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§ 207.9 Exceptions, exemptions, interpretations, rulings and rulemaking.

Applications for exceptions, exemptions or requests for interpretations relating to this subpart shall be filed in accordance with the procedures provided in subparts D, E and F, respectively, of part 205 of this chapter. Rulings shall be issued in accordance with the procedures of subpart K of part 205 of this chapter. Rulemakings shall be undertaken in accordance with the procedures provided in subpart L of part 205 of this chapter.

PART 209—INTERNATIONAL VOLUNTARY AGREEMENTS

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Subpart D—Availability of Information Relating to Meetings and Communications

- 209.41 Availability of information relating to meetings and communications.

AUTHORITY: Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185; Energy Policy and Conservation Act, Pub. L. 94-163.

SOURCE: 41 FR 6754, Feb. 13, 1976, unless otherwise noted.

Subpart A—General Provisions

§ 209.1 Purpose and scope.

This part implements the provisions of the Energy Policy and Conservation Act (EPCA) authorizing the Administrator to prescribe standards and procedures by which persons engaged in

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the business of producing, transporting, refining, distributing, or storing petroleum may develop and carry out voluntary agreements, and plans of action which are required to implement the information and allocation provisions of the International Energy Program (IEP). The requirements of this part do not apply to activities other than those for which section 252 of EPCA makes available a defense to the antitrust laws.

§ 209.2 Delegation.

To the extent otherwise permitted by law, any authority, duty, or responsibility vested in DOE or the Administrator under these regulations may be delegated to any regular full-time employee of the Department of Energy, and, by agreement, to any regular full-time employee of the Department of Justice or the Department of State.

§ 209.3 Definitions.

For purposes of this part—

(a) *Administrator* means the Administrator of the Department of Energy.

(b) *Information and allocation provisions of the International Energy Program* means the provisions of chapter V of the Program relating to the Information System, and the provisions at chapters III and IV thereof relating to the international allocation of petroleum.

(c) *International Energy Agency (IEA)* means the International Energy Agency established by Decision of the Council of the Organization for Economic Cooperation and Development, dated November 15, 1974.

(d) *International Energy Program (IEP)* means the program established pursuant to the Agreement on an International Energy Program signed at Paris on November 18, 1974, including (1) the Annex entitled "Emergency Reserves", (2) any amendment to such Agreement which includes another nation as a Party to such Agreement, and (3) any technical or clerical amendment to such Agreement.

(e) *International energy supply emergency* means any period (1) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by

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chapters III and IV of such program, and (2) ending on a date on which he determines such allocation is no longer required. Such a period shall not exceed 90 days, except where the President establishes one or more additional periods by making the determination under paragraph (e)(1) of this section.

(f) *Potential participant* means any person engaged in the business of producing, transporting, refining, distributing, or storing petroleum products; “participant” means any such person who agrees to participate in a voluntary agreement pursuant to a request to do so by the Administrator.

(g) *Petroleum* or *petroleum products* means crude oil, residual fuel oil, or any refined petroleum product (including any natural gas liquid and any natural gas liquid product).

Subpart B—Development of Voluntary Agreements

§ 209.21 Purpose and scope.

(a) This subpart establishes the standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products shall develop voluntary agreements which are required to implement the allocation and information provisions of the International Energy Program.

(b) This subpart does not apply to meetings of bodies created by the International Energy Agency.

§ 209.22 Initiation of meetings.

(a) Any meeting held for the purpose of developing a voluntary agreement involving two or more potential participants shall be initiated and chaired by the Administrator or other regular full-time Federal employee designated by him.

(b) DOE shall provide notice of meetings held pursuant to this subpart, in writing, to the Attorney General, the Federal Trade Commission, and to the Speaker of the House and the President of the Senate for delivery to the appropriate committees of Congress, and to the public through publication in the FEDERAL REGISTER. Such notice shall identify the time, place, and agenda of the meeting, and such other matters as the Administrator deems appropriate.

Notice in the FEDERAL REGISTER shall be published at least seven days prior to the date of the meeting.

§ 209.23 Conduct of meetings.

(a) Meetings to develop a voluntary agreement held pursuant to this subpart shall be open to all interested persons. Interested persons desiring to attend meetings under this subpart may be required pursuant to notice to advise the Administrator in advance.

(b) Interested persons may, as set out in notice provided by the Administrator, present data, views, and arguments orally and in writing, subject to such reasonable limitations with respect to the manner of presentation as the Administrator may impose.

§ 209.24 Maintenance of records.

(a) The Administrator shall keep a verbatim transcript of any meeting held pursuant to this subpart.

(b)(1) Except as provided in paragraphs (b) (2) through (4) of this section, potential participants shall keep a full and complete record of any communications (other than in a meeting held pursuant to this subpart) between or among themselves for the purpose of developing a voluntary agreement under this part. When two or more potential participants are involved in such a communication, they may agree among themselves who shall keep such record. Such record shall include the names of the parties to the communication and the organizations, if any, which they represent; the date of the communication; the means of communication; and a description of the communication in sufficient detail to convey adequately its substance.

(2) Where any communication is written (including, but not limited to, telex, telegraphic, telecopied, micro-filmed and computer printout material), and where such communication demonstrates on its face that the originator or some other source furnished a copy of the communication to the Office of International Affairs, Department of Energy with the notation “Voluntary Agreement” marked on the first page of the document, no participant need record such a communication or send a further copy to the Department of Energy. The Department

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of Energy may, upon written notice to potential participants, from time to time, or with reference to particular types of documents, require deposit with other offices or officials of the Department of Energy. Where such communication demonstrates that it was sent to the Office of International Affairs, Department of Energy with the notation "Voluntary Agreement" marked on the first page of the document, or such other offices or officials in the Department of Energy has designated pursuant to this section it shall satisfy paragraph (c) of this section, for the purpose of deposit with the Department of Energy.

(3) To the extent that any communication is procedural, administrative or ministerial (for example, if it involves the location of a record, the place of a meeting, travel arrangements, or similar matters), only a brief notation of the date, time, persons involved and description of the communication need be recorded.

(4) To the extent that any communication involves matters which recapitulate matters already contained in a full and complete record, the substance of such matters shall be identified, but need not be recorded in detail, provided that reference is made to the record and the portion thereof in which the substance is fully set out.

(c) Except where the Department of Energy otherwise provides, all records and transcripts prepared pursuant to paragraphs (a) and (b) of this section, shall be deposited within fifteen (15) days after the close of the month of their preparation together with any agreement resulting therefrom, with the Department of Energy, and shall be available to the Department of Justice, the Federal Trade Commission, and the Department of State. Such records and transcripts shall be available for public inspection and copying to the extent set forth in subpart D. Any person depositing material pursuant to this section shall indicate with particularity what portions, if any, the person believes are subject to disclosure to the public pursuant to subpart D and the reasons for such belief.

(d) Any meeting between a potential participant and an official of DOE for the purpose of developing a voluntary

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agreement shall, if not otherwise required to be recorded pursuant to this section, be recorded by such official as provided in § 204.5.

(Approved by the Office of Management and Budget under Control No. 1905-0079)

(Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, E.O. 11790, 39 FR 23185; E. O. 11930, 41 FR 32397; Energy Policy and Conservation Act, Pub. L. 94-163; E.O. 11912, 41 FR 15825; Department of Energy Organization Act, Pub. L. 95-91; 91 Stat. 565; E.O. 12009, 42 FR 46267)

[41 FR 6754, Feb. 13, 1976, as amended at 43 FR 12854, Mar. 28, 1978; 46 FR 63209, Dec. 31, 1981]

Subpart C—Carrying Out of Voluntary Agreements and Developing and Carrying Out of Plans of Actions

§ 209.31 Purpose and scope.

This subpart establishes the standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products shall carry out voluntary agreements and develop and carry out plans of action which are required to implement the allocation and information provisions of the International Energy Program.

§ 209.32 Initiation of meetings.

(a) Except for meetings of bodies created by the International Energy Agency, any meeting among participants in a voluntary agreement pursuant to this subpart, for the purpose of carrying out such voluntary agreement or developing or carrying out a plan of action pursuant thereto, shall be initiated and chaired by a full-time Federal employee designated by the Administrator.

(b) Except as provided in paragraph (c) of this section, the Administrator shall provide notice of meetings held pursuant to this subpart, in writing, to the Attorney General, the Federal Trade Commission, and to the Speaker of the House and the President of the Senate for delivery to the appropriate committees of Congress. Except during an international energy supply emergency, notice shall also be provided to the public through publication in the

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FEDERAL REGISTER. Such notice shall identify the time, place, and agenda of the meeting. Notice in the FEDERAL REGISTER shall be published at least seven days prior to the date of the meeting unless emergency circumstances, IEP requirements or other unanticipated circumstances require the period to be shortened.

(c) During an international energy supply emergency, advance notice shall be given to the Attorney General, the Federal Trade Commission and to the Speaker of the House and the President of the Senate for delivery to the appropriate committees of Congress. Such notice may be telephonic or by such other means as practicable, and shall be confirmed in writing.

§ 209.33 Conduct of meetings.

(a) Subject to the provisions of paragraph (c) of this section, meetings held to carry out a voluntary agreement, or to develop or carry out a plan of action pursuant to this subpart, shall be open to all interested persons, subject to limitations of space. Interested persons desiring to attend meetings under this subpart may be required to advise the Administrator in advance.

(b) Interested persons permitted to attend meetings under this section may present data, views, and arguments orally and in writing, subject to such limitations with respect to the manner of presentation as the Administrator may impose.

(c) Meetings held pursuant to this subpart shall not be open to the public to the extent that the President or his delegate finds that disclosure of the proceedings beyond those authorized to attend would be detrimental to the foreign policy interests of the United States, and determines, in consultation with the Administrator, the Secretary of State, and the Attorney General, that a meeting shall not be open to interested persons or that attendance by interested persons shall be limited.

(d) The requirements of this section do not apply to meetings of bodies created by the International Energy Agency except that no participant in a voluntary agreement may attend any meeting of any such body held to carry out a voluntary agreement or to develop or to carry out a plan of action

unless a full-time Federal employee is present.

§ 209.34 Maintenance of records.

(a) The Administrator or his delegate shall keep a verbatim transcript of any meeting held pursuant to this subpart except where (1) due to considerations of time or other overriding circumstances, the keeping of a verbatim transcript is not practicable, or (2) principal participants in the meeting are representatives of foreign governments. If any such record other than a verbatim transcript, is kept by a designee who is not a full-time Federal employee, that record shall be submitted to the full-time Federal employee in attendance at the meeting who shall review the record, promptly make any changes he deems necessary to make the record full and complete, and shall notify the designee of such changes.

(b)(1) Except as provided in paragraphs (b) (2) through (4) of this section, participants shall keep a full and complete record of any communication (other than in a meeting held pursuant to this subpart) between or among themselves or with any other member of a petroleum industry group created by the International Energy Agency, or subgroup thereof for the purpose of carrying out a voluntary agreement or developing or carrying out a plan of action under this subpart, except that where there are several communications within the same day involving the same participants, they may keep a cumulative record for the day. The parties to a communication may agree among themselves who shall keep such record. Such record shall include the names of the parties to the communication and the organizations, if any, which they represent; the date of communication; the means of communication, and a description of the communication in sufficient detail to convey adequately its substance.

(2) Where any communication is written (including, but not limited to, telex, telegraphic, telecopied, microfilmed and computer printout material), and where such communication demonstrates on its face that the originator or some other source furnished a

copy of the communication to the Office of International Affairs, Department of Energy with the notation "Voluntary Agreement" on the first page of the document, no participants need record such a communication or send a further copy to the Department of Energy. The Department of Energy may, upon written notice to participants, from time to time, or with reference to particular types of documents, require deposit with other offices or officials of the Department of Energy. Where such communication demonstrates that it was sent to the Office of International Affairs, Department of Energy with the notation "Voluntary Agreement" on the first page of the document, or such other offices or officials as the Department of Energy has designated pursuant to this section, it shall satisfy paragraph (c) of this section, for the purpose of deposit with the Department of Energy.

(3) To the extent that any communication is procedural, administrative or ministerial (for example, if it involves the location of a record, the place of a meeting, travel arrangements, or similar matters) only a brief notation of the date, time, persons involved and description of the communication need be recorded; except that during an IEA emergency allocation exercise or an allocation systems test such a non-substantive communication between members of the Industry Supply Advisory Group (ISAG) which occur within IEA headquarters need not be recorded.

(4) To the extent that any communication involves matters which recapitulate matters already contained in a full and complete record, the substance of such matters shall be identified, but need not be recorded in detail, provided that reference is made to the record and the portion thereof in which the substance is fully set out.

(c) Except where the Department of Energy otherwise provides, all records and transcripts prepared pursuant to paragraphs (a) and (b) of this section, shall be deposited within seven (7) days after the close of the week (ending Saturday) of their preparation during an international energy supply emergency or a test of the IEA emergency allocation system, and within fifteen (15)

days after the close of the month of their preparation during periods of non-emergency, together with any agreement resulting therefrom, with the Department of Energy and shall be available to the Department of Justice, the Federal Trade Commission, and the Department of State. Such records and transcripts shall be available for public inspection and copying to the extent set forth in subpart D. Any person depositing materials pursuant to this section shall indicate with particularity what portions, if any, the person believes are not subject to disclosure to the public pursuant to subpart D and the reasons for such belief.

(d) Any meeting between a participant and an official of DOE for the purpose of carrying out a voluntary agreement or developing or carrying out a plan of action shall, if not otherwise required to be recorded pursuant to this section, be recorded by such official as provided in §204.5.

(e) During international oil allocation under chapters III and IV of the IEP or during an IEA allocation systems test, the Department of Energy may issue such additional guidelines amplifying the requirements of these regulations as the Department of Energy determines to be necessary and appropriate.

(Approved by the Office of Management and Budget under Control No. 1905-0067)

(Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended; E.O. 11790, 39 FR 23185; E.O. 11930, 41 FR 32397; Energy Policy and Conservation Act, Pub. L. 94-163; E.O. 11912, 41 FR 15825; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565, E.O. 12009, 42 FR 46267)

[41 FR 6754, Feb. 13, 1976, as amended at 43 FR 12854, Mar. 28, 1978; 46 FR 63209, Dec. 31, 1981]

Subpart D—Availability of Information Relating to Meetings and Communications

§ 209.41 Availability of information relating to meetings and communications.

(a) Except as provided in paragraph (b) of this section, records or transcripts prepared pursuant to this subpart shall be available for public inspection and copying in accordance

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with section 552 of title 5, United States Code and part 202 of this title.

(b) Matter may be withheld from disclosure under section 552(b) of title 5 only on the grounds specified in:

(1) Section 552(b)(1), applicable to matter specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy. This section shall be interpreted to include matter protected under Executive Order No. 11652 of March 8, 1972, establishing categories and criteria for classification, as well as any other such orders dealing specifically with disclosure of IEP related materials;

(2) Section 552(b)(3), applicable to matter specifically exempted from disclosure by statute; and

(3) So much of section 552(b)(4) as relates to trade secrets.

PART 210—GENERAL ALLOCATION AND PRICE RULES

Subpart A—Recordkeeping

Sec.
210.1 Records.

Subparts B–D [Reserved]

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, E.O. 11748, 38 FR 33577; Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11748, 38 FR 33575; Cost of Living Council Order Number 47, 39 FR 24.

Subpart A—Recordkeeping

§210.1 Records.

(a) The recordkeeping requirements that were in effect on January 27, 1981, in parts 210, 211, and 212 will remain in effect for (1) all transactions prior to February 1, 1981; and (2) all allowed expenses incurred and paid prior to April 1, 1981 under §212.78 of part 212. These requirements include, but are not limited to, the requirements that were in effect on January 27, 1981, in §210.92 of this part; in §§211.67(a)(5)(ii); 211.89; 211.109, 211.127; and 211.223 of part 211; and in §§212.78(h)(5)(ii); 212.78(h)(6); 212.83(c)(2)(iii)(E)(I); 212.83(c)(2)(iii)(E)(II); 212.83(c)(2)(iii); “F_i t”; 212.83(i); 212.93(a);

212.93(b)(4)(iii)(B)(I); 212.93(i)(4); 212.94(b)(2)(iii); 212.128; 212.132; 212.172; and §212.187 of part 212.

(b) Effective February 5, 1985, paragraph (a) of this section shall apply, to the extent indicated, only to firms in the following categories. A firm may be included in more than one category, and a firm may move from one category to another. The fact that a firm becomes no longer subject to the recordkeeping requirements of one category shall not relieve that firm of compliance with the recordkeeping requirements of any other category in which the firm is still included.

(1) Those firms which are or become parties in litigation with DOE, as defined in paragraph (c)(1) of this section. Any such firm shall remain subject to paragraph (a) of this section. DOE shall notify the firm in writing of the final resolution of the litigation and whether or not any of its records must be maintained for a further period. DOE shall notify a firm which must maintain any records for a further period when such records are no longer needed.

(2)(i) Those firms which as of November 30 1984, have completed making all restitutionary payments required by an administrative or judicial order, consent order, or other settlement or order but which payments are on February 5, 1985, still subject to distribution by DOE. This requirement is applicable to only those firms listed in appendix B. Any such firm shall maintain all records for the time period covered by the administrative or judicial order, consent order, or other settlement or order requiring the payments, evidencing sales volume data for each product subject to controls and customers' names and addresses, until one of the following: June 30, 1985, unless this period is extended on a firm-by-firm basis; the end of the individual firm's extension; or the firm is notified in writing that its records are no longer needed.

(ii) Those firms which as of November 30, 1984, are required to make restitutionary or other payments pursuant to an administrative or judicial order, consent order, or other settlement or order. Any such firm shall remain subject to paragraph (a) of this