

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 94.15, paragraph (b), the introductory text and paragraph (b)(2) are amended by adding the words "Baja California," immediately before the word "Chihuahua".

3. Section 94.15 is amended by adding the following phrase at the end of the section:

"(Approved by the Office of Management and Budget under control number 0579-0040)".

Done in Washington, DC, this 30th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-11884 Filed 5-6-97; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF ENERGY

10 CFR Parts 703 and 1023

RIN 1901-AA30

Board of Contract Appeals; Contract Appeals

AGENCY: Board of Contract Appeals, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy amends its regulations concerning proceedings and functions of the Board of Contract Appeals. This action is necessary to update the rules and to reorganize and supplement the existing rules to provide the public with a better understanding of the Board and its functions. This rule adds an overview of the Board's organization, authorities and various functions, enunciates longstanding policies favoring the use of Alternative Dispute Resolution (ADR), and confirms the Board's authority to engage in ADR and provide an array of ADR neutral services, modifies the Rules of Practice for Contract Disputes Act (CDA) appeals to implement changes made to the CDA by the Federal Acquisition Streamlining Act (FASA), and removes unnecessary and obsolete

rules related to the Board's non-CDA appeals and Contract Adjustment Board functions.

DATES: This rule is effective June 6, 1997.

Applicability date: In accordance with § 1023.102, rule 1(a) and (b) of § 1023.120 shall apply to appeals filed on or after October 1, 1995.

FOR FURTHER INFORMATION CONTACT: E. Barclay Van Doren, Chair, Department of Energy, Board of Contract Appeals, (202) 426-9316.

SUPPLEMENTARY INFORMATION:

I. Background

A. Discussion

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B. Review under Executive Order 12988

C. Review under the Regulatory Flexibility Act

D. Review under the Paperwork Reduction Act

E. Review under the National

Environmental Policy Act

F. Review under Executive Order 12612

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

H. Review Under the Unfunded Mandates Reform Act of 1995

I. Background

A. Discussion

On October 30, 1996, the Department published a proposed rule in the **Federal Register** (61 FR 55932) to update and reorganize the various rules previously issued by the Energy Board of Contract Appeals. The Department now adopts the proposed rule as final.

This Rulemaking has several purposes. First, the Overview, §§ 1023.1-1023.9, set out a statement of the organization, functions, and authorities of the Board of Contract Appeals (Board or EBCA) of the Department of Energy (DOE) and principles applicable to all the Board's functions. The Board has functions other than the resolution of disputes brought under the Contract Disputes Act (CDA), yet the previous rules did not list and describe these functions and their associated authorities in any single place. This proved confusing to some who were unfamiliar with the Board. The revised rules, in one place, describe and cross-reference all of the standing functions and rules of the Board. This change should help those unfamiliar with the Board to understand its several functions and the limits of its authority, and to assist potential appellants to determine whether the Board is the proper forum for the resolution of a particular dispute. Moreover, the rule provides, for informational purposes,

the Board's delegated general authorities, which are set forth in a delegation order from the Secretary of Energy.

Second, this Rulemaking enunciates in § 1023.8, the Board's and DOE's policy favoring the use of ADR in the resolution of contract and other disputes. The previous rules did not recognize ADR nor the authority of the Board and its members to employ and participate in ADR procedures. The Board has a longstanding policy to encourage the consensual resolution of disputes. These revised rules contain an explicit statement of the Board's and DOE's policy regarding ADR. In addition to the statement of policy contained in Section 1023.8, express Board ADR authorities are set forth in §§ 1023.1(d), 1023.3(b), 1023.4, 1023.5, and 1023.6. Included are authorities permitting the Chair to exchange neutrals with other Boards of Contract Appeals. Further, the Board is authorized to provide neutral services for certain contract disputes below the prime contract level in instances specified in Section 1023(d).

Third, the Federal Acquisition Streamlining Act (FASA) modified the CDA with respect to matters involving claim certification and availability of certain appeal procedures. This Rulemaking updates the Board's rules of practice (Rules 1, 6, 13, and 14) to conform to these changes. The Streamlining Act increased the threshold for CDA claim certification to \$100,000, from \$50,000. The Act also increased the amounts under which a claim is eligible for either accelerated procedures or small claims procedures. Claims under \$100,000 (previously \$50,000) will be eligible for accelerated procedures and claims under \$50,000 (previously \$10,000) will be, at the contractor's election, resolved under the small claims procedures.

Fourth, this Rulemaking removes the separate rules of practice (10 CFR part 703) for contract and subcontract appeals which are not governed by the CDA (non-CDA appeals) and the rules of the Contract Adjustment Board (10 CFR part 1023, subpart B). No pre-CDA appeals have been filed with the Board for more than eight years and separate rules are no longer necessary. The rules of practice for CDA appeals (10 CFR part 1023, subpart A) will be applicable to both CDA appeals and non-CDA appeals from contracting officer decisions and to any subcontractor disputes over which the Board has jurisdiction. In non-CDA appeals, the Board may make procedural modifications determined by the Board to be appropriate, such as disregarding rule provisions pertaining

to claim certification. Regulatory authority for appeals to the Contract Adjustment Board no longer exists and the rules of the Contract Adjustment Board are removed hereby.

Finally, the Rulemaking renumbers the rules of practice for contract appeals to the Board to allow for the inclusion of the Statement of Organization, Functions, and Authorities and minor conforming changes would be made to the Rules of Practice.

No comments were received following publication of the proposed rule. However, § 1023.2(a) has been revised to reflect that the Board has moved and has new addresses and telephone numbers. No other changes have been made.

II. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine

whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

The rules were reviewed under the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, which requires preparation of an initial regulatory flexibility analysis for any proposed rule which is likely to have a significant economic impact on a substantial number of small entities. In the notice of proposed rulemaking, DOE certified that the rules will not have a significant economic impact on a substantial number of small entities; therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

The DOE has determined that the rules are exempt from the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) by virtue of 44 U.S.C. 3518(c)(1)(B), which provides that the Paperwork Reduction Act does not apply to the collection of information during the conduct of an administrative action involving an agency against specific individuals or entities.

E. Review Under the National Environmental Policy Act

The DOE has concluded that the promulgation of these rules does not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*), or the Council on Environmental Quality Regulations (40 CFR parts 1500–08), and the DOE guidelines (10 CFR part 1021), and, therefore, does not require an environmental impact statement or an environment assessment pursuant to NEPA.

F. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, and in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of

a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

This rule revises certain policy and procedural requirements. However, the DOE has determined that none of the revisions will have a substantial direct effect on the institutional interests or traditional functions of States.

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the rule prior to its effective date. 5 U.S.C. 801. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(3).

H. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a Federal Mandate with costs to State, local or tribal governments, or to the private sector, of \$100 million or more. The impact of this rulemaking impact is less than \$100 million.

List of Subjects in 10 CFR Parts 703 and 1023

Administrative practice and procedure, Government contracts, Government procurement.

Issued in Washington, DC on April 28, 1997.

E. Barclay Van Doren,

Chair, Department of Energy, Board of Contract Appeals.

For the reasons set forth in the preamble, parts 703 and 1023 of title 10 of the Code of Federal Regulations are amended as set forth below:

PART 703—CONTRACT APPEALS [REMOVED]

1. Under the authority of 42 U.S.C. 2201(p), 42 U.S.C. 5814 (b) & (h) and 42 U.S.C. 7151, part 703 is removed.

PART 1023—CONTRACT APPEALS

2. The authority citation for part 1023 is added to read as follows:

Authority: 42 U.S.C. 2201, 5814, 7151, 7251; 5 U.S.C. 301; 41 U.S.C. 321, 322, 601–613; 5 U.S.C. 571–583; 9 U.S.C. 1–16 unless otherwise noted.

3. Part 1023 is amended by adding an undesignated center heading and §§ 1023.1 through 1023.9 before subpart A to read as follows:

Overview: Organization, Functions and Authorities

Sec.

- 1023.1 Introductory material on the Board and its functions.
- 1023.2 Organization and location of the Board.
- 1023.3 Principles of general applicability.
- 1023.4 Authorities.
- 1023.5 Duties and responsibilities of the Chair.
- 1023.6 Duties and responsibilities of Board members and staff.
- 1023.7 Board decisions; assignment of judges.
- 1023.8 Alternative dispute resolution (ADR).
- 1023.9 General guidelines.

§ 1023.1 Introductory material on the Board and its functions.

(a) The Energy Board of Contract Appeals ("EBCA" or "Board") functions as a separate quasi-judicial entity within the Department of Energy (DOE). The Secretary has delegated to the Board's Chair the appropriate authorities necessary for the Board to maintain its separate operations and decisional independence.

(b) The Board's primary function is to hear and decide appeals from final decisions of DOE contracting officers on claims pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. 601 *et seq.* The Board's Rules of Practice for these appeals are set forth in subpart A of this part. Rules relating to recovery of attorney fees and other expenses under the Equal Access to Justice Act are set forth in subpart C of this part.

(c) In addition to its functions under the CDA, the Secretary in Delegation Order 0204-162 has authorized the Board to:

(1) Adjudicate appeals from agency contracting officers' decisions not taken pursuant to the CDA (non-CDA disputes) under the Rules of Practice set forth in subpart A of this part;

(2) Perform other quasi-judicial functions that are consistent with the Board members' duties under the CDA as directed by the Secretary;

(3) Serve as the Energy Financial Assistance Appeals Board to hear and decide certain appeals by the Department's financial assistance recipients as provided in 10 CFR 600.22, under Rules of Procedure set forth in 10 CFR part 1024;

(4) Serve as the Energy Invention Licensing Appeals Board to hear and decide appeals from license terminations, denials of license applications and petitions by third-parties for license terminations, as provided in 10 CFR part 781, under Rules of Practice set forth in subpart A of this part, modified by the Board as

determined to be necessary and appropriate with advance notice to the parties; and

(5) Serve as the Energy Patent Compensation Board to hear and decide, as provided in 10 CFR part 780, certain applications and petitions filed under authority provided by the Atomic Energy Act of 1954, ch. 1073, 68 Stat. 919 (1954), and the Invention Secrecy Act, 35 U.S.C. 181-188, including:

(i) Whether a patent is affected with the public interest;

(ii) Whether a license to a patent affected by the public interest should be granted and equitable terms therefor; and

(iii) Whether there should be allotment of royalties, award, or compensation to a party contributing to the making of certain categories of inventions or discoveries, or an owner of a patent within certain categories, under Rules of Practice set forth in subpart A of this part, modified by the Board as determined to be necessary and appropriate, with advance notice to the parties.

(d) The Board provides alternative disputes resolution neutral services and facilities, as agreed between the parties and the Board, for:

(1) Disputes related to the Department's prime contracts and to financial assistance awards made by the Department.

(2) Disputes related to contracts between the Department's cost-reimbursement contractors, including Management and Operating Contractors (M&Os) and Environmental Remediation Contractors (ERMCs), and their subcontractors. Additionally, with the consent of both the responsible prime DOE cost-reimbursement contractor and the cognizant DOE Contracting Officer, the Board may provide neutral services and facilities for disputes under second tier subcontracts where the costs of litigating the dispute might be ultimately charged to the DOE as allowable costs through the prime contract.

(3) Other matters involving DOE procurement and financial assistance, as appropriate.

§ 1023.2 Organization and location of the Board.

(a) *Location of the Board.* (1) The Board's offices are located at, and hand and commercial parcel deliveries should be made to: Board of Contract Appeals, U.S. Department of Energy, 950 L'Enfant Plaza, S.W., Suite 810, Washington, DC 20024.

(2) The Board's mailing address is as follows. The entire nine digit ZIP code

should be used to avoid delay: Board of Contract Appeals, U.S. Department of Energy, HG-50, Building 950, Washington, DC 20585-0116.

(3) The Board's telephone numbers are (202) 426-9316 (voice) and (202) 426-0215 (facsimile).

(b) *Organization of the Board.* As required by the CDA, the Board consists of a Chair, a Vice Chair, and at least one other member. Members are designated Administrative Judges. The Chair is designated Chief Administrative Judge and the Vice Chair, Deputy Chief Administrative Judge.

§ 1023.3 Principles of general applicability.

(a) *Adjudicatory functions.* The following principles shall apply to all adjudicatory activities whether pursuant to the authority of the CDA, authority delegated under this part, or authority of other laws, rules, or directives.

(1) The Board shall hear and decide each case independently, fairly, and impartially.

(2) Decisions shall be based exclusively upon the record established in each case. Written or oral communication with the Board by or for one party is not permitted without participation or notice to other parties. Except as provided by law, no person or agency, directly or indirectly involved in a matter before the Board, may submit off the record to the Board or the Board's staff any evidence, explanation, analysis, or advice (whether written or oral) regarding any matter at issue in an appeal, nor shall any member of the Board or of the Board's staff accept or consider *ex parte* communications from any person. This provision does not apply to consultation among Board members or staff or to other persons acting under authority expressly granted by the Board with notice to parties. Nor does it apply to communications concerning the Board's administrative functions or procedures, including ADR.

(3) Decisions of the Board shall be final agency decisions and shall not be subject to administrative appeal or administrative review.

(b) *Alternative Dispute Resolution (ADR) Functions.* (1) Board judges and personnel shall perform ADR related functions impartially, with procedural fairness, and with integrity and diligence.

(2) *Ex parte* communications with Board staff and judges limited to the nature, procedures, and availability of ADR through the Board are permitted and encouraged. Once parties have agreed to engage in ADR and have entered into an ADR agreement accepted by the Board, *ex parte* communications by Board neutrals,

support staff and parties shall be as specified by any applicable agreements or protocols and as is consistent with law, integrity, and fairness.

(3) Board-supplied neutrals and support personnel shall keep ADR matters confidential and comply with any confidentiality requirements of ADR agreements accepted by the Board. Board personnel may not disclose any confidential information unless permitted by the parties or required to do so by law.

§ 1023.4 Authorities.

(a) *Contract Disputes Act Authorities.* The CDA imposes upon the Board the duty, and grants it the powers necessary, to hear and decide, or to otherwise resolve through agreed procedures, appeals from decisions made by agency contracting officers on contractor claims relating to contracts entered into by the DOE or relating to contracts of another agency, as provided in Section 8(d) of the CDA, 41 U.S.C. 607(d). The Board may issue rules of practice or procedure for proceedings pursuant to the CDA. The CDA also imposes upon the Board the duty, and grants it powers necessary, to act upon petitions for orders directing contracting officers to issue decisions on claims relating to such contracts, 41 U.S.C. 605(c)(4). The Board may apply through the Attorney General to an appropriate United States District Court for an order requiring a person, who has failed to obey a subpoena issued by the Board, to produce evidence or to give testimony, or both, 41 U.S.C. 610.

(b) *General Powers and Authorities.* The Board's general powers include, but are not limited to, the powers to:

(1) Manage its cases and docket; issue procedural orders; conduct conferences and hearings; administer oaths; authorize and manage discovery, including depositions and the production of documents or other evidence; take official notice of facts within general knowledge; call witnesses on its own motion; engage experts; dismiss actions with or without prejudice; decide all questions of fact or law raised in an action; and make and publish rules of practice and procedure;

(2) Exercise, in proceedings to which it applies, all powers granted to arbitrators by the Federal Arbitration Act, 9 U.S.C. 1-14, including the power to issue summonses.

(c) In addition to its authorities under the CDA, the Board has been delegated by Delegation Order 0204-162 issued by the Secretary of Energy, the following authorities:

(1) Issue rules, including rules of procedure, not inconsistent with this section and departmental regulations;

(2) Issue subpoenas under the authority of § 161.c of the Atomic Energy Act of 1954, 42 U.S.C. 2201(c), as applicable;

(3) Such other authorities as the Secretary may delegate.

§ 1023.5 Duties and Responsibilities of the Chair.

The Chair shall be responsible for the following:

(a) The proper administration of the Board;

(b) Assignment and reassignment of cases, including alternative dispute resolution (ADR) proceedings, to administrative judges, hearing officers, and decision panels;

(c) Monitoring the progress of individual cases to promote their timely resolution;

(d) Appointment and supervision of a Recorder;

(e) Arranging for the services of masters, mediators, and other neutrals;

(f) Issuing delegations of Board authority to individual administrative judges, panels of judges, commissioners, masters, and hearing officers within such limits, if any, which a majority of the members of the Board shall establish;

(g) Designating an acting chair during the absence of both the Chair and the Vice Chair;

(h) Designating a member of another Federal board of contract appeals to serve as the third member of a decision panel if the Board is reduced to less than three members because of vacant positions, protracted absences, disabilities or disqualifications;

(i) Authorizing and approving ADR arrangements for Board cases; obtaining non-Board personnel to serve as settlement judges, third-party neutrals, masters and similar capacities; authorizing the use of Board-provided personnel and facilities in ADR capacities, for matters before the Board, and for other matters when requested by officials of the DOE; and entering into arrangements with other Federal administrative forums for the provision of personnel to serve in ADR capacities on a reciprocal basis;

(j) Recommending to the Secretary the selection of qualified and eligible members. New members shall, upon selection, be appointed to serve as provided in the CDA;

(k) Determining whether member duties are consistent with the CDA; and

(l) Reporting Board activities to the Secretary not less often than biennially.

§ 1023.6 Duties and responsibilities of Board members and staff.

(a) As is consistent with the Board's functions, Board members and staff shall perform their duties with the highest integrity and consistent with the principles set forth in § 1023.3.

(b) Members of the Board and Board attorneys may serve as commissioners, magistrates, masters, hearing officers, arbitrators, mediators, and neutrals and in other similar capacities.

(c) Except as may be ordered by a court of competent jurisdiction, members of the Board and its staff are permanently barred from ex parte disclosure of information concerning any Board deliberations.

§ 1023.7 Board decisions; assignment of judges.

(a) In each case, the Chair shall assign an administrative judge as the Presiding Administrative Judge to hear a case and develop the record upon which the decision will be made. A Presiding Judge has authority to act for the Board in all non-dispositive matters, except as otherwise provided in this Part. This subparagraph shall not preclude the Presiding Administrative Judge from taking dispositive actions as provided in this Part or by agreement of the parties. Other persons acting as commissioners, magistrates, masters, or hearing officers shall have such powers as the Board shall delegate.

(b) Except as provided by law, rule, or agreement of the parties, contract appeals and other cases are assigned to a deciding panel established by the Board Chair consisting of two or more administrative judges.

(c) The concurring votes of a majority of a deciding panel shall be sufficient to decide an appeal. All members assigned to a panel shall vote unless unavailable. The Chair will assign an additional member if necessary to resolve tie votes.

§ 1023.8 Alternative dispute resolution (ADR).

(a) *Statement of Policy.* It is the policy of the DOE and of the Board to facilitate consensual resolution of disputes and to employ ADR in all of the Board's functions when agreed to by the parties. ADR is a core judicial function performed by the Board and its judges.

(b) *ADR for Docketed Cases.* Pursuant to the agreement of the parties, the Board, in an exercise of discretion, may approve either the use of Board-annexed ADR (ADR which is conducted under Board auspices and pursuant to Board order) or the suspension of the Board's procedural schedule to permit the parties to engage in ADR outside of the Board's purview. While any form of

ADR may be employed, the forms of ADR commonly employed using Board judges as neutrals are: case evaluation by a settlement judge (with or without mediation by the judge); arbitration; mini-trial; summary (time and procedurally limited) trial with one-judge; summary binding (non-appealable) bench decision; and fact-finding.

(c) *ADR for Non-Docketed Disputes.* As a general matter the earlier a dispute is identified and resolved, the less the financial and other costs incurred by the parties. When a contract is not yet complete there may be opportunities to eliminate tensions through ADR and to confine and resolve problems in a way that the remaining performance is eased and improved. For these reasons, the Board is available to provide a full range of ADR services and facilities before, as well as after, a case is filed with the Board. A contracting officer's decision is not a prerequisite for the Board to provide ADR services and such services may be furnished whenever they are warranted by the overall best interests of the parties. The forms of ADR most suitable for mid-performance disputes are often the non-dispositive forms such as mediation, facilitation and fact-finding, mini-trials, or non-binding arbitration, although binding arbitration is also available.

(d) *Availability of Information on ADR.* Parties are encouraged to consult with the Board regarding the Board's ADR services at the earliest possible time. A handbook describing Board ADR is available from the Board upon request.

§ 1023.9 General guidelines.

(a) The principles of this Overview shall apply to all Board functions unless a specific provision of the relevant rules of practice applies. It is, however, impractical to articulate a rule to fit every circumstance. Accordingly, this part, and the other Board Rules referenced in it, will be interpreted and applied consistent with the Board's responsibility to provide just, expeditious, and inexpensive resolution of cases before it. When Board rules of procedure do not cover a specific situation, a party may contend that the Board should apply pertinent provisions from the Federal Rules of Civil Procedure. However, while the Board may refer to the Federal Rules of Civil Procedure for guidance, such Rules are not binding on the Board absent a ruling or order to the contrary.

(b) The Board is responsible to the parties, the public, and the Secretary for the expeditious resolution of cases before it. Accordingly, subject to the

objection of a party, the procedures and time limitations set forth in rules of procedure may be modified, consistent with law and fairness. Presiding judges and hearing officers may issue prehearing orders varying procedures and time limitations if they determine that purposes of the CDA or the interests of justice would be advanced thereby and provided both parties consent. Parties should not consume an entire period authorized for an action if the action can be sooner completed. Informal communication between parties is encouraged to reduce time periods whenever possible.

(c) The Board shall conduct proceedings in compliance with the security regulations and requirements of the Department or other agency involved.

4. Subpart A is amended by removing §§ 1023.1 through § 1023.6, redesignating § 1023.20 as § 1023.120 and adding §§ 1023.101 and 1023.102, reading as follows:

§ 1023.101 Scope and purpose.

The rules of the Board of Contract Appeals are intended to govern all appeal procedures before the Department of Energy Board of Contract Appeals (Board) which are within the scope of the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*). The rules, with modifications determined by the Board to be appropriate to the nature of the dispute, also apply to all other contract and subcontract related appeals which are properly before the Board.

§ 1023.102 Effective date.

The rules of the Board of Contract Appeals shall apply to all proceedings filed on or after June 6, 1997, except that Rule 1 (a) and (b) of § 1023.120 shall apply only to appeals filed on or after October 1, 1995.

§ 1023.120 [Amended]

5. Newly designated section 1023.120 is amended by revising "\$50,000" to read "\$100,000" in the following paragraphs:

- Rule 1, paragraph (b)
- Rule 1, paragraph (c)
- Rule 6, paragraph (b)
- Rule 14, paragraph (a)

6. Newly designated section 1023.120 is amended by revising "\$10,000" to read "\$50,000" in the following paragraphs:

- Rule 6, paragraph (b)
- Rule 13, paragraph (a)

Subpart B—[Removed and Reserved]

7. Subpart B—is removed and reserved.

§ 1023.327 [Amended]

8. Section 1023.327 of subpart C is amended by revising "10 CFR 1023.20" to read "10 CFR 1023.120."

[FR Doc. 97-11728 Filed 5-6-97; 8:45 am]

BILLING CODE 6450-01-P

FARM CREDIT ADMINISTRATION

12 CFR Parts 620 and 630

RIN 3052-AB62

Disclosure to Shareholders; Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System; Quarterly Report; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under parts 620 and 630 on March 31, 1997 (62 FR 15089). The final rule amends the regulations governing the preparation, filing, and distribution of Farm Credit System (FCS or System) bank and association reports to shareholders and investors. The rule implements a statutory amendment that supersedes the regulatory requirement that FCS institutions disseminate quarterly reports to shareholders. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 6, 1997.

EFFECTIVE DATE: The regulation amending 12 CFR parts 620 and 630 published on March 31, 1997 (62 FR 15089) is effective May 6, 1997.

FOR FURTHER INFORMATION CONTACT:

Laurie A. Rea, Policy Analyst, Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498

or

William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

(12 U.S.C. 2252(a) (9) and (10))

Dated: May 1, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97-11783 Filed 5-6-97; 8:45 am]

BILLING CODE 6705-01-P