

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

18 CFR Parts 2, 153, 157, 284, 375, 380, and 385

[Docket No. RM98-9-000]

Revision of the Commission's Regulations Under the Natural Gas Act

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend the regulations codifying the Commission's responsibilities under the Natural Gas Act and Executive Order 10485, as amended. The Commission proposes to update its regulations governing the filing of applications for the construction and operation of facilities to provide service or to abandon facilities or service under section 7 of the Natural Gas Act. The proposed changes are necessary to conform the Commission's regulations to the Commission's current policies.

DATES: Comments are due on December 1, 1998.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael J. McGehee, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 208-2257

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SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE., Room 2A, Washington, DC 20426.

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Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

In the matter of: Revision of the Commission's Regulations Under the Natural Gas Act; Docket No. RM98-9-000.

Notice of Proposed Rulemaking

September 30, 1998.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations governing the filing of applications for certificates of public convenience and necessity authorizing the construction and operation of facilities to provide service or to abandon facilities or service under section 7 of the Natural Gas Act (NGA),¹ and to amend the blanket certificate under Subpart F of Part 157. The Commission has determined that portions of its regulations need to be revised and/or eliminated in order to reflect the current regulatory environment of unbundled pipeline sales and open-access transportation of natural gas. The proposed revisions would: (1) bring the existing regulations up-to-date to match current policies; (2) eliminate ambiguities and obsolete language; and (3) make the regulations more germane, and less cumbersome.

Additionally, the Commission proposes to consolidate and clarify its

current practice concerning the reporting requirements needed for its environmental review of pipeline construction projects. Generally, the Commission's requirements concerning its environmental review process are either outdated, found in several different parts of the Commission's regulations, or replaced by current practice with a preferred format that is not in the Commission's regulations, but has been used routinely by jurisdictional companies. The proposed regulations would provide better guidance to the regulated industry concerning what particular information the Commission needs to conduct a timely environmental analysis.

II. Information Collection Statement

The proposed rule, if adopted, would establish new reporting requirements, modify existing reporting requirements and eliminate those requirements that are now obsolete. The Commission seeks to simplify and streamline its requirements to reduce the burden on pipelines. The current public reporting burden for these information collections is estimated to average the following number of hours per response: FERC-537²—146,160 hours for the 50 gas companies that complete a filing; FERC-539³—2400 hours for the 12 gas companies that complete a filing; FERC-577⁴—181,794 hours for the 55 companies that complete a filing. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The overall burden of filing will be reduced based on the elimination of certain filings by the rule. Further, the burden will be reduced by the elimination of the requirement to report all but cost information for prior notice activity in the annual report. On the whole, the Commission estimates that the revised reporting schedule will reduce the existing reporting burden by a total of 8,284 hours.

On balance, therefore, the Commission believes the overall burden on the industry will be lessened over time by the proposed changes. To consider the impact on the persons affected by this rulemaking, the Commission would like specific comments on the impact of this rule on individual natural gas companies. Both estimates of current burden and impact

² Gas Pipeline Certificates: Construction, Acquisition, and Abandonment.

³ Gas Pipeline Certificate: Import/Export Related.

⁴ Environmental Impact Statement (Pipeline Certificate).

¹ 15 U.S.C. 717b.

should be in work hours and dollar costs in sufficient detail to demonstrate methodology and assumptions.

The burden estimates for complying with this proposed rule are as follows:

Public Reporting Burden: Estimated Annual Burden.

Data collection	Number of respondents	Number of responses	Hours of response	Total annual hours
FERC-537	50	11.2	245.82	137,660
FERC-539	12	1	218	2,616
FERC-577	70	16.8	154	181,720

Total Annual Hours for collections (Reporting + Record keeping, (if appropriate)) = 321,996

Based on the Commission's experience with processing applications for construction and acquisition of pipeline facilities over the last three fiscal years (FY95-FY97), it is estimated that 1754.5 filings per year will be made over the next three years at a burden of 183 hours per filing, for a total annual burden of 321,996 hours under the proposed regulations.

Information Collection costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be:

Data collection	Annualized capital/start-up costs	Annualized costs (Operations & Maintenance)	Total annualized costs
FERC-537	\$30,000	\$7,189,717	\$7,219,717
FERC-539	7,200	136,639	143,829
FERC-577	0	9,494,751	9,494,751

The Office of Management of Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.⁵ Accordingly, pursuant to OMB regulations, the Commission is providing notice of its proposed information collections to OMB.

The following collections of information contained in this proposed rule are being submitted to the OMB for review under Section 3507(d) of the Paperwork Reduction Act of 1995.⁶ FERC identifies the information provided under Parts 2, 153, 157 and 284 as FERC Nos. 537, 539, and 577. The information submitted in response to these requirements is mandatory.

Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

Title: FERC-537 "Gas Pipeline Certificates: Construction, Acquisition, and Abandonment"; FERC-539 "Gas Pipeline Certificate: Import/Export Related" and FERC-577 "Environmental Impact Statement (Pipeline Certificate).

Action: Proposed Data Collections.

OMB Control No.: 1902-0060; 1902-0062; 1902-0128.

Applicants shall not be penalized for failure to respond to these collections of information unless the collections of information display a valid OMB control number.

Respondents: Businesses or other for profit.

Frequency of Responses: On occasion.

Necessity of Information: The proposed rule revises the Commission's regulations governing the filing of applications for the construction and operation of pipeline facilities to provide service or to abandon facilities or service under section 7 of the NGA. Section 7 of the NGA requires the Commission to issue certificates of public convenience and necessity for all interstate sales and transportation of natural gas, the construction and operation of natural gas facilities used for those interstate sales and transportation and prior Commission approval of abandonment of jurisdictional facilities or services. The Commission has determined that portions of its regulations need to be revised to reflect recent regulatory changes, in particular, implementation of pipeline restructuring under Order No. 636,⁷ which have rendered certain

regulations implementing Section 7 needless or outdated.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements. The Commission's Office of Pipeline Regulation (OPR) will use the data included in applications to determine whether proposed facilities are in the public interest and general industry oversight. This determination involves, among other things, an examination of adequacy of design, costs, reliability, redundancy, safety, and environmental acceptability of the proposed facilities. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry.

For information on the requirements, submitting comments concerning the collection of information and the associated burden estimates, including suggestions for reducing this burden, please send your comments to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208-1415, fax: (202) 273-0873, e-mail: michael.miller@ferc.fed.us]. In addition, comments on reducing the burden and/or improving the collections of information should also be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk

⁵ 5 CFR 1320.11 (1997).

⁶ 44 U.S.C. 3507(d).

⁷ Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992) FERC Stats. & Regs. ¶ 30,939 (April 8, 1992).

Officer for the Federal Energy Regulatory Commission, 725 17th Street, NW, Washington, D.C. 20503, phone (202)395-3087, fax: (202)395-7285.

III. Background and Proposal

Since the enactment of the Natural Gas Policy Act of 1978 (NGPA)⁸ and the Natural Gas Wellhead Decontrol Act of 1989 (Decontrol Act),⁹ the natural gas industry has undergone significant changes. Historically, the Commission regulated natural gas producers and wellhead prices and interstate pipelines served as gas merchants. Pipelines now generally only provide open-access transportation services and the Commission no longer regulates producers and wellhead prices. The Commission implemented these changes through its rulemaking process¹⁰ and through issuing policy statements.¹¹ Generally, the Notice of Proposed Rulemaking (NOPR) proposes to amend the Commission's regulations to conform them to its existing policies and procedures. Additionally, in response to the natural gas industries' request,¹² the NOPR proposes to modify

⁸ 15 U.S.C. 3301-3432 (1978).

⁹ Public Law No. 101-60, 103 Stat. 157 (1989).

¹⁰ See Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, 50 FR 42408 (November 5, 1985) FERC Stats. and Regs. ¶ 30,665 (October 9, 1985) (Order No. 436 instituted open-access, non-discriminatory transportation to permit downstream gas users to buy gas directly in the production area and to ship that gas via interstate pipelines); Order Implementing the Natural Gas Wellhead Decontrol Act of 1989, Order No. 523, 55 FR 17425 (April 25, 1990) FERC Stats. and Regs. ¶ 30,887 (April 18, 1990) and Removal of Outdated Regulations Pertaining to the Sales of Natural Gas Production, Order No. 567, 59 FR 40240 (August 8, 1994) FERC Stats. and Regs. ¶ 30,999 (July 28, 1994) (in Order Nos. 523 and 567, the Commission generally amended its regulations to delete those pertaining to its jurisdiction over the sale of natural gas production); and Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992) FERC Stats. & Regs. ¶ 30,939 (April 8, 1992) (in Order No. 636, the Commission adopted regulatory changes to finally complete the evolution to competition in the natural gas industry by mandating the unbundling of interstate natural gas sales service from transportation service, requiring that those services be sold separately to natural gas purchasers).

¹¹ Pricing Policy For New and Existing Facilities Constructed by Interstate Natural Gas Pipelines, 71 FERC ¶ 61,241 (1995).

¹² As a result of the changes in the industry, the Commission convened a public conference on May 29 and 30, 1997 (May conference), to conduct a broad inquiry into the important issues facing the natural gas industry today. Various participants at the May conference raised concerns regarding the Commission's certificate process in the post-Order No. 636 era. Generally, the participants requested that the Commission focus on expediting the approval process for construction certificates to enhance the pipeline's ability to respond more

certain aspects of the Commission's current regulations to help expedite the certificate process. We note that this is one of many initiatives the Commission is implementing to improve upon the current regulatory structure for natural gas transportation service.¹³ Moreover, concurrent with the issuance of this NOPR, the Commission is issuing another NOPR, in Docket No. RM98-16-000, which proposes that pipelines use a collaborative process to resolve significant issues prior to filing an application to construct facilities. Additionally, the Commission is issuing a Notice of Technical Conference, in Docket No. RM98-17-000, to address its concerns regarding its present landowner notification policies and its present environmental classification of residential areas.

The NOPR serves 5 basic purposes: (1) It eliminates certain obsolete regulations and outdated or unnecessary filing requirements and reports; (2) it clarifies and updates certain regulations to conform to the Commission's present policies; (3) it modifies certain existing regulations to help expedite the certificate process; (4) it replaces certain outdated environmental filing procedures with the more commonly followed industry practice; and (5) it makes minor modifications to the existing electronic filing requirements.

A. Eliminating Obsolete Regulations and Outdated or Unnecessary Filing Requirements and Reports

The Commission proposes to remove certain regulations that are outdated and obsolete including, among other things, regulations that pertain to producer related activities made obsolete by the Decontrol Act and regulations that pertain to a pipeline's merchant function. Additionally, the Commission proposes to remove various regulations that pertain to certain activities that were performed under the blanket certificate issued in Subpart F of Part 157 that are now performed under Part 284 of the Commission's regulations. For example, section 157.213 grants authorization for the certificate holder to provide contract storage service. Pipelines now provide storage service under their Part 284 blanket transportation certificate. Section 157.217 grants the certificate holder

quickly to accommodate new and changing market conditions.

¹³ See Public Access to Information and Electronic Filing, Docket No. PL98-1-000, 63 FR 27,529 (May 19, 1998), Regulations of Short-Term Natural Gas Transportation Services, Docket No. RM98-10-000, 63 FR 42,982 (Aug. 11, 1998) and Regulation of Interstate Natural Gas Transportation Service, Docket No. RM98-12-000, 63 FR 42,973 (Aug. 11, 1998).

automatic authorization to permit an existing customer to change from one rate schedule to another. Rate schedules are now offered under Part 284.

The Commission also proposes: (1) to remove references to filing fees eliminated by Order No. 548;¹⁴ and (2) to change outdated references to the Office of Pipeline and Producer Regulation to Office of Pipeline Regulation (OPR), and change outdated references to the Environmental Evaluation Branch to the Environmental Staff of OPR.

The Commission proposes to remove certain outdated and/or unnecessary filing requirements and reports. For example, the Commission proposes to remove certain information in the exhibits filed with a NGA section 7 certificate application including, among other things, Exhibit J which requires that pipelines provide studies regarding any impacts related to potential direct industrial customers converting from other fuels to natural gas, and Exhibit L which requires that pipelines file certain financial information that the Commission no longer needs with a certificate application.

The Commission also proposes to remove certain blanket certificate filing requirements including, among other things, information concerning outdated budget-type certificates and rate schedules for sales for resale and for storage services. The Commission also proposes to remove the prior notice reporting requirements which require that pipelines file certain gas supply information and the names of the independent producers or other sellers.

B. Clarifying and Updating Regulations to Conform to the Commission's Present Policies

The Commission proposes to clarify certain aspects of the regulations. For example, the NOPR clarifies that auxiliary facilities installed at the same time and related to newly proposed jurisdictional facilities do not qualify for exemption under section 2.55(a), since the exemption is limited to installations which are designed specifically to improve the operation of an existing transmission system. The Commission also proposes to amend section 157.10 to clarify that pipelines do not have to serve voluminous or difficult to reproduce materials, such as copies of environmental information, upon all parties in a proceeding, except as specifically requested. This procedure is consistent with our requirements for

¹⁴ Elimination of Filing Fees, Order No. 548, 58 FR 2968 (January 7, 1993) FERC Stats. and Regs. ¶ 30,960 (January 4, 1993).

pipelines filing rate schedules and tariffs under Part 154. However, we expect pipelines to make all such information readily available in the project area.

The Commission proposes to replace the term "small-diameter lateral" with "small diameter supply or delivery lateral" to provide a more objective description of facilities the Commission will not consider to be mainline facilities. The Commission also proposes to add an introductory sentence in section 157.206(d) that explains that the environmental conditions contained in that section apply only to activities under the blanket certificate that involve ground disturbance or changes to operational air and noise emissions.

The Commission proposes, among other things, to amend section 2.55(b) consistent with the Commission's order in *Arkla Energy Resources Co. (Arkla)*¹⁵ by requiring that replacement facilities constructed under section 2.55 must be constructed in the existing right-of-way. The Commission also proposes to amend sections 157.20(b) and 157.206(f) to state that the facilities must be completed and available for service within one year instead of in actual operation within one year. This would address concerns that events outside a pipeline's control could prevent facilities from being placed in operation within the specified time frame, i.e., a shipper does not actually flow gas on time.

The Commission intends to revise section 157.202(b)(2)(i) to clarify that it includes receipt points in the definition of eligible facilities consistent with our regulations under Part 284 which recognize that a pipeline can construct any eligible facility under its Part 157 blanket certificate to provide Part 284 service to use existing capacity, including receipt points. The Commission also proposes to add a new section 157.6(b)(8), which requires that pipelines file the necessary information for the Commission to make an upfront determination of the rate treatment of the proposed construction project in accordance with the Commission's Pricing Policy Statement.¹⁶

C. Modifying Existing Regulations To Expedite the Certificate Process

As stated, the industry requested that the Commission focus on expediting the approval process for construction project certificates to enhance the

pipeline's ability to respond more quickly to accommodate new and changing market conditions. The Commission proposes several changes to the regulations that would expedite its procedures or construction of certain facilities while at the same time comply with its mandate under the National Environmental Policy Act of 1969 (NEPA).¹⁷ For example, the Commission proposes to expand the scope of the blanket certificate under Subpart F of Part 157 to include new categories of facilities eligible for construction under automatic and prior notice authorization, revise the prior notice procedures, and expand automatic and prior notice abandonment opportunities. These proposed changes are designed to allow pipelines to construct, operate, rearrange, replace and abandon more facilities than are currently covered by the blanket certificate. We propose to amend section 157.202(b)(2)(i) (Eligible Facilities) to include mainline and lateral replacement facilities that do not currently qualify under section 2.55(b) as eligible facilities. These replacements would result in increased line capacity because they generally would involve an incrementally larger replacement pipe than the original.

The Commission proposes to allow pipelines to construct and operate temporary compression facilities under their subpart F blanket certificate in new section 157.209, in the same manner we have issued separate blanket temporary compression certificates to Transwestern Pipeline Company and Northwest Pipeline Corporation.¹⁸

The Commission proposes to amend section 157.211 to include both the existing sales taps, as well as delivery taps currently authorized under section 157.212. We propose to remove section 157.212 as obsolete. Amended section 157.211 will provide for both automatic and prior notice authority under the blanket certificate. Currently, delivery taps are limited to the prior notice procedures under section 157.212.

In order to help expedite the processing of prior notice requests, the Commission proposes to amend section 157.205(e) to require the issuance of a notice within 10 days of a prior notice application being filed. Likewise, we propose to amend section 157.205(g) to allow the Director of OPR to dismiss protests that do not raise a substantive issue and fail to provide any specific detailed reason or rationale for the

objection, so as not to impede processing of legitimate filings.

The Commission also proposes to amend section 375.307(a)(1) to increase the spending limits for orders delegated to the Director of OPR to match the prior notice limits set forth in section 157.208(d). The Commission believes that adjusting the spending limit in this section will provide more flexibility and a faster regulatory track to pipelines that want to construct facilities that are not "eligible" for prior notice treatment but are the subject of applications not formally protested, and whose costs exceed the current \$5,000,000 cost limit in this section. The 1998 prior notice limits are \$19.6 million for eligible facilities and \$4.5 million for storage testing.

D. Replacing Outdated Environmental Filing Procedures With Industry Practice

Under section 380.3 of the Commission's current regulations, any application filed under the NGA for a project that requires the preparation of an environmental assessment or environmental impact statement must contain the information identified in Appendix A to Part 380. However, in 1988 in the *Northeast U.S. Pipeline Project (Northeast)* order,¹⁹ the Commission established additional guidelines for the environmental filings for the competing projects in that proceeding to facilitate its review and analysis of those projects. The guidelines included environmental resource reports that covered specific environmental resource areas. The Commission explained that if all the pipelines followed the same format when filing the necessary information it would expedite the Commission's review and processing of the environmental reports.

In 1989, the Commission's staff compiled a report entitled "Natural Gas Pipeline Company Certificate Filing" (Certificate Manual) which defined how applications should be filed electronically. Appendix G to that document lists 12 resource reports similar to the ones in the *Northeast* proceeding. Each resource report described specific areas and topics that a pipeline needs to address to meet the environmental filing requirements. The resource reports were described as an alternative method to meeting the requirement of Appendix A to Part 380 of the Commission's regulations. Since that time, the industry has generally followed the resource report guideline in the Certificate Manual instead of the guidelines listed in Appendix A to Part

¹⁵ 67 FERC ¶ 61,173, at 61,516 (1994).

¹⁶ Pricing Policy For New and Existing Facilities Constructed By Interstate Natural Gas Pipelines, 71 FERC ¶ 61,241 (1995).

¹⁷ 42 U.S.C. 4321-4307a.

¹⁸ Transwestern Pipeline Co., 76 FERC ¶ 61,211 (1996), Northwest Pipeline Corp., 67 FERC ¶ 61,289 (1994).

¹⁹ 44 FERC ¶ 61,149 (1988).

380. Appendix G served as the template for the industry outreach training sessions we have been conducting since 1995, to assist the industry in preparing Environmental Reports. Accordingly, the NOPR proposes to replace the current Appendix A with the resource reports, slightly modified, from the Certificate Manual.

We note that, generally, conducting the environmental review is the most time consuming part of the certificate process. The Commission believes this is the result of several factors. First, too often pipelines are filing minimal information with the intention of filing the missing information at some later date. Accepting such filings raises unreasonable expectations on the part of those who use the date of filing as a measure of how much time it takes the Commission and its staff to review projects. Further, applicants may be unsure of what is needed because many of the Commission's environmental regulations dealing with pipeline projects are either outdated, found in several parts of the CFR, or, in the case of the environmental report, as stated, replaced in current practice by a preferred format that does not appear anywhere in the regulations.

An incomplete filing necessitates time consuming staff data requests. However, the more complete the environmental information is at the time of filing, the more expeditiously the Commission can process the application.

While the resource reports may seem to represent a large amount of material, they are written in an attempt to cover all types of possible applications. They include specifications for what details are needed based on project specifics. Indeed, the proposed regulation makes it clear that some projects do not require some individual resource reports at all. Finally, each resource report must be only as detailed as required by the complexity of the proposal and its potential for environmental impact.

To further improve the efficiency of the certificate process, we are proposing to add a checklist at Appendix A to this section specifying the minimum content of an acceptable environmental report. Failure to provide at least the checklist items will result in rejection of the application. This will ensure the staff has the minimum reasonable environmental filing to begin its review.

Further, there are certain important mitigation measures that need to be addressed for every construction filing. If each filing can be measured against the same yardsticks, review can be completed faster. Therefore, in addition to replacing Appendix A, as discussed above, the NOPR proposes that

pipelines describe how their project compares to two staff guidance documents, the "Upland Erosion Control, Revegetation, and Maintenance Plan" and "Wetland and Waterbody Construction and Mitigation Procedures," and describe in detail what measures they propose to provide equal or greater protection to the environment.

A third guidance document, "Guidance for Reporting on Cultural Resources Investigations," is referenced to assist applicants in preparation of the material required by the cultural resources portion of section 380.12. All of these guidance documents have been the subject of extensive outreach training. Since 1992, the staff has conducted training sessions in an effort to assist the industry in understanding the procedures that are specified in these documents. The response has been very positive.

Finally, we propose to add two new regulations in sections 380.13 and 380.14 that instruct applicants on how to assist the Commission in demonstrating its compliance with the Endangered Species Act²⁰ and the National Historic Preservation Act.²¹ Both of these sections outline the current process that applicants need to follow in order to prepare the information the Commission needs for these acts. These processes have been part of the training sessions mentioned above, although in the case of section 380.13 there is currently no guideline for the endangered species process. Nevertheless, we are simply proposing that the Commission codify what is current practice to assist applicants in knowing what is required of them, thereby reducing the potential for extensive time-consuming data requests and the need to consult with other agencies during the Commission's review process. Once again, the more consultation that can be accomplished early on in the proceeding the faster the environmental review can be completed.

A few of the proposed changes are to provide specific guidance where none currently exists, thereby making it easier to prepare complete filings and otherwise comply with the existing regulatory requirements. In some cases, the proposed regulation will result in faster preparation of complete environmental filings, which should, in turn, facilitate faster review. The Commission's intent is to provide the easiest, fastest route for the consideration of proposed pipeline

projects. Adherence to the proposed regulations will minimize extensive and repeated environmental data requests that result from incomplete applications and contribute to delaying the process.

We note that the proposed changes to the environmental regulations discussed above do not change the filing requirements burden on the pipeline. They simply codify existing standard practice to help expedite the environmental review process.

E. Modifying Electronic Filing Requirements

The Commission currently requires that an electronic filing consists of three parts, File1, a structured ASCII record, File2, a footnote record applicable to material filed in File1, and File3, an unstructured ASCII record. To reduce the burden of the current filing requirements, effective upon issuance of this NOPR, the Commission will only require that material currently submitted electronically be submitted in File3, the unstructured ASCII format. Further, the header and trailer records formerly required for File3 can also be eliminated. Any further changes to the Commission's electronic filing requirements will be discussed at the electronic filing technical conference to be held in Docket No. PL98-1-000 on October 22, 1998.

IV. Discussion

A. Part 2—General Policy and Interpretations

Part 2 contains the Commission's statements of general policy and interpretations regarding the NGA, NEPA, the Economic Stabilization Act of 1970 and Executive Orders 11615 and 11627, the NGPA and the Public Utility Regulatory Policies Act of 1978.

Section 2.1—Initial Notices; Service; and Information Copies of Formal Documents

Section 2.1 describes the Commission's policy for publishing notice in the **Federal Register** upon the institution of certain proceedings before the Commission. Section 2.1(a)(1)(viii)(A) through (D) provides that notice shall be published in the **Federal Register** of certain proceedings pertaining to independent producers. This section will be removed, since the Commission no longer regulates producer functions.

Section 2.55—Definition of Terms Used in NGA Section 7(c)

Section 2.55 defines facilities that are excluded from the requirements of section 7(c) of the NGA and may, therefore, be constructed without

²⁰ 16 U.S.C. 1531-1544.

²¹ 16 U.S.C. 470h-2.

additional certificate authority. Section 2.55(a) exempts auxiliary facilities from NGA section 7(c) authority. These facilities include valves, drips, yard and station piping, cathodic protection equipment, gas cleaning, cooling, and dehydration equipment, which are merely auxiliary or appurtenant to an existing transmission pipeline system and which are installed only for the purpose of obtaining more efficient or more economical operation of authorized transmission facilities. The Commission clarifies that auxiliary facilities installed at the same time and related to newly proposed jurisdictional facilities do not qualify for the exemption under section 2.55(a). Facilities constructed along with new transmission facilities do not qualify as auxiliary under section 2.55(a) since the exemption is limited to installations which are designed specifically to improve the operation of an existing transmission system.

The Commission proposes to revise section 2.55(b)(1)(ii), concerning the replacement of existing facilities, to clarify that this section only applies to replacements that involve construction within the certificated right-of-way. This is consistent with the Commission's finding in *NorAm Energy Corporation*,²² that eminent domain authority does not apply to replacement activities which are not within the certificated facility footprint, since eminent domain is an adjunct to the certificate itself.

Currently, section 2.55(d) exempts from section 7(c) of the NGA taps that a pipeline constructs in order to take deliveries of natural gas from independent producers. The Commission proposes to remove this section as duplicative of the authority we propose to be available under section 157.211, which will cover the construction of all delivery points.

Section 2.69—Guidelines To Be Followed by Natural Gas Pipeline Companies in the Planning, Location, Clearing and Maintenance of Rights-of-Way and the Construction of Aboveground Facilities

The Commission proposes to move the current section 2.69, which provides generic facility siting guidelines to part 380. Section 2.69 was promulgated at the same time as the Commission's initial NEPA regulations in 1970. Since the current NEPA regulations are found at part 380, the Commission proposes that it would be more appropriate to move the section 2.69 material so that it would be located with the other NEPA

regulations. The Commission proposes to remove section 2.69 and replace it with a new section 380.15.

Section 2.102—Policy Respecting Production-Related Activities Performed by an Interstate Pipeline

Section 2.102 sets forth the Commission's policy respecting production-related activities performed by interstate pipelines. Production-related activities were relevant from a regulatory standpoint when the Commission regulated first sales of natural gas and considered whether to add such costs to the maximum lawful price for a particular sale of gas. However, the Decontrol Act deregulated all wellhead price controls and provided that all first sales of natural gas are no longer subject to federal regulation. In response to the Decontrol Act, the Commission issued Order No. 567, which removed regulations pertaining to the sales of natural gas production. Thus, we propose to remove this section as outdated, since the Commission no longer regulates wellhead sales.

Appendix A—Guidance for Determining the Acceptable Construction Area for Replacements

The Commission also proposes to add new Appendix A to Part 2 which provides the guidance for determining the acceptable construction area, including temporary work space, for replacement pipeline facilities under section 2.55.

B. Part 153—Application for Authorization to Export or Import Natural Gas

Part 153 sets forth the regulations for siting, construction and operation of facilities for the import and export of natural gas between the United States and a foreign country. The Commission recently updated this part in Docket No. RM97-1-000.²³ That order also provided for an environmental report to accompany all applications filed under Part 153.

Section 153.8—Required Exhibits

The Commission believes that section 153.8 should comport with the proposed changes to the environmental report requirement proposed in part 157. Therefore, the Commission proposes to revise section 153.8(a)(7) to track the proposed wording of Exhibit F-I in section 157.14(a)(6-a) of part 157.

²³ Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Export or Import of Natural Gas, Order No. 595, 62 FR 30435 (June 4, 1997) FERC Stats. and Regs. ¶ 31,054 (May 28, 1997).

Section 153.21—Conformity with Requirements

Section 153.21(b) sets forth the criteria for the rejection of filings made under this subpart. The Commission proposes to revise this section to authorize the Director of OPR to reject applications that do not conform to the requirements of this part within 10 days of filing, without prejudice to the applicant's refiling a complete application. Currently, the Director must notify the applicant of all deficiencies and provide at least 20 days for the applicant to amend the application and submit the omitted information. The proposed revision is consistent with the existing authority the Director of OPR has to reject tariff or rate schedule filings as well as prior notice filings pursuant to the authority delegated to the Director by the Commission in sections 375.307 (b)(2) and (e)(6), respectively, of the Commission's regulations.

C. Part 157—Applications for Certificate of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment Under Section 7 of the Natural Gas Act

The Commission's regulations under Part 157 specify the eligibility requirements for both individual, blanket and optional certificates under NGA section 7(c), as well as detail the contents required for applications to request such certificates. In addition, Part 157 specifies the requirements necessary for orders permitting and approving abandonment under NGA section 7(b) and presently provides a blanket certificate for pipeline sales of natural gas.

In Order No. 636, interstate pipelines were issued blanket sales certificates, covered under section 284.284 of the regulations, which obviates the need for any blanket pipeline sales authorization under part 157. The Commission proposes to amend its regulations in Subpart F of part 157 to remove blanket sales authorization. However, pipelines that have not yet become subject to Order No. 636 will still be able to seek individual NGA section 7(c) authorization to perform sales service in accordance with part 157.

References to producer sales in Part 157 have been removed, since Subpart B of Part 157, which concerned filings by producers and jurisdictional gatherers for certificates under NGA section 7 was removed by Order No. 567 in response to the Decontrol Act.

²² 67 FERC ¶ 61,173 (1994).

Section 157.6—Applications; General Requirements

This section sets forth the general requirements for applications to construct and operate facilities, provide service or abandon facilities filed under NGA section 7. The Commission proposes to amend section 157.6(a)(1) to remove as outdated the reference to the initial date the Commission implemented its electronic filing requirements. The Commission also proposes to amend section 157.6(a)(1)–(4) to simplify the requirements. We also propose to redesignate existing section 157.6(a)(4) as new section 157.6(a)(5).

In addition, it is not clear that the regulations currently require the same exhibits for both NGA sections 7(b) and 7(c). Therefore, redesignated section 157.6(a)(5) and existing section 157.18 will state that applications under sections 7 (b) and (c) must conform to the requirements of section 157.5 through section 157.14. We also intend to clarify that applications filed under NGA section 7(b) must also conform to the additional requirements set forth in section 157.18.

Section 157.6(b) details the information required to be included in a filing made under this subpart as well as the applicable fees. The Commission proposes to amend this section to remove “filing fee” from the heading and any reference to filing fees in the section. Filing fees for such applications were removed by Order No. 548.²⁴

The Commission also proposes to add a new section 157.6(b)(8), which will require pipelines to file the information necessary to make an upfront determination on the rate treatment of new construction projects in accordance with the Commission’s Statement of Policy in Docket No. PL94–4–000.²⁵ This proposed addition will serve to put pipelines on notice that they must provide justification for their pricing of a particular construction project at the time an application is filed.

Section 157.8—Acceptance for filing or rejection of applications

This section sets forth the criteria for acceptance or rejection of filings made under this subpart. The Commission proposes to revise this section to refer to the “Office of Pipeline and Producer Regulation” as the “Office of Pipeline Regulation.” The Commission is also proposing to amend this section to

authorize the Director of OPR to reject applications that do not conform to the requirements of this part within 10 days of filing, without prejudice to the applicant’s refiling a complete application. Currently, the Director must notify the applicant of all deficiencies and provide at least 20 days for the applicant to supplement the application and submit the omitted information. Revising this regulation is consistent with the existing authority the Director of OPR has to reject tariff or rate schedule filings as well as prior notice filings under the Subpart F blanket construction certificate pursuant to the authority delegated to the Director by the Commission in sections 375.307(b)(2) and (e)(6), respectively, of the Commission’s regulations. However, we do not intend to reject applications that do not initially contain or include complete environmental reports because the pipeline has not been allowed access to the proposed route by the affected landowners to perform the necessary surveys. The Commission also proposes to amend section 385.2001(b) consistent with this proposed change.

Section 157.9—Notice of application

This section details the notice requirements for applications. In order to help expedite the processing time for applications, we propose to issue a notice within 10 days of filing.

Section 157.10—Interventions and Protests

This section details the requirements for intervening in Commission proceedings, including the filing of protests and requests for formal hearing. The Commission has determined that allowing interventions in response to Draft Environmental Impact Statements is also appropriate.

In addition, we propose to amend section 157.10 to clarify that pipelines do not have to serve voluminous or difficult to reproduce materials, such as copies of environmental information, upon all parties in a proceeding, except as specifically requested. This procedure is consistent with our requirements for pipelines filing rate schedules and tariffs under part 154. Therefore, pipelines must serve a full copy of an application upon any party that requests such service within two business days. In addition, pipelines will be required to keep any voluminous or difficult to reproduce material, such as complete sets of environmental information, on file with the Commission and make such information available for inspection in the project area. The Commission intends for pipelines to make such information

available in appropriate project areas, such as central locations along a proposed route. Because the scope of projects vary, we will not set forth specific locations for the placement of such information. However, we expect pipelines to make all such information readily available in the project area.

Section 157.14—Exhibits

This section sets forth the exhibits that are required to be attached to each application filed under this subpart. The Commission proposes to amend section 157.14(a) to remove as outdated the reference to the initial date the Commission implemented its electronic filing requirements.

In addition, existing section 157.14(a)(6–a)–(6–c), Exhibits F–I through F–III should be removed as outdated. The Commission proposes to replace those sections with a revised section 157.14(a)(6–a) Exhibit F–I, which will be created from the environmental report required in new sections 380.12 through 380.14. These sections will replace the current Appendix A to part 380. This change is designed to expedite preparation and review of the environmental report since it will give better guidance than the current appendix and will standardize the format of the environment report, making it easier for the staff to find specific information. As stated, new section 380.12 is derived from the current optional format for the environmental report that is contained in the manual for electronic filing of applications. Many regulated companies already use this format. For a more detailed discussion of the proposed changes, see the section of this NOPR on part 380.

Section 157.14(a)(11) currently requires pipelines to file detailed information pertaining to system-wide annual and peak day gas requirements, various historical residential commercial and industrial load requirements and related future estimates, historical supply curtailment information, transportation agreements, market surveys and a system supply life-index. The Commission recognizes that some of these requirements are outdated. The Commission is reviewing its policies concerning market need in the pending rulemaking in Docket No. RM98–10–000. Therefore, the Commission is not proposing any changes in this proceeding.

Section 157.14(a)(12) currently requires pipelines to provide studies regarding any impacts related to potential direct industrial customers converting from other fuels to natural gas.

²⁴ Elimination of Certain Filing Fees, Order No. 548, 58 FR 2968 (Jan. 7, 1993).

²⁵ Pricing Policy For New And Existing Facilities constructed By Interstate Natural Gas Pipelines, 71 FERC ¶ 61,241 (1995).

This section was primarily used at times when pipelines performed a bundled merchant function and when priorities for natural gas use were relevant. Continuing to require the detailed information in this exhibit is no longer necessary, since the Commission's emphasis is on unbundled, open-access transportation, not bundled sales. End use priorities are irrelevant when adequate supply is available for all users. Thus, the Commission proposes to remove section 157.14(a)(12).

Section 157.14(a)(14) requires an applicant to provide a plan for financing the proposed facilities. The Commission believes that some of the existing financial information is no longer needed. The Commission proposes to revise section 157.14(a)(14)(i)-(iv) to require, among other things, only the information the Commission needs to make a financial determination.

The Commission also proposes to revise section 157.14(a)(14)(vi) to require that applicants state how they will determine the Allowance for Funds Used During Construction when the applicant is a pre-operational new entity or proposes incremental rates for services from the facilities covered by the application. The Commission proposes to add this requirement because the AFUDC rate formula contained in our accounting regulations contemplates rolled-in embedded cost ratemaking for entities with existing pipeline operations.²⁶ Depending on the specific facts and circumstances, use of the AFUDC rate formula may not be appropriate for newly formed entities or where rates for services from new facilities are to be determined on an incremental basis. The Commission also proposes to remove paragraphs (vii)-(xii) of section 154.14(a)(14).

Section 157.16—Exhibits Relating to Acquisitions

This section details the exhibits, in addition to those required in section 157.14, that must be filed for applications involving the acquisition of facilities. Specifically, the Commission proposes to revise section 157.16(c)(1) to require the pipeline to include a brief statement explaining the basis or methods used to derive the related depreciation, depletion and amortization reserves.

Section 157.17—Applications for Temporary Certificates in Cases of Emergency

This section sets forth the criteria for seeking temporary certificate authorization to construct facilities or provide service in an emergency situation. The Commission proposes to amend sections 157.17 (a) and (b) to remove as outdated the reference to the date the Commission initiated its electronic filing requirements.

Section 157.18—Applications to Abandon Facilities or Services; Exhibits

This section details the requirements necessary for seeking abandonment authorization for facilities or service. In line with the discussion of the proposed clarification of section 157.6, the Commission proposes to add an explicit statement that makes it clear that an environmental report is required for certain kinds of abandonments as specified in section 380.3(c)(2).

The Commission also proposes to amend section 157.18(f) (2) and (3) to provide information related to property abandoned by sale, including a brief statement explaining the basis or methods used to derive the accumulated depreciation related to the property to be disposed of, as well as the tax basis of such property.

Section 157.20—General Conditions Applicable to Certificates

This section details terms and conditions that the Commission attaches to the issuance of each certificate. The Commission proposes to revise section 157.20(b) to allow for facilities to be completed "and made available for service" instead of "in actual operation" within the period of time specified in a particular order. This proposed change is meant to address concerns that events outside a pipeline's control could prevent facilities from being placed in operation within the specified time frame, e.g., a shipper does not actually flow gas on time. Since this change will still require a pipeline to construct facilities and have them completed and "available" within the time frame specified in the certificate order, the current intent of the regulations will not be frustrated. In order to ensure that pipelines have a legitimate reason for not commencing service on time, the Commission proposes to require the pipeline to provide notification of the reason service cannot commence, for example, that the end-user/shipper is unable to meet the imposed timetable. We also propose that section 157.20(c) and (d) be amended to remove as outdated the references to the date the

Commission initially implemented its electronic filing requirements. In addition, section 157.20(f) should be removed as obsolete since it refers to fees prescribed in section 159.2, which was removed from the regulations by Order No. 542²⁷. As a result, section 157.20(g) will be redesignated section 157.20(f).

Section 157.21—Abandonment of Purchases

This section concerns the abandonment of purchases of natural gas by producers, as well as purchases under expired contracts between pipelines. The Decontrol Act deregulated all first sales of natural gas as of January 1, 1993. Additionally, Order No. 636 removed the section's applicability to pipeline sales, since Part 284 was amended to issue pipelines a blanket certificate for unbundled sales, along with pregranted abandonment. Abandonment of producer and pipeline purchases no longer require separate coverage under Part 157. Therefore, the Commission proposes to remove section 157.21 as obsolete.

Section 157.102—Contents of Application and Other Pleadings

This section sets forth the contents required for applications, amendments, exhibits and other submissions made under this subpart. The Commission proposes to amend section 157.102(a)(1) to remove the last sentence, which refers to filing fees for applications filed under this subpart. Filing fees for such applications were removed by Order No. 548.

In addition, the Commission also proposes to amend the reference at section 157.102(b)(1)(v) to the currently required environmental report to comport with the revised wording at section 157.14(a)(6-a).

Section 157.103—Terms and Conditions; Other Requirements

The section details the terms and conditions applicable to filings made under this subpart. The Commission proposes to amend section 157.103(j) to remove the words "and Producer" from the reference to the "Office of Pipeline and Producer Regulation."

²⁷ Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction over Natural Gas, Order No. 542, 57 FR 21891 (May 26, 1992), FERC Stats. and Regs. ¶ 30,945 (May 1, 1992).

²⁶ 18 CFR part 201, Gas Plant Instruction No. 3(17).

Subpart F—Interstate Pipeline Blanket Certificates and Authorization Under Section 7 of the Natural Gas Act for Certain Transactions and Abandonment

Subpart F implements Order No. 234²⁸ and allows interstate pipelines to obtain blanket certificate authorization to conduct certain NGA section 7 transactions, including making sales for resale in interstate commerce. However, as part of the unbundling mandated by Order No. 636, interstate pipelines were issued blanket, unbundled sales certificates in accordance with Section 284.284. The Commission proposes to remove all references to blanket pipeline sales in subpart F of Part 157 as outdated.

This proposed action will not take away any blanket authority previously issued to interstate pipelines who have not restructured. Rather, it will conform the existing regulations to the current regulatory climate by requiring pipeline sales to be performed under Part 284.

Nevertheless, interstate pipelines that do not have Subpart F blanket certificates and are not currently covered under Order No. 636 can still seek individual NGA section 7(c) certificate authorization under Subpart A of Part 157 to make interstate sales of natural gas.

In addition, the Commission proposes to revise various other sections in Subpart F in order to bring the existing regulations up to date to match current policies. These proposed changes will include removing obsolete language, eliminating ambiguities, and consolidating regulations.

Section 157.201—Applicability

This section details the scope of the authority of this subpart. The Commission proposes to amend section 157.201(a) to remove reference to “sales arrangements” in the scope of the blanket certificate as obsolete.

Section 157.202—Definitions

Section 157.202 defines the terms applicable to blanket certificate transactions under subpart F. In addition to making housekeeping-type changes, the Commission proposes to expand the definition of “eligible facility” contained in section 157.202(b)(2)(i). Currently, there are various types of facilities, most notably mainline and compression facilities, that are not eligible for automatic or prior notice treatment under the Subpart F blanket certificate. As previously

described, the Commission proposes to allow pipelines to construct, operate, rearrange, replace and abandon more facilities than are currently covered under the blanket certificate, as more fully described below.

In order to allow more flexibility under the blanket certificate, the Commission proposes to allow pipelines to construct, as eligible facilities, mainline and lateral replacements that do not currently qualify under section 2.55(b) because they will have an impact on the capacity of the mainline facilities. This proposal is meant to address the problem being faced by pipelines trying to replace, for example, a deteriorated or obsolete 40-year old 17-inch or 22-inch pipeline with like-sized pipe, or a section of deteriorated or obsolete 18-inch pipe located between existing 20-inch sections of pipe for continuity and/or pigging purposes. To the extent that odd-sized replacement pipe is not available, or continuity in line size is operationally necessary, a pipeline should be able to go up to the next available standard size in order to complete the replacement. Such replacements must be done for sound engineering reasons and not for the purpose of creating additional mainline capacity. These replacement facilities will still be subject to the spending limits in section 157.208 and the environmental requirements of section 157.206(d). In light of this change, we seek comment on the impact of this proposal as well as on whether or not to further expand the scope of the Subpart F blanket certificate.

The Commission proposes to revise section 157.202(b) to add a new category under the blanket certificate titled “Temporary Compression.”²⁹ This is intended to allow pipelines to install temporary compression facilities to maintain certificated volumes during maintenance or repair of permanent compression facilities. This proposal is consistent with our issuance of blanket certificates for temporary compression,³⁰ and is intended to extend such authorization to all Subpart F blanket certificate holders. The Commission proposes to implement this change by creating new section 157.209 Temporary compression facilities.

The Commission also proposes to revise section 157.202(b)(2)(i) in order to reconcile an ambiguity between the

Subpart F blanket construction authority and the regulations implementing the Part 284 blanket transportation certificates. We propose to specifically include receipt points as eligible facilities. In describing part 284 flexible receipt point authority, section 284.221(g)(3) includes, as receipt points to which natural gas volumes may be reassigned, eligible facilities under section 157.208 that are authorized to be constructed under the Subpart F blanket certificate. However, receipt points are not specifically included in the section 157.202 definition of eligible facilities. Therefore, the Commission proposes to revise section 157.202(b)(2)(i) to clarify that it includes receipt points (“any facility, including receipt points, needed by the certificate holder to receive gas into its system”) as facilities eligible for construction under Subpart F. This clarification is consistent with an order issued in *Texas Eastern Transmission Corporation*,³¹ where the Commission recognized that Texas Eastern could rely on its part 157 blanket construction certificate to construct receipt point facilities and other eligible facilities to provide transportation service for its open-access shippers.

We also propose to clarify that the reference in section 157.202(b)(2)(i) to “interconnecting points between transporters” is intended to include only interconnecting facilities such as the tap, metering, M&R facilities and minor related piping as eligible facilities.

Section 157.202(b)(2)(ii) sets forth the facilities that are not included as an “eligible facility.” These include mainlines or extensions of mainlines, compressors and looping that alter mainline capacity, storage facilities, and sales taps. Consistent with the proposed inclusion of the replacement facilities described above as eligible facilities, the Commission proposes to revise this section to recognize that these replacements are no longer excluded.

The Commission also proposes to amend section 157.202(b)(2)(ii)(E) to remove the words “Sales Tap” and add, in their place, the words “Delivery points under section 157.211.” In section 157.202(b)(10), we propose to remove the words “Sales tap(s)” and add in their place, the words “Delivery points.” This is intended to reflect the post-restructuring unbundling of sales service. Sales tap is defined as a facility necessary to deliver gas to a distribution or end-use customer. The sales tap regulations were promulgated at a time when pipelines generally made sales for

²⁸ Interstate Pipeline Certificates for Routine Transactions, Order No. 234, 47 FR 24254 (June 4, 1982), FERC Stats. and Regs. ¶ 30,368 (May 28, 1982).

²⁹ We propose to replace § 157.202(b)(4) “Gas supply facility” with “Temporary compression” as further discussed herein. Removal of the definition will not change the status of a gas supply facility as an eligible facility.

³⁰ See Northwest Pipeline Corporation, 67 FERC ¶ 61,289 (1994) and Transwestern Pipeline Company, 76 FERC ¶ 61,211 (1996).

³¹ 62 FERC ¶ 61,196, at 62,390 (1993).

resale from their own system supplies, rather than transport shipper/user-owned gas. Delivery points, at the time, were used for direct sales. However, pipeline sales now occur at the unbundling point, which is located upstream of the general market area and no longer at the city-gate. Thus, facilities constructed to deliver gas to shipper/end-users would now be considered delivery facilities and not sales taps. Delivery facilities include only the tap, M&R facilities and minor related piping.

The Commission proposes to implement the change to section 157.202(b)(2)(ii)(E) and section 157.202(b)(10) by removing existing section 157.212—Changes in delivery points—and revising section 157.211—Sales taps—to become new section 157.211—Delivery points. This new section will provide for automatic and prior notice authorization to construct, replace, modify or operate any delivery point. The term modified would cover the conversion of receipt points to delivery points and vice versa. As proposed, pipelines will be able to construct facilities to attach new customers without going through the existing prior notice procedure, to the extent that the new delivery point does not involve bypass. The Commission proposes to retain the prior notice requirement in instances associated with bypass. In addition, taps currently constructed under section 2.55(d), which we propose to remove, will be covered by the automatic authority of section 157.211. Thus, pipelines holding blanket construction certificates will be able to automatically construct taps in order to either deliver gas to or take gas from independent producers.

The Commission proposes to revise section 157.202(b)(2)(ii)(D), which excludes various storage facilities from the definition of “Eligible facility.” We propose to combine sections 157.202(b)(2)(ii)(D) and (G) and extend the blanket authority for tests or other minor storage operations which do not increase certificated, including grandfathered, storage capacity, provided the operation is otherwise able to meet the terms of section 157.208.

Existing section 157.202(b)(4) defines a “Gas supply facility”. We propose to remove the definition to reflect that gas attached is no longer exclusively destined for the merchant function of an interstate pipeline company. The phrase is commonly accepted and its removal should not cause any confusion. We propose to rename Section 157.202(b)(4) “Temporary compression”, which, as described above, means compressors installed for the limited purpose of

maintenance or repair of existing permanent compressor unit(s).

The Commission proposes to revise section 157.202(b)(5) to provide a more objective description of main line facilities. We propose to remove the phrase “small diameter lateral” and add, in their place, the words “small diameter supply or delivery lateral” to further clarify what facilities are not considered main line facilities.

In order to clear up another ambiguity, we propose to revise section 157.202(b)(7), which defines the word “Project”, to remove the phrase “without any further construction of facilities.” This phrase seems to preclude facilities that are jointly constructed. Since section 157.202(b)(8), which defines “Project cost”, states, in part, “* * * In the case of a project constructed jointly * * *,” this proposed change will recognize that jointly constructed facilities are contemplated under the Subpart F blanket certificate. However, the same total project cost limits apply to individual or jointly constructed facilities.

The Commission proposes to remove section 157.202(b)(12) “Storage service” since storage is now provided under Subpart G of Part 284 as part of a pipeline’s transportation blanket certificate. Consistent with this proposal, we intend to also remove section 157.213, as detailed below, which provides pipelines with blanket authority under Subpart F of Part 157 to provide storage services.

The Commission proposes to remove sections 157.202(b)(13) and (b)(14) dealing with high priority end-use, because they relate to sales curtailment situations. These references are no longer relevant under the Subpart F blanket certificate. All existing sales service occurs under individual NGA section 7 authorization or under Subpart J of Part 284.

The Commission also proposes certain other changes to the definitions contained in section 157.202. Those proposed changes are described in detail below, in the discussion of various other sections in Subpart F.

Section 157.203—Blanket Certification

This section provides for blanket certificate coverage for the activities authorized by this subpart. We propose to amend this section to make conforming changes based on the proposals herein. The Commission proposes to remove references made in various parts of this section to sections 157.210 and 157.213, which provide for blanket sales and contract storage service. Both of these services are now

covered by the blanket transportation and sales certificates issued under Part 284. We also propose to remove reference throughout this section to section 157.212, since it will be removed and replaced with section 157.211. The Commission proposes to add a reference in section 157.203(b) to recognize that the blanket certificate is proposed to cover temporary compression facilities in new section 157.209(a). The Commission further proposes to amend section 157.203(b) to remove reference to section 157.217, which allows pipelines to permit customers to change rate schedules. Rate schedules are offered under Part 284 and may no longer need to be referenced in Subpart F. However, we recognize that there could be existing customers with NGA section 7(c) individually certificated services that may, in the future, seek to use the existing authority in section 157.217. Therefore, we seek comment on our proposal to remove this section. In addition, we propose to amend section 157.203(c) to remove the references to section 157.210,³² section 157.212 and section 157.213(b).

Section 157.204—Application Procedures

This section details the procedures for interstate pipelines to apply for the blanket certificate authority available under this subpart. The Commission proposes to remove: (1) Section 157.204(d)(2), which refers to outdated budget-type certificates; (2) section 157.202(d)(4) which requires filing a list of rate schedules under which sales or storage service is provided; and (3) section 157.204(d)(5), which requires filing a list of storage field tests commenced under budget-type certificates. These sections are obsolete. The budget-type certificates have been completely replaced by the Subpart F blanket certificates and need not be referenced any longer. As a result, section 157.204(d)(3) will be redesignated section 157.204(d)(2). Pipeline sales and storage service are provided under case-specific NGA section 7(c) certificates or under Part 284 and will no longer be covered under Subpart F. We also propose to remove section 157.204(e), which refers to filing fees for applications for blanket certificates filed under this subpart. Filing fees for such applications were removed by Order No. 548.

³² We note that the 18 CFR Chapter I regulations contains a typographical error in § 157.203(c) misidentifying the reference to § 157.210 as § 157.211 and § 157.211(a)(2) as § 157.211(b).

Section 157.205—Notice Procedures

Section 157.205 sets forth the notice procedure requirements applicable to activities under this subpart that do not qualify for automatic authorization. Section 157.205(a) provides that no blanket certificate activity shall be undertaken unless the notice procedures have been fulfilled and there are no active protests. The Commission proposes to amend section 157.205(a) to remove: (1) The reference to blanket sales and storage in sections 157.210 and 157.213(b) respectively, since those services are now covered under Part 284; (2) the reference to section 157.212, since, as described above, section 157.212 will also be removed; and (3) the reference to section 284.223(b) and the language “or by Part 284”, because blanket transportation services under Part 284 were removed from the scope of the prior notice and protest procedures by Order No. 537.³³

Section 157.205(b) details the contents required for applications filed under the prior notice procedures. This section currently requires pipelines to file an original and fifteen copies of all prior notice applications. The Commission proposes to reduce the number of copies of applications that must be filed from fifteen to seven, which corresponds to the number of copies that are filed for applications under Subpart A of this chapter. We have determined that fifteen copies are not necessary for the Commission to process prior notice applications in a timely manner. Therefore, section 157.205(b) should be amended to remove the word “fifteen” and add, in its place “seven.” In addition, section 157.205(b) should be amended to remove an obsolete reference to filing fees and outdated references to “October 31, 1989.” In the same manner, section 157.205(c) should be removed in its entirety since it prescribes fees that have been removed by Order No. 548. As a result, paragraphs (d) through (i) should be redesignated (c) through (h).

Redesignated sections 157.205(c) and (f) should also be amended to remove the words “and Producer” from the reference to the “Office of Pipeline and Producer Regulation.”

³³ Revisions to Regulations Governing Transportation Under Section 311 of the Natural Gas Policy Act of 1978 and Blanket Transportation Certificates, Order No. 537, 56 FR 50235 (Oct. 4, 1991), FERC Stats. & Regs. ¶ 30,927 (Sept. 20, 1991). Order No. 436 provided blanket transportation under § 284.223(b), subject to the prior notice requirement under Subpart F. In Order No. 537, we removed this requirement to eliminate the incentive for pipelines to rely on NGPA section 311 transportation authority rather than their Part 284 blanket transportation certificates.

The Commission further proposes to amend redesignated section 157.205(c) to add that deficient applications will be rejected within 10 days of filing, without prejudice to the pipeline’s refiling a complete application.

In order to reduce the time it takes to process a prior notice filing, the Commission proposes to amend redesignated section 157.205(d) to add that a notice be issued within 10 days of the date of filing, and to remove the current vague requirement “as soon as it is practicable.”

We are concerned that the existing regulation in redesignated section 157.205(e)(2) does not require parties to set forth specific and substantial reasons for protesting a prior notice filing. Therefore, we propose to amend section 157.205(e)(2) to add that protestors specifically set out the reasons and rationale for their protest.

The Commission proposes to allow the Director of OPR to make a determination whether protests raise a substantive issue and provide any specific detailed reason or rationale for the objection, and if not, to dismiss them. We propose that redesignated sections 157.205(f), (g), and (h) include language authorizing the Director of OPR to dismiss such protests.

Concurrently, we are proposing to amend the delegation of authority regulations by adding new section 375.307(a)(13), which will be redesignated section 375.307(a)(11), to allow the Director of OPR to dismiss such protests.

Section 157.206—Standard Conditions

This section imposes certain conditions upon any activity a pipeline undertakes under its blanket certificate. We propose to remove section 157.206(b)—Production-related costs—because the Decontrol Act deregulated all wellhead price controls and Order No. 567 removed regulations pertaining to the sales of natural gas production. Since the Commission no longer regulates the sales price of natural gas, add-ons to maximum lawful prices for such sales are no longer relevant.

Section 157.206(c) states that the proper apportionment of costs related to transportation of liquids and liquefiabiles and natural gas will be determined in a rate proceeding. The revenue received from the transportation of liquids and liquefiabiles is currently reported in section 154.312(j)(2)(v)(C) [Schedule G—5. Other Revenues], and must be included when a pipeline files for a change in its rates or charges, except for a minor rate change. The revenue treatment is related to transportation

performed under Part 284, and no longer needs to be in Subpart F. Therefore, we propose to remove section 157.206(c).

The Commission proposes to create a lead-in to the environmental conditions of subpart F in section 157.206(d) to indicate that the conditions apply only to activities under the blanket certificate that involve ground disturbance or changes to operational air and noise emissions. This will avoid uncertainty about their applicability to sections of Subpart F that clearly have no potential for environmental impact.

We propose to amend section 157.206(d)(1) to remove the reference to old section 2.69 and to replace it with a new section 380.15.

The Commission also proposes to revise section 157.206(d)(5) to bring it into line with current usage concerning limitations on compressor station noise levels. This proposal parallels the proposed modification for the new environmental report for NGA section 7 filings. (See the discussion of changes to Part 380.)

The Commission proposes to remove existing section 157.206(e) as obsolete because budget-type certificates have been replaced by the Subpart F blanket certificates.

The Commission proposes to revise existing section 157.206(f) to allow for facilities to be completed “and made available for service” instead of “in actual operation” within one year of authorization. See the related discussion of a similar change in section 157.20(b). In addition, we propose to amend section 157.206(e) to remove an obsolete reference to pipeline blanket sales and to remove the words “and Producer” from the reference to the “Office of Pipeline and Producer Regulation.”

In addition, section 157.206(g) should be removed as obsolete since the section refers to old PGA accounts and accounting which are no longer necessary under Subpart F.

As a result of the proposed removal of sections 157.206(b), (c), (e), and (g), remaining sections 157.206(d), (f), and (g) should be redesignated as (b)–(d).

Section 157.207 General Reporting Requirements

This section imposes certain reporting requirements on all interstate pipelines that accept a blanket certificate under Subpart F. The Commission proposes to revise section 157.207(b), regarding reporting information related to the construction of sales taps. We propose to make this change consistent with the previous discussion removing sales taps

from the definitions under Subpart F and replacing them with delivery taps.³⁴

Storage is now considered transportation under Order No. 636 and covered under the blanket transportation certificate issued in section 284.221. As discussed below, the Commission is proposing to remove the blanket authorization for storage services currently set forth in section 157.213. Reports on storage operations by interstate pipelines are included under the Part 284 reporting requirements. Because storage will no longer be covered under Subpart F, section 157.207(c) is obsolete. However, because we are adding new section 157.209 Temporary compression facilities, we propose to amend section 157.207(c) to include a report on such facilities.

We propose to remove section 157.207(f) related to reports filed for changes in rates schedules authorized under section 157.217, since we are also proposing to remove section 157.217. Rate schedules are offered under Part 284 and no longer need to be referenced in Subpart F.

Section 157.208—Construction, Acquisition, Operation, and Miscellaneous Rearrangement of Facilities

This section details the criteria necessary to construct, acquire, and operate any eligible facility and make miscellaneous rearrangement of any facility. Currently, this section authorizes a blanket certificate holder to perform certain activities on both an automatic and prior notice basis.

Consistent with our proposed change to the definition of an eligible facility in section 157.202(b)(i), we clarify that sections 157.208 (a) and (b) will now include certain replacement facilities that do not qualify under section 2.55(b), e.g., replacements made in conjunction with highway relocations where the replaced facilities are not identical to the original. These facilities will also include mainline replacements of different sizes that are necessary to match other line sizes for continuity and/or pigging and could result in increases in mainline capacity. Therefore, we intend to add the word "replacement" in the title of section 157.208. We note that facilities eligible for automatic and prior notice authorization in this manner will still be subject to the cost limitations in section 157.208 and the environmental conditions in redesignated section 157.206(b).

Section 157.208(c)(6) requires the certificate holder to provide gas supply, market data or studies that support the need for proposed facilities. This provision was required at a time when pipeline sales were provided under individual NGA section 7 transactions or under the Subpart F blanket certificate. Since pipelines no longer make bundled sales after implementation of open access transportation under Order Nos. 436 and 636, the construction of facilities under Subpart F support transportation services, not sales, authorized under Part 284. Thus, requiring gas supply or market data under Subpart F is no longer meaningful and we propose to remove section 157.208(c)(6).

Section 157.208(c)(8) requires a statement showing the effect of the facilities to be constructed on the certificate holder's operating expenses and revenues. As reasoned above, since prior notice construction activities support already authorized Part 284 transportation services, this section is no longer meaningful and should be removed.

The existing section 157.208(c)(11), which will be redesignated as section 157.208(c)(9), sets forth the content of the environmental filing for construction under the blanket certificate. The Commission proposes to amend this section to add the specification that a copy of consultations for the Endangered Species Act, the National Historic Preservation Act, and the Coastal Zone Management Act be included in any prior notice filing made under this section. While this will increase the amount of paper filed, it will ensure proper compliance with the existing regulation and speed up review since currently this material is often the subject of data requests and sometimes protests.

Section 157.208(d) sets the spending limits and inflation adjustment for automatic and prior notice activities under section 157.208. The spending limits in this section are currently adjusted each calendar year to reflect the Gross National Product (GNP) implicit price deflator published by the Department of Commerce for the previous calendar year. For the past few years, we have based the inflation adjustments on the Gross Domestic Product (GDP) implicit price deflator rather than the GNP implicit price deflator, which was not published at the time we issued the orders adjusting the spending limits. We used the GDP instead of the GNP because the Commerce Department advised that in recent years the annual change has been

virtually the same for both indices. Therefore, we propose to amend section 157.208(d) to remove the reference to the "GNP implicit price deflator" and add, in its place, a reference to the "GDP implicit price deflator." We also propose to amend this section to remove the words "and Producer" from the reference to the "Office of Pipeline and Producer Regulation and to correct an erroneous reference from "section 375.307(t)" to "section 375.307(d)".

Section 157.208(e) details the annual reporting requirements for facilities completed under this section. The Commission proposes to revise this section to require complete reports only for facilities constructed under the automatic authority conferred by section 157.208(a). This change will recognize that the annual report will no longer include any information, except cost information, for construction prior notices authorized in section 157.208(b), because the required environmental information is already filed with the prior notice application. The effect will be to eliminate a duplicate filing.

The Commission also proposes in section 157.208(e)(2) that the annual report indicate the date when construction began. This is critical since the Commission's compliance with the Endangered Species Act and National Historic Preservation Act depends on the required consultations occurring before construction begins. It is not common, but we have received a few reports indicating that this occurred after the fact. Requiring the date of construction to be provided may raise the industry's awareness of this important compliance issue.

Currently, sections 157.208(e)(4)–(7) require pipelines to provide gas supply information and the names of the independent producers or other sellers from whom the gas is being received, along with gas sales or transportation contract information and FERC rate schedule designations. These sections were germane when pipelines primarily performed a merchant function and tracking of gas purchase costs was required. The information required here is no longer needed and we propose to remove these sections. These proposed changes will require redesignating section 157.208(e) so that existing sections (e)(8) and (e)(9) become (e)(4) and (e)(5), respectively.

In addition, section 157.208(g) should be amended to remove the words "and Producer" from the reference to the "Office of Pipeline and Producer Regulation."

³⁴ See discussion of § 157.202(b)(2)(E) and (b)(10).

Section 157.209—Temporary Compression Facilities

This new section is discussed in detail in our discussion of section 157.202(b) above.

Section 157.210—Sales for Resale

This section was promulgated to authorize interstate pipelines to make off-system sales to other interstate pipelines. This section is now obsolete and should be removed from the regulations.

Section 157.211—Sales Taps

This section provides for pipelines to construct and operate sales taps for delivery of gas to right-of-way grantors and end-users served by a pipeline's system supply. See the detailed discussion of section 157.202(b)(2)(ii)(E) and section 157.202(b)(10), where we propose to replace "Sales tap(s)" with "Delivery points" and redefine section 157.211 as Delivery points.

Section 157.212—Changes in Delivery Points

The Commission proposes to remove this section as detailed in our discussion of section 157.202(b)(2)(ii)(E) and section 157.202(b)(10).

Section 157.213—Storage Services

This section provides blanket certificate authorization for contract storage service and related incidental transportation. However, Order No. 636 redefined storage as transportation under section 284.1. The blanket transportation certificate issued in section 284.221 now covers pipeline storage service as well. In the same manner that blanket pipeline sales are proposed to be removed from subpart F, section 157.213 should also be removed as obsolete. The current reporting requirements in section 284.106, which covers transactions under section 284.221, will provide the Commission with the information necessary to continue to monitor pipelines performing storage service.

This proposed revision will grandfather all existing pipeline Subpart F blanket storage services and will only serve to remove the regulations prospectively.

Section 157.215—Underground Storage Testing and Development

This section provides for automatic authorization, subject to certain conditions, for the construction and operation of pipeline and compression facilities to be used for the testing and development of underground reservoirs for the possible storage of gas.

Consistent with the discussion of the modification of section 157.208(e)(2), the Commission is proposing to require the certificate holder to identify the date construction began in revised section 157.215(b)(1)(iii).

Section 157.216—Abandonment

This section sets forth the requirements for automatic abandonment of gas supply facilities in section 157.216(a), as well as the prior notice requirements necessary to abandon sales taps, laterals and related facilities and service in section 157.216(b). The Commission proposes to remove the existing sections 157.216(a)(1) and (a)(2), which requires abandonment by the gas supplier, as obsolete. While pipelines may still need to construct and abandon gas supply facilities under their Subpart F blanket certificate, they no longer need any related supplier abandonment as a prerequisite.³⁵ Therefore, sections 157.216(a)(1) and (a)(2) will be removed.

The Commission proposes a new section 157.216(a)(1) to specifically reference that receipt point facilities are eligible for automatic abandonment authorization under the subpart F blanket certificate. The Commission is proposing this clarification in order to eliminate any ambiguity regarding the eligibility of transportation receipt points for abandonment under the blanket certificate procedures.

The Commission proposes to expand the automatic authority under section 157.216 to allow abandonment of firm and interruptible delivery points. The Commission proposes that interruptible delivery points that have not been used for transportation service during the prior year be eligible for automatic abandonment. However, the Commission does not propose to permit blanket certificate holders to abandon automatically firm delivery points under contracts that are in force and effect. Parties paying demand charges for primary points, whether in use or not, should retain the availability of those points. The Commission recognizes that there are other circumstances where abandonment of

delivery points may be appropriate. Therefore, it proposes that firm delivery points no longer under contract and not in use during the preceding 12 months qualify for automatic abandonment. In order for a blanket certificate holder to abandon either interruptible delivery points or firm delivery points not under contract that have been in use during the prior year, it must proceed under the prior notice requirements set forth below.

In addition, the Commission proposes to allow automatic authorization for abandonment of any eligible facility, subject to the pipeline's receiving written customer consent for specific facility abandonments. Consent is required from customers that have received service during the immediate past 12 month period. The Commission proposes the consent feature as a customer protection against unwarranted abandonment of facilities constructed to serve particular customers.

In the past, the Commission has often found it difficult to review filings to abandon facilities under this section expeditiously, since there is currently no explicit requirement to describe the facilities to be abandoned, how they would be abandoned or where they are located. Therefore, the Commission proposes to include such a requirement at new section 157.216(c)(5).

The Commission also proposes to amend the reporting requirement related to abandonments in section 157.216(d)(2) to remove reference to "the sale of gas and" as outdated.

At section 157.216(d)(4) and new section 157.216(d)(5) the Commission proposes to require that pipelines supply: (1) The date earth disturbance related to an abandonment began, and (2) the date clearances were actually received under the Endangered Species Act, the National Historic Preservation Act, and the Coastal Zone Management Act. This is for the same reasons, i.e., work processing improvement, discussed with respect to section 157.208(e).

Section 157.217—Changes in Rate Schedules

The Commission proposes to remove this section, which provides pipelines with automatic authority to permit customers to change rate schedules. Rate schedules are offered under Part 284 and may no longer need to be referenced in Subpart F. However, the Commission recognizes that there could be existing customers with NGA section 7(c) individually certificated services that may, in the future, seek to use this authority. Therefore, the Commission

³⁵ These sections authorize abandonment of gas supply facilities and service if the seller has been authorized to abandon the sale, or the sale has ceased and been removed from the Commission's jurisdiction by operation of section 601(a)(1) of the NGPA, respectively. After the Decontrol Act deregulated all first sales of natural gas as of January 1, 1993, the Commission issued Order No. 567. Order No. 567, among other things, recognized that first sales have been decontrolled and removed section 157.30, which governed the abandonment of sales by independent producers and first sellers, from the regulations. Thus, producers are no longer required to make certificate or abandonment filings related to their sales of natural gas.

seeks comment on our proposal to remove this section.

Section 157.218—Changes in Customer Name

The Commission proposes to revise this section. Under Part 284 there is automatic authorization for name changes, subject to the filing of an updated Index of Customers. Therefore, any remaining need for this provision is limited to name changes related to individually certificated agreements.

Appendix I to Subpart F—Procedures for Compliance With the Endangered Species Act of 1973 Under Section 157.206(d)(3)(i)

This appendix sets forth procedures that apply to blanket certificate holders that undertake projects subject to the environmental compliance requirements of current section 157.206(d). The Commission proposes to revise the appendix to reflect that the U.S. Fish and Wildlife Service (FWS) need only determine either (1) the project will not affect the listed species or critical habitat; (2) the project is not likely to adversely affect a listed species or critical habitat; or (3) no further consultation is needed. This change should remove any ambiguity regarding whether the current regulations require specific wording in the concurrence. In addition, this section also needs to be revised to make minor changes to correct typographical errors. The Commission proposes to change the reference in the title to “section 157.206(d)(3)(i)” to read “section 157.206(b)(3)(i)” and to change all references to “section 157.206(d)(2)(vii)” to read “section 157.206(b)(2)(vi).” These references are in the introduction and paragraphs 2, 3, and 4(b).

Appendix II to Subpart F—Procedures for Compliance With the National Historic Preservation Act of 1966 Under § 157.206(d)(3)(ii)

This appendix also sets forth procedures that apply to blanket certificate holders that undertake projects subject to the environmental compliance requirements of section 157.206(d). This section also needs to be amended to make minor changes to correct typographical errors in the appendix. The Commission proposes to change the reference in the title to “section 157.206(d)(3)(ii)” to read “section 157.206(b)(3)(ii)” and to change all references to “section 157.206(d)(2)(iv)” to read “section 157.206(b)(2)(iii).” In addition, this section should also be amended to remove an outdated reference to “Environmental Evaluation Branch,

Office of Pipeline and Producer Regulation” and to add, in its place, “environmental staff of the Office of Pipeline Regulation.” These references are in the introduction and in paragraphs (4), (6), (7), and (8).

D. Part 284—Certain Sales and Transportation of Natural Gas Under the Natural Gas Policy Act of 1978 and Related Authority

Part 284 sets forth the general provisions and conditions that govern certain sales and transportation of natural gas under the NGA and the NGPA.

Section 284.221—General rule; Transportation by Interstate Pipelines on Behalf of Others

This section sets forth the requirements for an interstate pipeline to apply for a blanket transportation certificate. The Commission proposes to amend this section in order to remove various outdated or erroneous language.

Section 284.221(d)(1) describes the limitations of the pregranted abandonment authority. The Commission proposes to amend this section to remove the reference to paragraph (d)(3). This change will reflect the removal of section 284.221(d)(3) from the regulations as explained below.

Section 284.221(d)(3) states that pregranted abandonment does not apply where shippers converted from sales service to firm transportation service under the provisions of section 284.10 or under a separate agreement. The Commission proposes to remove this section as obsolete. Section 284.221(d)(3) was necessary during the industry transition from bundled to unbundled services, as is evidenced by its dependence on the conversion rights originally contained in section 284.10. Section 284.10 provided an interim program for bundled sales customers to convert to firm transportation services. However, Order No. 636 has unbundled sales service, so that sales and transportation are now separate services and there is no further need for customers to convert from one to the other. In Order No. 581³⁶, the Commission removed and reserved section 284.10. Therefore, there is no continuing need for section 284.221(d)(3) and it should be removed.

The Commission proposes to revise section 284.221(f)(4). The section refers to sales taps being subject to the prior

notice procedures in Subpart F. However, new section 157.211 relates to delivery points (which have been redefined to include sales taps) and confers both automatic authorization and authorization under the prior notice procedures of section 157.205.

The Commission also proposes to amend section 284.221(h)(3) to remove the reference to “section 157.212” as obsolete. As noted above, delivery points are proposed to be constructed and operated under new section 157.211, on both an automatic basis and subject to the prior notice procedures.

Section 284.288—Reporting Requirements

This section sets forth the annual reporting requirements for an interstate pipeline making sales under this subpart. Blanket sales certificates were issued to interstate pipelines in Order No. 636. There, the Commission required pipelines to file an annual report describing the type of service provided, the total volumes sold and the total revenues received. The Commission stated that such information would provide an indication of how the market is functioning and whether a pipeline has been able to exercise market power.

The industry has completed its transition to a fully unbundled environment and pipelines are authorized to charge market-based rates for their sales in order to compete directly with third-party sellers of natural gas. In view of this, the Commission seeks comment on whether the information required by this section is still necessary or whether it has become obsolete, leading to removal of the section from the regulations.

E. Part 375—The Commission

Part 375 sets forth the general provisions of the Commission, the procedures for Sunshine Act meetings and delegations of authority. We propose the following revisions to the subpart C delegation of authority regulations.

Section 375.307 Delegations to the Director of the Office of Pipeline Regulation.

This section details the authorities delegated from the Commission to the Director of OPR. Sections 375.307(a)(1) and (a)(5) delegate to the Director of OPR the authority to grant applications or amendments for the construction, acquisition and operation of certain facilities that have a construction or acquisition cost of less than \$5,000,000. The Commission proposes to increase this spending limit to match the prior

³⁶ Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, Order No. 581, 60 FR 53019 (October 11, 1995), FERC Stats. and Regs. ¶ 31,026 (September 28, 1995).

notice limits set forth in section 157.208(d) Limits and inflation adjustment. The Commission believes that adjusting the spending limit in this section will provide more flexibility and a faster regulatory track to pipelines that want to construct facilities that are not "eligible" for prior notice treatment, i.e., mainlines, but are the subject of applications not formally protested, and whose costs exceed the \$5,000,000 limit in this section. Pipelines should not, however, break projects into segments for the purpose of meeting the above-stated spending limit.

Section 375.307(a)(2) delegates to the Director of OPR the authority to grant applications filed under sections 157.7(b), (c), (d), (e), and (g) of this chapter. These sections originally set out rules for budget-type certificates for gas supply facilities, miscellaneous rearrangement of facilities, storage facilities, direct sales service and facilities and field compression and facilities. In Order No. 542,³⁷ the Commission determined that the transactions covered by these sections were covered under subpart F of Part 157 of the regulations and removed sections 157.7(b)-(g) as unnecessary. Since these sections have been removed from the regulations, there is no need to retain section 375.307(a)(2).

Section 375.307(a)(3) delegates abandonment authority to the Director of OPR for gas purchase facilities with a construction cost of less than \$1 million or the deletion of delivery points. This authority is conditioned upon the producer's having been authorized to abandon its related service or the gas having been removed from the Commission's jurisdiction by operation of section 601(a)(1)(A) of the NGPA. The Decontrol Act deregulated all first sales of natural gas as of January 1, 1993 and Order No. 567 eliminated the regulations pertaining to producer sales and abandonment requirements. Therefore, this condition is obsolete and will be removed. While pipelines will still need authority to abandon gas purchase facilities and delete delivery points, we propose to expand this section to include abandonment of any facility. The Commission proposes to revise this section to allow the Director of OPR to act on uncontested applications for the abandonment of any pipeline facilities, including mainline and compression facilities, regardless of their construction cost. However, this section does not, as described in section

375.307(a)(4) below, cover facilities involving specific customers.

Similarly, section 375.307(a)(4) delegates to the Director of OPR abandonment authority for pipeline or producer facilities or services. Since the Commission no longer regulates producer activities, this section should be amended to remove the reference "or producer."

Section 375.307(a)(5) authorizes the Director of OPR to issue temporary or permanent certificates for transportation, exchange or storage service, provided the related facilities cost less than \$5,000,000. For the same reasons detailed above, we propose to increase this spending limit to match the prior notice limits set forth in section 157.208(d) Limits and inflation adjustment. Under section 375.307(a)(8), the Director of OPR can issue temporary or permanent certificates to independent producers. Since Order No. 567 removed the regulations pertaining to producer filings, this section should also be removed as obsolete.

Section 375.307(a)(9) provides that the Director of OPR can authorize adding or changing delivery points or changing volumes between existing delivery points under NGA section 7(c), provided that the pipeline "sales" volumes remain within total existing contract demand and certificated levels. We propose to remove this section as obsolete. Since unbundling under Order No. 636, we no longer need to monitor changes in delivery points for sales volumes, because pipelines transport gas to customers' delivery points. Changes in delivery points for transportation volumes are now covered under section 157.211.

We propose new section 375.307(a)(10) to delegate to the Director of OPR the authority to dismiss protests to prior notice filings that the Director determines do not raise a substantive issue and fail to provide any specific detailed reason or rationale for the objection. We propose to amend section 157.205(g) to add that such protests may be dismissed.

Section 375.307(a)(17) delegates to the Director of OPR authority to act on certificates and related rate schedules of independent producers. Since Order No. 567 eliminated the regulations pertaining to producers, the Commission proposes to remove this section as obsolete.

Section 375.307(a)(18) authorizes the Director of OPR to act on offers of settlement in the Independent Oil and Gas Association of West Virginia proceedings in Docket Nos. RI74-188 and RI75-21 involving indefinite price escalator clauses (also referred to as area

rate clauses).³⁸ On December 10, 1996, the Presiding Administrative Law Judge issued an Initial Decision Terminating Proceedings in the above dockets.³⁹ The initial decision found that all pipeline parties have settled or otherwise satisfied all claims asserted against them in these proceeding and that no issues remained. On January 21, 1997, the Commission issued a Notice of Finality of Initial Decision allowing the December 16, 1996 initial decision to become a final Commission decision.⁴⁰ Therefore, the Commission proposes to remove this section. With the deletion of sections 375.307(a)(2), (8), (9), (17) and (18), the remaining paragraphs are redesignated as (a)(2) through (a)(13).

Section 375.307(b) authorizes the Director of OPR to act upon a variety of filings related to rate schedules filed by natural gas companies. Section 375.307(b)(4) allows the Director of OPR to accept rate filings of jurisdictional natural gas companies which involve replacement and rollover contracts. Section 375.307(b)(5) allows the Director of OPR to accept statements of eligibility by producers filed under section 2.56⁴¹ and section 157.40. As noted above, following issuance of the Decontrol Act, Order No. 567 eliminated the regulations pertaining to producers. Therefore, the Commission proposes to remove sections 375.307(b)(4) and (b)(5) as obsolete.

Section 375.307(c) authorizes the Director of OPR to take certain actions under the NGPA, including computing maximum lawful prices under section 375.307(c)(1), notifying jurisdictional agencies under section 375.307(c)(2), and passing on uncontested requests for extensions of time to file reports under section 284.148(c) under section 375.307(c)(3). These sections are now obsolete and the Commission proposes to remove all of section 375.307(c). Sections 375.307(c)(1) and (c)(2) are outdated because the Wellhead Decontrol Act deregulated all first sales of natural gas as of January 1, 1993 and Order No. 567 eliminated the regulations pertaining to the sales of natural gas production. Section 375.307(c)(3) is no longer germane since it is linked to reports filed under section

³⁸ See Opinion No. 77, 10 FERC ¶ 61,214 (1980).

³⁹ Independent Oil & Gas Association of West Virginia, 77 FERC ¶ 63,020 (1996).

⁴⁰ Independent Oil & Gas Association of West Virginia, 78 FERC ¶ 61,052 (1997).

⁴¹ Section 2.56 was a policy statement concerning area rates for natural gas sales by independent producers. This section was removed from the regulations by Order No. 542 as obsolete because the NGPA superseded area rates.

³⁷ Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction over Natural Gas, Order No. 542, 57 FR 21891 (May 26, 1992) FERC Stats. and Regs. ¶30,945 (May 1, 1992).

284.148(c), which has been removed by Order No. 581.⁴²

Section 375.307(e)(3) authorizes the Director of OPR to initiate an annual survey of winter gas supply. The Commission no longer requires the submission of detailed gas supply information in support of new construction projects. Pipelines proposing new construction are currently required only to describe the production areas accessible that contain existing or potential supplies for the proposed project.⁴³ In Order No. 554,⁴⁴ the Commission revised its regulations to remove the requirement that natural gas pipeline companies file FERC Form No. 15, "Interstate Pipeline's Annual Report of Gas Supply," and FERC Form No. 16, "Report of Gas Supply and Requirements." The Commission found that the information in those reports was no longer necessary since the interstate pipelines have evolved from performing primarily as merchants of natural gas to providing primarily transportation services to non-pipeline shippers. For the same reason, the Commission is proposing to remove section 375.307(e)(3).

Section 375.307(e)(7) authorizes the Director of OPR to grant any producer's uncontested application for abandonment. Since Order No. 567 removed the regulations pertaining to producers, the Commission proposes to remove this section as obsolete.

The existing section 375.307(f)(3), which will be redesignated as section 375.307(e)(3), will delegate to the Director of OPR the authority to waive fees prescribed in various sections of the regulations. The Commission proposes to remove the reference in redesignated section 375.307(e)(3) to section 381.402 as outdated.

Since we propose to remove section 375.307(c), remaining sections 375.307(d)–(g) should be redesignated section 375.307(c)–(f).

F. Part 380—Regulations Implementing the National Environmental Policy Act

The regulations in Part 380 implement the Commission's procedures under the NEPA. These regulations supplement the regulations of the Council on Environmental Quality (CEQ), 40 CFR Parts 1500

through 1508 (1986). Part 380 essentially follows the CEQ procedures concerning early and efficient review of environmental issues, public notice and participation, scooping, interagency cooperation, comments, and timing of decisions on proposals.

Section 380.4—Projects or Actions Categorically Excluded.

As a procedural matter, the Commission proposes to amend section 380.4(a)(28) to the correct a typographical error by replacing the word "tops" with "taps".

Section 380.12—Environmental Reports for Natural Gas Act Applications.

The Commission proposes to replace Part 380 Appendix A (guidelines for the environmental report), which is out of date and contains numerous errors, with the currently optional Appendix G resource reports in the electronic filing requirements, which virtually all companies are now using instead of Appendix A. These resource reports would be in new section 380.12. In section 380.12 the Commission proposes to list, in detail, the information it needs to conduct an environmental review of a proposal under NEPA. Applications not meeting a minimum specified portion of these requirements will be rejected. It is very inefficient for the Commission's staff to try to process filings with minimal data for analysis while the applicant files the necessary information in a piecemeal fashion. Moreover, accepting incomplete applications fosters unreasonable expectations by the applicant, *i.e.*, filling in the blanks as time progresses, and expecting staff to be able to complete its analysis as if the application had been complete from the beginning.

In addition, it causes undue concern to landowners and other opponents. This is also a practice that the industry is not allowed to follow at other agencies. Acceptance of such incomplete filings can cause affected parties and staff to prematurely expend significant effort which may ultimately be unnecessary or duplicative once the project is more fully developed. Nor does filing prematurely confer any real competitive advantage on the applicant. Any perceived advantage of filing early is nullified by our practice of not noticing incomplete applications. The applicant with a complete filing can expect expedited processing with minimal delays due to data requests.

The information listed in proposed section 380.12 would not only provide better guidance to the regulated industry on what the Commission needs for its

environmental analysis, but when the information should be provided. Both of these factors have a strong impact on the staff's ability to quickly process applications in a way that protects the environment and ensures the procedural requirements of NEPA are met.

Some of these changes include:

Adding a new Resource Report 13 on Liquefied Natural Gas (LNG) engineering filing requirements.

- Adding a requirement to compare the proposal to the staff's current "Upland Erosion Control, Revegetation, and Maintenance Plan" and "Wetland and Waterbody Construction and Mitigation Procedures."

- Specifying that supplemental or amendment filings which include changes in facility locations provide tables showing exactly how the substitution of those locations for the ones originally proposed affects the environmental factors relevant to the locations on file prior to the amendment.

Additionally, proposed section 380.12(c)(2) lists the information the Commission needs to consider the environmental impact of related nonjurisdictional facilities that would be constructed upstream or downstream of the jurisdictional facilities for the purpose of delivering, receiving, or using the proposed gas volumes. Integrally-related nonjurisdictional facilities could include major power facilities, such as cogeneration plants, as well as less significant facilities, such as lateral pipeline connections built by local distribution companies. The extent of the Commission's analyses of nonjurisdictional facilities depends on the Commission's determination of its and other Federal agencies' control and responsibility over these facilities.

Section 380.13—Compliance With the Endangered Species Act

This section makes it clear how the Commission expects applicants to assist the Commission in complying with its responsibilities under the Endangered Species Act. It is similar to the current process under the blanket certificate program of Subpart F of Part 157 of this chapter and is fashioned to parallel the regulations implementing the Endangered Species Act. This process is to be used when the applicant is preparing the environmental documents required by section 380.12(e)(5).

Section 380.14—Compliance With the National Historic Preservation Act

This section identifies applicants as non-Federal parties and specifies principles that natural gas companies are expected to follow in assisting the Commission in complying with its responsibilities under the National Historic Preservation Act. These

⁴² Revisions to Uniform Systems of Accounts, Forms, Statements, and Reporting Requirements for natural gas Companies, Order No. 881 (Oct. 11, 1995).

⁴³ See section 157.14(a)(10), Exhibit H—Total gas supply data.

⁴⁴ Revisions to the Regulations Governing Natural Gas Pipelines, Order No. 554, 58 FR 38524 (July 13, 1993), FERC Stats. and Regs. ¶ 30,973 (July 13, 1993).

principles are to be used when the applicant is preparing the environmental documents required by section 380.12(f).

Section 380.15—Siting and Maintenance Requirements

The Commission also proposes that the facility siting guidelines currently at section 2.69 would be redesignated as new section 380.15. This would put them with the rest of the environmental regulations.

Appendix A to Part 380—Minimum Filing Requirements for Environmental Reports Under the Natural Gas Act

The Commission proposes to replace the old Part 380 Appendix A with a checklist of minimum environmental filing requirements. The checklist in the proposed new Appendix A represents the minimum filing requirement an applicant would need to provide the Commission at the time the application is filed. Failure to provide these minimum requirements would result in the application's being rejected.

G. Part 385—Rules of Practice and Procedure

Part 385 sets forth the Commission's Rules of Practice and Procedure. The Commission is proposing to revise certain of the regulations under Subpart T relating to the rejection of filings and to electronic filing of applications.

Section 385.2001—Filings (Rule 2001)

Consistent with our proposal to reject patently deficient filings under section 157.8 and section 157.205(d), the Commission proposes to modify section 385.2001(b)(3), dealing with rejection of filings, to provide for a letter of rejection indicating the reasons for rejection.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant impact on a substantial number of small entities.⁴⁵ The Commission is not required to make such analysis if a rule would not have such an effect.

The Commission does not believe that this rule would have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of small entity.⁴⁶ Further, the filing requirements

of small entities are reduced by the rule. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Environmental Statement

The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement.⁴⁷ No environmental consideration is raised by the promulgation of a rule that is procedural or that does not substantially change the effect of legislation or regulations being amended.⁴⁸ The instant rule updates the various regulations and does not substantially change the effect of the underlying legislation or the regulations being revised or eliminated.

The primary effect of this rule is procedural or changes some of the filing requirements placed on applicants. It also clarifies some of the existing regulations (§ 2.55) without changing their effect. These clarifications and changes to filing requirements have no potential for environmental effect. Whether the Commission approves or denies the application is the Federal action that can be said to have an environmental effect.

There are only minor changes to what a project sponsor may construct under the blanket certificate program with little or no Commission review. Eligible facilities now include mainline and lateral replacements and wells in a certificated storage field. However, there is no difference, from an environmental standpoint, between the pipeline that could be built under the previous regulations and these proposed regulations. In addition, wells may already be drilled under the blanket program for testing and development of fields for storage of natural gas (§ 157.215). The change proposed herein does not allow drilling of wells for the purpose of increasing the capacity of the storage field, only for enhanced operational efficiency. An Environmental Assessment was done for the blanket program in July of 1981. For these reasons, no environmental analysis is necessary.

VII. Public Comment Procedures

The Commission invites all interested persons to submit written comments on this NOPR.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m. December 1, 1998. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426 and should refer to Docket No. RM98-9-000. Commenters also can submit comments on computer diskette in WordPerfect 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. RM98-9-000 on the outside of the diskette.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, NE., Washington, DC 20426, during regular business hours. Additionally, comments can be viewed and printed remotely via the Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202-208-2222, or by E-mail to rimsmaster@ferc.fed.us.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 153

Exports, Imports, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 284

Continental shelf, Incorporating by Reference, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 380

Environmental impact statements, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping

⁴⁵ 5 U.S.C. 601-612.

⁴⁶ 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and

operated and which is not dominant in its field of operation.

⁴⁷ 18 CFR 380.4.

⁴⁸ 18 CFR 380.4(a)(2)(ii).

By direction of the Commission.
David P. Boergers,
Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 2, 153, 157, 284, 375, 380, 381 and 385, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 2—GENERAL POLICY AND INTERPRETATIONS

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

Authority: U.S.C. 601; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 792–825y, 2601–2645; 42 U.S.C. 4321–4361, 7101–7352.

§ 2.1 [Amended]

2. In § 2.1, paragraph (a)(1)(viii)(A) through (D) are removed and (a)(1)(viii) introductory text is removed and reserved.

3. In § 2.55, paragraph (a) is amended to add a new sentence at the end; (b)(1)(ii) and (iii) are revised; and paragraph (d) is removed and reserved, to read as follows:

§ 2.55 Definition of terms used in section 7(c).

* * * * *

(a) * * * Facilities constructed along with new transmission facilities do not qualify as auxiliary installations for the purposes of this section.

(b) * * *

(1) * * *

(ii) The replacement facilities will have a substantially equivalent designed delivery capacity, will be located in the same right-of-way or on the same site as the facilities being replaced, and, except as specified in paragraph (b)(1)(iv) of this section will be constructed using the temporary work space used to construct the replaced facility (See Appendix A of this part for guidelines on what is considered to be the appropriate work area in this context);

(iii) Except as described in paragraph (b)(2) of this section, the company files notification of such activity with the Commission at least 30 days prior to commencing construction.

* * * * *

(d) [Reserved]

§ 2.69 [Removed]

4. Section 2.69 is removed and reserved.

§ 2.102 [Removed]

5. Section 2.102 is removed and reserved.

6. Appendix A to Part 2 is added to read as follows:

Appendix A to Part 2—Guidance for Determining the Acceptable Construction Area for Replacements

1. Pipeline replacement must be within the existing right-of-way as specified by § 2.55(b)(1)(ii). Construction activities for the replacement can extend outside the current permanent right-of-way to the extent that they are constrained by the temporary and permanent right-of-way and associated work spaces used in the original installation.

2. If documentation is not available on the location and width of the temporary and permanent rights-of-way and associated work space that was used to construct the original facility, the company may use the following guidance in replacing its facility, providing the appropriate easements have been obtained:

a. Construction should be limited to no more than a 75-foot-wide right-of-way including the existing permanent right-of-way for large diameter pipeline (pipe greater than 12 inches in diameter) to carry out routine construction. Pipeline 12 inches in diameter and smaller should use no more than a 50-foot-wide right-of-way.

b. The temporary right-of-way (working side) should be on the same side that was used in constructing the original pipeline.

c. A reasonable amount of additional temporary work space on both sides of roads and interstate highways, railroads, and significant stream crossings and in side-slope areas is allowed. The size should be dependent upon site-specific conditions. Typical work spaces are:

Item	Typical extra area (width/length)
Two lane road (bored).	25–50 by 100 feet.
Four lane road (bored).	50 by 100 feet.
Major river (wet cut) ..	100 by 200 feet.
Intermediate stream (wet cut).	50 by 100 feet.
Single railroad track ..	25–50 by 100 feet.

d. The replacement facility must be located within the permanent right-of-way or, in the case of nonlinear facilities, the cleared building site. In the case of pipelines this is assumed to be 50-foot-wide and centered over the pipeline unless otherwise legally specified.

3. However, use of these guidelines for work space size is constrained by the physical evidence in the area. Areas obviously not cleared during the original construction, as evidenced by stands of mature trees, structures, or other features that exceed the age of the facility being replaced, should not be used for construction of the replacement facility.

4. If these guidelines cannot be met, the company should consult with the staff to determine if the exemption afforded by § 2.55 of this chapter may be used. Usually, it may

not and construction authorization must be obtained pursuant to another regulation under the Natural Gas Act.

PART 153—APPLICATIONS FOR AUTHORIZATION TO CONSTRUCT, OPERATE, OR MODIFY FACILITIES FOR THE EXPORT OR IMPORT NATURAL GAS

7. The authority citation for Part 153 continues to read as follows:

Authority: 15 U.S.C. 717b, 717o; E.O. 10485, 3 CFR, 1949–1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136, DOE Delegation Order No. 0204–112, 49 FR 6684 (February 22, 1984).

8. In § 153.8, paragraph (a)(7) is revised to read as follows:

§ 153.8 Required exhibits.

(a) * * *

(7) *Exhibit F.* An environmental report as specified in § 380.3 and § 380.12 of this chapter. Applicant must submit all appropriate revisions to Exhibit F whenever route or site changes are filed. These revisions should identify the specific differences resulting from the route or site changes, and not just provide revised totals for the resources affected; and

* * * * *

9. In § 153.21, paragraph (b) is revised to read as follows:

§ 153.21 Conformity with requirements.

* * * * *

(b) *Rejection of applications.* If an application does not conform to the requirements of this part, the Director of the Office of Pipeline Regulation may reject the application within 10 days of filing as provided by § 385.2001(b) of this chapter. An application that relates to an operation, service, or construction concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

10. The authority citation for Part 157 continues to read as follows: st

Authority: 15 U.S.C. 717–717W, 3301–3432; 42 U.S.C. 7101–7352.

11. In § 157.6, paragraphs(a)(1)–(4) are revised; a new paragraph (a)5 is added; the heading in paragraph (b) revised; and a new paragraph (b)(8) is added to read as follows:

§ 157.6 Applications; general requirements.

(a) Applicable rules—(1) Submission required to be furnished by applicant under this subpart. Applications, amendments thereto, and all exhibits and other submissions required to be furnished by an applicant to the Commission under this subpart must be submitted in an original and 7 conformed copies. To the extent that data required under this subpart has been provided to the Commission, this data need not be duplicated. The applicant must, however, include a statement identifying the forms and records containing the required information and when that form or record was submitted.

(2) The following must be submitted in electronic format as prescribed by the Commission:

- (i) Applications;
- (ii) Exhibits to applications;
- (iii) Applications covering acquisitions and all attached exhibits;
- (iv) Applications for temporary certificates;
- (v) Applications to abandon facilities or services and attached exhibits;
- (vi) The progress reports required under § 157.20(c) and (d);
- (vii) Applications submitted under Subpart E of this part;
- (viii) Applications under Subpart F of this part;
- (ix) Requests for authorization under the notice procedures established in § 157.205;
- (x) The annual report required by § 157.207;
- (xi) The report required under § 157.214 when storage capacity is increased;
- (xii) Amendments to any of the sections listed in paragraph (a)(2).

(3) All filings must be signed in compliance with the following:

- (i) The signature on a filing constitutes a certification that: the signer has read the filing signed and knows the contents of the paper copies and electronic filing; the paper copies contain the same information as contained in the electronic filing; the contents as stated in the copies and in the electronic filing are true to the best knowledge and belief of the signer; and the signer possesses full power and authority to sign the filing.
- (ii) A filing must be signed by one of the following:
 - (A) the person on behalf of whom the filing is made;
 - (B) an officer, agent, or employee of the governmental authority, agency, or instrumentality on behalf of which the filing is made; or,
 - (C) a representative qualified to practice before the Commission under

§ 385.2101 of this chapter who possesses authority to sign.

(4) Suitable means of electronic transmission or electronic media suitable for Commission filings are listed in the instructions for each form and filing. Lists of suitable electronic media are available upon request from the Commission. The formats for the electronic filing and paper copy can be obtained at the Federal Energy Regulatory Commission, Public Information and Reference Branch, 888 First Street, NE., Washington, D.C. 20426.

(5) Other requirements. Applications under section 7 of the Natural Gas Act must conform to the requirements of §§ 157.5 through 157.14. Amendments to or withdrawals of applications must conform to the requirements of §§ 385.213 and 385.214 of this chapter. If the application involves an acquisition of facilities, it must conform to the additional requirements prescribed in §§ 157.15 and 157.16. If the application involves an abandonment of facilities or service, it must conform to the additional requirements prescribed in § 157.18.

(b) General content of application.

(8) For applications to construct new facilities, the complete information necessary for the Commission to make an upfront determination on the rate treatment of the proposed project in accordance with the Statement of Policy in Docket No. PL94-4-000, if the applicant does not propose to charge incremental rates. The Policy Statement can be found at 71 FERC (CCH) ¶ 61,241 (1995) or on the FERC Homepage at <http://www.ferc.fed.us/news1/policy/pages/policy.htm>. Such information should include, but is not limited to the following:

- (i) Documentation specifically showing that an expansion project will increase system or operational reliability, or provide other financial benefits;
- (ii) Detailed cost-of-service data supporting the cost of the expansion project, a detailed study showing the revenue responsibility for each firm rate schedule under the pipeline's currently effective rate design and under the pipeline's proposed rolled-in rate design, a detailed rate impact analysis by rate schedule (including by zone, if applicable), and an analysis reflecting the impact of the fuel usage by zone resulting from the proposed expansion project.

* * * * *

12. Section 157.8 is revised to read as follows:

§ 157.8 Acceptance for filing or rejection of applications.

Applications will be docketed when received and the applicant so advised. If an application does not conform to the requirements of this part, the Director of the Office of Pipeline Regulation may reject the application within 10 days of filing as provided by § 385.2001(b) of this chapter. This rejection is without prejudice to an applicant's refiling a complete application. However, an application will not be rejected solely on the basis of environmental reports that are incomplete because the company has not been granted access by the affected landowner(s) to perform required surveys, etc. An application which relates to an operation, sale, service, construction, extension acquisition, or abandonment concerning which a prior application has been filed and rejected, shall be docketed as a new application. Such new application shall state the docket number of the prior rejected application.

13. In § 157.9, the first sentence is revised to read as follows:

§ 157.9 Notice of application.

Notice of each application filed, except when rejected in accordance with § 157.8, will be issued within 10 days of filing, and subsequently will be published in the **Federal Register** and copies of such notice mailed to States affected thereby. * * *

14. Section 157.10 is revised to read as follows:

§ 157.10 Interventions and protests.

Notices of applications, as provided by § 157.9, will fix the time within which any person desiring to participate in the proceeding may file a petition to intervene, and within which any interested regulatory agency, as provided by § 385.214 of this chapter, desiring to intervene may file its notice of intervention. Any person filing a petition to intervene or notice of intervention shall state specifically whether he seeks formal hearing on the application. Any person may file to intervene on environmental grounds based on the draft environmental impact statement as stated at § 380.10(a)(1)(i) of this chapter. In accordance with that section, such intervention will be deemed timely as long it is filed within the comment period for the draft environmental impact statement. Failure to make timely filing will constitute grounds for denial of participation in the absence of extraordinary circumstances for good cause shown. A copy of each application, supplement and

amendment thereto, including exhibits required by § 157.14, 157.16, and 157.18, shall upon request be promptly supplied by the applicant to anyone who has filed a petition for leave to intervene or given notice of intervention. However, an applicant is not required to serve voluminous or difficult to reproduce material, such as copies of environmental information, to all parties, unless such material is specifically requested. Within two business days of receiving a request for a complete copy from any party, the applicant must serve a full copy of any filing. Pipelines will be required to keep all voluminous material on file with the Commission and make such information available for inspection in the project area. Protests may be filed in accordance with § 385.211 of this chapter within the time permitted by any person who does not seek to participate in the proceeding.

15. In § 157.14, paragraph (a) is amended to remove the words "On or after October 31, 1989, exhibits" and the word "Exhibits" added in its place; paragraph (a)(6-a) is revised; paragraph (a)(6-b) is removed; paragraph (a)(6-d) is redesignated as (a)(6-b); both references in newly redesignated (a)(6-b) to "IV" is removed and a reference to "II" is added in its place; paragraph (a)(6-c) is removed; paragraph (a)(12) is removed and reserved; paragraphs (a)(14)(i) through (vi) are revised; and paragraphs (a)(14)(vii) through (xiii) are removed, all to read as follows:

§ 157.14 Exhibits.

- (a) * * *
- (6) * * *

(6-a) *Exhibit F-I, Environmental Report.* An environmental report as specified in §§ 380.3 and 380.12 of this chapter. Applicant must submit all appropriate revisions to Exhibit F-I whenever route or site changes are filed. These revisions should identify the locations by mile post and describe all other specific differences resulting from the route or site changes, and should not simply provide revised totals for the resources affected.

- (12) [Reserved]

- (14) * * *

(i) A description of the class (e.g. commercial paper, long-term debt, preferred stock) and cost rates for securities expected to be issued with construction period and post-operational sources of financing separately identified.

(ii) Statement of anticipated cash flow, including provision during the

period of construction and the first 3 full years of operation of proposed facilities for interest requirements, dividends, and capital requirements.

(iii) A balance sheet and income statement (12 months) of most recent data available.

(iv) Comparative pro forma balance sheets and income statements for the period of construction and each of the first 3 full years of operation, giving effect to the proposed construction and proposed financing of the project.

(v) Any additional data and information upon which applicant proposes to rely in showing the adequacy and availability of resources for financing its proposed project.

(vi) In instances for which principal operations of the company have not commenced or where proposed rates for services are developed on an incremental basis, a brief statement explaining how the applicant will determine the actual allowance for funds used during construction (AFUDC) rate, or if a rate is not to be used, how the applicant will determine the actual amount of AFUDC to be capitalized as a component of construction cost, and why the method is appropriate under the circumstances.

16. In § 157.16, paragraph (c)(1) is revised to read as follows:

§ 157.16 Exhibits relating to acquisitions.

- (c) * * *

(1) The amounts recorded upon the books of the vendor, as being applicable to the facilities to be acquired, and the related depreciation, depletion, and amortization reserves. Include a brief statement explaining the basis or methods used to derive the related depreciation, depletion and amortization reserves.

§ 157.17 [Amended]

17. In § 157.17, the words "Before October 31, 1989, and thereafter whenever" are removed from paragraph (a) and the word "Whenever" added in their place; and the words "On or after October 31, 1989, the" are removed from paragraph (b) and the word "The" added in their place.

18. In § 157.18, a new sentence is added between the first and second sentence in the introductory paragraph and in paragraph (f)(2); paragraph (f)(3) is revised to read as follows:

§ 157.18 Applications to abandon facilities or service; exhibits.

* * * Any application for an abandonment that is not excluded by

§ 380.4(a)(28) or (29), must include an environmental report as specified by § 380.3(c)(2). * * *

* * * * *

- (f) * * *

(2) * * * Include a brief statement explaining the basis or methods used to derive the accumulated depreciation related to the property to be disposed of.

(3) State the amount of accumulated deferred income taxes attributable to the property to be abandoned and the tax basis of the property. * * *

* * * * *

19. In § 157.20, paragraph (b) is revised; the phrases ", until October 31, 1989," and ", and thereafter," are removed from paragraph (c), the phrases ", before October 31, 1989," and "and thereafter" are removed from paragraph (d); paragraph (f) is removed and paragraph (g) is redesignated as (f) to read as follows:

§ 157.20 General conditions applicable to certificates.

* * * * *

(b) Any authorized construction, extension, or acquisition shall be completed and made available for service by applicant and any authorized operation, service, or sale shall be actually undertaken and regularly performed by applicant within (period of time to be specified by the Commission in each order) from the issue date of the Commission's order issuing the certificate. Applicant shall notify the Commission in writing at least 30 days prior to (expiration date of time period specified in the Commission's order issuing the certificate) that the end-user/shipper is unable to meet the imposed timetable to commence service.

* * * * *

§ 157.21 [Removed]

20. Section 157.21 is removed and reserved.

21. In § 157.102, the last sentence in paragraph (a)(1) is removed; paragraph (b)(1)(v) is revised to read as follows:

§ 157.102 Contents of application and other pleadings.

* * * * *

- (b) * * *
- (1) * * *

(v) An environmental report as specified in §§ 380.3 and 380.12 of this chapter. Applicant must submit all appropriate revisions to the environmental report whenever route or site changes are filed. These revisions should identify and describe the specific differences resulting from the route or site changes, and not just

provide revised totals for the resources affected; and

* * * * *

§ 157.103 [Amended]

22. In § 157.103(j), the words "and Producer" are removed.

§ 157.201 [Amended]

23. In § 157.201(a) the words "sales arrangements" are removed.

24. In § 157.202, paragraphs (b)(2)(i) and (b)(2)(ii)(A), (B), (D), (E), and (F), and paragraphs (b)(4), (5), (7), (10) are revised; and (b)(12) through (14) are removed to read as follows:

§ 157.202 Definitions.

* * * * *

(b) * * *

(2)(i) Eligible facility means, except as provided in paragraph (b)(2)(ii) of this section, any facility subject to the Natural Gas Act jurisdiction of the Commission that is necessary to provide service within existing certificated volumes. Eligible facility also includes any gas supply facility or any facility, including receipt points, needed by the certificate holder to receive gas into its system for further transport or storage, and interconnecting points between transporters that transport natural gas under part 284 of this chapter. Further, eligible facility includes mainline and lateral replacements that do not qualify under § 2.55(b) of this chapter because they will have an impact on the capacity of the mainline facilities.

(ii) * * *

(A) A main line of a transmission system, except replacement facilities covered under paragraph (b)(2)(i) of this section.

(B) An extension of a main line, except replacement facilities covered under paragraph (b)(2)(i).

* * * * *

(D) A facility required to test, develop or utilize an underground storage field and that alters the certificated capacity of the storage field, or a facility required to store gas above ground in either a gaseous or liquified state, or a facility used to receive gas from plants manufacturing synthetic gas or from plants gasifying liquefied natural gas.

(E) Delivery points under § 157.211.

(F) Temporary compression under § 157.209.

* * * * *

(4) Temporary compression means compressor facilities installed and operated at existing compressor locations for the limited purpose of temporarily replacing existing permanent compressor facilities that are undergoing maintenance or repair or

that are pending permanent replacement.

(5) Main line means the principal transmission facilities of a pipeline system extending from supply areas to market areas and does not include small diameter supply or delivery laterals or gathering lines.

* * * * *

(7) Project means a unit of improvement or construction that is used and useful upon completion.

* * * * *

(10) Delivery point(s) means a tap and/or metering and appurtenant facilities necessary to enable the certificate holder to deliver gas to any customer.

* * * * *

§ 157.203 [Amended]

25. In § 157.203, paragraph (b) is amended to remove the references to "157.213(a)" and "157.217" and to add the reference "157.209(a)" immediately after "§§ 157.208(a)". Paragraph (c) is amended to remove the reference to "157.211, 157.211(b), 157.212, 157.213(b)" and to add the reference "157.211(a)(2)" in their place.

§ 157.204 [Amended]

26. In § 157.204, paragraph (d)(2) is removed; paragraph (d)(3) is redesignated as d(2); and paragraphs (d)(4) and (5) and paragraph (e) are removed.

27. In § 157.205, paragraphs (a) introductory text and (b) introductory text are revised; paragraph (c) is removed; paragraphs (d) through (i) are redesignated as (c) through (h); newly designated (c) is revised; redesignated (f) the words "and Producer" is removed; in redesignated (d) add the phrase "issue a notice of the request within 10 days of the date of the filing and" after the words "Commission shall"; redesignated (e)(2) is revised; in redesignated (f) add the words "or dismissed" after the words "is not withdrawn"; in redesignated (g) introductory text is revised, the words "and staff" are removed, the phrase "certificate holder, the protestor" is revised to read "certificate holder and protestor", and a sentence is added at the end of the paragraph; and in redesignated (h)(2) add the words "or dismissed" after the words "subsequently withdrawn" and the words "or dismissal" after the words "after the withdrawal" to read as follows:

§ 157.205 Notice Procedure.

(a) Applicability. No activity described in §§ 157.208(b), 157.211, 157.214 or 157.216(b) is authorized by

a blanket certificate granted under this subpart, unless, prior to undertaking such activity:

* * * * *

(b) Contents. For any activity subject to the requirements of this section, the certificate holder must file with the Secretary of the Commission an original and seven copies, as prescribed in § 157.6(a) and 385.2011 of this chapter, a request for authorization under the notice procedures of this section that contains:

* * * * *

(c) Rejection of request. The Director of the Office of Pipeline Regulation may reject within 10 days of the date of filing a request which patently fails to comply with the provisions of paragraph (b) of this section, without prejudice to the pipeline's refiling a complete application.

* * * * *

(e) * * *

(2) Protests shall be filed in the following form:

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ENERGY
REGULATORY COMMISSION

[Name of pipeline holding the blanket certificate]
Docket No. [Include both docket no. of the blanket certificate and the prior notice transaction]

PROTEST TO PROPOSED BLANKET
CERTIFICATE ACTIVITY

(Name of Protestor) hereby protests the request filed by (Name of pipeline) to conduct a (construction of facilities, abandonment, etc.) under § 157.____ of the Commission's regulations. Protestor seeks to have this request processed as a separate application.

(Include a detailed statement of Protestor's interest in the activity and the specific reasons and rationale for the objection and whether the protestor seeks to be an intervenor.)

* * * * *

(g) Withdrawal or dismissal of protests. * * * The Director of the Office of Pipeline Regulation may dismiss any protest which does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection.

* * * * *

28. In § 157.206, paragraphs (b), (c), (e), and (h) are removed; paragraph (d) is redesignated as paragraph (b); paragraph (f) is redesignated as (c); paragraph (g) is redesignated as (d); in redesignated (b)(1) the reference to "§ 2.69" is removed and the reference to "§ 380.15" is added in its place; in redesignated (b)(3)(i) through (iii) the

references to paragraph "(d)" are removed and a reference to "(b)" is added in its place; redesignated (b)(5) is revised; and redesignated paragraph (c) is revised to read as follows:

§ 157.206 Standard conditions.

* * * * *

(b) * * *

(5) The noise attributable to any compressor facility installed, modified, upgraded, or uprated pursuant to the blanket certificate shall not exceed a day-night sound level (L_{dn}) of 55 db (A) at any noise-sensitive area unless the noise-sensitive areas (such as schools, hospitals, or residences) are established after facility construction, modification, upgrade, or uprate.

* * * * *

(c) *Commencement.* Any authorized construction, extension, or acquisition shall be completed and made available for service by the certificate holder and any authorized operation, or service, shall be available within one year of the date the activity is authorized pursuant to § 157.205(h). The certificate holder may apply to the Director of the Office of Pipeline Regulation for an extension of this deadline. However, if the request for extension is not due to construction delays, the certificate holder must provide notification that the end-user/shipper is unable to meet the one year timetable.

* * * * *

29. In § 157.207, paragraphs (b) and (c) are revised; paragraph (f) is removed; paragraphs (g) and (h) are redesignated as paragraphs (f) and (g) to read as follows:

§ 157.207 General reporting requirements.

* * * * *

(b) For each delivery point authorized under § 157.211(a)(1), the information required by § 157.211(c);

(c) For each temporary compressor facility under § 157.209, the information required by § 157.209(b);

* * * * *

30. In § 157.208, the heading is revised; in paragraphs (a)(2) and (b)(2) add the word "replace" after the word "construct,"; remove paragraphs (c)(6) and (c)(8); paragraph (c)(7) is redesignated as (c)(6), paragraphs (c)(9) through (11) are redesignated as (c)(7) through (9); in redesignated (c)(9) the first sentence is revised and a new sentence is added at the end; in paragraph (d) the reference to "GNP" is removed and a reference to "GDP" is added in its place, the words "and Producer" are removed, and the reference to "375.307(t)" is corrected to "375.307(d)"; in paragraph (e) the

introductory text and paragraph (e)(2) are revised, paragraphs (e)(4) through (e)(7) are removed; paragraph (e)(8) is redesignated as (e)(4), paragraph (e)(9) is redesignated as (e)(5); and in paragraph (g) the words "and Producer" are removed to read as follows:

§ 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

* * * * *

(c) * * *

(9) A concise analysis discussing the relevant issues outlined in § 380.12 of this chapter. * * * Include a copy of the "clearances" received for compliance with the Endangered Species Act, National Historic Preservation Act, and Coastal Zone Management Act.

* * * * *

(e) *Reporting requirements.* For each facility completed during the calendar year pursuant to paragraph (a) of this section, the certificate holder shall file, in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter, as part of the required annual report under § 157.207(a) the information described in paragraph (e)(1) through (5) of this section. For each facility completed during the calendar year pursuant to paragraph (b) of this section, the certificate holder shall file in the manner prescribed in this paragraph only the information described in paragraph (e)(3).

(1) * * *

(2) The specific purpose, location, and beginning and completion date of construction of the facilities installed, and, if applicable, a statement indicating the extent to which the facilities were jointly constructed;

* * * * *

31. Section 157.209 is added to read as follows:

§ 157.209 Temporary compression facilities

(a) *Automatic authorization.* If the cost does not exceed the cost limitations set forth in column 1 in the Limit section of Table I, under § 157.208(d) of this chapter, the certificate holder may install, operate and remove temporary facilities provided that the temporary compressor facilities shall not be used to increase the volume or service above that rendered by the involved existing permanent compressor unit(s).

(b) *Reporting requirements.* As part of the certificate holder's annual report of projects authorized under paragraph (a) of this section, the certificate holder must report the following in the manner prescribed in §§ 157.6(a) and 385.2011 of this chapter:

(1) A description of the temporary compression facility, including the size, type and number of compressor units;

(2) The location at which temporary compression was installed, operated and removed, including its location relative to existing facilities;

(3) A description of the permanent compression facility which was unavailable, and a statement explaining the reason for the temporary compression;

(4) The dates for which the temporary compression was installed, operated and removed; and

(5) If applicable, the information required in § 157.208(e)(4).

§ 157.210 [Removed]

32. § 157.210 is removed and reserved.

33. In § 157.211, the heading, paragraphs (a), (b)(1) through (5), and (c)(1) through (3) are revised and a new paragraph (c)(4) is added to read as follows:

§ 157.211 Delivery points

(a) *Construction and operation—*(1) Automatic authorization. The certificate holder may acquire, construct, replace, modify, or operate any delivery point, excluding the construction of certain delivery points subject to the prior notice provisions in paragraph (a)(2) of this section if:

(i) The natural gas is being delivered to, or for the account of, a shipper for whom the certificate holder is, or will be, authorized to transport gas; and

(ii) The certificate holder's tariff does not prohibit the addition of new delivery points.

(2) Prior notice. Subject to the notice procedure in § 157.205, the certificate holder may construct a delivery point if:

(i) The natural gas is being delivered to, or for the account of, an end-user that is currently being served by a local distribution company; and

(ii) The natural gas is being delivered to a shipper for whom the certificate holder is, or will be, authorized to transport gas; and

(iii) The certificate holder's tariff does not prohibit the addition of new delivery points.

(b) * * *

(1) The name of the end-user, the location of the delivery point, and the distribution company currently serving the end-user;

(2) A description of the facility and any appurtenant facilities;

(3) A USGS 7½-minute series (scale 1:24,000 or 1:25,000) topographic map (or map of equivalent or greater detail, as appropriate) showing the location of the proposed facilities;

(4) The quantity of gas to be delivered through the proposed facility;

(5) A description, with supporting data, of the impact of the service rendered through the proposed delivery tap upon the certificate holder's peak day and annual deliveries.

(c) * * *

(1) A description of the facilities acquired, constructed, replaced, modified or operated pursuant to this section;

(2) The location and maximum quantities delivered at such delivery point;

(3) The actual cost of the delivery point and the date such delivery point is ready and available for service; and

(4) The date of each clearance obtained pursuant to § 157.206(b)(3) and the date construction began.

* * * * *

§ 157.212 [Removed]

34. Section 157.212 is removed and reserved.

§ 157.213 [Removed]

35. Section 157.213 is removed and reserved.

36. In § 157.215, paragraph (b)(1)(iii) is revised to read as follows:

§ 157.215 Underground storage testing and development.

* * * * *

(b) * * *

(1) * * *

(iii) The cost of such facilities, the date construction began, and the date they were placed in service;

* * * * *

37. In § 157.216, paragraphs (a)(1) and (2), (b), (c)(1) and (3), and (d)(1), (2), and (4) are revised; and new paragraphs (c)(5), and (d)(5) are added to read as follows:

§ 157.216 Abandonment.

(a) * * *

(1) A receipt or delivery point, or related supply or delivery lateral, provided the point has not been used to provide (i) Interruptible transportation service during the one year period prior to the effective date of the proposed abandonment, or

(ii) Firm transportation service during the one year period prior to the effective date of the proposed abandonment, provided the point is no longer covered under a firm contract; or

(2) An eligible facility that was installed pursuant to automatic authority under § 157.208(a), or that now qualifies for automatic authority under § 157.208(a), provided the certificate holder obtains the written consent of the customers served through

such facility. Consent is required from customers that have received service during the immediate past 12 months.

(b) Prior notice. Subject to the notice requirements of § 157.205, the certificate holder is authorized pursuant to section 7(b) of the Natural Gas Act to abandon:

(1) Any receipt or delivery point if all of the existing customers of the pipeline served through the receipt or delivery point consent in writing to the abandonment. When filing a request for authorization of the proposed abandonment under the notice procedures of § 157.205, the certificate holder shall notify, in writing, the State public service commission having regulatory authority over retail service to the customers served through the delivery point.

(2) Any other facility which qualifies as an eligible facility, and which is not otherwise eligible for automatic authorization under paragraph (a)(2) of this section, provided the certificate holder obtains the written consent of all of the customers served through such facility. Consent is required from customers that have received service during the immediate past 12 months.

(c) * * *

(1) The location, type, size, and length of the subject facilities;

* * * * *

(3) For each facility an oath statement that all of the customers served during the past year by the subject facilities have consented to the abandonment, or an explanation of why the customers' consent is not available;

* * * * *

(5) For any abandonment resulting in earth disturbance, a USGS 7½-minute-series (scale 1:24,000 or 1:25,000) topographic map (or map of equivalent or greater detail, as appropriate) showing the location of the proposed facilities.

(d) * * *

(1) A description of the facilities abandoned pursuant to this section;

(2) The docket number(s) of the certificate(s) authorizing the construction and operation of the facilities to be abandoned;

* * * * *

(4) The date earth disturbance, if any, related to the abandonment began and the date the facilities were abandoned; and

(5) The date of the clearances obtained pursuant to § 157.206(b)(3), if earth disturbance was involved.

§ 157.217 [Removed]

38. § 157.217 is removed and reserved.

39. In § 157.218, paragraph (a) is revised to read as follows:

§ 157.218 Changes in customer name.

(a) Automatic authorization. The effective certificates of the certificate holder may be amended to the extent necessary to reflect the change in the name of an existing customer, if the certificate holder has filed any necessary conforming changes in its tariffs, including the customer's old name.

* * * * *

Appendix I to Subpart F of Part 157

40. In appendix I to subpart F of part 157, in the reference to "§ 157.206(d)(3)(i)" in the heading and the references to "§ 157.206(d)" and "§ 157.206(d)(7)" in the introduction the "(d)" is removed and a "(b)" is added in their place; the references to "§ 157.206(d)(2)(vii)" in the second introductory paragraph, paragraphs 2, 3, and 4(b) are revised to read "§ 157.206(b)(2)(vi)"; and the words", or that no further consultation is necessary" is added to the end of paragraph 4(b).

Appendix II to Subpart F of Part 157

41. In appendix II to subpart F of part 157, in the references to "§ 157.206(d)(3)(ii)" in the heading and "§ 157.206(d)(3)(ii)" in the introduction the "(d)" is removed and a "(b)" is added in its place; in the references to "§ 157.206(d)(2)(iv)" in paragraphs (4), (6), (7) and (8) the "(d)" and "(iv)" are removed and a "(b)" and "(iii)" are added in their place; in paragraph (1)(b) the reference to "Environmental Evaluation Branch, Office of Pipeline and Producer Regulation" is removed and a reference to "Environmental staff of the Office of Pipeline Regulation" is added in its place.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS ACT, THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

42. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352; 43 U.S.C. 1331-1356.

43. In § 284.221, paragraph (d)(1) is amended to remove the "s" from the word "paragraphs" and to remove the phrase "and (d)(3)"; paragraph (d)(3) is removed; the word "replacement," is added to paragraph (f)(3) after the word "operation"; paragraph (f)(4) is revised; and the phrase "and § 157.212" is removed from paragraph (h)(3) to read as follows:

§ 284.221 General rule; transportation by interstate pipelines on behalf of others.

* * * * *

(f) * * *

(4) Authorization for delivery points is subject to the automatic authorization under § 157.211(a)(1) and the prior notice procedures under § 157.211(a)(2) and § 157.205.

* * * * *

§ 284.288 [Removed]

44. § 284.288 is removed and reserved.

PART 375—THE COMMISSION

45. The authority citation for Part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

46. In § 375.307, paragraph (a)(1) is amended to remove “\$5,000,000” and to add the words “the limits specified in Column 2 of Table I in § 157.208(d)” in its place; paragraph (a)(2) is removed; paragraphs (a)(3) through (5) are redesignated as paragraphs (a)(2) through (4) and are revised; paragraphs (a)(6) and (a)(7) are redesignated as (a)(5) and (6); paragraphs (a)(8) and (a)(9) are removed; paragraph (a)(10) through (12) are redesignated as (a)(7) through (9); new paragraph (a)(10) is added; paragraphs (a)(14) through (16) are redesignated as (a)(11) through (13), and paragraphs (a)(17) and (a)(18) are removed; paragraphs (b)(4) and (5) and (c) are removed; paragraph (d) is redesignated as (c); paragraphs (e)(3) and (7) are removed; paragraphs (e)(4) through (6) are redesignated as (e)(3) through (5); paragraphs (e) through (g) are redesignated as (d) through (f); and redesignated paragraph (e)(3) is revised all to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline Regulation.

* * * * *

(a) * * *

(2) Applications by a pipeline for the abandonment of pipeline facilities or for the deletion of delivery points;

(3) Applications to abandon pipeline facilities or services involving a specific customer or customers, if such customer or customers have agreed to the abandonment;

(4) Applications for temporary or permanent certificates (and for amendments thereto) for the transportation, exchange, or storage of natural gas, provided that the cost of construction of the certificate applicant's related facility is less than

the limits specified in Column 2 of Table I in § 157.208(d).

* * * * *

(10) Dismiss any protest that does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection;

* * * * *

(e) * * *

(3) Fees prescribed in §§ 381.207 and 381.403 of this chapter in accordance with §§ 381.106(b) of this chapter;

* * * * *

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT.

47. The authority citation for Part 380 continues to read as follows:

Authority: National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370a; Department of Energy Organization Act, 42 U.S.C. 7107–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

§ 380.3 [Amended]

48. Section 380.3(c)(2) is amended to add the words “§ 380.12 and” after the words “information identified in”.

§ 380.4 [Amended]

49. At § 380.4(a)(28) remove the word “tops” and add the word “taps” in its place.

50. Section 380.12 is added to read as follows:

§ 380.12 Environmental reports for Natural Gas Act applications.

(a)(1) The applicant must submit an environmental report with any application that proposes the construction, operation, or abandonment of any facility identified in § 380.3(c)(2)(i). The environmental report shall consist of the thirteen resource reports and related material described in this paragraph.

(2) The detail of each resource report must be commensurate with the complexity of the proposal and its potential for environmental impact. Each topic in each resource report shall be addressed or its omission justified, unless resource report description indicates that the data is not required for that type of proposal. If material required for one resource report is provided in another resource report or in another exhibit, it may be incorporated by reference. If any resource report topic is required for a particular project but is not provided at the time the application is filed, the environmental report shall explain why it is missing and when the applicant anticipates it will be filed.

(3) The appendix to this Part contains a checklist of the minimum filing

requirements for an environmental report. Failure to provide at least the applicable checklist items will result in rejection of the application.

(b) As appropriate, each resource report shall:

(1) Address conditions or resources that might be directly or indirectly affected by the project.

(2) Identify significant environmental effects expected to occur as a result of the project;

(3) Identify the effects of construction, operation (including maintenance and malfunctions), and termination of the project, as well as cumulative effects resulting from existing or reasonably foreseeable projects;

(4) Identify measures proposed to enhance the environment or to avoid, mitigate, or compensate for adverse effects of the project;

(5) Provide a list of publications, reports, and other literature or communications, including agency contacts, that were cited or relied upon to prepare each report. This list should include the name and title of the person contacted, their affiliations, and telephone number.

(c) *Resource Report 1—General project description.* This report is required for all applications. It will describe facilities associated with the project, special construction and operation procedures, construction timetables, future plans for related construction, compliance with regulations and codes, and permits that must be obtained. Resource Report 1 must:

(1) Describe and provide location maps of all jurisdictional facilities, including all aboveground facilities associated with the project (such as: meter stations, pig launchers/receivers, valves), to be constructed, modified, abandoned, replaced, or removed, including related construction and operational support activities and areas such as maintenance bases, staging areas, communications towers, power lines, and new access roads (roads to be built or modified). As relevant, the report must describe the length and diameter of the pipeline, the types of aboveground facilities that would be installed, and associated land requirements. It must also identify other companies that must construct jurisdictional facilities related to the project, where the facilities would be located, and where they are in the Commission's approval process.

(2) Identify and describe all nonjurisdictional facilities that will be built in association with the project, including facilities to be built by other companies.

(i) Provide the following information:

(A) A brief description of each facility, including as appropriate: ownership, land requirements, gas consumption, megawatt size, construction status, and an update of the latest status of Federal, state, and local permits/approvals;

(B) The length and diameter of any interconnecting pipeline;

(C) Current 1:24,000/1:25,000 scale topographic maps showing the location of the facilities;

(D) Correspondence with the appropriate State Historic Preservation Officer (SHPO) regarding whether properties eligible for listing on the National Register of Historic Places (NRHP) would be affected;

(E) Correspondence with the Fish and Wildlife Service (and National Marine Fisheries Service, if appropriate) regarding potential impacts of the proposed facility on federally listed threatened and endangered species; and

(F) For facilities within a designated coastal zone management area, a consistency determination or evidence that the owner has requested a consistency determination from the state's coastal zone management program.

(ii) Address each of the following factors and indicate which ones, if any, indicate the need to do an environmental review of project-related nonjurisdictional facilities.

(A) Whether or not the regulated activity comprises "merely a link" in a corridor type project (e.g., a transportation or utility transmission project).

(B) Whether there are aspects of the nonjurisdictional facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity.

(C) The extent to which the entire project will be within the Commission's jurisdiction.

(D) The extent of cumulative Federal control and responsibility.

(3) Provide the following maps and photos:

(i) Current, original United States Geological Survey (USGS) 7.5-minute series topographic maps or maps of equivalent detail, covering at least a 0.5-mile-wide corridor centered on the pipeline, with integer mileposts identified, showing the location of rights-of-way, new access roads, other linear construction areas, compressor stations, and pipe storage areas. Show nonlinear construction areas on maps at a scale of 1:3,600 or larger keyed graphically and by milepost to the right-of-way maps.

(ii) Original aerial photographs or photo-based alignment sheets, not more than 1 year old and with a scale of 1:6,000 or larger, showing the proposed pipeline route and location of major aboveground facilities, covering at least a 0.5 mile-wide corridor, and including mileposts. Alternative formats (e.g., blue-line prints of acceptable resolution) need prior approval by the environmental staff of the Office of Pipeline Regulation.

(iii) In addition to the copy required under § 157.6(a)(2) of this chapter, applicant should send two additional copies of topographic maps and aerial photos directly to the environmental staff of the Office of Pipeline Regulation.

(4) When new or additional compression is proposed, include large scale (1:3,600 or greater) plot plans of each compressor station. The plot plan should reference a readily identifiable point(s) on the USGS maps required in paragraph (c)(2) of this section. The maps and plot plans must identify the location of noise-sensitive areas (schools, hospitals, or residences) near the compressor station, existing and proposed compressor and auxiliary buildings, access roads, and the limits of areas that would be permanently disturbed.

(5) Identify aboveground facilities to be abandoned, how they would be abandoned, and how the site would be restored.

(6) Describe and identify by milepost, proposed construction and restoration methods to be used in areas of rugged topography, residential areas, active croplands, sites where the pipeline would be located longitudinally under roads, and sites where explosives are likely to be used.

(7) Unless provided in response to Resource Report 5, describe estimated workforce requirements, including the number of pipeline construction spreads, average workforce requirements for each construction spread and meter or compressor station, estimated duration of construction from initial clearing to final restoration, and number of personnel to be hired to operate the proposed project.

(8) Describe reasonably foreseeable plans for future expansion of facilities, including additional land requirements and the compatibility of those plans with the current proposal.

(9) Describe all authorizations required to complete the proposed action and the status of applications for such authorizations. Identify environmental mitigation requirements specified in any permit or proposed in any permit application to the extent not specified elsewhere in this section.

(10) Provide the names and addresses of all landowners whose land would be crossed by the project facilities. Include the names and addresses of all residents adjacent to new or modified compressor stations.

(d) *Resource Report 2—Water use and quality.* This report is required for all applications, except those which involve only facilities within the areas of an existing compressor, meter, or regulator station that were disturbed by construction of the existing facilities, no wetlands or waterbodies are on the site and there would not be a significant increase in water use. The report must describe water quality and provide data sufficient to determine the expected impact of the project and the effectiveness of mitigative, enhancement, or protective measures. Resource Report 2 must:

(1) Identify and describe by milepost perennial waterbodies and municipal water supply or watershed areas, especially designated surface water protection areas and sensitive waterbodies, and wetlands that would be crossed. For each waterbody crossing, identify the approximate width, state water quality classifications, any known potential pollutants present in the water or sediments, and any potable water intake sources within 3 miles downstream.

(2) Compare proposed mitigation measures with the staff's current "Wetland and Waterbody Construction and Mitigation Procedures," which are available from the Commission's Internet Homepage at <http://www.ferc.fed.us/gas/environment/gidlines.htm> or from the Commission's staff, describe what proposed alternative mitigation would provide equivalent or greater protection to the environment, and provide a description of site-specific construction techniques that would be used at each major waterbody crossing.

(3) Describe typical staging area requirements at waterbody and wetland crossings. Also, identify and describe waterbodies and wetlands where staging areas are likely to be more extensive.

(4) Describe, by milepost, wetland crossings as determined by field delineation using the current Federal methodology, or as listed on National Wetland Inventory (NWI) maps. Identify, for each crossing, the wetland classification specified by the U.S. Fish and Wildlife Service and the length of the crossing. If NWI maps are provided, include two copies clearly showing the proposed route and mileposts. If NWI maps are not provided, provide two copies of USGS maps depicting wetlands delineated by the applicant.

(5) Identify aquifers within excavation depth in the project area, including the depth of the aquifer, current and projected use, water quality and average yield, and known or suspected contamination problems.

(6) Describe specific locations, the quantity required, and the method and rate of withdrawal and discharge of hydrostatic test water. Describe suspended or dissolved material likely to be present in the water as a result of contact with the pipeline, particularly if an existing pipeline is being retested. Describe chemical or physical treatment of the pipeline or hydrostatic test water. Discuss waste products generated and disposal methods.

(7) If underground storage of natural gas is proposed:

(i) Identify how water produced from the storage field will be disposed of, and

(ii) For salt caverns, identify the source locations, the quantity required, and the method and rate of withdrawal of water for creating salt cavern(s), as well as the means of disposal of brine resulting from cavern leaching.

(8) Discuss proposed mitigation measures to reduce the potential for adverse impacts to surface water or groundwater quality to the extent they are not described in response to paragraph (d)(2) of this section. Discuss the potential for blasting to affect water wells, springs, and wetlands, and measures to be taken to detect and remedy such effects.

(9) Identify the location of known public and private groundwater supply wells or springs within 150 feet of proposed construction areas. Identify locations of EPA or state-designated sole-source aquifers and well-head protection areas crossed by the proposed pipeline facilities.

(e) *Resource Report 3—Fish, wildlife, and vegetation.* This report is required for all applications, except those involving only facilities within the improved area of an existing compressor, meter, or regulator station. It must describe aquatic life, wildlife, and vegetation in the vicinity of the proposed project; expected impacts on these resources including potential effects on biodiversity; and proposed mitigation, enhancement or protection measures. Resource Report 3 must:

(1) Describe commercial and recreational warmwater, coldwater, and saltwater fisheries in the affected area and associated significant habitats such as spawning or rearing areas and estuaries.

(2) Describe terrestrial habitats, including wetlands, typical wildlife habitats, and significant wildlife habitats that might be affected by the

proposed action. Describe typical species that have commercial, recreational, or aesthetic value.

(3) Describe and provide the affected acreage of vegetation cover types that would be affected, including unique ecosystems or communities such as remnant prairie or old-growth forest, or significant individual plants, such as old-growth specimen trees.

(4) Describe the impact of construction and operation on aquatic and terrestrial species and their habitats, including the possibility of a major alteration to ecosystems or biodiversity, and any potential impact on state-listed endangered or threatened species. Describe the impact of maintenance, clearing and treatment of the project area on fish, wildlife, and vegetation, including specific areas of significant habitats or communities.

(5) Identify all federally listed or proposed endangered or threatened species and state-listed endangered or threatened species that potentially occur in the vicinity of the project. Discuss the results of the consultation requirements listed in § 380.13(b) and include any written correspondence that resulted from the consultation.

(6) Describe site-specific mitigation measures to minimize impacts on fisheries, wildlife, and vegetation.

(7) Include copies of correspondence not provided pursuant to paragraph (e)(5) of this section, containing recommendations from appropriate Federal and state fish and wildlife agencies to avoid or limit impact on wildlife, fisheries, and vegetation, and the applicant's response to the recommendations.

(f) *Resource Report 4—Cultural resources.* This report is required for all applications. In order to prepare this report, the applicant must follow the principles in § 380.14. Guidance on the content and the format for the documentation listed in this paragraph, as well as professional qualifications of preparers, is detailed in "OPR's Guidelines for Reporting on Cultural Resources Investigations," which is available from the Commission's Internet Homepage at <http://www.ferc.fed.us/gas/environment/gidlines.htm> or from the Commission's staff.

(1) Resource Report 4 must ultimately contain:

(i) Plan for Unanticipated Historic Properties and Human Remains—The Commission may consider a previously approved unanticipated discovery plan for the state in which the project would be located. The applicant should reference the docket number of the

proceeding in which the plan was approved in its filing;

(ii) Documentation of applicant's initial cultural resources consultation, including consultations with Native Americans (if appropriate);

(iii) Overview and Survey Reports, as appropriate;

(iv) Evaluation Report, as appropriate;

(v) Treatment Plan, as appropriate;

and

(vi) Written comments from State Historic Preservation Officer(s) (SHPO) and applicable land-managing agencies on the reports in paragraphs (f)(1)(ii through v) of this section.

(2) The Plan for Unanticipated Historic Properties and Human Remains, the Documentation of initial cultural resource consultation, the Overview and Survey Reports, if required, and written comments from SHPOs and land-management agencies must be filed with the initial application.

(i) If the SHPOs' and land-management agencies' comments are not available at the time the application is filed, they may be filed separately.

(ii) If landowners deny access to private property and certain areas are not surveyed, the unsurveyed area must be identified by mileposts, and supplemental surveys or evaluations may be conducted after access is granted. In such circumstances, reports, and treatment plans, if necessary, for those inaccessible lands may be filed after a certificate is issued.

(3) The Evaluation Report and Treatment Plan, if required, for the entire project must be filed before a final certificate is issued.

(i) The Evaluation Report may be combined in a single synthetic report with the Overview and Survey Reports if the SHPOs and land-managing agencies allow and if it is available at the time the application is filed.

(ii) In preparing the Treatment Plan, the applicant must consult with the staff, the SHPO, and any applicable land-managing agency.

(iii) Authorization to implement the Treatment Plan occurs only after the final certificate is issued.

(4) Applicant must request privileged treatment for all material filed with the Commission containing location, character, and ownership information about cultural resources in accordance with § 388.112 of this chapter. The cover and relevant pages or portions of the report should be clearly labeled in bold lettering: **CONTAINS PRIVILEGED INFORMATION—DO NOT RELEASE.**

(5) Except as specified in a final Commission order, or by the Director of the Office of Pipeline Regulation,

construction may not begin until all cultural resource reports and plans have been approved.

(g) *Resource Report 5—Socioeconomics*. This report is required only for applications involving significant aboveground facilities, including, among others, conditioning or liquefied natural gas (LNG) plants. It must identify and quantify the impacts of constructing and operating the proposed project on factors affecting towns and counties in the vicinity of the project. Resource Report 5 must:

(1) Describe the socioeconomic impact area.

(2) Evaluate the impact of any substantial immigration of people on governmental facilities and services and plans to reduce the impact on the local infrastructure.

(3) Describe on-site manpower requirements and payroll during construction and operation, including the number of construction personnel who currently reside within the impact area, would commute daily to the site from outside the impact area, or would relocate temporarily within the impact area.

(4) Determine whether existing housing within the impact area is sufficient to meet the needs of the additional population.

(5) Describe the number and types of residences and businesses that would be displaced by the project, procedures to be used to acquire these properties, and types and amounts of relocation assistance payments.

(6) Conduct a fiscal impact analysis evaluating incremental local government expenditures in relation to incremental local government revenues that would result from construction of the project. Incremental expenditures include, but are not limited to, school operating costs, road maintenance and repair, public safety, and public utility costs.

(h) *Resource Report 6—Geological resources*. This report is required for applications involving LNG facilities and all other applications, except those involving only facilities within the boundaries of existing aboveground facilities, such as a compressor, meter, or regulator station. It must describe geological resources and hazards in the project area that might be directly or indirectly affected by the proposed action or that could place the proposed facilities at risk, the potential effects of those hazards on the facility, and methods proposed to reduce the effects or risks. Resource Report 6 must:

(1) Describe, by milepost, mineral resources that are currently or potentially exploitable;

(2) Describe, by milepost, existing and potential geological hazards and areas of nonroutine geotechnical concern, such as high seismicity areas, active faults, and areas susceptible to soil liquefaction; planned, active and abandoned mines; karst terrain; and areas of potential ground failure, such as subsidence, slumping, and landsliding. Discuss the hazards posed to the facility from each one.

(3) Describe how the project would be located or designed to avoid or minimize adverse effects to the resources or risk to itself, including geotechnical investigations and monitoring that would be conducted before, during, and after construction. Discuss also the potential for blasting to affect structures, and the measures to be taken to remedy such effects.

(4) Specify methods to be used to prevent project-induced contamination from surface mines or from mine tailings along the right-of-way and whether the project would hinder mine reclamation or expansion efforts.

(5) If the application involves an LNG facility located in zones 2, 3, or 4 of the Uniform Building Code's Seismic Risk Map, or where there is potential for surface faulting or liquefaction, prepare a report on earthquake hazards and engineering in conformance with "Data Requirements for the Seismic Review of LNG Facilities," NBSIR 84-2833. This document may be obtained from Commission staff.

(6) If the application is for underground storage facilities:

(i) Describe how the applicant would control and monitor the drilling activity of others within the field and buffer zone;

(ii) Describe how the applicant would monitor potential effects of the operation of adjacent storage or production facilities on the proposed facility, and vice versa;

(iii) Describe measures taken to locate and determine the condition of old wells within the field and buffer zone and how the applicant would reduce risk from failure of known and undiscovered wells; and

(iv) Identify and discuss safety and environmental safeguards required by state and Federal drilling regulations.

(i) *Resource Report 7—Soils*. This report is required for all applications except those not involving soil disturbance. It must describe the soils that would be affected by the proposed project, the effect on those soils, and measures proposed to minimize or avoid impact. Resource Report 7 must:

(1) List, by milepost, the soil associations that would be crossed and describe the erosion potential, fertility,

and drainage characteristics of each association.

(2) If an aboveground facility site is greater than 5 acres:

(i) List the soil series within the property and the percentage of the property comprised of each series;

(ii) List the percentage of each series which would be permanently disturbed;

(iii) Describe the characteristics of each soil series; and

(iv) Indicate which are classified as prime or unique farmland by the U.S. Department of Agriculture, Natural Resources Conservation Service.

(3) Identify, by milepost, potential impact from: soil erosion due to water, wind, or loss of vegetation; soil compaction and damage to soil structure resulting from movement of construction vehicles; wet soils and soils with poor drainage that are especially prone to structural damage; damage to drainage tile systems due to movement of construction vehicles and trenching activities; and interference with the operation of agricultural equipment due to the probability of large stones or blasted rock occurring on or near the surface as a result of construction.

(4) Identify, by milepost, cropland and residential areas where loss of soil fertility due to trenching and backfilling could occur.

(5) Describe proposed mitigation measures to reduce the potential for adverse impact to soils or agricultural productivity. Compare proposed mitigation measures with the staff's current "Upland Erosion Control, Revegetation and Maintenance Plan", which is available from the Commission's Internet Homepage at <http://www.ferc.fed.us/gas/environment/gidlines.htm> or from the Commission's staff, explain how proposed mitigation measures provide equivalent or greater protections to the environment.

(j) *Resource Report 8—Land use, recreation and aesthetics*. This report is required for all applications except those involving only facilities which are of comparable use at existing compressor, meter, and regulator stations. It must describe the existing uses of lands on, and within 0.25 mile of, the proposed project and changes to those land uses that would occur if the project is approved. The report shall discuss proposed mitigation measures, including protection and enhancement of existing land use. Resource Report 8 must:

(1) Describe the width and acreage requirements of all construction and permanent rights-of-way and the acreage required for each proposed plant and

operational site, including injection or withdrawal wells.

(i) List, by milepost, locations where the proposed right-of-way would be adjacent to existing rights-of-way of any kind.

(ii) Identify, preferably by diagrams, existing rights-of-way that would be used for a portion of the construction or operational right-of-way, the overlap and how much additional width would be required.

(iii) Identify the total amount of land to be purchased or leased for each aboveground facility, the amount of land that would be disturbed for construction and operation of the facility, and the use of the remaining land not required for project operation.

(iv) Identify the size of typical staging areas and expanded work areas, such as those at railroad, road, and waterbody crossings, and the size and location of all pipe storage yards and access roads.

(2) Identify, by milepost, the existing use of lands crossed by the proposed pipeline, or on or adjacent to each proposed plant and operational site.

(3) Describe planned development, the time frame for such development, and proposed coordination to minimize impacts on land use.

(4) Identify, by milepost and length of crossing, the area of direct effect of each proposed facility and operational site on sugar maple stands, orchards and nurseries, landfills, operating mines, hazardous waste sites, state wild and scenic rivers, state or local designated trails, nature preserves, game management areas, remnant prairie, old-growth forest, national or state forests, parks, golf courses, designated natural, recreational or scenic areas, or registered natural landmarks, Native American religious sites and reservations, lands identified under the Special Area Management Plan of the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, and lands owned or controlled by Federal or state agencies or private preservation groups shall be identified by milepost and length of crossing.

(5) Identify, by milepost, all residences and buildings within 50 feet of the proposed pipeline construction right-of-way and the distance of the residence or building from the right-of-way. Provide survey drawings or alignment sheets to illustrate the location of the facilities in relation to the buildings.

(6) Describe any areas crossed by the proposed pipeline at or adjacent to each proposed plant and operational site which are included in, or are designated for study for inclusion in: The National

Wild and Scenic Rivers System (16 U.S.C. 1271); The National Trails System (16 U.S.C. 1241); or a wilderness area designated under the Wilderness Act (16 U.S.C. 1132).

(7) For facilities within a designated coastal zone management area, provide a consistency determination or evidence that the applicant has requested a consistency determination from the state's coastal zone management program.

(8) Describe the impact the project will have on present uses of the affected area, including commercial uses, mineral resources, recreational areas, public health and safety, and the aesthetic value of the land and its features. Describe any temporary or permanent restrictions on land use resulting from the project.

(9) Describe mitigation measures intended for all special use areas identified under paragraphs (j)(2) through (6) of this section.

(10) Describe proposed typical mitigation measures for each residence that is within 50 feet of the edge of the pipeline construction right-of-way, as well as any proposed residence-specific mitigation. Describe how residential property would be restored (fences, driveways, stone walls, sidewalks, water supply, and septic systems, for example). Describe compensation plans for temporary and permanent rights-of-way and the eminent domain process for the affected areas.

(11) Describe measures proposed to mitigate the aesthetic impact of the facilities especially for aboveground facilities such as compressor or meter stations.

(12) Demonstrate that applications for rights-of-way or other proposed land use have been or soon will be filed with Federal land-managing agencies with jurisdiction over land that would be affected by the project.

(k) *Resource Report 9—Air and noise quality.* This report is required for applications involving compressor facilities at new or existing stations, and for all new LNG facilities. It must identify the effects of the project on the existing air quality and noise environment and describe proposed measures to mitigate the effects. Resource Report 9 must:

(1) Describe the existing air quality, including background levels of nitrogen dioxide and other criteria pollutants which may be emitted above EPA-identified significance levels.

(2) Quantitatively describe existing and proposed noise levels at noise-sensitive areas.

(i) Report existing noise levels as the L_{eq} (day), L_{eq} (night), and L_{dn} and

include the basis for the data or estimates.

(ii) For existing compressor stations, include the results of a sound level survey at the site property line and nearby noise-sensitive areas while the compressors are operated at full load.

(iii) For proposed new compressor station sites, measure or estimate the existing ambient sound environment based on current land uses and activities.

(iv) Include a plot plan that identifies the locations and duration of noise measurements, the time of day, weather conditions, wind speed and direction, engine load, and other noise sources present during each measurement.

(3) Estimate the impact of the project on air quality, including how existing regulatory standards would be met.

(i) Provide the emission rate of nitrogen oxides from existing and proposed facilities, expressed in pounds per hour and tons per year for maximum operating conditions, include supporting calculations, emission factors, fuel consumption rates, and annual hours of operation.

(ii) For major sources of air emissions (as defined by the Environmental Protection Agency), provide copies of applications for permits to construct (and operate, if applicable) or for applicability determinations under regulations for the prevention of significant air quality deterioration and subsequent determinations.

(4) Provide a quantitative estimate of the impact of the project on noise levels at noise-sensitive areas, such as schools, hospitals, or residences.

(i) Include step-by-step supporting calculations, far-field sound level data for maximum facility operation, and the source of the data.

(ii) Include sound pressure levels for unmuffled engine inlets and exhausts, engine casings, and cooling equipment; dynamic insertion loss for all mufflers; sound transmission loss for all compressor building components, including walls, roof, doors, windows, and ventilation openings; sound attenuation from the station to nearby noise-sensitive areas; the manufacturer's name, the model number, the performance rating; and a description of each noise source and noise control component to be employed at the proposed compressor station.

(iii) Far-field sound level data measured from similar units in service elsewhere, when available, may be substituted for manufacturer's far-field sound level data.

(iv) If specific noise control equipment has not been chosen, include

a schedule for submitting the data prior to certification.

(v) The estimate must demonstrate that the project will comply with applicable noise regulations and show how the facility will meet the following requirements:

(A) The noise attributable to any new compressor station or compression added at an existing station or an existing station that is otherwise modified, upgraded, or updated, must not exceed a day-night sound level (L_{dn}) of 55 dBA at any pre-existing noise-sensitive area (such as schools, hospitals, or residences).

(B) New compressor stations or modification of existing stations shall not result in a perceptible increase in vibration at any noise-sensitive area.

(5) Describe measures and manufacturer's specifications for equipment proposed to mitigate impact to air and noise quality, including emission control systems, installation of filters, mufflers, or insulation of piping and buildings, and orientation of equipment away from noise-sensitive areas.

(1) *Resource Report 10—Alternatives.* This report is required for all applications. It must describe alternatives to the project and compare the environmental impacts of such alternatives to those of the proposal. The discussion must demonstrate how environmental benefits and costs were weighed against economic benefits and costs, and technological and procedural constraints. The potential for each alternative to meet project deadlines and the environmental consequences of each alternative shall be discussed. Resource Report 10 must:

(1) Discuss the "no action" alternative and the potential for accomplishing the proposed objectives through the use of other systems, energy conservation, or realistic alternatives. Provide an analysis of the relative environmental benefits and costs.

(2) Describe alternative routes or locations considered for each facility during the initial screening but rejected. Include the environmental characteristics of each route or site, and the reasons for rejecting it. Identify the location of such alternatives on maps of sufficient scale to depict their location and relationship to the proposed action, and the relationship of the pipeline to existing rights-of-way.

(3) Describe alternative routes or locations considered for more in-depth consideration. Include a description of the environmental characteristics of each route or site and the reasons for rejecting it. Provide comparative tables showing the differences in

environmental characteristics for the alternative and proposed action. The location of any alternatives in this paragraph shall be provided on maps equivalent to those required in paragraph (c)(2) of this section.

(m) *Resource Report 11—Reliability and safety.* This report is required for applications involving new or recommissioned LNG facilities. Information previously filed with the Commission need not be refiled if the applicant verifies its continued validity. This report shall address the potential hazard to the public from failure of facility components resulting from accidents or natural catastrophes, how these events would affect reliability, and what procedures and design features have been used to reduce potential hazards. Resource Report 11 must:

(1) Describe measures proposed to protect the public from failure of the proposed facilities (including coordination with local agencies).

(2) Discuss hazards, the environmental impact, and service interruptions which could reasonably ensue from failure of the proposed facilities.

(3) Discuss design and operational measures to avoid or reduce risk.

(4) Discuss contingency plans for maintaining service or reducing downtime.

(5) Describe measures used to exclude the public from hazardous areas. Discuss measures used to minimize problems arising from malfunctions and accidents (with estimates of probability of occurrence) and identify standard procedures for protecting services and public safety during maintenance and breakdowns.

(n) *Resource Report 12—PCB Contamination.* This report is required for applications involving the replacement, abandonment by removal, or abandonment in place of pipeline facilities determined to have polychlorinated biphenyls (PCBs) in excess of 50 ppm in pipeline liquids. Resource Report 12 must:

(1) Provide a statement that activities would comply with an approved EPA disposal permit, with the dates of issuance and expiration specified, or with the requirements of the Toxic Substances Control Act.

(2) For compressor station modifications on sites that have been determined to have soils contaminated with PCBs, describe the status of remediation efforts completed to date.

(o) *Resource Report 13—Engineering and design material.* This report is required for construction of new liquefied natural gas (LNG) facilities, or the recommissioning of existing LNG

facilities. If the recommissioned facility is existing and is not being replaced, relocated, or significantly altered, resubmittal of information already on file with the Commission is unnecessary. Resource Report 13 must:

(1) Provide a detailed plot plan showing the location of all major components to be installed, including compression, pretreatment, liquefaction, storage, transfer piping, vaporization, truck loading/unloading, vent stacks, pumps, and auxiliary or appurtenant service facilities.

(2) Provide a detailed layout of the fire protection system showing the location of fire water pumps, piping, hydrants, hose reels, dry chemical systems, high expansion foam systems, and auxiliary or appurtenant service facilities.

(3) Provide a layout of the hazard detection system showing the location of combustible-gas detectors, fire detectors, heat detectors, smoke or combustion product detectors, and low temperature detectors. Identify those detectors that activate automatic shutdowns and the equipment that would shutdown. Include all safety provisions incorporated in the plant design, including automatic and manually activated emergency shutdown (ESD) systems.

(4) Provide a detailed layout of the spill containment system showing the location of impoundments, sumps, subdikes, channels, and water removal systems.

(5) Provide manufacturer specifications, drawings, and literature on the fail-safe shut-off valve for each loading area at a marine terminal (if applicable).

(6) Provide a detailed layout of the fuel gas system showing all taps with process components.

(7) Provide copies of company, engineering firm, or consultant studies of a conceptual nature that show the engineering planning or design approach to the construction of new facilities or plants.

(8) Provide engineering information on major process components related to the items in paragraphs (o) (1) through (6) of this section, which include (as applicable) function, capacity, type, manufacturer, drive system (horsepower, voltage), operating pressure, and temperature.

(9) Provide manuals and construction drawings for LNG storage tank(s).

(10) Provide up-to-date piping and instrumentation diagrams. Include a description of the instrumentation and control philosophy, type of instrumentation (pneumatic, electronic), use of computer technology, and control

room display and operation. Also, provide an overall schematic diagram of the entire process flow system, including maps, materials, and energy balances.

(11) Provide engineering information on the plant's electrical power generation system, distribution system, emergency power system, uninterruptible power system, and battery backup system.

(12) Identify of all codes and standards under which the plant (and marine terminal, if applicable) will be designed, and any special considerations of safety provisions that were applied to the design of plant components.

(13) Provide a list of all permits or approvals from local, state, Federal, or Native American groups or Indian agencies required prior to and during construction of the plant, and the status of each, including the date filed, the date issued, and any known obstacles to approval. Include a description of data records required for submission to such agencies and transcripts of any public hearings by such agencies. Also provide copies of any correspondence relating to the actions by all, or any, of these agencies regarding all required approvals.

(14) Identify how each applicable requirement will comply with 49 CFR part 193 and the National Fire Protection Association 59A LNG Standards. For new facilities, the siting requirements of 49 CFR part 193, subpart B must be given special attention. If applicable, vapor dispersion calculations from LNG spills over water should also be presented to ensure compliance with the U.S. Coast Guard's LNG regulations in 33 CFR part 127.

(15) Provide seismic information specified in Data Requirements for the Seismic Review of LNG facilities (NBSIR 84-2833, available from FERC staff) for facilities that would be located in zone 2, 3, or 4 of the Uniform Building Code Seismic Map of the United States.

51. New § 380.13 is added to read as follows:

§ 380.13 Compliance with the Endangered Species Act.

(a) *Definitions.* For purposes of this section:

(1) "Listed species" and "critical habitat" have the same meaning as provided in 50 CFR 402.02.

(2) "Project area" means any area subject to construction activities (for example, material storage sites, temporary work areas, and new access roads) necessary to install or abandon the facilities.

(b) *Procedures for informal consultation.* (1) *Designation of non-Federal representative.* The project sponsor is designated as the Commission's non-Federal representative for purposes of informal consultations with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) under the Endangered Species Act of 1973, as amended (ESA).

(2) *Consultation requirement.* (i) Prior to the filing of the environmental report specified in § 380.12, the project sponsor must contact the appropriate regional or field office of the FWS or the NMFS, or both if appropriate, to initiate informal consultations, unless it is proceeding pursuant to a blanket clearance issued by the FWS and/or NMFS which is less than 1 year old and the clearance does not specify more frequent consultation.

(ii) If a blanket clearance is more than 1 year old or less than 1 year old and specifies more frequent consultations, or if the project sponsor is not proceeding pursuant to a blanket clearance, the project sponsor must request a list of federally listed or proposed species and designated or proposed critical habitat that may be present in the project area, or provide the consulted agency with such a list for its concurrence.

(iii) The consulted agency will provide any information requested by a project sponsor pursuant to this paragraph within 30 days of its receipt of the initial request. In the event that the consulted agency does not provide this information within this time period, the project sponsor may notify the Director, OPR, and follow the procedures in paragraph (c) of this section.

(3) *Finding of no impact.* (i) If, at any time during the informal consultations, the agency arrives at a finding of no impact, the consulted agency will provide this information to the project sponsor within 30 days.

(ii) Such a finding confirms:
(A) That no listed or proposed species, or its listed or proposed critical habitat, occurs in the project area; or
(B) That the project is not likely to adversely affect a listed species or critical.

(iii) In the event that the consulted agency does not provide this information within this time period, the project sponsor may notify the Director, OPR, and follow the procedures in paragraph (c) of this section.

(4) *Potential impact to proposed species.* (i) If the consulted agency, pursuant to informal consultations, initially determines that any species proposed to be listed, or its proposed

critical habitat, occurs in the project area, the project sponsor must confer with the consulted agency on methods to avoid or reduce the potential impact.

(ii) The project sponsor should include in its proposal, implementation of any mitigating measures recommended through the consultation process.

(5) *Continued informal consultations for listed species.* (i) If the consulted agency initially determines, pursuant to the informal consultations, that a listed species or its designated critical habitat may occur in the project area, the project sponsor must continue informal consultations with the consulted agency to determine if the proposed project may affect the species or habitat. These consultations may include discussions with experts (including experts provided by the consulted agency), field surveys, biological analyses, and the formulation of mitigation measures. If the biological assessment or other pertinent information indicates that the project is not likely to adversely affect a listed species or critical habitat, the consulting agency provides a letter of concurrence which completes informal consultation.

(ii) The project sponsor must prepare a Biological Assessment unless the consulted agency indicates that the proposed project is not likely to adversely affect a specific listed species or its designated critical habitat. The Biological Assessment must contain the following information for each species contained in the consulted agency's species list:

(A) Life history and habitat requirements;

(B) Results of detailed surveys to determine if individuals, populations, or suitable, unoccupied habitat exists in the proposed project's area of effect;

(C) Potential impacts, both beneficial and negative, that could result from the construction and operation of the proposed project, or disturbance associated with the abandonment, if applicable; and

(D) Proposed mitigation that would eliminate or minimize these potential impacts.

(iii) All surveys must be conducted by qualified biologists and must use FWS and/or NMFS approved survey methodology. In addition, the Biological Assessment must include the following information:

(A) Name(s) and qualifications of person(s) conducting the survey;

(B) Survey methodology;

(C) Date of survey(s); and

(D) Detailed and site-specific identification of size and location of all areas surveyed.

(iv) The project sponsor must submit the Biological Assessment to the consulted agency for its review and comment. If the consulted agency fails to provide formal comments on the Biological Assessment to the project sponsor within 30 days of its receipt, as specified in 50 CFR 402.12(d), the project sponsor may notify the Director, OPR, and follow the procedures in paragraph (c) of this section.

(v) The consulted agency's comments on the Biological Assessment's determination must be filed with the Commission.

(c) *Notification to Director of OPR.* In the event that the consulted agency fails to respond to requests by the project sponsor under paragraph (b) of this section, the project sponsor must notify the Director, OPR. The notification must include all information, reports, letters, and other correspondence prepared pursuant to this section. The Director will determine whether:

(1) Additional informal consultation is required;

(2) Formal consultation must be initiated under paragraph (d) of this section; or

(3) Construction may proceed.

(d) *Procedures for Formal Consultation.* (1) In the event that Formal Consultation is required pursuant to paragraphs (b)(5)(v) or (c)(2) of this section, the Commission staff will initiate Formal Consultation with the FWS and/or NMFS, as appropriate, and will request that the consulted agency designate a lead Regional Office, lead Field/District Office, and Project Manager, as necessary, to facilitate the Formal Consultation process. In addition, the Commission will designate a contact for Formal Consultation purposes.

(2) During Formal Consultation, the consulted agency, the Commission, and the project sponsor will coordinate and consult to determine potential impacts and mitigation which can be implemented to minimize impacts. The Commission and the consulted agency will schedule coordination meetings and/or field visits as necessary.

(3) The Formal Consultation period will last no longer than 90 days, unless the consulted agency, the Commission, and project sponsor mutually agree to an extension of this time period.

(4) The consulted agency will provide the Commission with a Biological Opinion on the proposed project, as specified in 50 CFR 402.14(e), within 45 days of the completion of Formal Consultation.

52. New § 380.14 is added to read as follows:

§ 380.14 Compliance with the National Historic Preservation Act.

Section 106 of the National Historic Preservation Act, as amended (NHPA), requires the Commission take into account the effect of a proposed project on any historic property and to afford the Advisory Council on Historic Preservation (Council) an opportunity to comment on the undertaking. The project sponsor, as a non-Federal party, assists the Commission in meeting its obligations under NHPA section 106 by following the procedures at § 380.12(f). The project sponsor may contact the Commission at any time for assistance. The Commission will review the resultant filings.

(a) The Commission's NHPA section 106 responsibilities apply to public and private lands, unless subject to the provisions of paragraph (b) of this section. The project sponsor will assist the Commission in taking into account the views of interested parties, Native Americans, and tribal leaders.

(b) If Federal or Tribal land is affected by a proposed project, the project sponsor shall adhere to any requirements for cultural resources studies of the applicable Federal land-managing agencies on Federal lands and any tribal requirements on Tribal lands. The project sponsor must identify, in Resource Report 4 filed with the application the status of cultural resources studies on Federal or Tribal lands, as applicable

(c) The project sponsor must consult with the SHPO(s). If the SHPO declines to consult with the project sponsor, the project sponsor shall not continue, except as instructed by the Director, Office of Pipeline Regulation.

(d) If the project is covered by an agreement document among the Commission, Council, SHPO(s), land-managing agencies, project sponsors, and interested persons, as appropriate, then that agreement will provide for compliance with NHPA section 106, as applicable.

53. New § 380.15 is added to read as follows:

§ 380.15 Siting and maintenance requirements.

(a) The siting, construction, and maintenance of facilities shall be undertaken in a way that minimizes effects on scenic, historic, wildlife, and recreational values.

(b) The desires of landowners should be taken into account in the planning, locating, clearing, and maintenance of rights-of-way and the construction of facilities on their property, so long as the result is consistent with laws relating to land-use and any

requirements imposed by the Commission.

(c) The requirements of this section do not affect a project sponsor's obligation to comply with safety regulations of the U.S. Department of Transportation. Furthermore, the requirements of this paragraph shall not detract from recognized safe engineering practices.

(d) *Pipeline construction.* (1) The use, widening, or extension of existing rights-of way must be considered in locating proposed facilities.

(2) In locating proposed facilities, the project sponsor shall, to the extent practicable, avoid places listed on, or eligible for listing on, the National Register of Historic Places; natural landmarks listed on the National Register of Natural Landmarks; officially designated parks; wetlands; and scenic, recreational, and wildlife lands. If rights-of-way must be routed near or through such places, attempts should be made to minimize visibility from areas of public view and to preserve the character and existing environment of the area.

(3) Rights-of-way should avoid forested areas and steep slopes where practical.

(4) Rights-of-way clearing should be kept to the minimum width necessary.

(5) In selecting a method to clear rights-of-way, soil stability and protection of natural vegetation and adjacent resources should be taken into account.

(6) Trees and vegetation cleared from rights-of-way in areas of public view should be disposed of without undue delay.

(7) Remaining trees and shrubs should not be unnecessarily damaged.

(8) Long foreground views of cleared rights-of-way through wooded areas that are visible from areas of public view should be avoided.

(9) Where practical, rights-of-way should avoid crossing hills and other high points at their crests where the crossing is in a forested area and the resulting notch is clearly visible in the foreground from areas of public view.

(10) Screen plantings should be employed where rights-of-way enter forested areas from a clearing and where the clearing is plainly visible in the foreground from areas of public view.

(11) Temporary roads should be designed for proper drainage and built to minimize soil erosion. Upon abandonment, the road area should be restored and stabilized without undue delay.

(e) *Right-of-way maintenance.* (1) Vegetation covers established on a right-of-way should be properly maintained.

(2) Access and service roads should be maintained with proper cover, water bars, and the proper slope to minimize soil erosion. They should be jointly used with other utilities and land-management agencies where practical.

(3) Chemical control of vegetation should not be used unless authorized by the landowner or land-managing agency. When chemicals are used for control of vegetation, they should be

approved by EPA for such use and used in conformance with all applicable regulations.

(f) *Construction of aboveground facilities.* (1) Unobtrusive sites should be selected for the location of aboveground facilities.

(2) Aboveground facilities should cover the minimum area practicable.

(3) Noise potential should be considered in locating compressor stations, or other aboveground facilities.

(4) The exterior of aboveground facilities should be harmonious with the surroundings and other buildings in the area.

54. Appendix A to Part 380 is revised to read as follows:

Appendix A to Part 380—Minimum Filing Requirements for Environmental Reports Under the Natural Gas Act

Resource Report 1—General Project Description

- Provide a detailed description and location map of the project facilities. (§ 380.12(c)(1))
- Describe any nonjurisdictional facilities that would be built in association with the project. (§ 380.12(c)(2))
- Provide current original U.S. Geological Survey (USGS) 7.5-minute-series topographic maps with mileposts showing the project facilities; (§ 380.12(c)(3))
- Provide aerial photographs or photo-based alignment sheets with mileposts showing the project facilities; (§ 380.12(c)(3))
- Provide plot/site plans of compressor stations showing the location of the nearest noise-sensitive areas (NSA) within 1 mile. (§ 380.12(c)(3,4))
- Describe construction and restoration methods. (§ 380.12(c)(6))
- Identify the permits required for construction across surface waters. (§ 380.12(c)(9))
- Provide the names and addresses of all landowners whose land would be crossed by the project facilities. Include the names and addresses of all residents adjacent to new or modified compressor stations. (§ 380.12(c)(10))

Resource Report 2—Water Use and Quality

- Identify all perennial surface waterbodies crossed by the proposed project and their water quality classification. (§ 380.12(d)(1))
- Identify all waterbody crossings that may have contaminated waters or sediments. (§ 380.12(d)(1))
- Identify watershed areas, designated surface water protection areas, and sensitive waterbodies crossed by the proposed project. (§ 380.12(d)(1))
- Provide a table identifying all wetlands, by milepost and length, crossed by the project (including abandoned pipeline), and the total acreage and acreage of each wetland type that would be affected by construction. (§ 380.12(d)(1 & 4))
- Discuss construction and restoration methods proposed for crossing wetlands, and compare them to staff's Wetland and Waterbody Construction and Mitigation Procedures; (§ 380.12(d)(2))
- Describe the proposed waterbody construction, impact mitigation, and restoration methods to be used to cross surface waters and compare to the staff's Wetland and Waterbody Construction and Mitigation Procedures. (§ 380.12(d)(2))
- Provide original National Wetlands Inventory (NWI) maps that show all proposed facilities and include milepost locations for proposed pipeline routes. (§ 380.12(d)(4))
- Identify all U.S. Environmental Protection Agency (EPA)- or state-designated aquifers crossed. (§ 380.12(d)(9))

Resource Report 3—Vegetation and Wildlife

- Classify the fishery type of each surface waterbody that would be crossed, including fisheries of special concern. (§ 380.12(e)(1))
- Describe terrestrial and wetland wildlife and habitats that would be affected by the project. (§ 380.12(e)(2))
- Describe the major vegetative cover types that would be crossed and provide the acreage of each vegetative cover type that would be affected by construction. (§ 380.12(e)(3))
- Describe the effects of construction and operation procedures on the fishery resources and proposed mitigation measures. (§ 380.12(e)(4))
- Evaluate the potential for short-term, long-term, and permanent impact on the wildlife resources caused by construction and operation of the project and proposed mitigation measures. (§ 380.12(e)(4))
- Identify all federally listed or proposed endangered or threatened species and state-listed endangered or threatened species that potentially occur in the vicinity of the project and discussion results of consultations with other agencies. (§ 380.12(e)(4,5))
- Describe any significant biological resources that would be affected. Describe impact and any mitigation proposed to avoid or minimize that impact. (§ 380.12(e)(4 & 6))

Resource Report 4—Cultural Resources

- See § 380.14 and "OPR's Guidelines for Reporting on Cultural Resources Investigations" for further guidance.
- Plan for Unanticipated Historic Properties and Remains. (§ 380.12(f)(1)(i) & (2))
- Initial cultural resources consultation and documentation, and documentation of consultation with Native Americans. (§ 380.12(f)(1)(ii) & (2))
- Overview/Survey Report(s). (§ 380.12(f)(1)(iii) & (2))

Resource Report 5—Socioeconomics

- For major aboveground facilities and major pipeline projects that require an EIS, describe existing socioeconomic conditions within the project area. (§ 380.12(g)(1))
- For major aboveground facilities, quantify impact on employment, housing, local government services, local tax revenues, transportation, and other relevant factors within the project area. (§ 380.12(g)(2–6))

Resource Report 6—Geological Resources

- Identify the location (by milepost) of mineral resources and any planned or active surface mines crossed by the proposed facilities. (§ 380.12(h)(1))
- Identify any geologic hazards to the proposed facilities. (§ 380.12(h)(2))
- Discuss the need for and locations where blasting may be necessary in order to construct the proposed facilities. (§ 380.12(h)(3))
- For LNG projects in seismic areas, the materials required by "Data Requirements for the Seismic Review of LNG Facilities," NBSIR84-2833. (§ 380.12(h)(5))
- For underground storage facilities, how drilling activity by others within or adjacent to the facilities would be monitored, and how old wells would be located and monitored within the facility boundaries. (§ 380.12(h)(6))

Resource Report 7—Soils

- Identify, describe, and group by milepost the soils affected by the proposed pipeline and aboveground facilities. (§ 380.12(i)(1))
- For aboveground facilities that would occupy sites over 5 acres, determine the acreage of prime farmland soils that would be affected by construction and operation. (§ 380.12(i)(2))
- Describe, by milepost, potential impacts on soils. (§ 380.12(i)(3,4))
- Identify proposed mitigation to minimize impact on soils, and compare with the staff's Upland Erosion Control, Revegetation, and Maintenance Plan. (§ 380.12(i)(5))

Resource Report 8—Land Use, Recreation and Aesthetics

- Classify and quantify land use affected by: (§ 380.12(j)(1))
- pipeline construction and permanent rights-of-way (§ 380.12(j)(1));
- Extra work/staging areas (§ 380.12(j)(1));
- Access roads (§ 380.12(j)(1));
- Pipe and contractor yards (§ 380.12(j)(1)); and
- Aboveground facilities (§ 380.12(j)(1)).
- Identify by milepost all locations where the pipeline right-of-way would at least partially coincide with existing right-of-way, where it would be adjacent to existing rights-of-way, and where it would be outside of existing right-of-way. (§ 380.12(j)(1))
- Provide detailed typical construction right-of-way cross-section diagrams showing information such as widths and relative locations of existing rights-of-way, new permanent right-of-way, and temporary construction right-of-way. (§ 380.12(j)(1))
- Summarize the total acreage of land affected by construction and operation of the project. (§ 380.12(j)(1))
- Identify by milepost all planned residential or commercial/business development and the time frame for construction. (§ 380.12(j)(3))
- Identify by milepost special land uses (e.g., sugar maple stands, specialty crops, natural areas, national and state forests, conservation land, etc.). (§ 380.12(j)(4))
- Identify by beginning milepost and length of crossing all land administered by Federal, state, or local agencies, or private conservation organizations. (§ 380.12(j)(4))
- Identify by milepost all natural, recreational, or scenic areas, and all registered natural landmarks crossed by the project. (§ 380.12(j)(4 & 6))
- Identify all facilities that would be within designated coastal zone management areas. (§ 380.12(j)(4))
- Identify by milepost all residences that would be within 50 feet of the construction right-of-way or extra work area. (§ 380.12(j)(5))
- Identify all designated or proposed candidate National or State Wild and Scenic Rivers crossed by the project. (§ 380.12(j)(6))
- Describe any measures to visually screen aboveground facilities, such as compressor stations. (§ 380.12(j)(11))
- Demonstrate that applications for rights-of-way or other proposed land use have been or soon will be filed with Federal land-managing agencies with jurisdiction over land that would be affected by the project. (§ 380.12(j)(12))

Resource Report 9—Air and Noise Quality

- Describe existing air quality in the vicinity of the project. (§ 380.12(k)(1))
- Quantify the existing noise levels (day-night sound level (L_{dn}) and other applicable noise parameters) at the noise sensitive area and at other locations required by state and local noise ordinances. (§ 380.12(k)(2))
- Quantify existing and proposed emissions of compressor equipment, plus construction emissions, including nitrogen oxides (NO_x) and carbon monoxide (CO), and the basis for these calculations. Summarize anticipated air quality impacts for the project. (§ 380.12(k)(3))
- Describe the existing and proposed compressor units at each station where new, additional, or modified compression units are proposed, including the manufacturer, model number, and horsepower of the compressor units. (§ 380.12(k)(4))
- Identify any nearby NSA by distance and direction from the proposed compressor unit building/enclosure. (§ 380.12(k)(4))
- Identify any applicable state or local noise regulations. (§ 380.12(k)(4))
- Calculate the noise impact of the proposed compressor unit modifications or additions, specifying how the impact was calculated, including manufacturer's data and proposed noise control equipment. (§ 380.12(k)(4))

Resource Report 10—Alternatives

- Address the "no action" alternative. (§ 380.12(l)(1))
- For large projects, address the effect of energy conservation or energy alternatives to the project. (§ 380.12(l)(1))
- Identify system alternatives considered during the identification of the project and provide the rationale for rejecting each alternative. (§ 380.12(l)(1))
- Identify major and minor route alternatives considered to avoid impact on sensitive environmental areas (e.g., wetlands, parks, or residences) and provide sufficient comparative data to justify the selection of the proposed route. (§ 380.12(l)(3))
- Identify alternative sites considered for the location of major new aboveground facilities and provide sufficient comparative data to justify the selection of the proposed site. (§ 380.12(l)(3))

Resource Report 11—Reliability and Safety

- Describe how the project facilities would be designed, constructed, operated, and maintained to minimize potential hazard to the public from the failure of project components as a result of accidents or natural catastrophes. (§ 380.12(m))
-

Resource Report 12—PCB Contamination

- For projects involving the replacement or abandonment of facilities determined to have PCBs, provide a statement that activities would comply with an approved EPA disposal permit or with the requirements of the TSCA. (§ 380.12(n)(1))
- For compressor station modifications on sites that have been determined to have soils contaminated with PCBs, describe the status of remediation efforts completed to date. (§ 380.12(n)(2))

Resource Report 13—Additional Information Related to LNG Plants

- Provide all the listed detailed engineering materials. (§ 380.12(o))

PART 385—RULES OF PRACTICE AND PROCEDURE

55. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1085.

56. In § 385.2001, paragraph (b)(3) is revised to read as follows:

§ 385.2001 Filings (Rule 2001).

* * * * *

(b) * * *

(3) The Secretary, or the office director to whom the filing has been referred, will send a letter of rejections with an indication of the deficiencies in the filing and the reasons for rejection.

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[FR Doc. 98–26721 Filed 10–15–98; 8:45 am]

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DEPARTMENT OF ENERGY**FEDERAL ENERGY REGULATORY COMMISSION****18 CFR Part 380**

[Docket No. RM98–17–000]

Landowner Notification, Residential Area Designation, and Other Environmental Filing Requirements; Notice of Technical Conference September 30, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Technical Conference.

SUMMARY: The Federal Energy Regulatory Commission (Commission) intends to hold a staff technical conference on December 9, 1998, at 9:00 AM, in the Commission Meeting Room, 888 First Street, NE., Washington, DC, to address its concerns regarding its present landowner notification policies and its present environmental designation of residential areas.

DATES: Comments are due November 16, 1998.

ADDRESSES: Send comments to: Office of the Secretary, Federal Energy Regulatory

Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

John S. Leiss, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, (202) 208–1106

Carolyn Van Der Jagt, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (202) 208–2246.

SUPPLEMENTARY INFORMATION:

In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE., Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (<http://www.ferc.fed.us>) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or

remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to rimsmaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc., is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

In the matter of: Landowner Notification, Residential Area Designation, and Environmental Filing Requirements; Docket No. RM98–17–000.

Notice of Technical Conference

September 30, 1998.

In Docket No. RM98–9–000, which is being issued concurrently with this notice of technical conference, the Commission, among other things, proposes to amend, consolidate, and clarify its current environmental filing requirements for applications for certificates of public convenience and necessity to construct pipeline facilities. These requirements are necessary for the Commission to comply with the National Environmental Policy Act of 1969 (NEPA).¹ The Commission believes that revising its existing regulations will lead to more complete applications and to an expedited environmental review process.

However, in addition to the changes proposed in Docket No. RM98–9–000, the Commission is interested in examining its existing landowner notification policies and designation of residential areas. It is concerned that its current regulations are not adequate to provide the general public and potentially affected landowners with sufficient opportunity for participation in the Commission's certificate process. Increased public interest in several recently filed certificate applications

¹ 42 U.S.C. 4321. Specifically, NEPA requires that federal agencies carefully weigh the potential environmental impact of all their decisions and consult with federal and state agencies and the public on serious environmental questions.