

the Committee voted to recommend a reduced assessment rate.

The Committee reviewed and unanimously recommended 2007–08 expenditures of \$2,101,000, which included a decrease in the education and promotion budget. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, Finance Subcommittee, Research Subcommittee, and Education and Promotion Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the tomato industry. The assessment rate of \$0.0325 per 25-pound carton of assessable tomatoes was then determined by dividing the total recommended budget, less carry-in and reserve revenues totaling \$476,000, by the quantity of tomatoes, estimated at 50 million 25-pound cartons for the 2007–08 fiscal period.

A review of historical information and preliminary information pertaining to the upcoming 2007–08 fiscal period indicates that the grower price for the 2007–08 season could range between \$3.89 and \$16.05 per 25-pound carton of tomatoes. Therefore, the estimated assessment revenue for the 2007–08 fiscal period as a percentage of total grower revenue could range between 0.2 and 0.8 percent.

This action continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 23, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

An interim final rule concerning this action was published in the **Federal Register** on November 15, 2007 (72 FR 64123). Copies of that rule were also mailed or sent via facsimile to all Florida tomato handlers. Finally, the interim final rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended January 14, 2008, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

PART 966—TOMATOES GROWN IN FLORIDA

■ Accordingly, the interim final rule amending 7 CFR part 966 which was published at 72 FR 64123 on November 15, 2007, is adopted as a final rule without change.

Dated: February 25, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–3801 Filed 2–28–08; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–A132

Delegated Authority To Order Use of Procedures for Access to Certain Sensitive Unclassified Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is amending its rules of practice to delegate authority to the Office of the Secretary of the Commission to issue orders requiring the use of certain procedures for access to sensitive unclassified information in adjudicatory proceedings. The NRC is also making available final procedures that would allow potential parties to NRC adjudications to gain access to Sensitive Unclassified Non-Safeguards Information (SUNSI) or Safeguards Information (SGI).

DATES: The effective date of the final rule is March 31, 2008. The implementation date of the procedures is March 31, 2008. If the procedures will be applied in a particular proceeding, the Commission will include them by order in the associated **Federal Register** notice of hearing or a notice of opportunity for hearing.

FOR FURTHER INFORMATION CONTACT: Tison Campbell, Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–8579, e-mail tison.campbell@nrc.gov.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to pdr@nrc.gov.

The ADAMS accession number for the procedures is ML080380626; the ADAMS accession number for the response to public comments is ML080380633.

SUPPLEMENTARY INFORMATION:

I. Background

- II. Discussion
- III. Voluntary Consensus Standards
- IV. Environmental Impact: Categorical Exclusion
- V. Paperwork Reduction Act Statement
- VI. Regulatory Analysis
- VII. Backfit Analysis
- VIII. Congressional Review Act

I. Background

Commission regulations in 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders" govern the conduct of NRC adjudicatory proceedings. Potential parties who have requested or who may request a hearing or petition to intervene in a hearing under 10 CFR part 2 may deem it necessary to obtain access to SUNSI (including, but not limited to, proprietary, confidential commercial, and security-related information) or SGI (as defined in 10 CFR 73.2) to meet Commission requirements for hearing requests or for intervention. On August 6, 2007, the Commission announced the availability for comment of procedures to allow potential parties to submit information requests and enter into protective agreements prior to becoming a party to a proceeding so that those who demonstrate a legitimate need for SUNSI or SGI can receive relevant documents to prepare a valid contention. See, *Interlocutory Review of Rulings on Requests by Potential Parties for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information; Reopening of Public Comment Period and Notice of Availability of Proposed Procedures for Comment* (72 FR 43569; August 6, 2007). After considering public comments, the Commission has finalized the procedures and made them available on the NRC Web site. See, ADAMS Accession No. ML080380626. The Commission has also documented its response to public comments received and made that response available on the NRC Web site. See, ADAMS Accession No. ML080380633.

The procedures reflect the longstanding practice of NRC staff access determinations in the first instance, subject to review by a presiding officer if contested. The procedures also describe how the public will be informed of this process. The procedures address:

- (1) When and where to submit requests for access to SUNSI and SGI that is possessed by the NRC;¹
- (2) Who will assess initially whether the proposed recipient has shown a

need for SUNSI (or need to know for SGI) and a likelihood of establishing standing;

(3) Who will decide initially whether the proposed recipient is qualified (i.e., trustworthy and reliable) to receive SGI;

(4) Use of nondisclosure affidavits/agreements and protective orders; and

(5) Time periods for making standing, need, and access determinations, producing documents, submitting contentions, and seeking review of determinations.

These procedures also include a "pre-clearance" process that would permit a potential party who may seek access to SGI to initiate the necessary background check in advance of a notice of opportunity for hearing.

II. Discussion

As explained in the background information that accompanies the procedures, the use of the procedures in a particular proceeding will be established by order in a **Federal Register** notice of hearing or a notice of opportunity for hearing. The issuance of these orders as part of such **Federal Register** notices is intended to emphasize and make clear that the procedures will be binding on the presiding officer or administrative judge or officer assigned, and on the parties and the potential parties to that proceeding. Having considered public comments and revised the procedures in response, the Commission expects that these final procedures will be appropriate for use in many proceedings. Therefore, for greater administrative efficiency, the Commission concludes that authority to issue the orders requiring the use of the procedures in individual proceedings may be delegated to the Office of the Secretary of the Commission (Secretary). To clarify that the Secretary's authority includes the authority to issue such orders on the Commission's behalf, the Commission is adding a provision to that effect in 10 CFR 2.307 of the agency's rules of practice. Because this delegation is a rule of agency organization, procedure, or practice within the meaning of 5 U.S.C. 553, the Commission has determined that notice and public comment on this amendment is not necessary.

The rule amends 10 CFR 2.307, a provision which concerns extension and reduction of time limits. The Commission is revising the title of the section to refer also to "delegated authority to order use of procedures for access by potential parties to certain sensitive unclassified information." Second, the Commission is adding a new paragraph (c) to that provision.

This new paragraph delegates authority to the Secretary "to issue orders establishing procedures and timelines for submitting and resolving requests for" SUNSI or SGI. The provision further states that this delegated authority applies in circumstances when potential parties may deem it necessary to obtain access to SUNSI or SGI in order to meet Commission requirements for intervention. This language is intended to mirror the limited scope and purpose of the final access procedures, as identified in the procedures and in the accompanying Background Information of this document. The delegated authority also extends to limited case-specific modifications to those procedures if the Secretary concludes that they are warranted for a particular proceeding. This delegation does not alter or expand the Secretary's existing authority with respect to issuing orders unrelated to requests for access to sensitive unclassified information.

III. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. The NRC is delegating authority within the agency as a matter of agency organization and procedure. This action does not constitute the establishment of a government-unique standard as defined in the Office of Management and Budget (OMB) Circular A-119 (1998).

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

V. Paperwork Reduction Act Statement

This rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

¹ The proposed procedures do not address information possessed solely by a licensee or applicant.

VI. Regulatory Analysis

A regulatory analysis has not been prepared for this rule because it applies to the delegation of authority within the NRC and does not involve any provisions that would impose any economic burdens on licensees or the public.

VII. Backfit Analysis

The NRC has determined that the backfit rules (§§ 50.109, 70.76, 72.62, or 76.76) do not apply to this final rule because this amendment does not involve any provisions that would impose backfits as defined in 10 CFR Chapter I. Therefore, a backfit analysis is not required.

VIII. Congressional Review Act

Under the Congressional Review Act, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Energy Policy Act of 2005, and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND FOR ISSUANCE OF ORDERS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f)), sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871).

Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134,

2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201(b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554.

Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133), and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

■ 2. In § 2.307, the heading is amended and a new paragraph (c) is added to read as follows:

§ 2.307 Extension and reduction of time limits; delegated authority to order use of procedures for access by potential parties to certain sensitive unclassified information.

* * * * *

(c) In circumstances where, in order to meet Commission requirements for intervention, potential parties may deem it necessary to obtain access to safeguards information (as defined in § 73.2 of this chapter) or to sensitive unclassified non-safeguards information, the Secretary is delegated authority to issue orders establishing procedures and timelines for submitting and resolving requests for this information.

Dated at Rockville, Maryland, this 21st day of February 2008.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8–3824 Filed 2–28–08; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 216

48 CFR Parts 911 and 952

RIN 1991–AB69

Defense Priorities and Allocations System

AGENCY: Department of Energy.

ACTION: Direct final rule.

SUMMARY: The Department of Energy (DOE) today is issuing a direct final rule to update the DOE regulations which implement DOE's delegated authority under section 101(c) of the Defense Production Act of 1950 (DPA). Section 101(c) provides authority to the President of the United States (President) to require the allocation of, or priority performance under contracts or orders relating to, materials and equipment, services, or facilities, in order to maximize domestic energy supplies, if the President makes certain findings. The President's authority under section 101(c) was delegated to the Secretary of Commerce and the Secretary of Energy. This final rule makes a number of changes to conform to a 1991 amendment to the DPA which broadens the scope of authority in section 101(c). This final rule also makes conforming changes to Department of Energy Acquisition Regulation (DEAR).

DATES: This direct final rule is effective April 29, 2008, unless adverse or critical comments are received by March 31, 2008. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: This direct final rulemaking is available and comments may be submitted online at <http://www.Regulations.gov>. Comments may be submitted by e-mail to Mike.Soboroff@hq.doe.gov. Comments may be mailed to: Mike Soboroff, U.S. Department of Energy, Office of Electricity and Energy Assurance, OE–30, 1000 Independence Avenue, SW., Washington, DC 20585. Comments by e-mail are encouraged.

FOR FURTHER INFORMATION CONTACT: Mike Soboroff at (202) 586–4936 or via e-mail at Mike.Soboroff@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion

II. Final Action

III. Procedural Requirements

A. Review Under Executive Order 12866

B. Review Under Executive Order 12988

C. Review Under the Regulatory Flexibility Act

D. Review Under the Paperwork Reduction Act