

**DEPARTMENT OF DEFENSE****Office of the Secretary****U.S. Court of Appeals for the Armed Forces Proposed Rule Change**

**ACTION:** Notice of proposed change to the rules of practice and procedure of the United States Court of Appeals for the Armed Forces.

**SUMMARY:** This notice announces the following proposed new Rule 30A of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces for public notice and comment:

*Proposed New Rule 30a—Fact Finding*

(a) General. The court will normally not consider any facts outside of the record established at the trial and the Court of Criminal Appeals.

(b) Judicial notice. In an appropriate case, the Court may take judicial notice of an indisputable adjudicative fact.

(c) Remand for fact finding. If an issue concerning an unresolved material fact may affect the Court's resolution of the case, a party may request, or the Court may *sua sponte* order, a remand of the case or the record to the Court of Criminal Appeals. If the record is remanded, the court retains jurisdiction over the case. If the case is remanded, the Court does not retain jurisdiction, and a new petition for grant of review or certificate for review will be necessary if a party seeks review of the proceedings conducted on remand.

(d) Stipulation by the parties. If an issue concerning an unresolved material fact may affect the Court's resolution of the case, the parties may stipulate to a factual matter, subject to the court's approval.

(e) Other means. Where it is impracticable to remand a case to the Court of Criminal Appeals, the Court may order other means to develop relevant facts, including the appointment of a special master to hold hearings, if necessary, and to make such recommendations to the Court as are deemed appropriate.

**DATES:** Comments on the proposed change must be received by December 8, 1998.

**ADDRESSES:** Forward written comments to Thomas F. Granahan, Clerk of the Court, United States Court of Appeals for the Armed Forces, 450 E Street, Northwest, Washington, DC 20442-0001.

**FOR FURTHER INFORMATION CONTACT:** Thomas F. Granahan, Clerk of Court, telephone (202) 761-1448(x600).

**SUPPLEMENTARY INFORMATION:** The Rules Advisory Committee Comment on the

proposed new Rule 30A is included as an attachment to this notice.

**Rules Advisory Committee Comment on Proposed Rule 30A**

Proposed Rule 30A codifies the Court's practice concerning additional fact finding, and provides a counterpart to Federal Rule of Appellate Procedure 48, which concerns appointment of special masters. While requests to establish additional facts are disfavored, the Court has on occasion accepted affidavits, appointed special masters, accepted stipulations of fact, and directed that evidentiary hearings be held. Subsection (b) codifies the Court's discussion of judicial notice in *United States v. Williams*, 17 MJ 207 (CMA 1984). Subsection (c) recognizes that the Court may sometimes remand a case for the lower court's reconsideration in light of a contested issue of fact's determination, or it may sometimes choose to remand for the limited purpose of determining a contested fact while retaining jurisdiction over the case. Subsection (c) enables the Court to decide on a case-by-case basis whether the lower court will exercise complete jurisdiction upon remand. *Cf.* D.C. Cir. R. 41(b). The Committee envisions that stipulations made under subsection (d) will be presented to the Court via a motion to attach a stipulation to the record made pursuant to Rule 30. Subsection (e) recognizes that, where necessary, the Court may order alternative means of determining facts, including the appointment of special masters.

Dated: October 2, 1998.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 98-27085 Filed 10-8-98; 8:45 am]

BILLING CODE 5000-04-M

**DEPARTMENT OF ENERGY****Energy Information Administration****Agency Information Collection Under Review by the Office of Management and Budget**

**AGENCY:** Energy Information Administration, Department of Energy.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub.

L. 104-13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

**DATES:** Comments must be filed on or before November 9, 1998. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

**ADDRESSES:** Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI-70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Miller may be telephoned at (202) 426-1103, FAX (202) 426-1081, or e-mail at hmler@eia.doe.gov.

**SUPPLEMENTARY INFORMATION:** The energy information collection submitted to OMB for review was:

1. RW-859, "Nuclear Fuel Data Form"
2. Office of Civilian Radioactive Waste Management, OMB No. 1901-0287, Revision of a Currently Approved Collection; Mandatory.
3. Form RW-859 collects data to be used by the Office of Civilian Radioactive Waste to define, develop, and operate its storage that requires

information on spent nuclear fuel inventories, generation rates, and storage capacities. Respondents are all owners of nuclear power plants and owners of spent nuclear fuel.

4. Business or other for-profit.

5. 5,074 hours (59 respondents  $\times$  2.15 responses per year  $\times$  40 hours).

**Statutory Authority:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104-13).

Issued in Washington, D.C., October 5, 1998.

**Lynda T. Carlson,**

*Director, Statistics and Methods Group,  
Energy Information Administration.*

[FR Doc. 98-27227 Filed 10-8-98; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP99-23-000]

#### ANR Storage Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, ANR Storage Company (ANRS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective November 2, 1998.

ANRS states that the purpose of the filing is to incorporate standards relating to intra-day nominations adopted by the Gas Industry Standards Board and incorporated into the Commission's Regulations by Order No. 587-H, issued July 15, 1998, at Docket No. RM96-1-008.

ANRS states that copies of the filing were served upon the company's Jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98-27149 Filed 10-8-98; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP99-15-000]

#### Black Marlin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Black Marlin Pipeline Company (Black Marlin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of November 2, 1998:

Second Revised Sheet No. 111  
Fourth Revised Sheet No. 112  
Second Revised Sheet No. 112A  
Second Revised Sheet No. 113  
Second Revised Sheet No. 135  
Fourth Revised Sheet No. 136  
Second Revised Sheet No. 136A  
Second Revised Sheet No. 137  
Fourth Revised Sheet No. 201A  
Second Revised Sheet No. 211  
Original Sheet No. 211A  
Original Sheet No. 211B  
Original Sheet No. 211C  
Original Sheet No. 211D  
Third Revised Sheet No. 212

Black Marlin states that the instant filing is made in compliance with Order No. 587-H to implement the provisions of Order Nos. 587-G and 587-H regarding the intraday nomination and scheduling provisions promulgated by the Gas Industry Standards Board (GISB), including the bumping of scheduled interruptible service by firm shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection in the Public Reference Room.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98-27144 Filed 10-8-98; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP99-27-000]

#### Blue Lake Gas Storage Company; Notice of Tariff Filing

October 5, 1998.

Take notice that on October 1, 1998, Blue Lake Gas Storage Company (Blue Lake) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective November 2, 1998.

Blue Lake states that the purpose of the filing is to incorporate standards relating to intra-day nominations adopted by the Gas Industry Standards Board and incorporated into the Commission's Regulations by Order No. 587-H, issued July 15, 1998, at Docket No. RM96-1-008.

Blue Lake states that copies of the filing were served upon the company's Jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**David P. Boergers,**

*Secretary.*

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