sections 14 and 21 of the Act, 33 U.S.C. 914 and = 921.</P>
<P>(e) A fee for representation which is included in an agreement = that is=20
approved in the manner described in paragraph (d) of this section, = shall=20
also be considered approved within the meaning of section 28(e) of = the=20
Act, 33 U.S.C. 928(e).</P>
<P>(f) The thirty day period for consideration of a settlement = agreement=20
shall be calculated from the day after receipt unless the parties = are=20
advised otherwise by the adjudicator. (See =A7702.243(b)). If the = last day=20
of this period is a holiday or occurs during a weekend, the next = business=20
day shall be considered the thirtieth day.</P>
<P>(g) An agreement among the parties to settle a claim is limited = to the=20
rights of the parties and to claims then in existence; settlement = of=20
disability compensation or medical benefits shall not be a = settlement of=20
survivor benefits nor shall the settlement affect, in any way, the = right=20
of survivors to file a claim for survivor's benefits.</P>
<P>(h) For purposes of this section and =A7702.243 the term =

<I>counsel=20
</I>means any attorney admitted to the bar of any State, territory =
or the=20
District of Columbia.</P>
<P>[50 FR 399, Jan. 3, 1985, as amended at 51 FR 4284, Feb. 3, =
1986]</P><A=20
name=3D20:3.0.3.1.2.2.73.25>
<H5>=A7 702.242   Information necessary for a =
complete=20
settlement application.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) The settlement application shall be a self-sufficient =
document=20
which can be evaluated without further reference to the =
administrative=20
file. The application shall be in the form of a stipulation signed =
by all=20
parties and shall contain a brief summary of the facts of the case =
to=20
include: a description of the incident, a description of the =
nature of the=20
injury to include the degree of impairment and/or disability, a=20
description of the medical care rendered to date of settlement, =
and a=20
summary of compensation paid and the compensation rate or, where =
benefits=20
have not been paid, the claimant's average weekly wage.</P>
<P>(b) The settlement application shall contain the following:</P>
<P>(1) A full description of the terms of the settlement which =
clearly=20
indicates, where appropriate, the amounts to be paid for =
compensation,=20
medical benefits, survivor benefits and representative's fees =
which shall=20
be itemized as required by =A7702.132.</P>
<P>(2) The reason for the settlement, and the issues which are in =
dispute,=20
if any.</P>
<P>(3) The claimant's date of birth and, in death claims, the =
names and=20
birth dates of all dependents.</P>
<P>(4) Information on whether or not the claimant is working or is =
capable=20
of working. This should include, but not be limited to, a =
description of=20
the claimant's educational background and work history, as well as =
other=20
factors which could impact, either favorably or unfavorably, on =
future=20
employability.</P>
<P>(5) A current medical report which fully describes any injury =
related=20
impairment as well as any unrelated conditions. This report shall =
indicate=20
whether maximum medical improvement has been reached and whether =
further=20

disability or medical treatment is anticipated. If the claimant =
has=20
already reached maximum medical improvement, a medical report =
prepared at=20
the time the employee's condition stabilized will satisfy the =
requirement=20
for a current medical report. A medical report need not be =
submitted with=20
agreements to settle survivor benefits unless the circumstances =
warrant=20
it.</P>
<P>(6) A statement explaining how the settlement amount is =
considered=20
adequate.</P>
<P>(7) If the settlement application covers medical benefits an=20
itemization of the amount paid for medical expenses by year for =
the three=20
years prior to the date of the application. An estimate of the =
claimant's=20
need for future medical treatment as well as an estimate of the =
cost of=20
such medical treatment shall also be submitted which indicates the =

inflation factor and/or the discount rate used, if any. The =
adjudicator=20
may waive these requirements for good cause.</P>
<P>(8) Information on any collateral source available for the =
payment of=20
medical expenses.</P>(Approved by the Office of Management and =
Budget=20
under control number 1215=960160)
<P>[50 FR 399, Jan. 3, 1985, as amended at 51 FR 4284, Feb. 3, =
1986]</P><A=20
name=3D20:3.0.3.1.2.2.73.26>
<H5>=A7 702.243   Settlement application; how =
submitted,=20
how approved, how disapproved, criteria.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) When the parties to a claim for compensation, including =
survivor=20
benefits and medical benefits, agree to a settlement they shall =
submit a=20
complete application to the adjudicator. The application shall =
contain all=20
the information outlined in =A7702.242 and shall be sent by =
certified mail,=20
return receipt requested or submitted in person, or by any other =
delivery=20
service with proof of delivery to the adjudicator. Failure to =
submit a=20
complete application shall toll the thirty day period mentioned in =
section=20
8(i) of the Act, 33 U.S.C. 908(i), until a complete application is =

received.</P>
<P>(b) The adjudicator shall consider the settlement application =

within=20
thirty days and either approve or disapprove the application. The=20
liability of an employer/insurance carrier is not discharged until =
the=20
settlement is specifically approved by a compensation order issued =
by the=20
adjudicator. However, if the parties are represented by counsel, =
the=20
settlement shall be deemed approved unless specifically =
disapproved within=20
thirty days after receipt of a complete application. This thirty =
day=20
period does not begin until all the information described in =
=A7702.242 has=20
been submitted. The adjudicator shall examine the settlement =
application=20
within thirty days and shall immediately serve on all parties =
notice of=20
any deficiency. This notice shall also indicate that the thirty =
day period=20
will not commence until the deficiency is corrected.</P>
<P>(c) If the adjudicator disapproves a settlement application, =
the=20
adjudicator shall serve on all parties a written statement or =
order=20
containing the reasons for disapproval. This statement shall be =
served by=20
certified mail within thirty days of receipt of a complete =
application (as=20
described in =A7702.242.) if the parties are represented by =
counsel. If the=20
disapproval was made by a district director, any party to the =
settlement=20
may request a hearing before an ALJ as provided in sections 8 and =
19 of=20
the Act, 33 U.S.C. 908 and 919, or an amended application may be =
submitted=20
to the district director. If, following the hearing, the ALJ =
disapproves=20
the settlement, the parties may: (1) Submit a new application, (2) =
file an=20
appeal with the Benefits Review Board as provided in section 21 of =
the=20
Act, 33 U.S.C. 921, or (3) proceed with a hearing on the merits of =
the=20
claim. If the application is initially disapproved by an ALJ, the =
parties=20
may (1) submit a new application or (2) proceed with a hearing on =
the=20
merits of the claim.</P>
<P>(d) The parties may submit a settlement application solely for=20
compensation, or solely for medical benefits or for compensation =
and=20
medical benefits combined.</P>
<P>(e) If either portion of a combined compensation and medical =
benefits=20
settlement application is disapproved the entire application is=20
disapproved unless the parties indicate on the face of the =
application=20
that they agree to settle either portion independently.</P>
<P>(f) When presented with a settlement, the adjudicator shall =
review the=20
application and determine whether, considering all of the =
circumstances,=20

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      including, where appropriate, the probability of success if the =
case were=20
      formally litigated, the amount is adequate. The criteria for =
determining=20
      the adequacy of the settlement application shall include, but not =
be=20
      limited to:</P>
      <P>(1) The claimant's age, education and work history;</P>
      <P>(2) The degree of the claimant's disability or impairment;</P>
      <P>(3) The availability of the type of work the claimant can =
do;</P>
      <P>(4) The cost and necessity of future medical treatment (where =
the=20
      settlement includes medical benefits).</P>
      <P>(g) In cases being paid pursuant to a final compensation order, =
where=20
      no substantive issues are in dispute, a settlement amount which =
does not=20
      equal the present value of future compensation payments commuted, =
computed=20
      at the discount rate specified below, shall be considered =
inadequate=20
      unless the parties to the settlement show that the amount is =
adequate. The=20
      probability of the death of the beneficiary before the expiration =
of the=20
      period during which he or she is entitled to compensation shall be =

      determined according to the most current United States Life Table, =
as=20
      developed by the United States Department of Health and Human =
Services,=20
      which shall be updated from time to time. The discount rate shall =
be equal=20
      to the coupon issue yield equivalent (as determined by the =
Secretary of=20
      the Treasury) of the average accepted auction price for the last =
auction=20
      of 52 weeks U.S. Treasury Bills settled immediately prior to the =
date of=20
      the submission of the settlement application.</P>
      <P>[50 FR 399, Jan. 3, 1985, as amended at 51 FR 4284, Feb. 3, =
1986; 60 FR=20
      51348, Oct. 2, 1995]</P><A name=3D20:3.0.3.1.2.2.74>
      <H5>Controverted Claims</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
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      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A><A name=3D20:3.0.3.1.2.2.74.27>
      <H5>=A7 702.251   Employer's controversion of =
the right=20
      to compensation.</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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if">=20
top</A>
<P>Where the employer controverts the right to compensation after =
notice=20
or knowledge of the injury or death, or after receipt of a written =
claim,=20
he shall give notice thereof, stating the reasons for =
controverting the=20
right to compensation, using the form prescribed by the Director. =
Such=20
notice, or answer to the claim, shall be filed with the district =
director=20
within 14 days from the date the employer receives notice or has =
knowledge=20
of the injury or death. The original notice shall be sent to the =
district=20
director having jurisdiction, and a copy thereof shall be given or =
mailed=20
to the claimant.</P>(Approved by the Office of Management and =
Budget under=20
control number 1215=960023)
<P>(Pub. L. No. 96=96511)</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 49 FR 18294, Apr. =
30,=20
1984]</P><A name=3D20:3.0.3.1.2.2.74.28>
<H5>=A7 702.252   Action by district director =
upon=20
receipt of notice of controversion.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Upon receiving the employer's notice of controversion, the =
district=20
director shall forthwith commence proceedings for the adjudication =
of the=20
claim in accordance with the procedures set forth in subpart C of =
this=20
part.</P><A name=3D20:3.0.3.1.2.2.75>
<H5>Contested Claims</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A><A name=3D20:3.0.3.1.2.2.75.29>
<H5>=A7 702.261   Claimant's contest of =
actions taken by=20
employer or carrier with respect to the claim.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=

if">=20
top</A>
<P>Where the claimant contests an action by the employer or =
carrier=20
reducing, suspending, or terminating benefits, including medical =
care, he=20
should immediately notify the office of the district director =
having=20
jurisdiction, in person or in writing, and set forth the facts =
pertinent=20
to his complaint.</P><A name=3D20:3.0.3.1.2.2.75.30>
<H5>=A7 702.262   Action by district director =
upon=20
receipt of notice of contest.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Upon receipt of the claimant's notice of contest, the district =
director=20
shall forthwith commence proceedings for adjudication of the claim =
in=20
accordance with the procedures set forth in subpart C of this =
part.</P><A=20
name=3D20:3.0.3.1.2.2.76>
<H5>Discrimination</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A><A name=3D20:3.0.3.1.2.2.76.31>
<H5>=A7 702.271   Discrimination; against =
employees who=20
bring proceedings, prohibition and penalty.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a)(1) No employer or its duly authorized agent may discharge =
or in any=20
manner discriminate against an employee as to his/her employment =
because=20
that employee: (i) Has claimed or attempted to claim compensation =
under=20
this Act; or (ii) has testified or is about to testify in a =
proceeding=20
under this Act. To discharge or refuse to employ a person who has =
been=20
adjudicated to have filed a fraudulent claim for compensation or =
otherwise=20

made a false statement or misrepresentation under section 31(a)(1) =
of the=20
Act, 33 U.S.C. 931(a)(1), is not a violation of this section.</P>
<P>(2) Any employer who violates this section shall be liable to a =
penalty=20
of not less that $1,000.00 or more than $5,000.00 to be paid (by =
the=20
employer alone, and not by a carrier) to the district director for =
deposit=20
in the special fund described in section 44 of the Act, 33 U.S.C. =
944; and=20
shall restore the employee to his or her employment along with all =
wages=20
lost due to the discrimination unless the employee has ceased to =
be=20
qualified to perform the duties of employment. <I>Provided =
however,=20
</I>that for any violation occurring on or after November 17, 1997 =
the=20
employer shall be liable to a penalty of not less than $1,100.00 =
or more=20
than $5,500.00.</P>
<P>(b) When a district director receives a complaint from an =
employee=20
alleging discrimination as defined under section 49, he or she =
shall=20
notify the employer, and within five working days, initiate =
specific=20
inquiry to determine all the facts and circumstances pertaining =
thereto.=20
This may be accomplished by interviewing the employee, employer=20
representatives and other parties who may have information about =
the=20
matter. Interviews may be conducted by written correspondence, =
telephone=20
or personal interview.</P>
<P>(c) If circumstances warrant, the district director may also =
conduct an=20
informal conference on the issue as described in =A7=A7702.312 =
through=20
702.314.</P>
<P>(d) Any employee discriminated against is entitled to be =
restored to=20
his employment and to be compensated by the employer for any loss =
of wages=20
arising out of such discrimination provided that the employee is =
qualified=20
to perform the duties of the employment. If it is determined that =
the=20
employee has been discriminated against, the district director =
shall also=20
determine whether the employee is qualified to perform the duties =
of the=20
employment. The district director may use medical evidence =
submitted by=20
the parties or he may arrange to have the employee examined by a =
physician=20
selected by the district director. The cost of the medical =
examination=20
arranged for by the district director may be charged to the =
special fund=20
established by section 44, 33 U.S.C. 944.</P>
<P>[42 FR 45302, Sept. 9, 1977, as amended at 50 FR 400, Jan. 3, =
1985; 62=20

FR 53956, Oct. 17, 1997]</P><A name=3D20:3.0.3.1.2.2.76.32>
<H5>=A7 702.272   Informal recommendation by =
district=20
director.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) If the district director determines that the employee has =
been=20
discharged or suffered discrimination and is able to resume his or =
her=20
duties, the district director will recommend that the employer =
reinstate=20
the employee and/or make such restitution as is indicated by the=20
circumstances of the case, including compensation for any wage =
loss=20
suffered as the result of the discharge or discrimination. The =
district=20
director may also assess the employer an appropriate penalty, as=20
determined under authority vested in the district director by the =
Act. If=20
the district director determines that no violation occurred he =
shall=20
notify the partries of his findings and the reasons for =
recommending that=20
the complaint be denied. If the employer and employee accept the =
district=20
director's recommendation, it will be incorporated in an order and =
mailed=20
to each party within 10 days.</P>
<P>(b) If the parties do not agree to the recommendation, the =
district=20
director shall, within 10 days after receipt of the rejection, =
prepare a=20
memorandum summarizing the disagreement, mail a copy to all =
interested=20
parties, and shall within 14 days thereafter refer the case to the =
Office=20
of the Chief Administrative Law Judge for hearing pursuant to=20
=A7702.317.</P>
<P>[42 FR 45302, Sept. 9, 1977]</P><A name=3D20:3.0.3.1.2.2.76.33>
<H5>=A7 702.273   Adjudication by Office of =
the Chief=20
Administrative Law Judge.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The Office of Administrative Law Judges is responsible for =
final=20
determinations of all disputed issues connected with the =
discrimination=20
complaint, including the amount of penalty to be assessed, and =

shall=20
proceed with a formal hearing as described in =A7=A7702.331 to =
702.394.</P>
<P>[42 FR 45302, Sept. 9, 1977]</P><A name=3D20:3.0.3.1.2.2.76.34>
<H5>=A7 702.274   Employer's refusal to pay=20
penalty.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>In the event the employer refuses to pay the penalty assessed, =
the=20
district director shall refer the complete administrative file to =
the=20
Associate Director, Division of Longshore and Harbor Workers'=20
Compensation, for subsequent transmittal to the Associate =
Solicitor for=20
Employee Benefits, with the request that appropriate legal action =
be taken=20
to recover the penalty.</P>
<P>[42 FR 45302, Sept. 9, 1977]</P><A name=3D20:3.0.3.1.2.2.77>
<H5>Third Party</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A><A name=3D20:3.0.3.1.2.2.77.35>
<H5>=A7 702.281   Third party =
action.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Every person claiming benefits under this Act (or the=20
representative) shall promptly notify the employer and the =
district=20
director when:</P>
<P>(1) A claim is made that someone other than the employer or =
person or=20
persons in its employ, is liable in damages to the claimant =
because of the=20
injury or death and identify such party by name and address.</P>
<P>(2) Legal action is instituted by the claimant or the =
representative=20
against some person or party other than the employer or a person =
or=20
persons in his employ, on the ground that such other person is =
liable in=20
damages to the claimant on account of the compensable injury =
and/or death;=20

specify the amount of damages claimed and identify the person or =
party by=20
name and address.</P>
<P>(3) Any settlement, compromise or any adjudication of such =
claim has=20
been effected and report the terms, conditions and amounts of such =

resolution of claim.</P>
<P>(b) Where the claim or legal action instituted against a third =
party=20
results in a settlement agreement which is for an amount less than =
the=20
compensation to which a person would be entitled under this Act, =
the=20
person (or the person's representative) must obtain the prior, =
written=20
approval of the settlement from the employer and the employer's =
carrier=20
before the settlement is executed. Failure to do so relieves the =
employer=20
and/or carrier of liability for compensation described in section =
33(f) of=20
Act, 33 U.S.C. 933(f) and for medical benefits otherwise due under =
section=20
7 of the Act, 33 U.S.C. 907, regardless of whether the employer or =
carrier=20
has made payments of acknowledged entitlement to benefits under =
the Act.=20
The approval shall be on a form provided by the Director and =
filed, within=20
thirty days after the settlement is entered into, with the =
district=20
director who has jurisdiction in the district where the injury=20
occurred.</P>
<P>[42 FR 45303, Sept. 9, 1977, as amended at 50 FR 400, Jan. 3, =
1985; 51=20
FR 4284, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.2.78>
<H5>Report of Earnings</H5></A><A=20
=
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A><A name=3D20:3.0.3.1.2.2.78.36>
<H5>=A7 702.285   Report of =
earnings.</H5></A><A=20
=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) An employer, carrier or the Director (for those cases being =
paid=20
from the Special Fund) may require an employee to whom it is =
paying=20
compensation to submit a report on earnings from employment or=20
self-employment. This report may not be required any more =

frequently than=20
semi-annually. The report shall be made on a form prescribed by =
the=20
Director and shall include all earnings from employment and=20
self-employment and the periods for which the earnings apply. The =
employee=20
must return the complete report on earnings even where he or she =
has no=20
earnings to report.</P>
<P>(b) For these purposes the term =93earnings=94 is defined as =
all monies=20
received from any employment and includes but is not limited to =
wages,=20
salaries, tips, sales commissions, fees for services provided, =
piecework=20
and all revenue received from self-employment even if the business =
or=20
enterprise operated at a loss of if the profits were=20
reinvested.</P>(Approved by the Office of Management and Budget =
under=20
control number 1215=960160)
<P>[50 FR 400, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.2.78.37>
<H5>=A7 702.286   Report of earnings; =
forfeiture of=20
compensation.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Any employee who fails to submit the report on earnings =
from=20
employment or self-employment under =A7702.285 or, who knowingly =
and=20
willingly omits or understates any part of such earnings, shall =
upon a=20
determination by the district director forfeit all right to =
compensation=20
with respect to any period during which the employee was required =
to file=20
such a report. The employee must return the completed report on =
earnings=20
(even where he or she reports no earnings) within thirty (30) days =
of the=20
date of receipt; this period may be extended for good cause, by =
the=20
district director, in determining whether a violation of this =
requirement=20
has occurred.</P>
<P>(b) Any employer or carrier who believes that a violation of =
paragraph=20
(a) of this section has occurred may file a charge with the =
district=20
director. The allegation shall be accompanied by evidence which =
includes a=20
copy of the report, with proof of service requesting the =
information from=20
the employee and clearly stating the dates for which the employee =
was=20
required to report income. Where the employer/carrier is alleging =

an=20
      omission or understatement of earnings, it shall, in addition, =
present=20
      evidence of earnings by the employee during that period, including =
copies=20
      of checks, affidavits from employers who paid the employee =
earnings,=20
      receipts of income from self-employment or any other evidence =
showing=20
      earnings not reported or underreported for the period in question. =
Where=20
      the district director finds the evidence sufficient to support the =
charge=20
      he or she shall convene an informal conference as described in =
subpart C=20
      and shall issue a compensation order affiming or denying the =
charge and=20
      setting forth the amount of compensation for the specified period. =
If=20
      there is a conflict over any issue relating to this matter any =
party may=20
      request a formal hearing before an Administrative Law Judge as =
described=20
      in subpart C.</P>
      <P>(c) Compensation forfeited under paragraph (b) of this section, =
if=20
      already paid, shall be recovered by a deduction from the =
compensation=20
      payable to the employee if any, on such schedule as determined by =
the=20
      district director. The district director's discretion in such =
cases=20
      extends only to rescheduling repayment by crediting future =
compensation=20
      and not to whether and in what amounts compensation is forfeited. =
For this=20
      purpose, the district director shall consider the employee's =
essential=20
      expenses for living, income from whatever source, and assets, =
including=20
      cash, savings and checking accounts, stocks, bonds, and other=20
      securities.</P>
      <P>[50 FR 400, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.3>
      <H5>Subpart C=97Adjudication Procedures</H5></A><A=20
      =
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if">=20
      top</A><A name=3D20:3.0.3.1.2.3.79>
      <H5>General</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A><A name=3D20:3.0.3.1.2.3.79.1>
      <H5>=A7 702.301   Scope of this =

```
subpart.</H5></A><A=20
      =
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e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>The regulations in this subpart govern the adjudication of =
claims in=20
      which the employer has filed a notice of controversion under =
=A7702.251, or=20
      the employee has filed notice of contest under =A7702.261. In the =
vast=20
      majority of cases, the problem giving rise to the controversy =
results from=20
      misunderstandings, clerical or mechanical errors, or mistakes of =
fact or=20
      law. Such problems seldom require resolution through formal =
hearings, with=20
      the attendant production of expert witnesses. Accordingly, by =
=A7702.311=20
      <I>et seq., </I>the district directors are empowered to amicably =
and=20
      promptly resolve such problems by informal procedures. Where there =
is a=20
      genuine dispute of fact or law which cannot be so disposed of =
informally,=20
      resort must be had to the formal hearing procedures as set forth =
beginning=20
      at =A7702.331. Supplementary compensation orders, modifications, =
and=20
      interlocutory matters are governed by regulations beginning with =
=A7702.371.=20
      Thereafter, appeals from compensation orders are discussed =
beginning with=20
      =A7702.391 (the regulations of the Benefits Review Board are set =
forth in=20
      full in part 802 of this title).</P><A name=3D20:3.0.3.1.2.3.80>
      <H5>Action by District Directors</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A><A name=3D20:3.0.3.1.2.3.80.2>
      <H5>=A7 702.311   Handling of claims matters =
by district=20
      directors; informal conferences.</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
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      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>The district director is empowered to resolve disputes with =
```

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respect to=20
      claims in a manner designed to protect the rights of the parties =
and also=20
      to resolve such disputes at the earliest practicable date. This =
will=20
      generally be accomplished by informal discussions by telephone or =
by=20
      conferences at the district director's office. Some cases will be =
handled=20
      by written correspondence. The regulations governing informal =
conferences=20
      at the district director's office with all parties present are set =
forth=20
      below. When handling claims by telephone, or at the office with =
only one=20
      of the parties, the district director and his staff shall make =
certain=20
      that a full written record be made of the matters discussed and =
that such=20
      record be placed in the administrative file. When claims are =
handled by=20
      correspondence, copies of all communications shall constitute the=20
      administrative file.</P><A name=3D20:3.0.3.1.2.3.80.3>
      <H5>=A7 702.312   Informal conferences; called =
by and=20
      held before whom.</H5></A><A=20
      =
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&amp;sid=3D=
e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>Informal conferences shall be called by the district director =
or his=20
      designee assigned or reassigned the case and held before that same =
person,=20
      unless such person is absent or unavailable. When so assigned, the =

      designee shall perform the duties set forth below assigned to the =
district=20
      director, except that a compenstion order following an agreement =
shall be=20
      issued only by a person so designated by the Director to perform =
such=20
      duty.</P>
      <P>[42 FR 45303, Sept. 9, 1977]</P><A name=3D20:3.0.3.1.2.3.80.4>
      <H5>=A7 702.313   Informal conferences; how =
called; when=20
      called.</H5></A><A=20
      =
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e94b2dfd6265049fd654439f9f738212&amp;rgn=3Ddiv5&amp;view=3Dtext&amp;node=3D=
20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>Informal conferences may be called upon not less than 10 days' =
notice=20
      to the parties, unless the parties agree to meet at an earlier =
```

date. The=20
notice may be given by telephone, but shall be confirmed by use of =
a=20
written notice on a form prescribed by the Director. The notice =
shall=20
indicate the date, time and place of the conference, and shall =
also=20
specify the matters to be discussed. For good cause shown =
conferences may=20
be rescheduled. A copy of such notice shall be placed in the=20
administrative file.</P><A name=3D20:3.0.3.1.2.3.80.5>
<H5>=A7 702.314   Informal conferences; how =
conducted;=20
where held.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) No stenographic report shall be taken at informal =
conferences and=20
no witnesses shall be called. The district director shall guide =
the=20
discussion toward the achievement of the purpose of such =
conference,=20
recommending courses of action where there are disputed issues, =
and giving=20
the parties the benefit of his experience and specialized =
knowledge in the=20
field of workmen's compensation.</P>
<P>(b) Conferences generally shall be held at the district =
director's=20
office. However, such conferences may be held at any place which, =
in the=20
opinion of the district director, will be of greater convenience =
to the=20
parties or to their representatives.</P><A =
name=3D20:3.0.3.1.2.3.80.6>
<H5>=A7 702.315   Conclusion of conference; =
agreement on=20
all matters with respect to the claim.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Following an informal conference at which agreement is =
reached on=20
all issues, the district director shall (within 10 days after =
conclusion=20
of the conference), embody the agreement in a memorandum or within =
30 days=20
issue a formal compensation order, to be filed and mailed in =
accordance=20
with =A7702.349. If either party requests that a formal =
compensation order=20

be issued the district director shall, within 30 days of such =
request,=20
prepare, file, and serve such order in accordance with =A7702.349. =
Where the=20
problem was of such nature that it was resolved by telephone =
discussion or=20
by exchange of written correspondence, the parties shall be =
notified by=20
the same means that agreement was reached and the district =
director shall=20
prepare a memorandum or order setting forth the terms agreed upon. =
In=20
either instance, when the employer or carrier has agreed to pay, =
reinstate=20
or increase monetary compensation benefits, or to restore or =
appropriately=20
change medical care benefits, such action shall be commenced =
immediately=20
upon becoming aware of the agreement, and without awaiting receipt =
of the=20
memorandum or the formal compensation order.</P>
<P>(b) Where there are several conferences or discussions, the =
provisions=20
of paragraph (a) of this section do not apply until the last =
conference.=20
The district director shall, however, prepare and place in his=20
administrative file a short, succinct memorandum of each preceding =

conference or discussion.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 42 FR 45303, Sept. =
9,=20
1977]</P><A name=3D20:3.0.3.1.2.3.80.7>
<H5>=A7 702.316   Conclusion of conference; no =
agreement=20
on all matters with respect to the claim.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>When it becomes apparent during the course of the informal =
conference=20
that agreement on all issues cannot be reached, the district =
director=20
shall bring the conference to a close, shall evaluate all evidence =

available to him or her, and after such evaluation shall prepare a =

memorandum of conference setting forth all outstanding issues, =
such facts=20
or allegations as appear material and his or her recommendations =
and=20
rationale for resolution of such issues. Copies of this memorandum =
shall=20
then be sent to each of the parties or their representatives, who =
shall=20
then have 14 days within which to signify in writing to the =
district=20
director whether they agree or disagree with his or her =
recommendations.=20

If they agree, the district director shall proceed as in =
=A7702.315(a). If=20
they disagree (Caution: See =A7702.134), then the district =
director may=20
schedule such further conference or conferences as, in his or her =
opinion,=20
may bring about agreement; if he or she is satisfied that any =
further=20
conference would be unproductive, or if any party has requested a =
hearing,=20
the district director shall prepare the case for transfer to the =
Office of=20
the Chief Administrative Law Judge (See =A7702.317, =
=A7=A7702.331=96702.351).</P>
<P>[42 FR 42551, Aug. 23, 1977, as amended at 60 FR 51348, Oct. 2, =

1995]</P><A name=3D20:3.0.3.1.2.3.80.8>
<H5>=A7 702.317   Preparation and transfer of =
the case=20
for hearing.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>A case is prepared for transfer in the following manner:</P>
<P>(a) The district director shall furnish each of the parties or =
their=20
representatives with a copy of a prehearing statement form.</P>
<P>(b) Each party shall, within 21 days after receipt of such =
form,=20
complete it and return it to the district director and serve =
copies on all=20
other parties. Extensions of time for good cause may be granted by =
the=20
district director.</P>
<P>(c) Upon receipt of the completed forms, the district director, =
after=20
checking them for completeness and after any further conferences =
that, in=20
his or her opinion, are warranted, shall transmit them to the =
Office of=20
the Chief Administrative Law Judge by letter of transmittal =
together with=20
all available evidence which the parties intend to submit at the =
hearing=20
(exclusive of X-rays, slides and other materials not suitable for =
mailing=20
which may be offered into evidence at the time of hearing); the =
materials=20
transmitted shall not include any recommendations expressed or =
memoranda=20
prepared by the district director pursuant to =A7702.316.</P>
<P>(d) If the completed pre-hearing statement forms raise new or=20
additional issues not previously considered by the district =
director or=20
indicate that material evidence will be submitted that could =
reasonably=20
have been made available to the district director before he or she =

prepared the last memorandum of conference, the district director =
shall=20
transfer the case to the Office of the Chief Administrative Law =
Judge only=20
after having considered such issues or evaluated such evidence or =
both and=20
having issued an additional memorandum of conference in =
conformance with=20
=A7702.316.</P>
<P>(e) If a party fails to complete or return his or her =
pre-hearing=20
statement form within the time allowed, the district director may, =
at his=20
or her discretion, transmit the case without that party's form. =
However,=20
such transmittal shall include a statement from the district =
director=20
setting forth the circumstanes causing the failure to include the =
form,=20
and such party's failure to submit a pre-hearing statement form =
may,=20
subject to rebuttal at the formal hearing, be considered by the=20
administrative law judge, to the extent intransigence is relevant, =
in=20
subsequent rulings on motions which may be made in the course of =
the=20
formal hearing.</P>(Approved by the Office of Management and =
Budget under=20
control number 1215=960085)
<P>(Pub. L. No. 96=96511)</P>
<P>[42 FR 42551, Aug. 23, 1977, as amended at 49 FR 18295, Apr. =
30,=20
1984]</P><A name=3D20:3.0.3.1.2.3.80.9>
<H5>=A7 702.318   The record; what =
constitutes;=20
nontransferability of the administrative file.</H5></A><A=20
=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>For the purpose of any further proceedings under the Act, the =
formal=20
record of proceedings shall consist of the hearing record made =
before the=20
administrative law judge (see =A7702.344). When transferring the =
case for=20
hearing pursuant to =A7702.317, the district director shall not =
transfer the=20
administrative file under any circumstances.</P><A=20
name=3D20:3.0.3.1.2.3.80.10>
<H5>=A7 702.319   Obtaining documents from the =

administrative file for reintroduction at formal =
hearings.</H5></A><A=20
=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20

=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Whenever any party considers any document in the administrative =
file=20
essential to any further proceedings under the Act, it is the=20
responsibility of such party to obtain such document from the =
district=20
director and reintroduce it for the record before the =
administrative law=20
judge. The type of document that may be obtained shall be limited =
to=20
documents previously submitted to the district director, including =

documents or forms with respect to notices, claims, =
controversions,=20
contests, progress reports, medical services or supplies, etc. The =
work=20
products of the district director or his staff shall not be =
subject to=20
retrieval. The procedure for obtaining documents shall be for the=20
requesting party to inform the district director in writing of the =

documents he wishes to obtain, specifying them with particularity. =
Upon=20
receipt, the district director shall cause copies of the requested =

documents to be made and then:</P>
<P>(a) Place the copies in the file together with the letter of =
request,=20
and (b) promptly forward the originals to the requesting party. =
The=20
handling of multiple requests for the same document shall be =
within the=20
discretion of the district director and with the cooperation of =
the=20
requesting parties.</P><A name=3D20:3.0.3.1.2.3.81>
<H5>Special Fund</H5></A><A=20
=
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top</A><A name=3D20:3.0.3.1.2.3.81.11>
<H5>=A7 702.321   Procedures for determining=20
applicability of section 8(f) of the Act.</H5></A><A=20
=
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e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) <I>Application: filing, service, contents. </I>(1) An =
employer or=20
insurance carrier which seeks to invoke the provisions of section =
8(f) of=20
the Act must request limitation of its liability and file, in =

duplicate,=20
with the district director a fully documented application. A fully =

documented application shall contain the following information: =
(i) A=20
specific description of the pre-existing condition relied upon as=20
constituting an existing permanent partial disability; (ii) the =
reasons=20
for believing that the claimant's permanent disability after the =
injury=20
would be less were it not for the pre-existing permanent partial=20
disability or that the death would not have ensued but for that=20
disability. These reasons must be supported by medical evidence as =

specified in paragraph (a)(1)(iv) of this section; (iii) the basis =
for the=20
assertion that the pre-existing condition relied upon was manifest =
in the=20
employer; and (iv) documentary medical evidence relied upon in =
support of=20
the request for section 8(f) relief. This medical evidence shall =
include,=20
but not be limited to, a current medical report establishing the =
extent of=20
all impairments and the date of maximum medical improvement. If =
the=20
claimant has already reached maximum medical improvement, a report =

prepared at that time will satisfy the requirement for a current =
medical=20
report. If the current disability is total, the medical report =
must=20
explain why the disability is not due solely to the second injury. =
If the=20
current disability is partial, the medical report must explain why =
the=20
disability is not due solely to the second injury and why the =
resulting=20
disability is materially and substantially greater than that which =
would=20
have resulted from the subsequent injury alone. If the injury is =
loss of=20
hearing, the pre-existing hearing loss must be documented by an =
audiogram=20
which complies with the requirements of =A7702.441. If the claim =
is for=20
survivor's benefits, the medical report must establish that the =
death was=20
not due solely to the second injury. Any other evidence considered =

necessary for consideration of the request for section 8(f) relief =
must be=20
submitted when requested by the district director or Director.</P>
<P>(2) If claim is being paid by the special fund and the claimant =
dies,=20
an employer need not reapply for section 8(f) relief. However, =
survivor=20
benefits will not be paid until it has been established that the =
death was=20
due to the accepted injury and the eligible survivors have been=20
identified. The district director will issue a compensation order =
after a=20
claim has been filed and entitlement of the survivors has been =
verified.=20

Since the employer remains a party in interest to the claim, a=20
compensation order will not be issued without the agreement of the =

employer.</P>
<P>(b) <I>Application: Time for filing. </I>(1) A request for =
section 8(f)=20
relief should be made as soon as the permanency of the claimant's=20
condition becomes known or is an issue in dispute. This could be =
when=20
benefits are first paid for permanent disability, or at an =
informal=20
conference held to discuss the permanency of the claimant's =
condition.=20
Where the claim is for death benefits, the request should be made =
as soon=20
as possible after the date of death. Along with the request for =
section=20
8(f) relief, the applicant must also submit all the supporting=20
documentation required by this section, described in paragraph =
(a), of=20
this section. Where possible, this documentation should accompany =
the=20
request, but may be submitted separately, in which case the =
district=20
director shall, at the time of the request, fix a date for =
submission of=20
the fully documented application. The date shall be fixed as =
follows:</P>
<P>(i) Where notice is given to all parties that permanency shall =
be an=20
issue at an informal conference, the fully documented application =
must be=20
submitted at or before the conference. For these purposes, notice =
shall=20
mean when the issues of permanency is noted on the form LS=96141, =
Notice of=20
Informal Conference. All parties are required to list issue =
reasonably=20
anticipated to be discussed at the conference when the initial =
request for=20
a conference is made and to notify all parties of additional =
issues which=20
arise during the period before the conference is actually =
held.</P>
<P>(ii) Where the issue of permanency is first raised at the =
informal=20
conference and could not have reasonably been anticipated by the =
parties=20
prior to the conference, the district director shall adjourn the=20
conference and establish the date by which the fully documented=20
application must be submitted and so notify the employer/carrier. =
The date=20
shall be set by the district director after reviewing the =
circumstances of=20
the case.</P>
<P>(2) At the request of the employer or insurance carrier, and =
for good=20
cause, the district director, at his/her discretion, may grant an=20
extension of the date for submission of the fully documented =
application.=20
In fixing the date for submission of the application under =
circumstances=20
other than described above or in considering any request for an =
extension=20

of the date for submitting the application, the district director =
shall=20
consider all the circumstances of the case, including but not =
limited to:=20
Whether the claimant is being paid compensation and the hardship =
to the=20
claimant of delaying referral of the case to the Office of =
Administrative=20
Law Judges (OALJ); the complexity of the issues and the =
availability of=20
medical and other evidence to the employer; the length of time the =

employer was or should have been aware that permanency is an =
issue; and,=20
the reasons listed in support of the request. If the =
employer/carrier=20
requested a specific date, the reasons for selection of that date =
will=20
also be considered. Neither the date selected for submission of =
the fully=20
documented application nor any extension therefrom can go beyond =
the date=20
the case is referred to the OALJ for formal hearing.</P>
<P>(3) Where the claimant's condition has not reached maximum =
medical=20
improvement and no claim for permanency is raised by the date the =
case is=20
referred to the OALJ, an application need not be submitted to the =
district=20
director to preserve the employer's right to later seek relief =
under=20
section 8(f) of the Act. In all other cases, failure to submit a =
fully=20
documented application by the date established by the district =
director=20
shall be an absolute defense to the liability of the special fund. =
This=20
defense is an affirmative defense which must be raised and pleaded =
by the=20
Director. The absolute defense will not be raised where permanency =
was not=20
an issue before the district director. In all other cases, where=20
permanency has been raised, the failure of an employer to submit a =
timely=20
and fully documented application for section 8(f) relief shall not =
prevent=20
the district director, at his/her discretion, from considering the =
claim=20
for compensation and transmitting the case for formal hearing. The =
failure=20
of an employer to present a timely and fully documented =
application for=20
section 8(f) relief may be excused only where the employer could =
not have=20
reasonably anticipated the liability of the special fund prior to =
the=20
consideration of the claim by the district director. Relief under =
section=20
8(f) is not available to an employer who fails to comply with =
section=20
32(a) of the Act, 33 U.S.C. 932(a).</P>
<P>(c) <I>Application: Approval, disapproval. </I>If all the =
evidence=20
required by paragraph (a) was submitted with the application for =

section=20
8(f) relief and the facts warrant relief under this section, the =
district=20
director shall award such relief after concurrence by the =
Associate=20
Director, DLHWC, or his or her designee. If the district director =
or the=20
Associate Director or his or her designee finds that the facts do =
not=20
warrant relief under section 8(f) the district director shall =
advise the=20
employer of the grounds for the denial. The application for =
section 8(f)=20
relief may then be considered by an administrative law judge. When =
a case=20
is transmitted to the Office of Administrative Law Judges the =
district=20
director shall also attach a copy of the application for section =
8(f)=20
relief submitted by the employer, and notwithstanding =
=A7702.317(c), the=20
district director's denial of the application.</P>(Approved by the =
Office=20
of Management and Budget under control number 1215=960160)
<P>[51 FR 4285, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.3.82>
<H5>Formal Hearings</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A><A name=3D20:3.0.3.1.2.3.82.12>
<H5>=A7 702.331   Formal hearings; procedure=20
initiating.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Formal hearings are initiated by transmitting to the Office of =
the=20
Chief Administrative Law Judge the pre-hearing statement forms, =
the=20
available evidence which the parties intend to submit at the =
formal=20
hearing, and the letter of transmittal from the district director =
as=20
provided in =A7702.316 and =A7702.317.</P>
<P>[42 FR 42552, Aug. 23, 1977]</P><A name=3D20:3.0.3.1.2.3.82.13>
<H5>=A7 702.332   Formal hearings; how=20
conducted.</H5></A><A=20
=
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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=

src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Formal hearings shall be conducted by the administrative law =
judge=20
assigned the case by the Office of the Chief Administrative Law =
Judge in=20
accordance with the provisions of the Administrative Procedure =
Act, 5=20
U.S.C. 554 <I>et seq. </I>All hearings shall be transcribed.</P><A =

name=3D20:3.0.3.1.2.3.82.14>
<H5>=A7 702.333   Formal hearings; =
parties.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) The necessary parties for a formal hearing are the claimant =
and the=20
employer or insurance carrier, and the administrative law judge =
assigned=20
the case.</P>
<P>(b) The Solicitor of Labor or his designee may appear and =
participate=20
in any formal hearing held pursuant to these regulations on behalf =
of the=20
Director as an interested party.</P><A =
name=3D20:3.0.3.1.2.3.82.15>
<H5>=A7 702.334   Formal hearings; =
representatives of=20
parties.</H5></A><A=20
=
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=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The claimant and the employer or carrier may be represented by =
persons=20
of their choice.</P><A name=3D20:3.0.3.1.2.3.82.16>
<H5>=A7 702.335   Formal hearings; =
notice.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>On a form prescribed for this purpose, the Office of the Chief=20
Administrative Law Judge shall notify the parties (See =A7702.333) =
of the=20
place and time of the formal hearing not less than 30 days in =

advance=20
thereof.</P>
<P>[42 FR 42552, Aug. 23, 1977]</P><A name=3D20:3.0.3.1.2.3.82.17>
<H5>=A7 702.336   Formal hearings; new=20
issues.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) If, during the course of the formal hearing, the evidence =
presented=20
warrants consideration of an issue or issues not previously =
considered,=20
the hearing may be expanded to include the new issue. If in the =
opinion of=20
the administrative law judge the new issue requires additional =
time for=20
preparation, the parties shall be given a reasonable time within =
which to=20
prepare for it. If the new issue arises from evidence that has not =
been=20
considered by the district director, and such evidence is likely =
to=20
resolve the case without the need for a formal hearing, the =
administrative=20
law judge may remand the case to the district director for his or =
her=20
evaluation and recommendation pursuant to, =A7702.316.</P>
<P>(b) At any time prior to the filing of the compensation order =
in the=20
case, the administrative law judge may in his discretion, upon the =

application of a party or upon his own motion, give notice that he =
will=20
consider any new issue. The parties shall be given not less than =
10 days'=20
notice of the hearing on such new issue. The parties may stipulate =
that=20
the issue may be heard at an earlier time and shall proceed to a =
hearing=20
on the new issue in the same manner as on an issue initially=20
considered.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 42 FR 42552, Aug. =
23,=20
1977]</P><A name=3D20:3.0.3.1.2.3.82.18>
<H5>=A7 702.337   Formal hearings; change of =
time or=20
place for hearings; postponements.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Except for good cause shown, hearings shall be held at =
convenient=20

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      locations not more than 75 miles from the claimant's =
residence.</P>
      <P>(b) Once a formal hearing has been scheduled, continuances =
shall not be=20
      granted except in cases of extreme hardship or where attendance of =
a party=20
      or his or her representative is mandated at a previously scheduled =

      judicial proceeding. Unless the ground for the request arises =
thereafter,=20
      requests for continuances must be received by the Chief =
Administrative Law=20
      Judge at least 10 days before the scheduled hearing date, must be =
served=20
      upon the other parties and must specify the extreme hardship or =
previously=20
      scheduled judicial proceeding claimed.</P>
      <P>(c) The Chief Administrative Law Judge or the administrative =
law judge=20
      assigned to the case may change the time and place of the hearing, =
or=20
      temporarily adjourn a hearing, on his own motion or for good cause =
shown=20
      by a party. The parties shall be given not less than 10 days' =
notice of=20
      the new time and place of the hearing, unless they agree to such =
change=20
      without notice.</P>
      <P>[42 FR 42552, Aug. 23, 1977]</P><A name=3D20:3.0.3.1.2.3.82.19>
      <H5>=A7 702.338   Formal hearings; general=20
      procedures.</H5></A><A=20
      =
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      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>All hearings shall be attended by the parties or their =
representatives=20
      and such other persons as the administrative law judge deems =
necessary and=20
      proper. The administrative law judge shall inquire fully into the =
matters=20
      at issue and shall receive in evidence the testimony of witnesses =
and any=20
      documents which are relevant and material to such matters. If the=20
      administrative law judge believes that there is relevant and =
material=20
      evidence available which has not been presented at the hearing, he =
may=20
      adjourn the hearing or, at any time, prior to the filing of the=20
      compensation order, reopen the hearing for the receipt of such =
evidence.=20
      The order in which evidence and allegations shall be presented and =
the=20
      procedures at the hearings generally, except as these regulations=20
      otherwise expressly provide, shall be in the discretion of the=20
      administrative law judge and of such nature as to afford the =
parties a=20
      reasonable opportunity for a fair hearing.</P><A=20
name=3D20:3.0.3.1.2.3.82.20>
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<H5>=A7 702.339   Formal hearings; =
evidence.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>In making an investigation or inquiry or conducting a hearing, =
the=20
administrative law judge shall not be bound by common law or =
statutory=20
rules of evidence or by technical or formal rules of procedure, =
except as=20
provided by 5 U.S.C. 554 and these regulations; but may make such=20
investigation or inquiry or conduct such hearing in such a manner =
as to=20
best ascertain the rights of the parties.</P><A =
name=3D20:3.0.3.1.2.3.82.21>
<H5>=A7 702.340   Formal hearings; =
witnesses.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Witnesses at the hearing shall testify under oath or =
affirmation.=20
The administrative law judge may examine the witnesses and shall =
allow the=20
parties or their representatives to do so.</P>
<P>(b) No person shall be required to attend as a witness in any=20
proceeding before an administrative law judge at a place more than =
100=20
miles from his place of residence, unless his lawful mileage and =
fees for=20
one day's attendance shall be paid or tendered to him in advance =
of the=20
hearing date.</P><A name=3D20:3.0.3.1.2.3.82.22>
<H5>=A7 702.341   Formal hearings; =
depositions;=20
interrogatories.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The testimony of any witness, including any party represented =
by=20
counsel, may be taken by deposition or interrogatory according to =
the=20
Federal Rules of Civil Procedure as supplemented by local rules of =

practice for the Federal district court for the judicial district =
in which=20
the case is pending. However, such depositions or interrogatories =
must be=20
completed within reasonable times to be fixed by the Chief =
Administrative=20
Law Judge or the administrative law judge assigned to the =
case.</P>
<P>[42 FR 42552, Aug. 23, 1977]</P><A name=3D20:3.0.3.1.2.3.82.23>
<H5>=A7 702.342   Formal hearings; witness=20
fees.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Witnesses summoned in a formal hearing before an administrative =
law=20
judge or whose depositions are taken shall receive the same fees =
and=20
mileage as witnesses in courts of the United States (33 U.S.C. =
925).</P><A=20
name=3D20:3.0.3.1.2.3.82.24>
<H5>=A7 702.343   Formal hearings; oral =
argument and=20
written allegations.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Any party upon request shall be allowed a reasonable time for=20
presentation of oral argument and shall be permitted to file a =
pre-hearing=20
brief or other written statement of fact or law. A copy of any =
such=20
pre-hearing brief or other written statement shall be filed with =
the Chief=20
Administrative Law Judge or the administrative law judge assigned =
to the=20
case before or during the proceeding at which evidence is =
submitted to the=20
administrative law judge and shall be served upon each other =
party.=20
Post-hearing briefs will not be permitted except at the request of =
the=20
administrative law judge or upon averment on the record of a party =
that=20
the case presents a specific novel or difficult legal or factual =
issue (or=20
issues) that cannot be adequately addressed in oral summation. =
When=20
permitted, any such brief shall be limited to the issue or issues=20
specified by the administrative law judge or by the party in his =
or her=20
averment and shall be due from any party desiring to address such =

issue or=20
      issues within 15 days of the conclusion of the proceeding at which =

      evidence is submitted to the administrative law judge. Enlargement =
of the=20
      time for filing such briefs shall be granted only if the =
administrative=20
      law judge is persuaded that the brief will be helpful to him or =
her and=20
      that the enlargement granted will not delay decision of the =
case.</P>
      <P>[42 FR 42552, Aug. 23, 1977]</P><A name=3D20:3.0.3.1.2.3.82.25>
      <H5>=A7 702.344   Formal hearings; record of=20
      hearing.</H5></A><A=20
      =
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      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>All formal hearings shall be open to the public and shall be=20
      stenographically reported. All evidence upon which the =
administrative law=20
      judge relies for his final decision shall be contained in the =
transcript=20
      of testimony either directly or by appropriate reference. All =
medical=20
      reports, exhibits, and any other pertinent document or record, in =
whole or=20
      in material part, shall be incorporated into the record either by=20
      reference or as an appendix.</P><A name=3D20:3.0.3.1.2.3.82.26>
      <H5>=A7 702.345   Formal hearings; =
consolidated issues;=20
      consolidated cases.</H5></A><A=20
      =
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      alt=3D""=20
      =
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if">=20
      top</A>
      <P>(a) When one or more additional issues are raised by the =
administrative=20
      law judge pursuant to =A7702.336, such issues may, in the =
discretion of the=20
      administrative law judge, be consolidated for hearing and decision =
with=20
      other issues pending before him.</P>
      <P>(b) When two or more cases are transferred for formal hearings =
and have=20
      common questions of law or which arose out of a common accident, =
the Chief=20
      Administrative Law Judge may consolidate such cases for =
hearing.</P><A=20
      name=3D20:3.0.3.1.2.3.82.27>
      <H5>=A7 702.346   Formal hearings; waiver of =
right to=20
      appear.</H5></A><A=20
      =

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20:3.0.3.1.2&idno=3D20#PartTop"><IMG=20
alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>If all parties waive their right to appear before the =
administrative=20
law judge or to present evidence or argument personally or by=20
representative, it shall not be necessary for the administrative =
law judge=20
to give notice of and conduct an oral hearing. A waiver of the =
right to=20
appear and present evidence and allegations as to facts and law =
shall be=20
made in writing and filed with the Chief Administrative Law Judge =
or the=20
administrative law judge. Where such a waiver has been filed by =
all=20
parties, and they do not appear before the administrative law =
judge=20
personally or by representative, the administrative law judge =
shall make a=20
record of the relevant written evidence submitted by the parties, =
together=20
with any pleadings they may submit with respect to the issues in =
the case.=20
Such documents shall be considered as all of the evidence in the =
case and=20
the decision shall be based on them.</P><A =
name=3D20:3.0.3.1.2.3.82.28>
<H5>=A7 702.347   Formal hearings;=20
termination.</H5></A><A=20
=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Formal hearings are normally terminated upon the conclusion =
of the=20
proceeding at which evidence is submitted to the administrative =
law=20
judge.</P>
<P>(b) In exceptional cases the Chief Administrative Law Judge or =
the=20
administrative law judge assigned to the case may, in his or her=20
discretion, extend the time for official termination of the =
hearing.</P>
<P>[42 FR 42552, Aug. 23, 1977]</P><A name=3D20:3.0.3.1.2.3.82.29>
<H5>=A7 702.348   Formal hearings; preparation =
of final=20
decision and order; content.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Within 20 days after the official termination of the hearing as =
defined=20
by =A7702.347, the administrative law judge shall have prepared a =
final=20
decision and order, in the form of a compensation order, with =
respect to=20
the claim, making an award to the claimant or rejecting the claim. =
The=20
compensation order shall contain appropriate findings of facts and =

conclusions of law with respect thereto, and shall be concluded =
with one=20
or more paragraphs containing the order of the administrative law =
judge,=20
his signature, and the date of issuance.</P><A =
name=3D20:3.0.3.1.2.3.82.30>
<H5>=A7 702.349   Formal hearings; filing and =
mailing of=20
compensation orders; disposition of transcripts.</H5></A><A=20
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The administrative law judge shall, within 20 days after the =
official=20
termination of the hearing, deliver by mail, or otherwise, to the =
office=20
of the district director having original jurisdiction, the =
transcript of=20
the hearing, other documents or pleadings filed with him with =
respect to=20
the claim, together with his signed compensation order. Upon =
receipt=20
thereof, the district director, being the official custodian of =
all=20
records with respect to such claims within his jurisdiction, shall =

formally date and file the transcript, pleadings, and compensation =
order=20
(original) in his office. Such filing shall be accomplished by the =
close=20
of business on the next succeeding working day, and the district =
director=20
shall, on the same day as the filing was accomplished, send by =
certified=20
mail a copy of the compensation order to the parties and to=20
representatives of the parties, if any. Appended to each such copy =
shall=20
be a paragraph entitled =93proof of service=94 containing the =
certification of=20
the district director that the copies were mailed on the date =
stated, to=20
each of the parties and their representatives, as shown in such=20
paragraph.</P><A name=3D20:3.0.3.1.2.3.82.31>
<H5>=A7 702.350   Finality of compensation=20
orders.</H5></A><A=20

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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Compensation orders shall become effective when filed in the =
office of=20
the district director, and unless proceedings for suspension or =
setting=20
aside of such orders are instituted within 30 days of such filing, =
shall=20
become final at the expiration of the 30th day after such filing, =
as=20
provided in section 21 of the Act 33 U.S.C. 921. If any =
compensation=20
payable under the terms of such order is not paid within 10 days =
after it=20
becomes due, section 14(f) of the Act requires that there be added =
to such=20
unpaid compensation an amount equal to 20 percent thereof which =
shall be=20
paid at the same time as, but in addition to, such compensation =
unless=20
review of the compensation order is had as provided in such =
section 21 and=20
an order staying payment has been issued by the Benefits Review =
Board or=20
the reviewing court.</P><A name=3D20:3.0.3.1.2.3.82.32>
<H5>=A7 702.351   Withdrawal of controversion =
of issues=20
set for formal hearing; effect.</H5></A><A=20
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Whenever a party withdraws his controversion of the issues set =
for a=20
formal hearing, the administrative law judge shall halt the =
proceedings=20
upon receipt from said party of a signed statement to that effect =
and=20
forthwith notify the district director who shall then proceed to =
dispose=20
of the case as provided for in =A7702.315.</P><A =
name=3D20:3.0.3.1.2.3.83>
<H5>Interlocutory Matters, Supplementary Orders, and=20
Modifications</H5></A><A=20
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      <H5>=A7 702.371   Interlocutory =
matters.</H5></A><A=20
      =
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20:3.0.3.1.2&amp;idno=3D20#PartTop"><IMG=20
      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>Compensation orders shall not be made or filed with respect to=20
      interlocutory matters of a procedural nature arising during the =
pendency=20
      of a compensation case.</P><A name=3D20:3.0.3.1.2.3.83.34>
      <H5>=A7 702.372   Supplementary compensation=20
      orders.</H5></A><A=20
      =
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      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>(a) In any case in which the employer or insurance carrier is =
in=20
      default in the payment of compensation due under any award of=20
      compensation, for a period of 30 days after the compensation is =
due and=20
      payable, the person to whom such compensation is payable may, =
within 1=20
      year after such default, apply in writing to the district director =
for a=20
      supplementary compensation order declaring the amount of the =
default. Upon=20
      receipt of such application, the district director shall institute =

      proceedings with respect to such application as if such =
application were=20
      an original claim for compensation, and the matter shall be =
disposed of as=20
      provided for in =A7702.315, or if agreement on the issue is not =
reached,=20
      then as in =A7702.316 <I>et seq. </I></P>
      <P>(b) If, after disposition of the application as provided for in =

      paragraph (a) of this section, a supplementary compensation order =
is=20
      entered declaring the amount of the default, which amount may be =
the whole=20
      of the award notwithstanding that only one or more installments is =
in=20
      default, a copy of such supplementary order shall be forthwith =
sent by=20
      certified mail to each of the parties and their representatives.=20
      Thereafter, the applicant may obtain and file with the clerk of =
the=20
      Federal district court for the judicial district where the injury =
occurred=20
      or the district in which the employed has his principal place of =
business=20
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or maintains an office, a certified copy of said order and may =
seek=20
enforcement thereof as provided for by section 18 of the Act, 33 =
U.S.C.=20
918.</P><A name=3D20:3.0.3.1.2.3.83.35>
<H5>=A7 702.373   Modification of =
awards.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Upon his/her own initiative, or upon application of any =
party in=20
interest (including an employer or carrier which has been granted =
relief=20
under section 8(f) of the Act, 33 U.S.C. 908(f)), the district =
director=20
may review any compensation case (including a case under which =
payments=20
are made pursuant to section 44(i) of the Act, 33 U.S.C. 944(i)) =
in=20
accordance with the procedure in subpart C of this part, and after =
such=20
review of the case under =A7702.315, or review at formal hearings =
under the=20
regulations governing formal hearings in subpart C of this part, =
file a=20
new compensation order terminating, continuing, reinstating, =
increasing or=20
decreasing such compensation, or awarding compensation. Such new =
order=20
shall not affect any compensation previously paid, except that an =
award=20
increasing the compensation rate may be made retroactive from the =
date of=20
injury, and if any part of the compensation due or to become due =
is=20
unpaid, an award decreasing the compensation rate may be made =
effective=20
from the date of the injury, and any payment made prior thereto in =
excess=20
of such decreased rate shall be deducted from any unpaid =
compensation, in=20
such manner and by such method as may be determined by the =
district=20
director or the administrative law judge. Settlements cannot be=20
modified.</P>
<P>(b) Review of a compensation case under this section may be =
made at any=20
time prior to 1 year after the date of the last payment of =
compensation,=20
whether or not a compensation order has been issued, or at any =
time prior=20
to 1 year after the rejection of a claim.</P>
<P>(c) Review of a compensation case may be had only for the =
reason that=20
there is a change in conditions or that there was a mistake in the =

determination of facts.</P>

<P>(d) If the investigation, described in =A7702.148(c), discloses =
a change=20
in conditions and the employer or insurance carrier intends to =
pursue=20
modification of the award of compensation the district director =
and=20
claimant shall be notified through an informal conference. At the=20
conclusion of the informal conference the district director shall =
issue a=20
recommendation either for or against the modification. This =
recommendation=20
shall also be sent to the Associate Director, Division of =
Longshoremen's=20
and Harbor Workers' Compensation (DLHWC) for a determination on =
whether or=20
not to participate in the modification proceeding on behalf of the =
special=20
fund. Lack of concurrence of the Associate Director, DLHWC or lack =
of=20
participation by a representative of the special fund shall not be =
a bar=20
to the modification proceeding.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 401, Jan. 3,=20
1985]</P><A name=3D20:3.0.3.1.2.3.84>
<H5>Appeals</H5></A><A=20
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top</A><A name=3D20:3.0.3.1.2.3.84.36>
<H5>=A7 702.391   Appeals; where.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Appeals may be taken to the Benefits Review Board, U.S. =
Department of=20
Labor, Washington, D.C. 20210, by filing a notice of appeals with =
the=20
office of the district director for the compensation district in =
which the=20
decision or order appealed from was filed and by submitting to the =
Board a=20
petition for review of such decision or order, in accordance with =
the=20
provisions of part 802 of this title 20.</P><A =
name=3D20:3.0.3.1.2.3.84.37>
<H5>=A7 702.392   Appeals; what may be=20
appealed.</H5></A><A=20
=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>An appeal raising a substantial question of law or fact may be =
taken=20
from a decision with respect to a claim under the Act. Such =
appeals may be=20
taken from compensation orders when they have been filed as =
provided for=20
in =A7702.349.</P><A name=3D20:3.0.3.1.2.3.84.38>
<H5>=A7 702.393   Appeals; time =
limitations.</H5></A><A=20
=
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The notice of appeal (see =A7702.391) shall be filed with the =
district=20
director within 30 days of the filing of the decision or order =
complained=20
of, as defined and described in =A7=A7802.205 and 802.206 of this =
title. A=20
petition for review of the decision or order is required to be =
filed=20
within 30 days after receipt of the Board's acknowledgment of the =
notice=20
of appeal, as provided in =A7802.210 of this title.</P><A=20
name=3D20:3.0.3.1.2.3.84.39>
<H5>=A7 702.394   Appeals; =
procedure.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The procedure for appeals to the Benefits Review Board shall be =
as=20
provided by the Board in its Rules of Practice and Procedure, set =
forth in=20
part 802 of this title.</P><A name=3D20:3.0.3.1.2.4>
<H5>Subpart D=97Medical Care and Supervision</H5></A><A=20
=
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<H5>=A7 702.401   Medical care =
defined.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Medical care shall include medical, surgical, and other =
attendance=20
or treatment, nursing and hospital services, laboratory, X-ray and =
other=20
technical services, medicines, crutches, or other apparatus and =
prosthetic=20
devices, and any other medical service or supply, including the =
reasonable=20
and necessary cost of travel incident thereto, which is recognized =
as=20
appropriate by the medical profession for the care and treatment =
of the=20
injury or disease.</P>
<P>(b) An employee may rely on treatment by prayer or spiritual =
means=20
alone, in accordance with the tenets and practice of a recognized =
church=20
or religious denomination, by an accredited practitioner of such=20
recognized church or religious denomination, and nursing services =
rendered=20
in accordance with such tenets and practice without loss or =
diminution of=20
compensation or benefits under the Act. For purposes of this =
section, a=20
recognized church or religious denomination shall be any religious =

organization: (1) That is recognized by the Social Security =
Administration=20
for purposes of reimbursements for treatment under Medicare and =
Medicaid=20
or (2) that is recognized by the Internal Revenue Service for =
purposes of=20
tax exempt status.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 402, Jan. 3,=20
1985]</P><A name=3D20:3.0.3.1.2.4.85.2>
<H5>=A7 702.402   Employer's duty to furnish;=20
duration.</H5></A><A=20
=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>It is the duty of the employer to furnish appropriate medical =
care (as=20
defined in =A7702.401(a)) for the employee's injury, and for such =
period as=20
the nature of the injury or the process of recovery may =
require.</P>
<P>[50 FR 402, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.85.3>
<H5>=A7 702.403   Employee's right to choose =
physician;=20
limitations.</H5></A><A=20
=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The employee shall have the right to choose his/her attending =
physician=20
from among those authorized by the Director, OWCP, to furnish such =
care=20
and treatment, except those physicians included on the Secretary's =
list of=20
debarred physicians. In determining the choice of a physician,=20
consideration must be given to availability, the employee's =
condition and=20
the method and means of transportation. Generally 25 miles from =
the place=20
of injury, or the employee's home is a reasonable distance to =
travel, but=20
other pertinent factors must also be taken into consideration.</P>
<P>[50 FR 402, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.85.4>
<H5>=A7 702.404   Physician =
defined.</H5></A><A=20
=
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>The term <I>physician </I>includes doctors of medicine (MD), =
surgeons,=20
podiatrists, dentists, clinical psychologists, optometrists,=20
chiropractors, and osteopathic practitioners within the scope of =
their=20
practice as defined by State law. The term includes chiropractors =
only to=20
the extent that their reimbursable services are limited to =
treatment=20
consisting of manual manipulation of the spine to correct a =
subluxation=20
shown by X-ray or clinical findings. Physicians defined in this =
part may=20
interpret their own X-rays. All physicians in these categories are =

authorized by the Director to render medical care under the Act.=20
Naturopaths, faith healers, and other practitioners of the healing =
arts=20
which are not listed herein are not included within the term =
=93physician=94=20
as used in this part.</P>
<P>[42 FR 45303, Sept. 9, 1977]</P><A name=3D20:3.0.3.1.2.4.85.5>
<H5>=A7 702.405   Selection of physician;=20
emergencies.</H5></A><A=20
=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=

if">=20
top</A>
<P>Whenever the nature of the injury is such that immediate =
medical care=20
is required and the injured employee is unable to select a =
physician, the=20
employer shall select a physician. Thereafter the employee may =
change=20
physicians when he is able to make a selection. Such changes shall =
be made=20
upon obtaining written authorization from the employer or, if =
consent is=20
withheld, from the district director. The Director will direct=20
reimbursement of medical claims for services rendered by =
physicians or=20
health care providers who are on the list of those excluded from =
providing=20
care under the Act, if such services were rendered in an =
emergency. (See=20
=A7=A7702.417 and 702.435(b)).</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 402, Jan. 3,=20
1985]</P><A name=3D20:3.0.3.1.2.4.85.6>
<H5>=A7 702.406   Change of physicians;=20
non-emergencies.</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Whenever the employee has made his initial, free choice of =
an=20
attending physician, he may not thereafter change physicians =
without the=20
prior written consent of the employer (or carrier) or the district =

director. Such consent shall be given in cases where an employee's =
initial=20
choice was not of a specialist whose services are necessary for, =
and=20
appropriate to, the proper care and treatment of the compensable =
injury or=20
disease. In all other cases, consent may be given upon a showing =
of good=20
cause for change.</P>
<P>(b) The district director for the appropriate compensation =
district may=20
order a change of physicians or hospitals when such a change is =
found to=20
be necessary or desirable or where the fees charged exceed those=20
prevailing within the community for the same or similar services =
or exceed=20
the provider's customary charges.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 402, Jan. 3,=20
1985]</P><A name=3D20:3.0.3.1.2.4.85.7>
<H5>=A7 702.407   Supervision of medical=20
care.</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>The Director, OWCP, through the district directors and their =
designees,=20
shall actively supervise the medical care of an injured employee =
covered=20
by the Act. Such supervision shall include:</P>
<P>(a) The requirement that periodic reports on the medical care =
being=20
rendered be filed in the office of the district director, the =
frequency=20
thereof being determined by order of the district director or =
sound=20
judgment of the attending physician as the nature of the injury =
may=20
dictate;</P>
<P>(b) The determination of the necessity, character and =
sufficiency of=20
any medical care furnished or to be furnished the employee, =
including=20
whether the charges made by any medical care provider exceed those =

permitted under the Act;</P>
<P>(c) The determination of whether a change of physicians, =
hospitals or=20
other persons or locales providing treatment should be made or is=20
necessary;</P>
<P>(d) The further evaluation of medical questions arising in any =
case=20
under the Act, with respect to the nature and extent of the =
covered=20
injury, and the medical care required therefor.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 50 FR 402, Jan. 3,=20
1985]</P><A name=3D20:3.0.3.1.2.4.85.8>
<H5>=A7 702.408   Evaluation of medical =
questions;=20
impartial specialists.</H5></A><A=20
=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>In any case in which medical questions arise with respect to =
the=20
appropriate diagnosis, extent, effect of, appropriate treatment, =
and the=20
duration of any such care or treatment, for an injury covered by =
the Act,=20
the Director, OWCP, through the district directors having =
jurisdiction,=20
shall have the power to evaluate such questions by appointing one =
or more=20
especially qualified physicians to examine the employee, or in the =
case of=20
death to make such inquiry as may be appropriate to the facts and=20
circumstances of the case. The physician or physicians, including=20
appropriate consultants, should report their findings with respect =

to the=20
questions raised as expeditiously as possible. Upon receipt of =
such=20
report, action appropriate therewith shall be taken.</P><A=20
name=3D20:3.0.3.1.2.4.85.9>
<H5>=A7 702.409   Evaluation of medical =
questions;=20
results disputed.</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>Any party who is dissatisfied with such report may request a =
review or=20
reexamination of the employee by one or more different physicians =
employed=20
by or selected by the Director, and such review or reexamination =
shall be=20
granted unless it is found that it is clearly unwarranted. Such =
review=20
shall be completed within 2 weeks from the date ordered unless it =
is=20
impossible to complete the review and render a report thereon =
within such=20
time period. Upon receipt of the report of this additional review =
and=20
reexamination, such action as may be appropriate shall forthwith =
be=20
taken.</P><A name=3D20:3.0.3.1.2.4.85.10>
<H5>=A7 702.410   Duties of employees with =
respect to=20
special examinations.</H5></A><A=20
=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) For any special examination required of an employee by =
=A7=A7702.408=20
and 702.409, the employee shall submit to such examination at such =
place=20
as is designated in the order to report, but the place so selected =
shall=20
be reasonably convenient for the employee.</P>
<P>(b) Where an employee fails to submit to an examination =
required by=20
=A7=A7702.408 and 702.409, the district director or administrative =
law judge=20
may order that no compensation otherwise payable shall be paid for =
any=20
period during which the employee refuses to submit to such =
examination=20
unless circumstances justified the refusal.</P>
<P>(c) Where an employee unreasonably refuses to submit to medical =
or=20

surgical treatment, or to an examination by a physician selected =
by the=20
employer, the district director or administrative law judge may by =
order=20
suspend the payment of further compensation during such time as =
the=20
refusal continues. Except that refusal to submit to medical =
treatment=20
because of adherence to the tenets of a recognized church or =
religious=20
denomination as described in =A7702.401(b) shall not cause the =
suspension of=20
compensation.</P>
<P>[42 FR 45303, Sept. 9, 1977, as amended at 50 FR 402, Jan. 3, =
1985; 51=20
FR 4286, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.4.85.11>
<H5>=A7 702.411   Special examinations; nature =
of=20
impartiality of specialists.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) The special examinations required by =A7702.408 shall be =
accomplished=20
in a manner designed to preclude prejudgment by the impartial =
examiner. No=20
physician previously connected with the case shall be present, nor =
may any=20
other physician selected by the employer, carrier, or employee be =
present.=20
The impartial examiner may be made aware, by any party or by the =
OWCP, of=20
the opinions, reports, or conclusions of any prior examining =
physician=20
with respect to the nature and extent of the impairment, its =
cause, or its=20
effect upon the wage-earning capacity of the injured employee, if =
the=20
district director determines that, for good cause, such opinions, =
reports,=20
or conclusions shall be made available. Upon request, any party =
shall be=20
given a copy of all materials made available to the impartial=20
examiner.</P>
<P>(b) The impartiality of the specialists shall not be considered =
to have=20
been compromised if the district director deems it advisable to, =
and does,=20
apprise the specialist by memorandum of those undisputed facts =
pertaining=20
to the nature of the employee's employment, of the nature of the =
injury,=20
of the post-injury employment activity, if any, and of any other =
facts=20
which are not disputed and are deemed pertinent to the type of =
injury=20
and/or the type of examination being conducted.</P>
<P>(c) No physician selected to perform impartial examinations =

shall be,=20
or shall have been for a period of 2 years prior to the =
examination, an=20
employee of an insurance carrier or self-insured employer, or who =
has=20
accepted or participated in any fee from an insurance carrier or=20
self-insured employer, unless the parties in interest agree =
thereto.</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 42 FR 45303, Sept. =
9,=20
1977]</P><A name=3D20:3.0.3.1.2.4.85.12>
<H5>=A7 702.412   Special examinations; costs =
chargeable=20
to employer or carrier.</H5></A><A=20
=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) The Director or his designee ordering the special =
examination shall=20
have the power, in the exercise of his discretion, to charge the =
cost of=20
the examination or review to the employer, to the insurance =
carrier, or to=20
the special fund established by section 44 of the Act, 33 U.S.C. =
944.</P>
<P>(b) The Director or his designee may also order the employer or =
the=20
insurance carrier to provide the employee with the services of an=20
attendant, where the district director considers such services =
necessary,=20
because the employee is totally blind, has lost the use of both =
hands, or=20
both feet or is paralyzed and unable to walk, or because of other=20
disability making the employee so helpless as to require constant=20
attendance in the discretion of the district director. Fees =
payable for=20
such services shall be in accord with the provisions of =
=A7702.413.</P>
<P>[42 FR 45303, Sept. 9, 1977]</P><A name=3D20:3.0.3.1.2.4.85.13>
<H5>=A7 702.413   Fees for medical services; =
prevailing=20
community charges.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>All fees charged by medical care providers for persons covered =
by this=20
Act shall be limited to such charges for the same or similar care=20
(including supplies) as prevails in the community in which the =
medical=20
care provider is located and shall not exceed the customary =
charges of the=20

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      medical care provider for the same or similar services. Where a =
dispute=20
      arises concerning the amount of a medical bill, the Director shall =

      determine the prevailing community rate using the OWCP Medical Fee =

      Schedule (as described in 20 CFR 10.411) to the extent =
appropriate, and=20
      where not appropriate, may use other state or federal fee =
schedules. The=20
      opinion of the Director that a charge by a medical care provider =
disputed=20
      under the provisions of section 702.414 exceeds the charge which =
prevails=20
      in the community in which said medical care provider is located =
shall=20
      constitute sufficient evidence to warrant further proceedings =
pursuant to=20
      section 702.414 and to permit the Director to direct the claimant =
to=20
      select another medical provider for care to the claimant.</P>
      <P>[60 FR 51348, Oct. 2, 1995]</P><A name=3D20:3.0.3.1.2.4.85.14>
      <H5>=A7 702.414   Fees for medical services; =
unresolved=20
      disputes on prevailing charges.</H5></A><A=20
      =
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      alt=3D""=20
      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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      top</A>
      <P>(a) The Director may, upon written complaint of an interested =
party, or=20
      upon the Director's own initiative, investigate any medical care =
provider=20
      or any fee for medical treatment, services, or supplies that =
appears to=20
      exceed prevailing community charges for similar treatment, =
services or=20
      supplies or the provider's customary charges. The OWCP medical fee =

      schedule (see section 702.413) shall be used by the Director, =
where=20
      appropriate, to determine the prevailing community charges for a =
medical=20
      procedure by a physician or hospital (to the extent such procedure =
is=20
      covered by the OWCP fee schedule). The Director's investigation =
may=20
      initially be conducted informally through contact of the medical =
care=20
      provider by the district director. If this informal investigation =
is=20
      unsuccessful further proceedings may be undertaken. These =
proceedings may=20
      include, but not be limited to: an informal conference involving =
all=20
      interested parties; agency interrogatories to the pertinent =
medical care=20
      provider; and issuance of subpoenas duces tecum for documents =
having a=20
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bearing on the dispute.</P>
<P>(1) A claim by the provider that the OWCP fee schedule does not =

represent the prevailing community rate will be considered only =
where the=20
following circumstances are presented:</P>
<P>(i) where the actual procedure performed was incorrectly =
identified by=20
medical procedure code;</P>
<P>(ii) that the presence of a severe or concomitant medical =
condition=20
made treatment especially difficult;</P>
<P>(iii) the provider possessed unusual qualifications (board=20
certification in a specialty is not sufficient evidence in itself =
of=20
unusual qualifications); or</P>
<P>(iv) the provider or service is not one covered by the OWCP fee =

schedule as described by 20 CFR 10.411(d)(1).</P>
<P>(2) The circumstances listed in paragraph (a)(1) of this =
section are=20
the only ones which will justify reevaluation of the amount =
calculated=20
under the OWCP fee schedule.</P>
<P>(b) The failure of any medical care provider to present any =
evidence=20
required by the Director pursuant to this section without good =
cause shall=20
not prevent the Director from making findings of fact.</P>
<P>(c) After any proceeding under this section the Director shall =
make=20
specific findings on whether the fee exceeded the prevailing =
community=20
charges (as established by the OWCP fee schedule, where =
appropriate) or=20
the provider's customary charges and provide notice of these =
findings to=20
the affected parties.</P>
<P>(d) The Director may suspend any such proceedings if after =
receipt of=20
the written complaint the affected parties agree to withdraw the=20
controversy from agency consideration on the basis that such =
controversy=20
has been resolved by the affected parties. Such suspension, =
however, shall=20
be at the discretion of the Director.</P>
<P>[51 FR 4286, Feb. 3, 1986, as amended at 60 FR 51348, Oct. 2,=20
1995]</P><A name=3D20:3.0.3.1.2.4.85.15>
<H5>=A7 702.415   Fees for medical services; =
unresolved=20
disputes on charges; procedure.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>After issuance of specific findings of fact and proposed action =
by the=20
Director as provided in =A7702.414 any affected provider employer =
or other=20

interested party has the right to seek a hearing pursuant to =
section 556=20
of title 5, United States Code. Upon written request for such a =
hearing,=20
the matter shall be referred by the District Director to the OALJ =
for=20
formal hearing in accordance with the procedures in subpart C of =
this=20
part. If no such request for a hearing is filed with the district =
director=20
within thirty (30) days the findings issued pursuant to =A7702.414 =
shall be=20
final.</P>
<P>[51 FR 4286, Feb. 3, 1986]</P><A name=3D20:3.0.3.1.2.4.85.16>
<H5>=A7 702.416   Fees for medical services; =
disputes;=20
hearings; necessary parties.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>At formal hearings held pursuant to =A7702.415, the necessary =
parties=20
shall be the person whose fee or cost charge is in question and =
the=20
Director, or their representatives. The employer or carrier may =
also be=20
represented, and other parties, or associations having an interest =
in the=20
proceedings, may be heard, in the discretion of the administrative =
law=20
judge.</P><A name=3D20:3.0.3.1.2.4.85.17>
<H5>=A7 702.417   Fees for medical services; =
disputes;=20
effect of adverse decision.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>If the final decision and order upholds the finding of the =
Director=20
that the fee or charge in dispute was not in accordance with =
prevailing=20
community charges or the provider's customary charges, the person =
claiming=20
such fee or cost charge shall be given thirty (30) days after =
filing of=20
such decision and order to make the necessary adjustment. If such =
person=20
still refuses to make the required readjustment, such person shall =
not be=20
authorized to conduct any further treatments or examinations (if a =

physician) or to provide any other services or supplies (if by =

other than=20
a physician). Any fee or cost charge subsequently incurred for =
services=20
performed or supplies furnished shall not be a reimbursable =
medical=20
expense under this subpart. This prohibition shall apply =
notwithstanding=20
the fact that the services performed or supplies furnished were in =
all=20
other respects necessary and appropriate within the provision of =
these=20
regulations. However, the Director may direct reimbursement of =
medical=20
claims for services rendered if such services were rendered in an=20
emergency (see =A7702.435(b)). At the termination of the =
proceedings=20
provided for in this section the district director shall determine =
whether=20
further proceedings under =A7702.432 should be initiated.</P>
<P>[50 FR 403, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.85>
<H5>Medical Procedures</H5></A><A=20
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top</A><A name=3D20:3.0.3.1.2.4.85.18>
<H5>=A7 702.418   Procedure for requesting =
medical care;=20
employee's duty to notify employer.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
e94b2dfd6265049fd654439f9f738212&rgn=3Ddiv5&view=3Dtext&node=3D=
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
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top</A>
<P>(a) As soon as practicable, but within 30 days after occurrence =
of an=20
injury covered by the Act, or within 30 days after an employee =
becomes=20
aware, or in the exercise of reasonable diligence should be aware, =
of the=20
relationship between an injury or disease and his employment, the =
injured=20
employee or someone on his behalf shall give written notice =
thereof to the=20
district director having jurisdiction over the place where the =
injury=20
occurred and to the employer. If a form has been prescribed for =
such=20
purpose it shall be used, if available and practicable under the=20
circumstances. Notices filed under subpart B of this part, if on =
the form=20
prescribed by the Director for such purpose, satisfy the written =
notice=20
requirements of this subpart.</P>
<P>(b) In the case of an occupational disease which does not =
immediately=20

result in a disability or death, such notice shall be given within =
one=20
year after the employee becomes aware, or in the exercise of =
reasonable=20
diligence or by reason of medical advice should have been aware, =
of the=20
relationship between the employment, the disease, and the death or =

disability. Notice shall be given: (1) To the district director in =
the=20
compensation district in which the injury or death occurred, and =
(2) to=20
the employer.</P>(Approved by the Office of Management and Budget =
under=20
control number 1215=960160)
<P>[50 FR 403, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.85.19>
<H5>=A7 702.419   Action by employer upon =
acquiring=20
knowledge or being given notice of injury.</H5></A><A=20
=
href=3D"http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=3Decfr&sid=3D=
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>Whenever an employer acquires knowledge of an employee's =
injury,=20
through receipt of a written notice or otherwise, said employer =
shall=20
forthwith authorize, in writing, appropriate medical care. If a =
form is=20
prescribed for this purpose it shall be used whenever practicable. =

Authorization shall also be given in cases where an employee's =
initial=20
choice was not of a specialist whose services are necessary for =
and=20
appropriate to the proper care and treatment of the compensable =
injury or=20
disease. In all other cases, consent may be given upon a showing =
of good=20
cause for change.</P>
<P>[50 FR 403, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.85.20>
<H5>=A7 702.420   Issuance of authorization; =
binding=20
effect upon insurance carrier.</H5></A><A=20
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if">=20
top</A>
<P>The issuance of an authorization for treatment by the employer =
shall=20
bind his insurance carrier to furnish and pay for such care and=20
services.</P><A name=3D20:3.0.3.1.2.4.85.21>
<H5>=A7 702.421   Effect of failure to obtain =
initial=20

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      authorization.</H5></A><A=20
      =
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>An employee shall not be entitled to recover for medical =
services and=20
      supplies unless:</P>
      <P>(a) The employer shall have refused or neglected a request to =
furnish=20
      such services and the employee has complied with sections 7 (b) =
and (c) of=20
      the Act, 33 U.S.C. 907 (b) and (c) and these regulations; or</P>
      <P>(b) The nature of the injury required such treatment and =
services and=20
      the employer or his superintendent or foreman having knowledge of =
such=20
      injury shall have neglected to provide or authorize same.</P>
      <P>[50 FR 403, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.85.22>
      <H5>=A7 702.422   Effect of failure to report =
on medical=20
      care after initial authorization.</H5></A><A=20
      =
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      =
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
      top</A>
      <P>(a) Notwithstanding that medical care is properly obtained in=20
      accordance with these regulations, a finding by the Director that =
a=20
      medical care provider has failed to comply with the reporting =
requirements=20
      of the Act shall operate as a mandatory revocation of =
authorization of=20
      such medical care provider. The effect of a final finding to this =
effect=20
      operates to release the employer/carrier from liability of the =
expenses of=20
      such care. In addition to this, when such a finding is made by the =

      Director, the claimant receiving treatment will be directed by the =

      district director to seek authorization for medical care from =
another=20
      source.</P>
      <P>(b) For good cause shown, the Director may excuse the failure =
to comply=20
      with the reporting requirements of the Act and further, may make =
an award=20
      for the reasonable value of such medical care.</P>
      <P>[50 FR 403, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.86>
      <H5>Debarment of Physicians and Other Providers of Medical =
Services and=20
      Suppliers and Claims Representatives</H5></A><A=20
      =
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<H5>=A7 702.431   Grounds for =
debarment.</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>A physician or health care provider shall be debarred if it is =
found,=20
after appropriate investigation as described in =A7702.414 and =
proceedings=20
under =A7=A7702.432 and 702.433, that such physician or health =
care provider=20
has:</P>
<P>(a) Knowingly and willfully made, or caused to be made, any =
false=20
statement or misrepresentation of a material fact for use in a =
claim for=20
compensation or claim for reimbursement of medical expenses under =
this=20
Act;</P>
<P>(b) Knowingly and willfully submitted, or caused to be =
submitted, a=20
bill or request for payment under this Act containing a charge =
which the=20
Director finds to be substantially in excess of the charge for the =

service, appliance, or supply prevailing within the community or =
in excess=20
of the provider's customary charges, unless the Director finds =
there is=20
good cause for the bill or request containing the charge;</P>
<P>(c) Knowingly and willfully furnished a service, appliance, or =
supply=20
which is determined by the Director to be substantially in excess =
of the=20
need of the recipient thereof or to be of a quality which =
substantially=20
fails to meet professionally recognized standards;</P>
<P>(d) Been convicted under any criminal statute, without regard =
to=20
pending appeal thereof, for fraudulent activities in connection =
with=20
federal or state program for which payments are made to physicians =
or=20
providers of similar services, appliances, or supplies; or has =
otherwise=20
been excluded from participation in such program.</P>
<P>(e) The fact that a physician or health care provider has been=20
convicted of a crime previously described in (d), or excluded or=20
suspended, or has resigned in lieu of exclusion or suspension, =
from=20

participation in any program as described in (d), shall be a prima =
facie=20
finding of fact for purposes of section 7(j)(2) of the Act, 33 =
U.S.C.=20
907(j)(2).</P>
<P>[50 FR 404, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.86.24>
<H5>=A7 702.432   Debarment =
process.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) <I>Pertaining to health care providers. </I>Upon receipt of =

information indicating that a physician or health care provider =
has=20
engaged in activities enumerated in subparagraphs (a) through (c) =
of=20
=A7702.431, the Director, through the Director's designees, may =
evaluate the=20
information (as described in =A7702.414) to ascertain whether =
proceedings=20
should be initiated against the physician or health care provider =
to=20
remove authorization to render medical care or service under the =
Longshore=20
and Harbor Workers' Compensation Act.</P>
<P>(b) <I>Pertaining to health care providers and claims =
representatives.=20
</I>If after appropriate investigation the Director determines =
that=20
proceedings should be initiated, written notice thereof sent =
certified=20
mail, return receipt requested, shall be provided to the =
physician, health=20
care provider or claims representative containing the =
following:</P>
<P>(1) A concise statement of the grounds upon which debarment =
will be=20
based;</P>
<P>(2) A summary of the information upon which the director has =
relied in=20
reaching an initial decision that debarment proceedings should be=20
initiated;</P>
<P>(3) An invitation to the physician, health care provider or =
claims=20
representative to: (i) Resign voluntarily from participation in =
the=20
program without admitting or denying the allegations presented in =
the=20
written notice; or (ii) request a decision on debarment to be =
based upon=20
the existing agency record and any other information the =
physician, health=20
care provider or claims representative may wish to provide;</P>
<P>(4) A notice of the physician's, health care provider's or =
claims=20
representative's right, in the event of an adverse ruling by the =
Director,=20

to request a formal hearing before an administrative law =
judge;</P>
<P>(5) A notice that should the physician, health care provider or =
claims=20
representative fail to provide written answer to the written =
notice=20
described in this section within thirty (30) days of receipt, the =
Director=20
may deem the allegations made therein to be true and may order =
exclusion=20
of the physician, health care provider or claims representative =
without=20
conducting any further proceedings; and</P>
<P>(6) The name and address of the district director who shall be=20
responsible for receiving the answer from the physician, health =
care=20
provider or claims representative.</P>
<P>(c) Should the physician, health care provider or claims =
representative=20
fail to file a written answer to the notice described in this =
section=20
within thirty (30) days of receipt thereof, the Director may deem =
the=20
allegations made therein to be true and may order debarment of the =

physician, health care provider or claims representative.</P>
<P>(d) The physician, health care provider or claims =
representative may=20
inspect or request copies of information in the agency records at =
any time=20
prior to the Director's decision.</P>
<P>(e) The Director shall issue a decision in writing, and shall =
send a=20
copy of the decision to the physician, health care provider or =
claims=20
representative by certified mail, return receipt requested. The =
decision=20
shall advise the physician, health care provider or claims =
representative=20
of the right to request, within thirty (30) days of the date of an =
adverse=20
decision, a formal hearing before an administrative law judge =
under the=20
procedures set forth herein. The filing of such a request for =
hearing=20
within the time specified shall operate to stay the effectiveness =
of the=20
decision to debar.</P>
<P>[50 FR 404, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.86.25>
<H5>=A7 702.433   Requests for =
hearing.</H5></A><A=20
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alt=3D""=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) A request for hearing shall be sent to the district =
director and=20
contain a concise notice of the issues on which the physician, =
health care=20

provider or claims representative desires to give evidence at the =
hearing=20
with identification of witnesses and documents to be submitted at =
the=20
hearing.</P>
<P>(b) If a request for hearing is timely received by the district =

director, the matter shall be referred to the Chief Administrative =
Law=20
Judge who shall assign it for hearing with the assigned =
administrative law=20
judge issuing a notice of hearing for the conduct of the hearing. =
A copy=20
of the hearing notice shall be served on the physician, health =
care=20
provider or claims representative by certified mail, return =
receipt=20
requested.</P>
<P>(c) If a request for hearing contains identification of =
witnesses or=20
documents not previously considered by the Director, the Director =
may make=20
application to the assigned administrative law judge for an offer =
of proof=20
from the physician, health care provider or claims representative =
for the=20
purpose of discovery prior to hearing. If the offer of proof =
indicates=20
injection of new issues or new material evidence not previously =
considered=20
by the Director, the Director may request a remand order for =
purposes of=20
reconsideration of the decision made pursuant to =A7702.432 of =
these=20
regulations.</P>
<P>(d) The parties may make application for the issuance of =
subpoenas upon=20
a showing of good cause therefore to the administrative law =
judge.</P>
<P>(e) The administrative law judge shall issue a recommended =
decision=20
after the termination of the hearing. The recommended decision =
shall=20
contain appropriate findings, conclusions and a recommended order =
and be=20
forwarded, together with the record of the hearing, to the =
Administrative=20
Review Board for a final decision. The recommended decision shall =
be=20
served upon all parties to the proceeding.</P>
<P>(f) Based upon a review of the record and the recommended =
decision of=20
the administrative law judge, the Administrative Review Board =
shall issue=20
a final decision.</P>
<P>[50 FR 404, Jan. 3, 1985, as amended at 55 FR 28606, July 12, =
1990; 61=20
FR 19984, May 3, 1996]</P><A name=3D20:3.0.3.1.2.4.86.26>
<H5>=A7 702.434   Judicial review.</H5></A><A=20
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alt=3D""=20

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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) Any physician, health care provider or claims =
representative, after=20
any final decision of the Administrative Review Board made after a =
hearing=20
to which such person was a party, irrespective of the amount of=20
controversy, may obtain a review of such decision by a civil =
action=20
commenced within sixty (60) days after the mailing to him or her =
of notice=20
of such decision, but the pendency of such review shall not =
operate as a=20
stay upon the effect of such decision. Such action shall be =
brought in the=20
Court of Appeals of the United States for the judicial circuit in =
which=20
the plaintiff resides or has his or her principal place of =
business, or=20
the Court of Appeals for the District of Columbia pursuant to =
section=20
7(j)(4) of the Act, 33 U.S.C. 907(j)(4).</P>
<P>(b) As part of the Administrative Review Board answer, he or =
she shall=20
file a certified copy of the transcript of the record of the =
hearing,=20
including all evidence submitted in connection therewith.</P>
<P>(c) The findings of fact of the Administrative Review Board, if =
based=20
on substantial evidence in the record as a whole, shall be =
conclusive.</P>
<P>[50 FR 405, Jan. 3, 1985, as amended at 55 FR 28606, July 12, =
1990; 61=20
FR 19984, May 3, 1996]</P><A name=3D20:3.0.3.1.2.4.86.27>
<H5>=A7 702.435   Effects of =
debarment.</H5></A><A=20
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alt=3D""=20
=
src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) The Director shall give notice of the debarment of a =
physician,=20
hospital, or provider of medical support services or supplies =
to:</P>
<P>(1) All OWCP district offices;</P>
<P>(2) The Health Care Financing Administration;</P>
<P>(3) The State or Local authority responsible for licensing or=20
certifying the debarred party;</P>
<P>(4) The employers and authorized insurers under the Act by =
means of an=20
annual bulletin sent to them by the Director; and</P>
<P>(5) The general public by posting in the district office in the =

jurisdiction where the debarred party maintains a place of =
business.</P>
<P>If a claims representative is debarred, the Director shall give =
notice=20

to those groups listed in paragraphs (a) (1), (3), (4), and (5) of =
this=20
section.</P>
<P>(b) Notwithstanding any debarment under this subpart, the =
Director=20
shall not refuse a claimant reimbursement for any otherwise =
reimbursable=20
medical expense if the treatment, service or supply was rendered =
by=20
debarred provider in an emergency situation. However, such =
claimant will=20
be directed by the Director to select a duly qualified provider =
upon the=20
earliest opportunity.</P>
<P>[50 FR 405, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.86.28>
<H5>=A7 702.436   Reinstatement.</H5></A><A=20
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src=3D"http://ecfr.gpoaccess.gov/e/ecfr/graphics/ret-arrow-generic-grey.g=
if">=20
top</A>
<P>(a) If a physician or health care provider has been debarred or =

pursuant to =A7702.431(d) or if a claims representative has been =
debarred=20
pursuant to =A7702.131(c) (1) or (3) the person debarred will be=20
automatically reinstated upon notice to the Director that the =
conviction=20
or exclusion has been reversed or withdrawn. However, such =
reinstatement=20
will not preclude the Director from instituting debarment =
proceedings=20
based upon the subject matter involved.</P>
<P>(b) A physician, health care provider or claims representative=20
otherwise debarred by the Director may apply for reinstatement to=20
participate in the program by application to the Director after =
three=20
years from the date of entry of the order of exclusion. Such =
application=20
for reinstatement shall be addressed to the Associate Director for =
the=20
Longshore program, and shall contain a statement of the basis of =
the=20
application along with any supporting documentation.</P>
<P>(c) The Director may further investigate the merits of the=20
reinstatement application by requiring special reporting =
procedures from=20
the applicant for a probationary period not to exceed six months =
to be=20
monitored by the district office where the provider maintains a =
place of=20
business.</P>
<P>(d) At the end of aforesaid probationary period, the Director =
may order=20
full reinstatement of the physician, health care provider or =
claims=20
representative if such reinstatement is clearly consistent with =
the=20
program goal to protect itself against fraud and abuse and, =
further, if=20

the physician, health care provider or claims representative has =
given=20
reasonable assurances that the basis for the debarment will not be =

repeated.</P>
<P>[50 FR 405, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.4.87>
<H5>Hearing Loss Claims</H5></A><A=20
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<H5>=A7 702.441   Claims for loss of =
hearing.</H5></A><A=20
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top</A>
<P>(a) Claims for hearing loss pending on or filed after September =
28,=20
1984 (the date of enactment of Pub. L. 98=96426) shall be =
adjudicated with=20
respect to the determination of the degree of hearing impairment =
in=20
accordance with these regulations.</P>
<P>(b) An audiogram shall be presumptive evidence of the amount of =
hearing=20
loss on the date administered if the following requirements are =
met:</P>
<P>(1) The audiogram was administered by a licensed or certified=20
audiologist, by a physician certified by the American Board of=20
Otolaryngology, or by a technician, under an audiologist's or =
physician's=20
supervision, certified by the Council of Accreditation on =
Occupational=20
Hearing Conservation, or by any other person considered qualified =
by a=20
hearing conservation program authorized pursuant to 29 CFR =
1910.95(g)(3)=20
promulgated under the Occupational Safety and Health Act of 1970 =
(29=20
U.S.C. 667). Thus, either a professional or trained technician may =
conduct=20
audiometric testing. However, to be acceptable under this =
subsection, a=20
licensed or certified audiologist or otolaryngologist, as defined, =
must=20
ultimately interpret and certify the results of the audiogram. The =

accompanying report must set forth the testing standards used and =
describe=20
the method of evaluating the hearing loss as well as providing an=20
evaluation of the reliability of the test results.</P>
<P>(2) The employee was provided the audiogram and a report =
thereon at the=20

time it was administered or within thirty (30) days =
thereafter.</P>
<P>(3) No one produces a contrary audiogram of equal probative =
value=20
(meaning one performed using the standards described herein) made =
at the=20
same time. =93Same time=94 means within thirty (30) days thereof =
where noise=20
exposure continues or within six (6) months where exposure to =
excessive=20
noise levels does not continue. Audiometric tests performed prior =
to the=20
enactment of Public Law 98=96426 will be considered presumptively =
valid if=20
the employer complied with the procedures in this section for=20
administering audiograms.</P>
<P>(c) In determining the amount of pre-employment hearing loss, =
an=20
audiogram must be submitted which was performed prior to =
employment or=20
within thirty (30) days of the date of the first =
employment-related noise=20
exposure. Audiograms performed after December 27, 1984 must comply =
with=20
the standards described in paragraph (d) of this section.</P>
<P>(d) In determining the loss of hearing under the Act, the =
evaluators=20
shall use the criteria for measuring and calculating hearing =
impairment as=20
published and modified from time-to-time by the American Medical=20
Association in the <I>Guides to the Evaluation of Permanent =
Impairment,=20
</I>using the most currently revised edition of this publication. =
In=20
addition, the audiometer used for testing the individual's =
threshold of=20
hearing must be calibrated according to current American National =
Standard=20
Specifications for Audiometers. Audiometer testing procedures =
required by=20
hearing conservation programs pursuant to the Occupational Safety =
and=20
Health Act of 1970 should be followed (as described at 29 CFR =
1910.95 and=20
appendices).</P>(Approved by the Office of Management and Budget =
under=20
control number 1215=960160)
<P>[50 FR 405, Jan. 3, 1985]</P><A name=3D20:3.0.3.1.2.5>
<H5>Subpart E=97Vocational Rehabilitation</H5></A><A=20
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<H5>=A7 702.501   Vocational rehabilitation;=20
objective.</H5></A><A=20
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<P>The objective of vocational rehabilitation is the return of =
permanently=20
disabled persons to gainful employment commensurate with their =
physical or=20
mental impairments, or both, through a program of reevaluation or=20
redirection of their abilities, or retraining in another =
occupation, or=20
selective job placement assistance.</P><A =
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action by=20
district directors.</H5></A><A=20
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<P>All injury cases which are likely to result in, or have =
resulted in,=20
permanent disability, and which are of a character likely to =
require=20
review by a vocational rehabilitation adviser on the staff of the=20
Director, shall promptly be referred to such adviser by the =
district=20
director or his designee having charge of the case. A form has =
been=20
prescribed for such purpose and shall be used. Medical data and =
other=20
pertinent information shall accompany the referral.</P>(Approved =
by the=20
Office of Management and Budget under control number 1215=960051)
<P>(Pub. L. No. 96=96511)</P>
<P>[38 FR 26861, Sept. 26, 1973, as amended at 49 FR 18294, Apr. =
30,=20
1984]</P><A name=3D20:3.0.3.1.2.5.88.3>
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action by=20
adviser.</H5></A><A=20
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<P>The vocational rehabilitation adviser, upon receipt of the =
referral,=20
shall promptly consider the feasibility of a vocational referral =
or=20
request for cooperative services from available resources or =
facilities,=20
to include counseling, vocational survey, selective job placement=20
assistance, and retraining. Public or private agencies may be =

utilized in=20
arranging necessary vocational rehabilitation services under the =
Federal=20
Vocational Rehabilitation Act, 29 U.S.C. 31 <I>et seq. </I></P><A=20
name=3D20:3.0.3.1.2.5.88.4>
<H5>=A7 702.504   Vocational rehabilitation; =
referrals=20
to State Employment Agencies.</H5></A><A=20
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<P>Vocational rehabilitation advisers will arrange referral =
procedures=20
with State Employment Service units within their assigned =
geographical=20
districts for the purpose of securing employment counseling, job=20
classification, and selective placement assistance. Referrals =
shall be=20
made to State Employment Offices based upon the following:</P>
<P>(a) Vocational rehabilitation advisers will screen cases so as =
to refer=20
only those disabled employees who are considered to have =
employment=20
potential;</P>
<P>(b) Only employees will be referred who have permanent, =
compensable=20
disabilities resulting in a significant vocational handicap and =
loss of=20
wage earning capacity;</P>
<P>(c) Disabled employees, whose initial referral to former =
private=20
employers did not result in a job reassignment or in a job =
retention,=20
shall be referred for employment counseling and/or selective =
placement=20
unless retraining services consideration is requested;</P>
<P>(d) The vocational rehabilitation advisers shall arrange for =
employees'=20
referrals if it is ascertained that they may benefit from =
registering with=20
the State Employment Service;</P>
<P>(e) Referrals will be made to appropriate State Employment =
Offices by=20
letter, including all necessary information and a request for a =
report on=20
the services provided the employee when he registers;</P>
<P>(f) The injured employee shall be advised of available job =
counseling=20
services and informed that he is being referred for employment and =

selective placement;</P>
<P>(g) A followup shall be made within 60 days on all referrals to =
assure=20
uniform reporting by State agencies on cases referred for a =
vocational=20
survey.</P><A name=3D20:3.0.3.1.2.5.88.5>
<H5>=A7 702.505   Vocational rehabilitation; =
referrals=20

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      to other public and private agencies.</H5></A><A=20
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      <P>Referrals to such other public and private agencies providing=20
      assistance to disabled persons such as public welfare agencies, =
Public=20
      Health Services facilities, social services units of the Veterans=20
      Administration, the Social Security Administration, and other such =

      agencies, shall be made by the vocational rehabilitation adviser, =
where=20
      appropriate, on an individual basis when requested by disabled =
employees.=20
      Such referrals do not provide for a service cost reimbursement by =
the=20
      Department of Labor.</P><A name=3D20:3.0.3.1.2.5.88.6>
      <H5>=A7 702.506   Vocational rehabilitation;=20
      training.</H5></A><A=20
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      <P>Vocational rehabilitation training shall be planned in =
anticipation of=20
      a short, realistic, attainable vocational objective terminating in =

      remunerable employment, and in restoring wage-earning capacity or=20
      increasing it materially. The following procedures shall apply in=20
      arranging for or providing training:</P>
      <P>(a) The vocational rehabilitation adviser shall arrange for and =
develop=20
      all vocational training programs.</P>
      <P>(b) Training programs shall be developed to meet the varying =
needs of=20
      eligible beneficiaries, and may include courses at colleges, =
technical=20
      schools, training at rehabilitation centers, on-the-job training, =
or=20
      tutorial courses. The courses shall be pertinent to the occupation =
for=20
      which the employee is being trained.</P>
      <P>(c) Training may be terminated if the injured employee fails to =

      cooperate with the Department of Labor or with the agency =
supervising his=20
      course of training. The employee shall be counseled before =
training is=20
      terminated.</P>
      <P>(d) Reports shall be required at periodic intervals on all =
persons in=20
      approved training programs.</P><A name=3D20:3.0.3.1.2.5.88.7>
      <H5>=A7 702.507   Vocational rehabilitation; =
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maintenance=20
allowance.</H5></A><A=20
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<P>(a) An injured employee who, as a result of injury, is or may =
be=20
expected to be totally or partially incapacitated for a =
remunerative=20
occupation and who, under the direction of the Director is being =
rendered=20
fit to engage in a remunerative occupation, shall be paid =
additional=20
compensation necessary for this maintenance, not exceeding $25 a =
week. The=20
expense shall be paid out of the special fund established in =
section 44 of=20
the Act, 33 U.S.C. 944. The maximum maintenance allowance shall =
not be=20
provided on an automatic basis, but shall be based on the =
recommendation=20
of a State agency that a claimant is unable to meet additional =
costs by=20
reason of being in training.</P>
<P>(b) When required by reason of personal illness or hardship, =
limited=20
periods of absence from training may be allowed without =
terminating the=20
maintenance allowance. A maintenance allowance shall be terminated =
when it=20
is shown to the satisfaction of the Director that a trainee is not =

complying reasonably with the terms of the training plan or is =
absenting=20
himself without good cause from training so as to materially =
interfere=20
with the accomplishment of the training objective.</P><A=20
name=3D20:3.0.3.1.2.5.88.8>
<H5>=A7 702.508   Vocational rehabilitation;=20
confidentiality of information.</H5></A><A=20
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<P>The following safeguards will be observed to protect the =
confidential=20
character of information released regarding an individual =
undergoing=20
rehabilitation:</P>
<P>(a) Information will be released to other agencies from which =
an=20
injured employee has requested services only if such agencies have =

established regulations assuring that such information will be =
considered=20
confidential and will be used only for the purpose for which it is =

provided;</P>
<P>(b) Interested persons and agencies have been advised that any=20
information concerning rehabilitation program employees is to be =
held=20
confidential;</P>
<P>(c) A rehabilitation employee's written consent is secured for =
release=20
of information regarding disability to a person, agency, or =
establishment=20
seeking the information for purposes other than the approved=20
rehabilitation planning with such employee.</P><A =
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<H5>Subpart F=97Occupational Disease Which Does Not Immediately =
Result in=20
Death or Disability</H5></A><A=20
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1985,=20
unless otherwise noted.</PSPACE></FONT><A =
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<P>(a) <I>Time of injury. </I>For purposes of this subpart and =
with=20
respect to an occupational disease which does not immediately =
result in=20
death or disability, the time of injury shall be deemed to be the =
date on=20
which the employee or claimant becomes aware, or in the exercise =
of=20
reasonable diligence or by reason of medical advice should have =
been=20
aware, of the relationship between the employment, the disease, =
and the=20
death or disability.</P>
<P>(b) <I>Disability. </I>With regard to an occupational disease =
for which=20
the time of injury, as defined in =A7702.601(a), occurs after the =
employee=20
was retired, disability shall mean permanent impairment as =
determined=20
according to the <I>Guides to the Evaluation of Permanent =
Impairment=20
</I>which is prepared and modified from time-to-time by the =

American=20
Medical Association, using the most currently revised edition of =
this=20
publication. If this guide does not evaluate the impairment, other =

professionally recognized standards may be utilized. The =
disability=20
described in this paragraph shall be limited to permanent partial=20
disability. For that reason they are not subject to adjustments =
under=20
section 10(f) of the Act, 33 U.S.C. 910(f).</P>
<P>(c) <I>Retirement. </I>For purposes of this subpart, retirement =
shall=20
mean that the claimant, or decedent in cases involving survivor's=20
benefits, has voluntarily withdrawn from the workforce and that =
there is=20
no realistic expectation that such person will return to the=20
workforce.</P>
<P>[50 FR 406, Jan. 3, 1985, as amended at 51 FR 4286, Feb. 3, =
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<P>(a) <I>Time for giving notice of injury or death. </I>Refer to=20
=A7702.207.</P>
<P>(b) <I>Time for filing of claims. </I>Refer to =
=A7702.212.</P><A=20
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compensating occupational disease claims which become manifest =
after=20
retirement.</H5></A><A=20
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<P>(a) If the time of injury occurs within the first year after =
the=20
employee has retired, the payrate for compensation purposes shall =
be one=20
fifty-second part of the employee's average annual earnings during =
the=20
fifty-two week period preceding retirement.</P>
<P>(b) If the time of injury occurs more than one year after the =
employee=20
has retired the payrate for compensation purposes shall be the =
national=20
average weekly wage, determined according to section 6(b)(3) of =
the Act,=20
33 U.S.C. 906(b)(3), at the time of injury.</P><A=20

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      <H5>=A7 702.604   Determining the amount of =
compensation=20
      for occupational disease claims which become manifest after=20
      retirement.</H5></A><A=20
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      <P>(a) If the claim is for disability benefits and the time of =
injury=20
      occurs after the employee has retired, compensation shall be=20
      66<FR>2/3</FR>percent of the payrate, as determined under =
=A7702.603, times=20
      the disability, as determined according to =A7702.601(b).</P>
      <P>(b) If the claim is for death benefits and the time of injury =
occurs=20
      after the decedent has retired, compensation shall be the percent=20
      specified in section 9 of the Act, 33 U.S.C. 909, times the =
payrate=20
      determined according to =A7702.603. Total weekly death benefits =
shall not=20
      exceed one fifty-second part of the decedent's average annual =
earnings=20
      during the fifty-two week period preceding retirement, such =
benefits shall=20
      be subject to the limitation provided for in section 6(b)(1) of =
the Act,=20
      33 U.S.C. 906(b)(1).</P>
      <P>[50 FR 406, Jan. 3, 1985, as amended at 51 FR 4286, Feb. 3, =
1986]</P>
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Content-Transfer-Encoding: quoted-printable
Content-Location: http://ecfr.gpoaccess.gov/e/ecfr/styles/styles.css

.td {
      FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 12px
}
.tr {
      FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 12px
}
.h1 {
      LINE-HEIGHT: 18pt; FONT-FAMILY: Arial, Helvetica, sans-serif; =
FONT-SIZE: 16px; FONT-WEIGHT: bold; Arial:=20
}
.h2 {
      PADDING-BOTTOM: 0px; LINE-HEIGHT: normal; FONT-STYLE: normal; =
PADDING-LEFT: 0px; PADDING-RIGHT: 0px; FONT-FAMILY: Arial, Helvetica, =
sans-serif; MARGIN-BOTTOM: 0px; COLOR: #000000; FONT-SIZE: 14px; =
FONT-WEIGHT: bold; PADDING-TOP: 0px
}
.h3 {
      LINE-HEIGHT: normal; FONT-STYLE: normal; FONT-FAMILY: Arial, Helvetica, =
sans-serif; MARGIN-BOTTOM: 0px; FONT-SIZE: 12px; FONT-WEIGHT: bold
}
.caption {
      LINE-HEIGHT: normal; FONT-STYLE: normal; FONT-FAMILY: Arial, Helvetica, =
sans-serif; MARGIN-BOTTOM: 0px; FONT-SIZE: 12px; FONT-WEIGHT: bold
}
.footer {
      TEXT-ALIGN: center; FONT-FAMILY: Arial, Helvetica, sans-serif; =
BACKGROUND-POSITION: center 50%; FONT-SIZE: 10px
}
.top {
      TEXT-ALIGN: right; FONT-FAMILY: Arial, Helvetica, sans-serif; =
FONT-SIZE: 10px
}
.tablespacing {
```

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      PADDING-BOTTOM: 5px; PADDING-LEFT: 5px; PADDING-RIGHT: 5px; =
PADDING-TOP: 10px
}
.fontsmall {
      FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 11px
}
.navigation {
      FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 10px
}
.invisiblelink {
      FONT-FAMILY: Arial, Helvetica, sans-serif; COLOR: #ffffff; FONT-SIZE: =
10px; TEXT-DECORATION: none
}
A.menubar:link {
      COLOR: blue
}
A.menubar:visited {
      COLOR: purple
}
A.menubar:hover {
      COLOR: #cc3333
}
A.menubar:active {
      COLOR: purple
}
.toplogo {
      LINE-HEIGHT: normal; FONT-STYLE: normal; FONT-FAMILY: Arial, Helvetica, =
sans-serif; MARGIN-BOTTOM: 0px; FONT-SIZE: 14px; FONT-WEIGHT: bold
}
.search {
      CLIP: ; FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 10px
}
.side {
      FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 12px
}
.subparagraph {
      FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 12px; TOP: -5px; =
FONT-WEIGHT: normal
}
.head {
      FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 18px; =
FONT-WEIGHT: bolder
}
.recentupdateslink {
      TEXT-ALIGN: left; FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: =
12px; FONT-WEIGHT: bolder
}
.updatetitle {
      TEXT-ALIGN: left; TEXT-INDENT: 5pt; FONT-FAMILY: Arial, Helvetica, =
sans-serif; COLOR: #ff0000; FONT-SIZE: 14px; FONT-WEIGHT: bold
}
.updatebodytest {
      TEXT-ALIGN: left; FONT-VARIANT: normal; FONT-STYLE: normal; =
FONT-FAMILY: Arial, Helvetica, sans-serif; BACKGROUND-POSITION: left =
50%; FONT-SIZE: 12px; FONT-WEIGHT: normal
}
.updatebold {
      TEXT-ALIGN: left; FONT-STYLE: normal; FONT-FAMILY: Arial, Helvetica, =
sans-serif; BACKGROUND-POSITION: left 50%; FONT-SIZE: 12px; FONT-WEIGHT: =
bold
}
.body {
      BACKGROUND-COLOR: #ffffff; FONT-FAMILY: Arial, sans-serif; COLOR: =
#000000
```

```
}
.a {
      TEXT-DECORATION: underline
}
.a:link {
      BACKGROUND-COLOR: #ffffff; COLOR: blue
}
.a:visited {
      BACKGROUND-COLOR: #ffffff; COLOR: red
}
.a:active {
      BACKGROUND-COLOR: #ffffff; COLOR: #ff0000
}
.p {
      TEXT-ALIGN: center; WIDTH: 474px; BACKGROUND-REPEAT: no-repeat; =
FONT-FAMILY: Arial, sans-serif; FONT-WEIGHT: normal
}
.title {
      TEXT-ALIGN: left; FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: =
20px; FONT-WEIGHT: bold
}
.subtitle {
      TEXT-ALIGN: left; FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: =
14px; FONT-WEIGHT: bold
}
.mainheader {
      FONT-SIZE: 130%; FONT-WEIGHT: bold
}
.chapter {
      TEXT-ALIGN: left; FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: =
16px; FONT-WEIGHT: bold
}
.subchapter {
      TEXT-ALIGN: left; FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: =
14px; FONT-WEIGHT: bold
}
.part {
      FONT-SIZE: 100%; FONT-WEIGHT: bold
}
.subpart {
      BACKGROUND-COLOR: #ffffff; COLOR: blue; FONT-SIZE: 90%
}
.nopart {
      BACKGROUND-COLOR: #ffffff; COLOR: green
}
.reserved {
      BACKGROUND-COLOR: #ffffff; COLOR: red
}
.menu {
      FONT-FAMILY: Arial, Helvetica, sans-serif; FONT-SIZE: 12px
}
.hilite {
      COLOR: #cc0000; FONT-WEIGHT: bold
}
.gpotbl_hang {
      TEXT-INDENT: -2em
}
.gpotbl_table {
      BORDER-COLLAPSE: collapse; EMPTY-CELLS: show; PADDING-TOP: 0.5em
}
.gpotbl_div {
      BORDER-BOTTOM: black 2px solid; BORDER-LEFT: black 2px solid; =
BORDER-TOP: black 2px solid; BORDER-RIGHT: black 2px solid; space-after: =
0.25em
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}
.gpotbl_title {
      TEXT-ALIGN: center; PADDING-BOTTOM: 0.5em; FONT-WEIGHT: bold
}
.gpotbl_description {
      TEXT-ALIGN: center
}
.gpotbl_cell {
      BORDER-BOTTOM: black 1px solid; BORDER-LEFT: black 1px solid; =
VERTICAL-ALIGN: top; BORDER-TOP: black 1px solid; BORDER-RIGHT: black =
1px solid
}
.gpotbl_colhed {
      BORDER-BOTTOM: black 1px solid; BORDER-LEFT: black 1px solid; =
VERTICAL-ALIGN: bottom; BORDER-TOP: black 1px solid; BORDER-RIGHT: black =
1px solid
}
.gpotbl_note {
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      DISPLAY: none
}
#leftnav {
      DISPLAY: none
}
.tablespacing {
      PADDING-LEFT: 0px
}

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