

## §215.5

oil supply arrangements or reports related thereto. Such material shall be provided pursuant to the conditions prescribed by the Administrator at the time of such order or subsequently. As used in this section, the term "agreement" includes proposed or draft agreements, and agreements in which the parties have tentatively concurred but have not yet signed, between or among persons and a host country.

### §215.5 Pricing and volume reports.

To the extent not reported pursuant to §215.3, any person lifting for export crude oil from a country shall report to the DOE within 30 days of the date on which he receives actual notice:

(a) Any change (including changes in the timing of collection) by the host government in official selling prices, royalties, host government taxes, service fees, quality or port differentials, or any other payments made directly or indirectly for crude oil; changes in participation ratios; changes in concessionary arrangements; and

(b) Any changes in restrictions on lifting, production, or disposition.

### §215.6 Notice of negotiations.

Any person conducting negotiations with a host government which may reasonably lead to the establishment of any supply arrangement subject to reporting pursuant to §215.3(a), or may reasonably have a significant effect on the terms and conditions of an arrangement subject to §215.3(a), shall notify DOE of such negotiations. Such notice shall be made no later than the later of 30 days after the effective date of this regulation or within 14 days after such negotiations meet the conditions of this section, and shall specify all persons involved and the host government affected. Notice must be in writing to the Assistant Administrator for International Energy Affairs. Where this notice pertains to negotiations to modify a supply agreement previously reported to the Department of Energy under this part, such notice shall include the agreement serial number assigned to the basic agreement.

## 10 CFR Ch. II (1-1-05 Edition)

### PART 216—MATERIALS ALLOCATION AND PRIORITY PERFORMANCE UNDER CONTRACTS OR ORDERS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

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AUTHORITY: Section 104 of the Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, 89 Stat. 871; and section 101(c) of the Defense Production Act of 1950 (DPA) (50 U.S.C. App. 2071(c)), as amended; section 7, E.O. 11912, April 13, 1976; Defense Mobilization Order No. 13, Sept. 22, 1976; 44 CFR Part 330; Defense Priorities and Allocations System Delegation No. 2, 49 FR 30430.

SOURCE: 43 FR 6212, Feb. 14, 1978, unless otherwise noted.

#### §216.1 Introduction.

(a) This part describes and establishes the procedures to be used by the Department of Energy ("DOE") in considering and making certain findings required by section 101(c)(3) of the Defense Production Act of 1950, as amended, 50 U.S.C. App. 2071(c)(3) ("DPA"). Section 101(c) authorizes the allocation of, or priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if the findings described in section 101(c)(3) are made. Among these findings are that such supplies of materials and equipment are critical and essential to maintain or further exploration, production, refining, transportation or the conservation of energy supplies or for the construction and maintenance of energy facilities. The function of finding if such supplies are critical and essential was delegated to the Administrator of the Department of Energy ("DOE") pursuant to Executive Order

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11912 of April 13, 1976, Defense Mobilization Order ("DMO") No. 13 dated September 22, 1976, 41 FR 43720, and Department of Commerce, Bureau of Domestic Commerce, Delegation No. 4, effective date December 1, 1976, 41 FR 52331. Delegation No. 4 was superseded by Defense Priorities and Allocations System Delegation No. 2, effective date August 29, 1984, 49 FR 30430. On October 1, 1977, pursuant to section 301(a) of the Department of Energy Organization Act (Pub. L. 95-91), all of the functions of DOE and all of the functions of the DOE Administrator were transferred to the Secretary of Energy.

(b) The purpose of these regulations is to establish the procedures and the criteria to be used by DOE in determining whether programs or projects maximize domestic energy supplies and finding whether or not supplies of material and equipment are critical and essential, as required by DPA section 101(c)(3). The critical and essential finding will be made only for supplies of materials and equipment related to those programs or projects determined by DOE to maximize domestic energy supplies. These regulations do not require or imply that the findings, on which the exercise of such authority is conditioned, will be made in any particular case.

(c) If DOE determines that a program or project maximizes domestic energy supplies and finds that supplies of materials and equipment are critical and essential to maintain or further the exploration, production, refining, transportation or conservation of energy supplies or for the construction and maintenance of energy facilities, such determination and finding will be communicated to the Department of Commerce. If not, the applicant will be so informed. If the determination and finding described above are made, the Department of Commerce, pursuant to DPA section 101(c), Executive Order 11912 and DMO No. 13, will find whether or not (1) the supplies of materials and equipment in question are scarce and (2) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot be reasonably accomplished without exer-

cising the authority specified in section 101(c). If these additional two findings are made, the Department of Commerce will notify DOE, and DOE will inform the applicant that it has been granted the right to use priority ratings under the Defense Priorities and Allocations System ("DPAS") regulation established by the Department of Commerce, 15 CFR 350.

[43 FR 6212, Feb. 14, 1978, as amended at 51 FR 8311, Mar. 11, 1986]

### §216.2 Definitions.

As used in these regulations:

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

(b) *Applicant* means a person requesting priorities or allocation assistance in connection with an energy program or project.

(c) *Application* means the written request of an applicant for assistance.

(d) *Assistance* means use of the authority vested in the President by DPA section 101(c) to implement priorities and allocation support.

(e) *DOC* means the Department of Commerce, acting through the Secretary or the delegate of the Secretary.

(f) *DOE* means the Department of Energy, acting through the Secretary or the delegate of the Secretary.

(g) *Eligible energy program or project* means a designated activity which maximizes domestic energy supplies by furthering the domestic exploration, production, refining, transportation or conservation of energy supplies or construction and maintenance of energy facilities within the meaning of DPA section 101(c), as determined by DOE.

(h) *FEMA* means the Federal Emergency Management Agency.

(i) *Materials and equipment* means any raw, in-process, or manufactured commodity, equipment, component, accessory, part, assembly or product of any kind.

(j) *Person* means an individual, corporation, partnership, association, or any other organized group of persons (or legal successor or representative thereof), and includes the United States or any other government and any political subdivisions (or any agency) thereof.

[43 FR 6212, Feb. 14, 1978, as amended at 51 FR 8311, Mar. 11, 1986]