

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-611 (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rules discussed herein are only an administrative delegation and will have no impact on registered entities. Even if these rules were deemed to affect FCMs, the Commission already has established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such small entities in accordance with the RFA and FCMs have been determined not to be small entities under the RFA.⁴ Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that these rule amendments will not have a significant impact on a substantial number of smaller entities.

List of Subjects in 17 CFR Part 140

Authority delegations (Government agencies).

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and, in particular, sections 2a and 8a, 7 U.S.C. 4a and 12a, the Commission is amending part 140 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

1. The authority citation for Part 140 continues to read as follows:

Authority: 7 U.S.C. 4a and 12a.

2. Section 140.91 is amended by redesignating paragraphs (a)(3) and (a)(4) as (a)(5) and (a)(6) and by adding new paragraphs (a)(3) and (a)(4) to read as follows:

§ 140.91 Delegation of authority to the Director of the Division of Trading and Markets.

(a) * * *

(3) All functions reserved to the Commission in § 1.14 of this chapter;

(4) All functions reserved to the Commission in § 1.15 of this chapter;

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Issued in Washington, D.C. on February 7, 1995, by the Commission.

Jean A. Webb,

Secretary of the Commission.

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TENNESSEE VALLEY AUTHORITY**18 CFR Part 1310****Administrative Cost Recovery**

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: This final rule amends TVA's administrative cost recovery regulations by adding a provision requiring payment to TVA of nonrefundable application processing fees to recover the costs of reviewing plans for the construction, operation, or maintenance of dams, appurtenant works, or other obstructions affecting navigation, flood control, or public lands or reservations in the Tennessee River system under Section 26a of the TVA Act; eliminating cost recovery exemptions for agricultural licenses, firewood cutting permits, permits for the nonexclusive short-term use of TVA land, conveyance or abandonment of TVA land or landrights to States, municipalities, and political subdivisions and agencies thereof, and use of TVA land for utility line crossings; authorizing the responsible land manager to establish a standard charge for each category of action rather than determining the actual administrative costs for each individual action; and increasing the range of fees for certain actions. These amendments will allow TVA to recover more of its administrative costs incurred in processing certain actions from those persons who directly benefit from the actions.

EFFECTIVE DATE: March 17, 1995.

FOR FURTHER INFORMATION CONTACT: David L. Pack, Manager of Reservoir Land Management, Tennessee Valley Authority, 17 Ridgeway Road, Norris, Tennessee 37828, (615) 632-1602.

SUPPLEMENTARY INFORMATION: TVA published the proposed rulemaking in the **Federal Register** on October 27 (59 FR 53948-49) and invited comments for 30 days ending November 28, 1994. No comments were received. Accordingly, TVA is promulgating this final rule as proposed.

In order to help ensure that TVA land management and permitting activities are self-sustaining to the fullest extent possible, the agency has determined that its administrative cost recovery regulations should be expanded to include a broader range of use, disposal, and permitting activities. This determination is consistent with national objectives to increase government efficiency and to recover the costs of government services from

those who most directly benefit from the services.

Persons who wish to construct dams, appurtenant works, or other obstructions in or along the Tennessee River system are required by Section 26a of the TVA Act of 1933, as amended, to obtain TVA's approval of plans for the proposed activity prior to construction. TVA's administrative cost recovery regulations previously provided for recovery of costs of actions taken by TVA to approve obstructions constructed without prior approval of plans. In order to help ensure that the agency's entire Section 26a permitting program is self-sustaining to the fullest extent possible, the amended regulations now provide for recovery of costs of processing permits for proposed obstructions as well as after-the-fact permit processing. The responsible TVA land manager has established standard permit processing fees that will be payable upon submission of a permit application and will be nonrefundable regardless of whether or not the plans are approved by TVA.

Initially, the standard application processing fee for private noncommercial Section 26a permit proposals will be \$100, and the standard fee for commercial, industrial, and public Section 26a permit application processing will be \$500. These fees are based in part upon a review of costs incurred by TVA in processing these permits. In addition, TVA examined prevailing permit application fees by conducting a comparative analysis survey of several other agencies and utilities. In adjusting application processing fees and in establishing standard fees for other applicable activities, the responsible land manager will examine average costs incurred in conducting the various activities.

The amended regulations also provide for increasing TVA's administrative fee for quota deer hunts and quota turkey hunts at Land Between The Lakes. The purpose of this fee is to recover the cost of processing applications, conducting a computerized drawing, and mailing notification of selection status. The hunting fee will increase from \$2 to a range of \$5 to \$25. This range will allow TVA to recover increasing costs of conducting the drawings and hunts, and allow a range of pricing for special hunts and drawings.

Applications received prior to March 17, 1995, will be processed under the regulations in effect at the time of receipt of the application.

List of Subjects in 18 CFR Part 1310

Government property, Hunting.

⁴ 47 FR 18618-18621 (April 30, 1982).