

(c) *Numerical limitation for natives of adversely affected countries other than Ireland.*

(1) *Overall.* The overall numerical limitation for natives of adversely affected countries other than Ireland shall be the difference between the total number of visas available under section 132 of Pub. L. 101-649 during fiscal year 1994 but not used during such fiscal year and the number computed pursuant to paragraph (b) of this section.

(2) *Regional apportionment.* The overall numerical limitation determined as provided in paragraph (c)(1) of this section shall be apportioned among the regions established by section 203(c)(1)(F) of the Immigration and Nationality Act, as amended, as follows—Africa: 0.54%; Asia: 11.51%; Europe: 85.93%; North America—none; Oceania: None; and South America, Mexico, Central America, and the Caribbean; 2.02%.

(d) *Allocation of immigrant visa numbers.* Within the limitations specified in paragraphs (b) and (c) of this section, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and the granting of adjustment of status.

§ 43.26 Fees.

An applicant who is to be given consideration under this subpart and who is notified or otherwise informed thereof shall remit to the Department a fee of \$25 in such manner as the Department shall specify in the notification or other communication to the applicant. The fee shall be \$25 regardless of whether or not the applicant has a spouse and/or child(ren) who intend to accompany or follow to join the applicant. The remittance shall be negotiable in such form as the Department shall specify.

§ 43.27 Eligibility to receive a visa.

The eligibility of an applicant for a visa under section 217 of Pub. L. 103-416 shall be determined as provided in the Immigration and Nationality Act, as amended, and parts 40 and 42 of subchapter E-Visas except that—

(a) Section 212(e) of the Immigration and Nationality Act, as amended, shall not apply to such an applicant; and

(b) The provisions of § 40.105 of this chapter shall apply to such an applicant.

Dated: February 2, 1995.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

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DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 64

[AG Order No. 1947-95]

Designation of Officers and Employees of the United States for Coverage Under Section 1114 of Title 18 of the United States Code

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Part 64 of title 28, Code of Federal Regulations, designates categories of federal officers and employees who, in addition to those already designated by statute, warrant the protective coverage of federal criminal law. This designation confers federal jurisdiction to prosecute the killing, attempted killing, kidnaping, forcible assault, intimidation or interference with any of the federal officers or employees designated by this regulation while they are engaged in or on account of the performance of their official duties. This order adds to the list of covered federal officers and employees federal administrative law judges not previously covered and employees of the Office of Workers' Compensation Programs of the Department of Labor who adjudicate and administer claims under the Federal Employees' Compensation Act, the Longshore and Harbor Workers' Compensation Act and its extension, and the Black Lung Benefits Act. The order also makes technical corrections and deletes duplicative designations.

DATES: This final rule is effective February 8, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Incontro, Deputy Chief, or Stephen M. Weglian, Attorney, Terrorism and Violent Crime Section, Criminal Division, Department of Justice, Washington, D.C. 20530, telephone (202) 514-0849.

SUPPLEMENTARY INFORMATION: Part K of chapter X of the Comprehensive Crime Control Act of 1984, Pub. L. 98-473, title II, § 1012, 98 Stat. 2142 (1984), amended 18 U.S.C. 1114, which prohibits the killing of designated federal employees, to authorize the Attorney General to add by regulation other federal personnel who will be protected by this section. The categories of federal officers and employees covered by section 1114 are also protected, while engaged in or on account of the performance of their official duties, from a conspiracy to kill, 18 U.S.C. 1117; kidnaping, 18 U.S.C.

1201(a)(5); forcible assault, interference, or intimidation, 18 U.S.C. 111; and threat of assault, kidnap or murder with intent to impede, intimidate, or retaliate against such officer or employee, 18 U.S.C. 115.

In order to implement this legislation initially, the Department conducted a survey of all federal agencies to determine which federal employees, other than those already listed in 18 U.S.C. 1114, should be protected under the statute. The result of this survey was the promulgation of Attorney General Order No. 1177-87, 52 FR 4767, February 17, 1987, creating 28 CFR part 64. Section 64.1 states the purpose of the regulation. Section 64.2 originally listed 21 categories of federal employees who were considered appropriate for coverage under section 1114 and the other statutory provisions. Consistent with the purpose and legislative history of section 1114, these categories of federal employees were selected because their jobs involve inspection, investigative or other law enforcement responsibility or their work involves a substantial degree of physical danger from the public and may not be adequately addressed by available state or local law enforcement resources. Part 64 has been amended four times to add additional categories of personnel (Attorney General Order No. 1326-89, 54 FR 9043, March 3, 1989; Attorney General Order No. 1394-90, 55 FR 3945, February 6, 1990; Attorney General Order No. 1508-91, 56 FR 32327, July 16, 1991; Attorney General Order No. 1636-92, 57 FR 56444, November 30, 1992).

Attorney General Order No. 1636-92 established an interim rule that, besides making various technical modifications to Part 64, added these categories of employees: (1) attorneys and employees assigned to perform or to assist in performing, investigative, inspection or audit functions of the Office of the Inspector General of certain designated Federal entities as that term is defined by section 8E of the Inspector General Act of 1978, as amended, 5 U.S.C. App 3 section 8E, and of the Merit Systems Protection Board and the Selective Service System; (2) attorneys, accountants, investigators, administrative judges and other employees of the U.S. Securities and Exchange Commission assigned to perform or to assist in performing investigative, inspection or other law enforcement functions; (3) biologists and technicians of the U.S. Fish and Wildlife Service who are participating in sea lamprey control operations; (4) officers and employees of the Federal Aviation Administration, the Federal

Highway Administration, the Federal Railroad Administration, the Research and Special Programs Administration, and the Saint Lawrence Seaway Development Corporation of the U.S. Department of Transportation who are assigned to perform or assist in performing investigative, inspection or law enforcement functions; and (5) U.S. Trustees and Assistant U.S. Trustees, and bankruptcy analysts and other officers and employees of the U.S. Trustee System who have contact with creditors and debtors, perform audit functions, or perform other investigative or enforcement functions in administering the bankruptcy laws. No public comments were received.

Administrative law judges (ALJs) perform law enforcement functions under various federal laws. In recent years ALJs have been recipients of an increasing number of threats, often by litigants in proceedings before ALJs who have considerable property interests at stake. Presently, there are over 1000 ALJs in nearly 30 federal agencies. Some of the ALJs in the Social Security Administration and the Securities and Exchange Commission are currently covered by § 64.2 (x) and (w), respectively. While these ALJs comprise nearly 70% of all federal ALJs, there is no valid reason for not covering the others who experience similar risks. Accordingly, all administrative law judges have been added by paragraph (aa) of § 64.2.

The Office of Workers' Compensation Programs (OWCP) of the Department of Labor administers three workers' compensation laws: the Federal Employees' Compensation Act (FECA); the Longshore and Harbor Workers' Compensation Act (LHWCA) and its extension; and the Black Lung Benefits Act (BLBA). OWCP employees adjudicate and administer claims which result in the payment (or denial) of benefits under these respective laws. As part of this process, the employees conduct informal conferences and (under FECA) face-to-face hearings. The individual claims examiner's identity is well known to claimants, as are the supervisors and managers involved at all levels of the program. These employees' jobs involve a substantial risk of physical danger from some claimants and other members of the public who seek to influence the outcome of the claim or who are dissatisfied with the decisions rendered. In recent years, an increased number of threats and acts of violence have been directed against OWCP employees. There have been instances in which individuals have appeared in OWCP offices with vicious dogs, with

purported explosives strapped to them, and with firearms and other dangerous weapons. Accordingly, these OWCP employees have been added by paragraph (bb) of § 64.2.

Because of new paragraph (aa), reference to "administrative judges" in paragraph (w) has been deleted. Also, because section 6 of Pub. L. 102-365, 106 Stat. 975, September 3, 1992, added to section 1114 of title 18, U.S.C., "any officer or employee of the Federal Railroad Administration assigned to perform investigative inspection or law enforcement functions," reference to the Federal Railroad Administration has been deleted from paragraph (z).

On May 18, 1994, an interim rule with request for comments was published in the **Federal Register** amending part 64 of title 28, Code of Federal Regulations. Attorney General Order No. 1874-94, 59 FR 25815. One favorable comment was received. The Department has determined to issue the rule in final form without revision to the interim rule.

The Department of Justice has determined that this is not a "significant regulatory action" within the meaning of Executive Order 12866 and, accordingly, this rule has not been reviewed by the Office of Management and Budget. This order will not have a substantial impact on a significant number of small entities, thus a regulatory flexibility analysis has not been prepared pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Finally, this order does not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

Accordingly, the interim rule amending 28 CFR part 64 which was published at 59 FR 25815 on May 18, 1994, is adopted as a final rule without change.

Dated: January 31, 1995.

Janet Reno,

Attorney General.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-048]

Logging Operations

AGENCY: Occupational Safety and Health Administration (OSHA).

ACTION: Final rule; partial stay of enforcement.

SUMMARY: On October 12, 1994, the Occupational Safety and Health Administration (OSHA) issued a new standard for logging operations (59 FR 51672). This notice stays enforcement of the following paragraphs of § 1910.266 until August 9, 1995: (d)(1)(v) insofar as it requires foot protection to be chain-saw resistant; (d)(1)(vii) insofar as it requires face protection; (d)(2)(iii) for first-aid kits that contain all the items listed in Appendix A; (f)(2)(iv); (f)(2)(xi); (f)(3)(ii); (f)(3)(vii); (f)(3)(viii); (f)(7)(ii) insofar as it requires that parking brakes be able to stop the machine; (g)(1) and (g)(2) insofar as they require inspection and maintenance of employee-owned vehicles; and (h)(2)(vii) insofar as it precludes backcuts at the level of the horizontal cut of the undercut when the Humboldt cutting method is used.

DATES: Effective on February 9, 1995. The partial stay will expire on August 9, 1995. The remaining requirements of § 1910.266 are unaffected by this document and will go into effect as scheduled on February 9, 1995, or as otherwise provided in the Final Rule.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N-3637, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, (202) 219-8148.

SUPPLEMENTARY INFORMATION: On October 12, 1994, OSHA issued a final rule governing worker safety in logging operations. Among other things, this rule included requirements for: personal protective equipment; first aid kits at logging work sites; machine stability and slope limitations; discharge of hydraulic and pneumatic storage devices on forestry machines; protective structures on machines; machine braking systems; vehicle inspection and maintenance; and tree harvesting. Several parties have raised questions about certain aspects of these requirements. After considering their questions, the Agency has determined that a six-month delay in the effective date of some of the provisions is appropriate in order to allow time for it to clarify language in the regulatory text so that it most adequately expresses its intent with respect to some of these provisions, and to provide additional information on other provisions.

Stay of Enforcement of Certain Provisions of § 1910.266

Paragraph (d)(1)(v)—Foot protection. The final logging standard requires