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such supply order has agreed to a procedure for the resolution of any dispute related to the terms and conditions of the sale undertaken pursuant to the supply order. The means for resolving any such disputes may include any procedures that are mutually acceptable to the parties, including arbitration before the IEA if the IEA has established arbitration procedures, arbitration or adjudication before an appropriate body, or any other similar procedure.

§218.11 Supply orders.

(a) A supply order shall require that the firm to which it is issued take actions specified therein relating to supplying the stated volume of oil to a specified recipient including, but not limited to, distributing, producing, storing, transporting or refining oil. A supply order shall include a concise statement of the pertinent facts and of the legal basis on which it is issued, and shall describe the action to be taken.

(b) The DOE shall serve a copy of the supply order on the firm directed to act as stated therein.

(c) The DOE may modify or rescind a supply order on its own motion or pursuant to an application filed in accordance with §218.32 of this part.

(d) A supply order shall be effective in accordance with its terms, and when served upon a firm directed to act thereunder, except that a supply order shall not remain in effect (1) upon reversion of this rule to standby status or (2) twelve months after the rule has been transmitted to Congress (whichever occurs first) or (3) to the extent that DOE or a court of competent jurisdiction directs that it be stayed, modified, or rescinded.

(e) Any firm issued a supply order pursuant to this subpart may seek modification or rescission of the supply order in accordance with procedures provided in §218.32 of this part.

§218.12 Pricing.

The price for oil subject to a supply order issued pursuant to this subpart shall be based on the price conditions prevailing for comparable commercial transactions at the time the supply order is served.

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Subpart C [Reserved]

Subpart D—Procedures

§218.30 Purpose and scope.

This subpart establishes the administrative procedures applicable to supply orders. They shall be exclusive of any other procedures contained in this chapter, unless such other procedures are specifically made applicable hereto by this subpart.

§218.31 Incorporated procedures.

The following subparts of part 205 of this chapter are, as appropriate, hereby made applicable to this part:

(a) *Subpart A— General Provisions; Provided*, that §205.11 shall not apply; *and Provided further*, that in addition to the methods of service specified in §205.7 of this chapter, service shall be effective if a supply order is transmitted by telex, telecopies or other similar means of electronic transmission of a writing and received by the firm to which the supply order is addressed.

(b) *Subpart F— Interpretation.*

(c) *Subpart K— Rulings.*

(d) *Subpart M— Conferences, Hearings and Public Hearings.*

§218.32 Review.

(a) *Purpose and scope.* This subpart establishes the procedures for the filing of an application for review of a supply order. An application for review is a summary proceeding which will be initiated only if the criteria described in paragraph (g)(2) of this section are satisfied.

(b) *What to file.* (1) A firm filing under this subpart shall file an "Application for Review" which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the firm filing the application. The applicant shall comply with the general filing requirements stated in 10 CFR 205.9 in addition to the requirements stated in this section.

(2) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this

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subpart, the procedures set out in 10 CFR 205.9(f) shall apply.

(c) *When to file.* An application for review should be filed no later than 5 days after the receipt by the applicant of the supply order that is the subject of the application, or no later than 2 days after the occurrence of an event that results in a substantial change in the facts or circumstances affecting the applicant.

(d) *Where to file.* The application for review shall be filed with DOE Office of Hearings and Appeals (OHA), 2000 M Street, NW., Washington, DC 20461.

(e) *Notice.* The applicant shall send by United States mail or deliver by hand a copy of the application and any subsequent amendments or other documents relating to the application to the Administrator of the Economic Regulatory Administration of DOE, 2000 M Street, NW., Washington, DC 20461. Service shall be made on the ERA at same time the document is filed with OHA and each document filed with the OHA shall include certification that the applicant has complied with the requirements of this paragraph.

(f) *Contents.* (1) The application shall contain a full and complete statement of all relevant facts pertaining to the application and to the DOE action sought. Such facts shall include a complete statement of the business or other reasons that justify review of the supply order and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted with the application. A copy of the order of which review is sought shall be included with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(2) The application shall include a discussion of all relevant authorities, including, but not limited to, DOE and DOE rulings, regulations, interpretations and decisions on appeal and exception relied upon to support the action sought therein.

(g) *DOE evaluation—(1) Processing.* (i) The DOE may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The DOE may solicit and accept submissions from third parties relevant to any application for review provided that the applicant is afforded an opportunity to respond to all third party submissions. In evaluating an application for review, the DOE may convene a conference, on its own initiative, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(ii) If the DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the DOE may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the DOE may dismiss the application with prejudice. If the applicant fails to provide the notice required by paragraph (e) of this section, the DOE may dismiss the application without prejudice.

(iii) An order dismissing an application for any of the reasons specified in paragraph (g)(1)(ii) of this section shall contain a statement of the grounds for the dismissal. The order shall become final within 5 days of its service upon the applicant, unless within such 5-day period the applicant files an amendment correcting the deficiencies identified in the order. Within 5 days of the filing of such amendment, the DOE shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies specified in the order, the order shall become a final order of the DOE of which the applicant may seek judicial review.

(2) An application for review of an order shall be processed only if the applicant demonstrates that—

(i) There is probable cause to believe that the supply order is erroneous, inequitable, or unduly burdensome; or

(ii) There has been discovered a law, regulation, interpretation, ruling, order or decision that was in effect at the time of the application which, if it had been made known to the DOE, would have been relevant to the supply

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order and would have substantially altered the supply order; or

(iii) There has been a substantial change in the facts or circumstances affecting the applicant, which change has occurred during the interval between issuance of the supply order and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

(h) *Decision.* (1) Upon consideration of the application and other relevant information received or obtained during the proceeding, the DOE shall issue an order granting or denying the modification or rescission of the supply order requested in the application for review.

(2) The DOE shall process applications for review as expeditiously as possible. When administratively feasible, the DOE shall issue an order granting or denying the application within 20 business days after receipt of the application.

(3) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of which the applicant may seek judicial review.

(4) The DOE shall serve a copy of the order upon the applicant and any other party who participated in the proceeding.

§218.33 Stay.

(a) The DOE may issue an order granting a stay if the DOE determines that an applicant has made a compelling showing that it would incur serious and irreparable injury unless immediate stay relief is granted pending determination of an application for review pursuant to this subpart. An application for a stay shall be labeled as such on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the firm filing the application. It shall include a description of the proceeding incident to which the stay is being sought and of the facts and circumstances which support the applicant's claim that it will incur irreparable injury unless immediate stay relief is granted. The applicant shall comply with the general filing requirements stated in 10 CFR 205.9

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in addition to the requirements stated in this section. The DOE on its own initiative may also issue an order granting a stay upon a finding that a firm will incur irreparable injury if such an order is not granted.

(b) An order granting a stay shall expire by its terms within such time after issuance, not to exceed 30 days as the DOE specifies in the order, except that it shall expire automatically 5 days following its issuance if the applicant fails within that period to file an application for review unless within that period the DOE for good cause shown, extends the time during which the applicant may file an application for review.

(c) The order granting or denying a stay is not an order of the DOE subject to administrative review.

§218.34 Addresses.

All correspondence, petitions, and any information required by this part shall be submitted to: Administrator, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Washington, DC 20461, and to the Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, DC 20461.

Subpart E—Investigations, Violations, Sanctions and Judicial Actions

§218.40 Investigations.

(a) The DOE may initiate and conduct investigations relating to the scope, nature and extent of compliance by any person with the rules, regulations or statutes of the DOE or any order promulgated by the DOE under the authority of section 251 of EPCA, or any court decree.

(b) Any duly designated and authorized representative of DOE has the authority to conduct an investigation and to take such action as he deems necessary and appropriate to the conduct of the investigation including any action pursuant to §205.8.

(c) There are no parties, as that term is used in adjudicative proceedings, in an investigation under this subpart, and no person may intervene or participate as a matter of right in any investigation under this subpart.