

## §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 (1–1–13 Edition)

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

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AUTHORITY: Sec. 104 of the Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, 89 Stat. 871; section 101(c) of the Defense Production Act of 1950 (DPA), 50 U.S.C. App. 2071(c); E.O. 12919, 59 FR 29525 (June 7, 1994); E.O. 13286, 68 FR 10619 (March 5, 2003); 15 CFR part 700; Defense Priorities and Allocations System Delegation No. 2 (August 6, 2002), as amended at 15 CFR part 700.

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)(2)(A) of the Defense Production Act of 1950, as amended, 50 U.S.C. app. 2071(c)(2)(A) (DPA). Section 101(c) authorizes the allocation of, or priority performance under contracts or orders (other than contracts of employment) relating to, materials and equipment, services, or facilities in order to maximize domestic energy supplies if the findings described in section 101(c)(2) are made. Among these findings are that such supplies of materials and equipment, services, or facilities are critical and essential to maintain or further exploration, production, refining, transportation or the conservation of energy supplies or for the construction or maintenance of energy facilities. The function of finding that supplies are critical and essential was delegated to the Secretary of Energy pursuant to E.O. 12919 (59 FR 29525, June 7, 1994) and Department of Commerce Defense Priorities and Allocations System Delegation No. 2, 15 CFR part 700.

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(b) The purpose of these regulations is to establish the procedures and criteria to be used by DOE in determining whether programs or projects maximize domestic energy supplies and whether or not supplies of materials and equipment, services, or facilities are critical and essential, as required by DPA section 101(c)(2)(A). The critical and essential finding will be made only for supplies of materials and equipment, services, or facilities 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, services, or facilities are critical and essential to maintain or further the exploration, production, refining, transportation or conservation of energy supplies or for the construction or maintenance of energy facilities, such determination and finding will be communicated to the Department of Commerce (DOC). If not, the applicant will be so informed. If the determination and finding described in this paragraph are made, DOC, pursuant to DPA section 101(c) and section 203 of E.O. 12919, will find whether or not: The supplies of materials and equipment, services, or facilities in question are scarce; and maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction or maintenance of energy facilities cannot be reasonably accomplished without exercising the authority specified in DPA section 101(c). If these additional two findings are made, DOC 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 DOC, 15 CFR part 700.

[73 FR 10983, Feb. 29, 2008]

### §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) *DHS* means the Department of Homeland Security.

(f) *DOC* means the Department of Commerce.

(g) *DOE* means the Department of Energy.

(h) *Defense Priorities and Allocations System Coordination Office* means the Department of Energy, Office of Electricity and Energy Assurance, OE-30.

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

(j) *Facilities* means all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

(k) *Materials and equipment* means: (1) Any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

(2) Any technical information or services ancillary to the use of such raw materials, commodities, articles, components, products, or items.

(l) *National Defense* means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and any directly related activity. Such term also includes emergency preparedness activities conducted pursuant to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195, *et seq.*) and