

transactions. In the event that the DOE determines that an emergency exists under section 202(c), and the “entities” are unable to agree on the rates to be charged, the DOE shall prescribe the conditions of service and refer the rate issues to the Federal Energy Regulatory Commission for determination by that agency in accordance with its standards and procedures.

**§ 205.377 Reports.**

In addition to the information specified below, the DOE may require additional reports as it deems necessary.

(a) Where the DOE has authorized the temporary connection of transmission facilities, all “entities” whose transmission facilities are thus temporarily interconnected shall report the following information to the DOE within 15 days following completion of the interconnection:

- (1) The date the temporary interconnection was completed;
- (2) The location of the interconnection;
- (3) A description of the interconnection; and
- (4) A one-line electric diagram of the interconnection.

(b) Where the DOE orders the transfer of power, the “entity” receiving such service shall report the following information to the DOE by the 10th of each month for the preceding month’s activity for as long as such order shall remain in effect:

- (1) Amounts of capacity and/or energy received each day;
- (2) The name of the supplier;
- (3) The name of any “entity” supplying transmission services; and
- (4) Preliminary estimates of the associated costs.

(c) Where the DOE has approved the installation of permanent facilities that will be used only during emergencies, any use of such facilities shall be reported to the DOE within 24 hours. Details of such usage shall be furnished as deemed appropriate by the DOE after such notification.

(d) Any substantial change in the information provided under § 205.373 shall be promptly reported to the DOE.

(Approved by the Office of Management and Budget under Control No. 1904-0066)

[46 FR 39989, Aug. 6, 1981, as amended at 46 FR 63209, Dec. 31, 1981]

**§ 205.378 Disconnection of temporary facilities.**

Upon the termination of any emergency for the mitigation of which the DOE ordered the construction of temporary facilities, such facilities shall be disconnected and any temporary construction removed or otherwise disposed of, unless application is made as provided in § 205.379 for permanent connection for emergency use. This disconnection and removal of temporary facilities shall be accomplished within 30 days of the termination of the emergency unless an extension is granted by the DOE. The DOE shall be notified promptly when such removal of facilities is completed.

**§ 205.379 Application for approval of the installation of permanent facilities for emergency use only.**

Application for DOE approval of a permanent connection for emergency use only shall conform with the requirements in § 205.373. However, the baseline data specified in § 205.373(d) need not be included in an application made under this section. In addition, the application shall state in full the reasons why such permanent connection for emergency use is in the public interest.

**PART 207—COLLECTION OF INFORMATION**

**Subpart A—Collection of Information Under the Energy Supply and Environmental Coordination Act of 1974**

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207.9 Exceptions, exemptions, interpretations, rulings and rulemaking.

AUTHORITY: 15 U.S.C. 787 *et seq.*; 15 U.S.C. 791 *et seq.*; E.O. 11790, 39 FR 23185; 28 U.S.C. 2461 note.

SOURCE: 40 FR 18409, Apr. 28, 1975, unless otherwise noted.

### Subpart A—Collection of Information Under the Energy Supply and Environmental Coordination Act of 1974

#### § 207.1 Purpose.

The purpose of this subpart is to set forth the manner in which energy information which the Administrator is authorized to obtain by sections 11 (a) and (b) of ESECA will be collected.

#### § 207.2 Definitions.

As used in this subpart:

*Administrator* means the Federal Energy Administrator or his delegate.

*Energy information* includes all information in whatever form on (1) fuel reserves, exploration, extraction, and energy resources (including petrochemical feedstocks) wherever located; (2) production, distribution, and consumption of energy and fuels, wherever carried on; and (3) matters relating to energy and fuels such as corporate structure and proprietary relationships, costs, prices, capital investment, and assets, and other matters directly related thereto, wherever they exist.

*ESECA* means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319).

*EPAA* means the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159).

*DOE* means the Department of Energy.

*Person* means any natural person, corporation, partnership, association, consortium, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business, who directly or through other persons subject to their control does business in any part of the United States.

*United States*, when used in the geographical sense, means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

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### § 207.3 Method of collecting energy information under ESECA.

(a) Whenever the Administrator determines that:

(1) Certain energy information is necessary to assist in the formulation of energy policy or to carry out the purposes of the ESECA of the EPAA; and

(2) Such energy information is not available to DOE under the authority of statutes other than ESECA or that such energy information should, as a matter of discretion, be collected under the authority of ESECA;

He shall require reports of such information to be submitted to DOE at least every ninety calendar days.

(b) The Administrator may require such reports of any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources.

(c) The Administrator may require such reports by rule, order, questionnaire, or such other means as he determines appropriate.

(d) Whenever reports of energy information are requested under this subpart, the rule, order, questionnaire, or other means requesting such reports shall contain (or be accompanied by) a recital that such reports are being requested under the authority of ESECA.

(e) In addition to requiring reports, the Administrator may, at his discretion, in order to obtain energy information under the authority of ESECA:

(1) Sign and issue subpoenas in accordance with the provisions of § 205.8 of this chapter for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(2) Require any person, by rule or order, to submit answers in writing to interrogatories, requests for reports or for other information, with such answers or other submissions made within such reasonable period as is specified in the rule or order, and under oath; and

(3) Administer oaths.

Any such subpoena or rule or order shall contain (or be accompanied by) a recital that energy information is requested under the authority of ESECA.

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(f) For the purpose of verifying the accuracy of any energy information requested, acquired, or collected by the DOE, the Administrator, or any officer or employee duly designated by him, upon presenting appropriate credentials and a written notice from the Administrator to the owner, operator, or agent in charge, may—

(1) Enter, at reasonable times, any business premise of facility; and

(2) Inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any such energy information.

Such written notice shall reasonably describe the premise or facility to be inspected, the stock to be inventoried or sampled, or the books, records, papers or other documents to be examined or copied.

### § 207.4 Confidentiality of energy information.

(a) Information obtained by the DOE under authority of ESECA shall be available to the public in accordance with the provisions of part 202 of this chapter. Upon a showing satisfactory to the Administrator by any person that any energy information obtained under this subpart from such person would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such information, or portion thereof, shall be deemed confidential in accordance with the provisions of section 1905 of title 18, United States Code; except that such information, or part thereof, shall not be deemed confidential pursuant to that section for purposes of disclosure, upon request, to (1) any delegate of the DOE for the purpose of carrying out ESECA or the EPAA, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office, when necessary to carry out those agencies' duties and responsibilities under ESECA and other statutes, and (3) the Congress, or any Committee of Congress upon request of the Chairman.

(b) Whenever the Administrator requests reports of energy information under this subpart, he may specify (in the rule, order or questionnaire or other means by which he has requested such reports) the nature of the showing required to be made in order to satisfy DOE that certain energy information contained in such reports warrants confidential treatment in accordance with this section. He shall, to the maximum extent practicable, either before or after requesting reports, by ruling or otherwise, inform respondents providing energy information pursuant to this subpart of whether such information will be made available to the public pursuant to requests under the Freedom of Information Act (5 U.S.C. 552).

### § 207.5 Violations.

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of this subpart or any order issued pursuant thereto is a violation of the DOE regulations stated in this subpart.

### § 207.6 Notice of probable violation and remedial order.

(a) *Purpose and scope.* (1) This section establishes the procedures for determining the nature and extent of violations of this subpart and the procedures for issuance of a notice of probable violation, a remedial order or a remedial order for immediate compliance.

(2) When the DOE discovers that there is reason to believe a violation of any provision of this subpart, or any order issued thereunder, has occurred, is continuing or is about to occur, the DOE may conduct proceedings to determine the nature and extent of the violation and may issue a remedial order thereafter. The DOE may commence such proceeding by serving a notice of probable violation or by issuing a remedial order for immediate compliance.

(b) *Notice of probable violation.* (1) The DOE may begin a proceeding under this subpart by issuing a notice of probable violation if the DOE has reason to believe that a violation has occurred, is continuing, or is about to occur.

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(2) Within 10 days of the service of a notice of probable violation, the person upon whom the notice is served may file a reply with the DOE office that issued the notice of probable violation at the address provided in §205.12 of this chapter. The DOE may extend the 10-day period for good cause shown.

(3) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the notice of probable violation. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant documents shall be submitted with the reply.

(4) The reply shall include a discussion of all relevant authorities, including, but not limited to, DOE rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the particular position taken.

(5) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirements of subpart M of part 205 of this chapter.

(6) If a person has not filed a reply with the DOE within the 10-day period provided, and the DOE has not extended the 10-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice of probable violation.

(7) If the DOE finds, after the 10-day period provided in §207.6(b)(2), that no violation has occurred, is continuing, or is about to occur, or that for any reason the issuance of a remedial order would not be appropriate, it shall notify, in writing, the person to whom a notice of probable violation has been issued that the notice is rescinded.

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(c) *Remedial order.* (1) If the DOE finds, after the 10-day period provided in §207.6(b)(2), that a violation has occurred, is continuing, or is about to occur, the DOE may issue a remedial order. The order shall include a written opinion setting forth the relevant facts and the legal basis of the remedial order.

(2) A remedial order issued under this subpart shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified or rescinded. The DOE may stay, suspend, modify or rescind a remedial order on its own initiative or upon application by the person to whom the remedial order is issued. Such action and application shall be in accordance with the procedures for such proceedings provided for in part 205 of this chapter.

(3) A remedial order may be referred at any time to the Department of Justice for appropriate action in accordance with §207.7.

(d) *Remedial order for immediate compliance.* (1) Notwithstanding paragraphs (b) and (c) of this section, the DOE may issue a remedial order for immediate compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds:

(i) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(ii) Irreparable harm will occur unless the violation is remedied immediately; and

(iii) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under paragraphs (b) and (c) of this section.

(2) A remedial order for immediate compliance shall be served promptly upon the person against whom such order is issued by telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis for the remedial order for immediate compliance, including the findings required by paragraph (d)(1) of this section.

(3) The DOE may rescind or suspend a remedial order for immediate compliance if it appears that the criteria set forth in paragraph (d)(1) of this section

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are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a notice of probable violation issued under paragraph (b) of this section.

(4) If at any time in the course of a proceeding commenced by a notice of probable violation the criteria set forth in paragraph (d)(1) of this section are satisfied, the DOE may issue a remedial order for immediate compliance, even if the 10-day period for reply specified in §207.6(b)(2) of this part has not expired.

(5) At any time after a remedial order for immediate compliance has become effective the DOE may refer such order to the Department of Justice for appropriate action in accordance with §207.7 of this part.

(e) *Remedies.* A remedial order or a remedial order for immediate compliance may require the person to whom it is directed to take such action as the DOE determines is necessary to eliminate or to compensate for the effects of a violation.

(f) *Appeal.* (1) No notice of probable violation issued pursuant to this subpart shall be deemed to be an action of which there may be an administrative appeal.

(2) Any person to whom a remedial order or a remedial order for immediate compliance is issued under this subpart may file an appeal with the DOE Office of Exceptions and Appeals in accordance with the procedures for such appeal provided in subpart H of part 205 of this chapter. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

### §207.7 Sanctions.

(a) *General.* (1) Penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this subpart or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this subpart relating to criminal fines and civil penalties.

(b) *Criminal penalties.* Any person who willfully violates any provision of this subpart or any order issued pursuant thereto shall be subject to a fine of not

more than \$5,000 for each violation. Criminal violations are prosecuted by the Department of Justice upon referral by the DOE.

(c) *Civil Penalties.* (1) Any person who violates any provision of this subpart or any order issued pursuant thereto shall be subject to a civil penalty of not more than \$4,000 for each violation. Actions for civil penalties are prosecuted by the Department of Justice upon referral by the DOE.

(2) When the DOE considers it to be appropriate or advisable, the DOE may compromise and settle, and collect civil penalties.

[40 FR 18409, Apr. 28, 1975, as amended at 62 FR 46183, Sept. 2, 1997; 74 FR 66032, Dec. 14, 2009]

### §207.8 Judicial actions.

(a) *Enforcement of subpoenas; contempt.* Any United States district court within the jurisdiction of which any inquiry is carried on may, upon petition by the Attorney General at the request of the Administrator, in the case of refusal to obey a subpoena or order of the Administrator issued under this subpart, issue an order requiring compliance. Any failure to obey such an order of the court may be punished by the court as contempt.

(b) *Injunctions.* Whenever it appears to the Administrator that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this subpart, the Administrator may request the Attorney General to bring a civil action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with any provision of such order or regulation, the violation of which is prohibited by section 12(a) of ESECA, as implemented by this subpart.

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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

### Subpart A—General Provisions

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- 209.1 Purpose and scope.
- 209.2 Delegation.
- 209.3 Definitions.

### Subpart B—Development of Voluntary Agreements

- 209.21 Purpose and scope.
- 209.22 Initiation of meetings.
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### Subpart C—Carrying Out of Voluntary Agreements and Developing and Carrying Out of Plans of Actions

- 209.31 Purpose and scope.
- 209.32 Initiation of meetings.
- 209.33 Conduct of meetings.
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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