

Federal Emergency Management Agency, DHS

§ 332.2

AUTHORITY: Sec. 708, Defense Production Act of 1950, as amended (50 U.S.C. app. 2158); E.O. 10480, 3 CFR, 1949-1953 Comp., p. 961, as amended; E.O. 12148, 44 FR 43239.

SOURCE: 46 FR 2350, Jan. 9, 1981, unless otherwise noted.

§ 332.1 General provisions.

(a) Pursuant to section 708 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2158), the President may consult with representatives of industry, business, financing, agriculture, labor, or other interests, and may approve the making of voluntary agreements to help provide for the defense of the United States by developing preparedness programs and expanding productive capacity and supply beyond levels needed to meet essential civilian demand.

(b) *Sponsor.* (1) As used in this part, "sponsor" of a voluntary agreement is an officer of the Government who, pursuant to a delegation or redelegation of the functions given to the President by section 708 of the Defense Production Act (DPA) of 1950, as amended, proposes or otherwise provides for the development or carrying out of a voluntary agreement.

(2) The use of voluntary agreements, as authorized by section 708 of the DPA to help provide for the defense of the United States through the development of preparedness programs, is an activity coordinated by the Director of the Federal Emergency Management Agency, as provided by sections 101 and 501(a) of Executive Order 10480, as amended.

(3) The sponsor of a voluntary agreement shall carry out sponsorship functions subject to the direction and control of the Director of the Federal Emergency Management Agency.

(c) This part applies to the development and carrying out under section 708 of the DPA, as amended, of all voluntary agreements, and the carrying out of any voluntary agreement which was entered into under former section 708 of the DPA and in effect immediately prior to April 14, 1976, and which is in a period of extension as authorized by subsection 708(f)(2) of the DPA.

(d) The rules in the part void any provision of a voluntary agreement to

which they apply, if that provision is contrary to or inconsistent with them. Each voluntary agreement shall be construed as containing every substantive provision that these rules require, whether or not a particular provision is included in the agreement.

(e) Pursuant to subsection 708(d) of the DPA, the sponsor may establish such advisory committees as he deems to be necessary for developing or carrying out voluntary agreements. Such advisory committees shall comply with this part as well as with the requirements and procedures of the Federal Advisory Committee Act (Pub. L. 92-463, as amended).

§ 332.2 Developing voluntary agreements.

(a) *Purpose and scope.* This section establishes the standards and procedures by which voluntary agreements may be developed through consultation, pursuant to subsection 708(c) of the DPA.

(b) *Proposal to develop an agreement.*

(1) A sponsor who wishes to develop a voluntary agreement shall submit to the Attorney General and the Director of the Federal Emergency Management Agency a document proposing the agreement. The proposal will include statements as to: The purpose of the agreement; the factual basis for making the finding required in subsection 708(c)(1) of the DPA; the proposed participants in the agreement; and any coordination with other Federal agencies accomplished in connection with the proposal.

(2) If the Attorney General, after consultation with the Chairman of the Federal Trade Commission, approves this proposal, the sponsor shall then initiate one or more meetings of interested persons to develop the agreement.

(c) *Conduct of meetings held to develop the agreement.* (1) The sponsor shall give to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency adequate written notice of each meeting to develop a voluntary agreement. The sponsor shall also publish in the FEDERAL REGISTER notice of the time, place, and nature of each meeting at least seven days prior to the meeting.

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(2) The sponsor shall chair each meeting held to develop a voluntary agreement. Both the Attorney General and the Chairman of the Federal Trade Commission, or their delegates, shall attend each of these meetings.

(3) Any interested person may attend a meeting held to develop a voluntary agreement, unless the sponsor of the agreement limits attendance pursuant to § 332.5 of this part.

(4) Any interested person may, as set out in the FEDERAL REGISTER meeting notice, submit written data and views concerning the proposed voluntary agreement, and at the discretion of the Chairman of the meeting, may be given the opportunity for oral presentation.

(d) *Maintenance of records.* (1) The sponsor is responsible for the making of a full and verbatim transcript of each meeting. The Chairman shall send this transcript, and any voluntary agreement resulting from the meeting, to the Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, and any other party or repository required by law.

(2) The sponsor of a voluntary agreement shall maintain each meeting transcript and voluntary agreement, and make them available for public inspection and copying the extent required by § 332.5 of this part.

(e) *Effectiveness of agreements.* The following steps must occur before a new voluntary agreement or an extension of an existing agreement may become effective:

(1) The sponsor must approve the agreement and certify in writing that it is necessary to carry out the purposes of subsection 708(c)(1) of the DPA;

(2) The Director of the Federal Emergency Management Agency must approve this certification, and submit it to the Attorney General with a request for a written finding; and

(3) The Attorney General, after consulting with the Chairman of the Federal Trade Commission, must issue a written finding that the purposes of subsection 708(c)(1) can not reasonably be achieved through a voluntary agreement having less anti-competitive effects or without any voluntary agreement.

§ 332.3 Carrying out voluntary agreements.

(a) *Purpose and scope.* This section establishes the standards and procedures by which the participants in each approved voluntary agreement shall carry out the agreement.

(b) *Participants.* The participants in each voluntary agreement shall be reasonably representative of the appropriate industry or segment of that industry.

(c) *Conduct of meetings held to carry out an agreement.* (1) The sponsor of a voluntary agreement shall initiate, or approve in advance, each meeting of the participants in the agreement held to discuss problems, determine policies, recommend actions, and make decisions necessary to carry out the agreement.

(2) The sponsor shall provide to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency adequate prior notice of the time, place, and nature of each meeting, and a proposed agenda of each meeting. The sponsor shall also publish in the FEDERAL REGISTER, reasonably in advance of each meeting, a notice of time, place, and nature of the meeting. If the sponsor has determined, pursuant to § 332.5 of this part, to limit attendance at the meeting, the sponsor shall publish this FEDERAL REGISTER notice within ten days of the meeting.

(3) Any interested person may attend a meeting held to carry out a voluntary agreement unless the sponsor has restricted attendance pursuant to § 332.5 of this part. A person attending a meeting under this section may present oral or written data, views, and arguments to any limitations on the manner of presentation that the sponsor may impose.

(4) No meeting shall be held to carry out any voluntary agreement unless a Federal employee, other than an individual employed pursuant to 5 U.S.C. 3109, is in attendance. Any meeting to carry out a voluntary agreement may be attended by the sponsor of the agreement, the Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, or their delegates.