

§ 90.14

parties submitting such evidence and from any other available sources.

(j) *Transcripts.* All hearings will be stenographically reported. Persons interested in transcripts of the hearings may inspect them at the U.S. Department of Labor in Washington, DC, or purchase copies as provided in 29 CFR 70.62(c).

(k) *Appearances.* The petitioner or any other person showing a substantial interest in the proceedings may enter an appearance at a hearing, either in person or by a duly authorized representative.

[42 FR 32772, June 28, 1977, as amended at 52 FR 23401, June 19, 1987]

§ 90.14 Subpoena power.

(a) The Director or Deputy Director may require, by subpoena, in connection with any investigation or hearing, the attendance and testimony of witnesses and the production of evidence the issuing official in his or her discretion deems necessary to make a determination.

(b) If a person refuses to obey a subpoena issued under paragraph (a) of this section, the Director or Deputy Director may petition the United States District Court within the jurisdiction of which the proceeding is being conducted requesting an order requiring compliance with such subpoena.

(c) Witnesses subpoenaed under this section shall be paid the same fees and mileage as are paid for like services in the District Court of the United States. The witness fees and mileage shall be paid by the United States Department of Labor.

(d) Subpoenas issued under paragraph (a) of this section shall be signed by the Director or Deputy Director and shall be served either in person by an authorized representative of the Department of Labor or by certified mail, return receipt requested. The date for compliance shall be not earlier than seven (7) calendar days following service of the subpoena.

[42 FR 32772, June 28, 1977, as amended at 52 FR 23401, June 19, 1987]

29 CFR Subtitle A (7-1-06 Edition)

§ 90.15 [Reserved]

§ 90.16 Determinations and certifications of eligibility to apply for adjustment assistance.

(a) *General.* Within 60 days after the date of filing of a petition, a certifying officer shall make a determination on the petition. If, however, for any reason, a certifying officer has not made a determination in 60 days after the date of filing of the petition, the certifying officer shall make the determination as soon thereafter as possible. If the determination is affirmative, the certifying officer shall issue a certification of eligibility as provided in paragraphs (b), (c), (d) and (g) of this section. If the determination is negative, the certifying officer shall issue a notice of negative determination as provided in paragraphs (b) and (f) of this section.

(b) *Requirements for determinations.* After reviewing the relevant information necessary to make a determination, the certifying officer shall make findings of fact concerning whether:

(1) A significant number or proportion of the workers in such workers' firm (or an appropriate subdivision of the firm) have become, or are threatened to become, totally or partially separated;

(2) Sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) Increases (absolute or relative) of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production. For purposes of this paragraph and part, the term *contributed importantly* means a cause which is important but not necessarily more important than any other cause.

(c) *Notice of affirmative determination and certification of eligibility.* Upon reaching a determination on a petition that a group of workers has met all the requirements set forth in section 222 of the Act and paragraph (b) of this section, the certifying officer shall issue a certification of eligibility to apply for adjustment assistance and shall

promptly publish in the FEDERAL REGISTER a summary of the determination together with the reasons for making such determination (with the exception of information which the certifying officer determines to be confidential). Such summary shall include the certification of eligibility and shall constitute a Notice of Determination and Certification of Eligibility.

(d) *Contents of certification of eligibility.* The certification shall specify in detail:

(1) The firm or subdivision thereof at which the workers covered by the certification have been employed (which need not be limited to the unit specified in the petition), and may identify individual workers by name; and

(2) The impact date(s) on which the total or partial separations of the workers covered by the certification began or threatened to begin. When applicable, the certification shall specify the date(s) after which the total or partial separations of the petitioning group of workers from the firm or subdivision thereof specified in the certification are no longer attributable to the conditions set forth in paragraph (b) of this section. For purposes of this section, the *impact date* is the earliest date on which any part of the total or partial separations involving a significant number or proportion of workers began or threatened to begin.

(e) *Exclusions from coverage of a certification of eligibility.* A certification of eligibility to apply for adjustment assistance shall not apply to any worker:

(1) Whose last total or partial separation from the firm or appropriate subdivision occurred more than one (1) year before the date of the petition; or

(2) Whose last total or partial separation from the firm or appropriate subdivision occurred before October 3, 1974.

(f) *Notice of negative determination.* Upon reaching a determination that a group of workers has not met all the requirements set forth in section 222 of the Act and paragraph (b) of this section, the certifying officer shall promptly publish in the FEDERAL REGISTER a summary of the determination together with the reasons for making such determinations (with the exception of information which the certifying officer determines to be confiden-

tial). Such summary shall constitute a Notice of Negative Determination.

(g) *Notice of Determinations.* A notice of certification may contain a notice of negative determination with respect to certain segments of workers. Such notice shall constitute a Notice of Determinations.

[42 FR 32772, June 28, 1977, as amended at 52 FR 23402, June 19, 1987]

§ 90.17 Termination of certification of eligibility.

(a) *Investigation.* Whenever the Director of the Office of Trade Adjustment Assistance has reason to believe, with respect to any certification of eligibility, that the total or partial separations from a firm or appropriate subdivision thereof are no longer attributable to the conditions specified in section 222 of the Act and § 90.16(b), the Director shall promptly make an investigation. Notice of the initiation of the investigation shall be published in the FEDERAL REGISTER and shall be transmitted to the group of workers concerned.

(b) *Opportunity for comment and hearing.* Within 10 days after publication of the notice under paragraph (a) of this section, the group of workers or other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated. If a hearing is requested under this paragraph, such hearing shall be conducted in accordance with § 90.13.

(c) [Reserved]

(d) *Notice of termination.* A certifying officer shall determine whether or not such certification shall be terminated. Upon reaching a determination that the certification of eligibility shall be terminated, the certifying officer shall make findings of fact and shall promptly have published in the FEDERAL REGISTER a summary of the determination and the reasons therefor (with the exception of information which the certifying officer determines to be confidential). Such summary shall constitute a Notice of Termination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the certifying officer. The termination