

Signed at Washington, D.C. this 22nd day of September 1995.

Victor J. Trunzo,

*Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 95-24771 Filed 10-4-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-31,097]

**Seagull Energy Corporation; Mid Continent Region; All Locations in the State of Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 27, 1995, applicable to all workers at the subject firm in Amarillo, Texas. The notice was published in the Federal Register on July 19, 1995 (60 FR 37083).

At the request of the State Agency, the Department is amending the certification to cover worker separations that have occurred at other Seagull Energy locations in Texas.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by increased imports.

The amended notice applicable to TA-W-31,097 is hereby issued as follows:

All workers of Seagull Energy Corporation, Mid Continent Region, operating in various locations in the State of Texas who became totally or partially separated from employment on or after May 18, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of September 1995.

Victor J. Trunzo,

*Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

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[NAFTA-00578]

**Bike Athletic Company; Knoxville, TN; Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on August 28, 1995 in response

to a petition filed on behalf of workers at the Bike Athletic Company located in Knoxville, Tennessee. Workers produce sports apparel.

In a letter dated August 31, 1995, the petitioner requested that the petition for NAFTA-TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

A trade adjustment assistance investigation (TA-W-31,394) is currently underway to determine if workers are eligible to apply for benefits under the Trade Act of 1974. The investigation was instituted on September 5, 1995. A final determination should be made within 60 days of the institution date.

Signed at Washington, D.C., this 25th day of September 1995.

Victor J. Trunzo,

*Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 95-24775 Filed 10-4-95; 8:45 am]

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[NAFTA-00470]

**Seagull Energy Corp./Midcon, Inc. All Locations in the State of Texas; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance**

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on June 27, 1995, applicable to all workers at the subject firm. The notice was published in the Federal Register on July 19, 1995 (60 FR 37084).

At the request of the State Agency, the Department is amending the certification to cover worker separations that have occurred at other Seagull Energy locations in Texas.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to NAFTA-00470 is hereby issued as follows:

All workers of Seagull Energy Corporation, Midcon, Inc., operating in various locations in the State of Texas who became totally or partially separated from employment on or after May 18, 1994 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of September 1995.

Victor J. Trunzo,

*Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

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**Employment Standards Administration**

**Wage and Hour Division**

**Application of the McNamara-O'Hara Service Contract Act to Motor Carriers**

**AGENCY:** Wage and Hour Division, Employment Standards Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Wage and Hour Division has issued All Agency Memorandum No. 185 to contracting agencies of the Federal and District of Columbia governments. Memorandum No. 185 provides guidance on the applicability of the exemption provided in Section 7(3) of the McNamara-O'Hara Service Contract Act of 1965, as amended (SCA), for contracts for carriage subject to published tariff rates. In order to widely disseminate the guidance discussed in Memorandum No. 185, it is being published as a part of this Notice.

**DATES:** This Notice is effective October 5, 1995.

**FOR FURTHER INFORMATION CONTACT:** Branch of Service Contract Operations, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3018, 200 Constitution Avenue, NW, Washington, DC 20210; telephone (202) 219-7541. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** All Agency Memorandum was issued on September 28, 1995, to all contracting agencies of the Federal and District of Columbia governments. This document repeats that Memorandum.

September 28, 1995  
MEMORANDUM NO. 185  
TO: All Government Contracting

Agencies of the Federal Government and the District of Columbia

FROM: MARIA ECHAVESTE, Administrator, Wage and Hour Division

SUBJECT: Application of Section 7(3) of the McNamara-O'Hara Service Contract Act to Motor Carriers

The McNamara-O'Hara Service Contract Act (SCA), 41 U.S.C. 351 *et seq.*, applies to all service contracts entered into by the Federal government and District of Columbia "the principal

purpose of which is to furnish services in the United States through the use of service employees." The SCA requires that contractors and subcontractors with contracts (and any bid specification) in excess of \$2,500 pay their service workers no less than the wages and fringe benefits specified by the Secretary of Labor. However, section 7 of the Act (41 U.S.C. 356) provides for several exemptions from the Act's coverage.

Section 7(3) of the SCA provides that "any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect" will not be subject to the Act's coverage. The regulations at 29 CFR 4.118 further elaborate that:

a contract for transportation service does not come within this exemption unless the service contracted for is actually governed by published tariff rates in effect pursuant to State or Federal law for such carriage. The contracts excluded from the reach of the Act by this exemption are typically those where there is on file with the Interstate Commerce Commission or an appropriate State or local regulatory body a tariff rate applicable to the transportation involved, and the transportation contract between the Government and the carrier is evidenced by a Government bill of lading citing the published tariff rate.

In 1994, Congress enacted two pieces of legislation—the Trucking Industry Regulatory Reform Act of 1994 (TIRRA), Pub. L. 103-311 (effective August 26, 1994), and the Federal Aviation Administration Authorization Act of 1994 (FAA Authorization Act), Pub. L. No. 103-305, (effective January 1, 1995)—which amend certain provisions of the Interstate Commerce Act (ICA). As a consequence, interstate and intrastate motor *common* carriers providing transportation of property, other than household goods,<sup>1</sup> are no longer required to file tariff rates with the ICC or any State. See 49 U.S.C. 10761 and 10762. On an administrative basis, the ICC had earlier exempted motor *contract* carriers from such filing requirements, and TIRRA codified this regulatory action. See 49 U.S.C. 10762(a)(1). This exemption from filing rates includes motor carriers providing express service in transporting property. Therefore, motor carriers, with very limited exceptions,<sup>2</sup> clearly can no

<sup>1</sup> Generally, household goods are "personal effects and property used or to be used in a dwelling," but they may also include "furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices,\* \* \*" 49 U.S.C. 10102(11) (A) and (B).

<sup>2</sup> Motor common carriers that engage in the transportation of household goods or passengers are

longer qualify for the statutory exemption.

These changes in the transportation law are the result of the increasingly competitive nature of the transportation of property or freight in the industry. Consequently, the basis for the SCA's section 7(3) exemption with regard to such motor carriers, is no longer compatible with the SCA's mission to protect service employees from the payment of substandard wages. The exemption was provided to "regulated industries" subject to published tariff rates because there did not exist the competitive situation faced in service contract cases generally. See Congressional Record, Vol. 111, 89th Cong., 1st Sess., 24387 (September 20, 1965) (statement of Rep. O'Hara). Under published tariff rates, contractors were required to offer services to the general public at a uniform rate. Because of the nature of the published tariff, contractors were not motivated to reduce their employees' wages in order to undercut bidders and obtain business. Conversely, however, the further deregulation of motor carriers providing transportation of property may induce some contractors to engage in substandard labor practices.

Therefore, contracts performed by a motor carrier, including those providing express service, for the interstate carriage of freight other than household goods awarded, or entered into beginning August 26, 1994, and such contracts for the intrastate carriage of freight other than household goods awarded, or entered into beginning January 1, 1995, fail to qualify for the section 7(3) exemption of the Service Contract Act. It is important to remember in applying this guidance that an option period or contract extension is normally a new contract for SCA purposes. See 29 C.F.R. 4.143-4.145.

Concerning whether another type of contract, such as a contract by a motor carrier for the carriage of personnel, personnel and freight, household goods, or a contract involving carriage by both a motor carrier and some other form of transportation, qualifies for the section 7(3) exemption will depend on the facts of each case. The Wage and Hour Division of the Department of Labor should be contacted concerning any question in that regard or with respect to the guidance provided in this memorandum.

presently still required to publish and file their tariff rates with the ICC. Also motor common carriers who are members of rate bureaus, which are now relatively few in number, may still be subject to tariff rates filed with the ICC by the bureau. See 49 U.S.C. 10706(b)(2).

## Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

Signed at Washington, D.C., on this 29th day of September, 1995.

Maria Echaveste,

*Administrator, Wage and Hour Division.*

[FR Doc. 95-24776 Filed 10-4-95; 8:45 am]

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## Mine Safety and Health Administration

### Accident Investigation Procedures Review

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice; extension of comment period.

**SUMMARY:** In response to requests from the mining community for additional time in which to prepare comments, the Mine Safety and Health Administration (MSHA) is extending the period for public comment on its notice addressing the Agency's review of its accident investigation procedures and policies.

**DATES:** All comments must be submitted on or before December 11, 1995.

**ADDRESSES:** Send comments to either the Administrator, Coal Mine Safety and Health, 4015 Wilson Boulevard, Room 828, Arlington, VA 22203, Fax: 703-235-1517, or to the Administrator, Metal and Nonmetal Mine Safety and Health, 4015 Wilson Boulevard, Room 728, Arlington, VA 22203, Fax: 703-235-9173, as appropriate. Commenters are encouraged to send comments on a computer disk with their original comments in hard copy.

**FOR FURTHER INFORMATION CONTACT:** Jack Tisdale, Accident Investigation Program Manager, Division of Coal Mine Safety and Health, 703-235-1140, or David Park, Accident Investigation Program Manager, Division of Metal and Nonmetal Mine Safety and Health, 703-235-1565.

**SUPPLEMENTARY INFORMATION:** On August 10, 1995, MSHA published a notice in the Federal Register (60 FR 40859) inviting public input into its review of the Agency's accident investigation procedures and policies. The comment period was scheduled to close on October 10, 1995; however, by this notice, the Agency is extending the comment period to December 11, 1995. All interested parties are encouraged to submit comments prior to that date.