

Classification

This action has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The reasons were published along with the proposed rule. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 15 CFR Part 905

Fisheries, Statistics.

Dated: July 26, 1995.

Terry D. Garcia,

General Counsel, National Oceanic and Atmospheric Administration.

For the reasons set out in the preamble, 15 CFR part 905 is added to read as follows:

PART 905—USE IN ENFORCEMENT PROCEEDINGS OF INFORMATION COLLECTED BY VOLUNTARY FISHERY DATA COLLECTORS

Sec.

905.1 Scope.

905.2 Definitions.

905.3 Access to information.

905.4 Use of information.

905.5 Exceptions.

Authority: 16 U.S.C. 1853(f).

§ 905.1 Scope.

This part applies to the use, in enforcement proceedings conducted pursuant to the Magnuson Act, the MMPA, and the ESA, of information collected by voluntary fishery data collectors.

§ 905.2 Definitions.

When used in this part:

Consenting owner means the owner, operator, or crewmember of a vessel carrying a voluntary fishery data collector.

Enforcement proceeding means any judicial or administrative trial or hearing, initiated for the purpose of imposing any civil or criminal penalty authorized under the Magnuson Act, MMPA, or ESA, including but not limited to, any proceeding initiated to: Impose a monetary penalty; modify, sanction, suspend or revoke a lease, license or permit; secure forfeiture of seized property; or incarcerate an individual.

ESA means the Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, and implementing regulations.

Information means all observations, data, statistics, photographs, film, or recordings collected by a voluntary fishery data collector for conservation and management purposes, as defined by the Magnuson Act, MMPA, or ESA, while onboard the vessel of a consenting owner.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1801 *et seq.*, and implementing regulations.

MMPA means the Marine Mammal Protection Act, as amended, 16 U.S.C. 1361 *et seq.*, and implementing regulations.

Secretary means the Secretary of Commerce, the Secretary of the Interior, their chosen designees, or any other Federal agency authorized to enforce the provisions of the Magnuson Act, MMPA, or ESA.

Vessel means any vessel as defined at 16 U.S.C. 1802(31).

Voluntary fishery data collector means:

(1) Any person, including an observer or a sea sampler;

(2) Placed aboard a vessel by the Secretary;

(3) For the purpose of collecting information; and

(4) Whose presence aboard that vessel is not required by the Secretary pursuant to provisions of the Magnuson Act, MMPA, or ESA, or their implementing regulations.

§ 905.3 Access to information.

Information collected by a voluntary fishery data collector:

(a) Is subject to disclosure to both the Secretary and the public, to the extent required or authorized by law; and

(b) Is subject to discovery by any party to an enforcement proceeding, to the extent required or authorized by law.

§ 905.4 Use of information.

(a) Except as provided for in paragraph (b) of this section, information collected by a voluntary fishery data collector may not be introduced by the Secretary as evidence against any consenting owner that is a party to an enforcement proceeding.

(b) Provided that all applicable evidentiary requirements are satisfied:

(1) Information collected by a voluntary fishery data collector may be introduced in an enforcement proceeding by any party except the Secretary;

(2) If information is introduced pursuant to paragraph (b)(1) of this section, all information collected by a voluntary fishery data collector may be introduced by any other party, including the Secretary.

(c) Independent evidence derived from information collected by a voluntary fishery data collector may be introduced by any party, including the Secretary, in an enforcement proceeding.

§ 905.5 Exceptions.

The provisions of this part shall not apply in any enforcement proceeding against a consenting owner that alleges the actual or attempted:

(a) Assault, intimidation, or harassment (including sexual harassment) of any person; or

(b) Impairment or interference with the duties of a voluntary fishery data collector.

[FR Doc. 95-18899 Filed 8-1-95; 8:45 am]

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DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Part 35**

[Docket No. RM94-14-001]

Nuclear Plant Decommissioning Trust Fund Guidelines; Order Granting Rehearing for Purpose of Further Consideration and Granting Limited Stay of Certain Portions of Final Rule

Issued July 27, 1995.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order granting rehearing for purpose of further consideration and granting limited stay of certain provisions of final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is granting rehearing for the purpose of further considering the matters that parties have raised in requests for rehearing and clarification and is staying certain provisions of the Final Rule. The provisions that the Commission is staying involve the requirements that: Public utilities create a separate fund for Commission-jurisdictional Fund collections; and Fund investment managers have a net worth of at least \$100 million. The grant of rehearing for the purpose of further consideration and the stay of these provisions will afford the Commission time to consider the merits of the parties' requests.

EFFECTIVE DATE: July 31, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph C. Lynch (Legal Information), Federal Energy Regulatory Commission, Office of the General

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[Docket No. RM94-14-001]

Nuclear Plant Decommissioning Trust Fund Guidelines; Order Granting Rehearing for Purpose of Further Consideration and Granting Limited Stay of Certain Portions of Final Rule

Issued July 27, 1995.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

On June 16, 1995, the Commission issued a Final Rule in *Nuclear Plant Decommissioning Trust Fund Guidelines*,¹ setting forth requirements for the formation, organization and purpose of nuclear plant decommissioning trust funds (Fund) and for Fund investments. The Commission has received motions for stay and/or requests for rehearing and for clarification from: a group of investment management firms and trust companies; a group of public utility

companies; Strong Capital Management, Inc.; Commonwealth Edison Company; Indiana Michigan Power Company; Maine Yankee Atomic Power Company; New England Public Power Nuclear Customers; and Edison Electric Institute.

In the absence of Commission action within 30 days, the requests for rehearing would be deemed to have been denied. 18 CFR 385.713. In order to allow sufficient time for due consideration of the matters raised, we will grant rehearing for the limited purpose of further consideration.

A number of the parties request that the Commission stay the following provisions of the Final Rule while the requests for rehearing are pending:

1. The requirement that public utilities must establish a separate nuclear decommissioning trust fund for Commission-jurisdictional Fund collections; and

2. The requirement that a Fund investment manager must have a net worth of at least \$100 million.²

In acting on stay requests, the Commission applies the standard set forth in the Administrative Procedure Act,³ *i.e.*, the stay will be granted if the Commission finds that "justice so requires."⁴ In this instance, we will grant a stay of the two challenged provisions of the Final Rule so that we may further consider them while the requests for rehearing are pending.

The remaining provisions of the Final Rule will go into effect on July 31, 1995.

The Commission orders:

(A) Rehearing is hereby granted for the limited purpose of further consideration.

(B) The following note is added to the end of § 35.32 (18 CFR 35.32):

Note: The following provisions of this section are stayed as of July 31, 1995:

1. The requirements in 18 CFR 35.32(a)(1) and (f) that public utilities must establish a separate nuclear decommissioning trust fund for Commission-jurisdictional Fund collections.

2. The requirement in 18 CFR 35.32(a)(4) (the words "and any other Fiduciary") that a Fund investment manager must have a net worth of at least \$100 million.

Authority: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

² See 60 FR 34117, 34123; *slip op.* at 37, 71-72.

³ 5 U.S.C. 705.

⁴ See Power Authority of the State of New York, 71 FERC ¶ 61,321 (1995).

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 95-19034 Filed 7-28-95; 3:37 pm]

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18 CFR Part 284

[Docket No. RM93-4-008; Order No. 563-E]

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

Issued July 27, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order modifying capacity release data sets.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order making changes to its capacity release data sets and Electronic Data Interchange implementation guide in response to a filing by the Electronic Bulletin Board Working Group. The Commission's order revises its "Standardized Data Sets and Communication Protocols," available at the Commission's Public Reference and Files Maintenance Branch.

EFFECTIVE DATE: Pipelines must implement the new requirements by October 25, 1995.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

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¹ Nuclear Plant Decommissioning Trust Fund Guidelines, Order No. 580, 60 FR 34109 (June 30, 1995), 71 FERC ¶ 61,350 (1995).