

Current category	New category—ethnicity	New category—race
Code 6—Other .....	Code 4—Not Applicable .....	Code 7—Not Applicable.
Code 7—Mail or Telephone .....	Code 3—Mail, Internet, or Telephone .....	Code 6—Mail, Internet, or Telephone.
Code 8—Not Applicable .....	Code 4—Not Applicable .....	Code 7—Not Applicable.

### List of Subjects in 12 CFR part 203

Banks, Banking, Federal Reserve System, Mortgages, Reporting and Recordkeeping requirements.

■ For the reasons set forth in the preamble, the Board amends 12 CFR part 203 as follows:

### PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

■ 1. The authority citation for part 203 continues to read as follows:

**Authority:** 12 U.S.C. 2801–2810.

■ 2. In Supplement I to part 203, under Section 203.4—Compilation of Loan Data, under 4(a) *Data Format and Itemization*, a new paragraph 4 is added:

#### Supplement I to Part 203—Staff Commentary

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#### Section 203.4—Compilation of Loan Data

##### 4(a) *Data Format and Itemization.*

\* \* \* \* \*

4. *Transition rules for applications received before January 1, 2004, when final action is taken on or after January 1, 2004.* For applications received before January 1, 2004, on which final action is taken on or after January 1, 2004, data must be collected and reported on the HMDA/LAR under the revisions to Regulation C that take effect on January 1, 2004, subject to the exceptions for property type, loan purpose, requests for preapproval, applicant information, and rate spread set forth in this comment.

i. *Property type.* Lenders need not determine whether an application received before January 1, 2004, involves a manufactured home, and may report the property type as 1-to 4-family.

ii. *Loan purpose.* For applications received before January 1, 2004, lenders may use the definitions of a home improvement loan and a refinancing that were in effect in 2003. For example, a lender need not report data on an application received before January 1, 2004, for a dwelling-secured loan made for the purpose of home improvement, if the lender did not classify the loan as a home improvement loan. Similarly, a lender may report data on an application for a refinancing received in 2003, where the new obligation will be, but the existing obligation was not, secured by a lien on a dwelling.

iii. *Requests for preapproval.* For requests received before January 1, 2004, lenders need not report requests for preapproval (as that term is defined in § 203.2(b)(2) of the revised Regulation C) that do not result in a traditional loan application. Lenders may, at their option, report requests for preapproval that are denied or that are approved but not accepted. In addition, lenders need not

specify whether an application for a home purchase loan involved a request for preapproval, and should use code 3 (Not Applicable) in the preapproval field on the HMDA/LAR.

iv. *Applicant information.* For applications received before January 1, 2004, lenders must collect data on race or national origin using the categories in effect in 2003, and must convert the data to the codes in effect in 2004 for reporting, using the following conversion guide:

(A) *Ethnicity.* The revised Regulation C requires lenders to request an applicant's ethnicity first (Hispanic or Latino, Not Hispanic or Latino), and then to request the applicant's race. The HMDA/LAR has been revised accordingly, so that ethnicity and race are distinct fields.

(1) If the applicant's race was identified as Hispanic (code 4) in 2003, use code 1 (Hispanic or Latino) for reporting ethnicity.

(2) If the applicant's race was identified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, White, Other, or Not Applicable (codes 1, 2, 3, 5, 6, or 8) in 2003, use code 4 (Not Applicable) for reporting ethnicity.

(3) If the applicant did not provide information on race in a mail, Internet, or telephone application (code 7) in 2003, use code 3 (information not provided by applicant in mail, Internet, or telephone application) for reporting ethnicity.

(B) *Race.*

(1) If the applicant's race was identified as American Indian or Alaskan Native, Black, or White in 2003, use the corresponding code for 2004. For example, if the applicant's race was identified as Black (code 3) in 2003, use code 3 (Black or African-American) for reporting race in 2004.

(2) If the applicant's race was identified as Asian or Pacific Islander in 2003, use code 2 (Asian).

(3) If the applicant's race was identified as Hispanic in 2003, use code 7 (Not Applicable).

(4) If the applicant's race was identified as Other in 2003, use code 7 (Not Applicable).

(5) If the applicant did not provide information on race in a mail, Internet, or telephone application (code 7) in 2003, use code 6 (Information not provided by applicant in mail, Internet, or telephone application).

(6) If the applicant's race was identified as Not Applicable (code 8) in 2003, use code 7 (Not Applicable).

(C) *Sex.* For applications received before January 1, 2004, in which there is no co-applicant, the lender may use code 4 (Not Applicable) in the field provided for the co-applicant's sex.

v. *Rate Spread.* For applications received before January 1, 2004, in which the rate lock occurred before January 1, 2004, lenders may report NA (Not Applicable) for rate spread.

For applications received before January 1, 2004, for which the rate lock occurred after January 1, 2004, lenders must calculate and report the rate spread in accordance with the rules set forth in new section 202.4(a)(12) (see 67 FR 7222 (Feb. 15, 2002); 67 FR 43223 (June 27, 2002)).

(A) Example: Assume an application is received on December 1, 2003; the rate lock occurs on December 26, 2003, and the loan is originated on January 15, 2004. The lender may report NA (Not Applicable) for rate spread.

(B) Example: Assume an application is received on December 15, 2003; the rate lock occurs on January 3, 2004, and the loan is originated on January 15, 2004. The lender must calculate and report the rate spread in accordance with the rules in new section 202.4(a)(12) (see 67 FR 7222 (Feb. 15, 2002); 67 FR 43223 (June 27, 2002)).

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, May 21, 2003.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 03–13203 Filed 5–27–03; 8:45 am]

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 229

[Regulation CC; Docket No. R–1150]

### Availability of Funds and Collection of Checks

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors is publishing a final amendment to appendix A of Regulation CC that updates the routing numbers for Federal Reserve Banks and Federal Home Loan Banks. Banks generally must provide next-day or second-day availability for checks drawn on these routing numbers. This amendment also reorganizes and clarifies existing information in the introductory material preceding the routing number list.

The Board also is providing information about a series of future amendments that the Board will make to appendix A to reflect the restructuring of check processing functions within the Federal Reserve System. These amendments collectively will reduce

the number of check processing regions listed in appendix A from 44 to 32, thereby resulting in more checks in the affected regions being local to one another. These amendments will take effect on a staggered basis beginning in the second half of 2003 and ending in late 2004. The Board will publish each amendment in the Federal Register at least 60 days before the effective date.

**DATES:** The final rule will become effective on July 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Jack K. Walton II, Assistant Director (202/452-2660), Michele Braun, Manager (202/452-2819), or Jeffrey S. H. Yeganeh, Senior Financial Services Analyst (202/728-5801), Division of Reserve Bank Operations and Payment Systems; or Adrienne G. Threatt, Counsel (202/452-3554), Legal Division; for users of Telecommunications Devices for the Deaf (TDD) only, contact 202/263-4869.

#### SUPPLEMENTARY INFORMATION:

##### *Background*

Regulation CC establishes the maximum period a bank may wait between receiving a deposit and making the deposited funds available for withdrawal.<sup>1</sup>

Generally, a bank must make funds available for withdrawal within one or two days of deposit if the funds are deposited by certain types of checks that have a relatively low risk of being returned and the deposit meets the other conditions described at § 229.10(c) of Regulation CC.<sup>2</sup> Items generally subject to next- or second-day availability include checks drawn on the U.S. Treasury; U.S. Postal Service money orders; checks drawn on a Federal Reserve Bank or a Federal Home Loan Bank; checks drawn by a state or unit of general local government; cashier's, certified, or teller's checks; and checks drawn on the same branch or another

branch of the depository bank if both branches are located within the same Federal Reserve check processing region. A depository bank also must give next-day availability for up to the first \$100 of any check or checks deposited on the same banking day that are not otherwise subject to the next-day availability rule.

For checks that are not subject to the next- or second-day availability rules discussed above, depository banks generally must provide faster availability for funds deposited by a "local check" than by a "nonlocal check". A check drawn on a bank is considered local if it is payable by or at a bank located in the same Federal Reserve check processing region as the depository bank. A check drawn on a nonbank is considered local if it is payable through a bank located in the same Federal Reserve check processing region as the depository bank. Otherwise, a check is nonlocal.

Appendix A to Regulation CC contains a routing number guide that assists banks in determining the maximum permissible hold periods for most deposited checks.<sup>3</sup> The appendix lists the 9-digit routing numbers for U.S. Treasury checks, postal money orders, and checks drawn on Federal Reserve Banks and Federal Home Loan Banks. Appendix A also lists each Federal Reserve check processing office and the first four digits of the routing numbers, known as the Federal Reserve routing symbol, of the banks that are served by that office. Banks whose Federal Reserve routing symbols are grouped under the same office are in the same check processing region and thus are local to one another.

##### *Final Amendment to Appendix A*

Over the past few years, the Federal Reserve Banks and Federal Home Loan Banks have changed their check-related operations, including the routing numbers they use. The Board accordingly is updating appendix A to delete retired routing numbers and insert newly added ones.

With respect to the Federal Reserve Bank routing number list, the Board is deleting routing numbers 0112 0048 8 and 0214 0950 9; correcting the placement of two existing routing numbers, 0220 0026 6 and 0519 0002 3; and adding a new routing number, 0711 0711 0.

With respect to the Federal Home Loan Bank routing number list, the

Board is deleting the following numbers: 0640 0091 0; 0654 0348 0; 0724 1338 2; 0820 0125 0; 1020 0603 8; 1030 0362 9; 1040 0019 7; 1130 1750 8; 1211 3994 4; and 1222 4014 6. In addition, the Board is adding the following numbers: 0430 1862 2 and 1240 0287 4.

The Board also has reorganized and clarified the existing introductory text of appendix A.

These amendments become effective July 28, 2003.

##### *Information About Future Changes to Appendix A*

A Federal Reserve study released in 2002 found that the number of checks written in the United States had declined from approximately 50 billion annually in the mid-1990s to about 40 billion annually in 2002. Correspondingly, the number of checks processed by the Federal Reserve Banks has also declined in recent years. The Federal Reserve Banks have decided to reduce the number of locations at which they process checks in response to this changing trend in check usage and to position themselves more effectively to meet the cost recovery requirements of the Monetary Control Act of 1980. Thirteen Reserve Bank offices will no longer process checks, and the checks currently processed at those offices will be processed at other nearby offices, as follows:

Offices that will no longer process checks:	Offices to which check processing will be transferred
Pittsburgh, PA	Cleveland, OH
Richmond, VA	Baltimore, MD
Charleston, WV	Cincinnati, OH
Columbia, SC	Charlotte, NC
Miami, FL	Jacksonville, FL
Indianapolis, IN	Cincinnati, OH
Milwaukee, WI	Chicago, IL
Peoria, IL <sup>4</sup>	Chicago, IL
Little Rock, AR	Memphis, TN
Louisville, KY	Cincinnati, OH
Omaha, NE	Des Moines, IA
El Paso, TX	Dallas, TX
San Antonio, TX	Dallas, TX

<sup>4</sup>The Peoria office does not serve a separate check processing region. Rather, it is a satellite office of the Federal Reserve Bank of Chicago that is located in the Chicago check processing region.

Because this restructuring will reduce the number of check processing regions, some banks that now are nonlocal to one another will become local. As a result, the status of some nonlocal checks in the affected regions will change. Specifically, some checks that are drawn on and deposited at banks located in the affected regions that currently are nonlocal checks will become local checks subject to faster

<sup>1</sup> For purposes of Regulation CC, the term "bank" refers to any depository institution, including commercial banks, savings institutions, and credit unions.

<sup>2</sup> Other requirements for next-day availability are that the check be deposited in person to an employee of the depository bank into an account held by the payee of a check. In some cases, next-day availability also requires the use of a special deposit slip and, in the case of a check issued by a state government or unit thereof, that the depository bank be located in the state in which the check was issued. If a deposit meets all the requirements for next-day availability except that it was not made in person to an employee of the bank, the check is entitled to second-day availability. Otherwise, the check is subject to the general availability schedule at 12 CFR 229.12 that applies to local and nonlocal checks. In addition, banks may invoke the exception holds described at 12 CFR 229.13 with respect to checks that generally are subject to next-day or second-day availability.

<sup>3</sup> Official checks (certified, cashier's and teller's checks) are the exception, because they are identified by routing number information that is not included in the appendix.

availability schedules. Banks in the affected regions therefore might need to realign their internal operating systems to reflect the restructuring. Depending on their funds availability practices, banks also might need to modify their funds availability schedules and related disclosures to reflect any improved availability of funds resulting from the restructuring. Section 229.18(e) of Regulation CC requires that banks notify account holders who are consumers within 30 days of implementing a change that improves the availability of funds.

The restructuring of Reserve Bank check processing operations will take

place in several phases, beginning in the second half of 2003 and ending in late 2004. The Board will amend appendix A in connection with each phase of the restructuring to delete the name of the office(s) that will no longer process checks and transfer the affected Federal Reserve routing symbols to another check processing office.<sup>5</sup> The Board will

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<sup>5</sup> Appendix A to Regulation CC has been amended on several occasions in the past to reflect the restructuring of the Reserve Banks' check processing operations. In 1994, the Utica regional check processing center began serving the Buffalo check processing territory (59 FR 48789, Sept. 23, 1994). In 1996, the East Rutherford operations center began serving the Jericho check processing

announce each phase of the restructuring and the associated amendments to appendix A at least 60 days prior to the effective date of the amendment in order to give affected banks ample time to make processing changes, and, if necessary, amend their availability schedules and related disclosures and provide their customers with notice of any changes to their availability schedules.

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territory (61 FR 25389, May 21, 1996). In 1997, the Boston head office began serving the Lewiston check processing territory (62 FR 26220, May 13, 1997).

Some affected banks might prefer to make some or all of their processing and availability changes prior to the effective dates of the relevant amendments. For the information and planning needs of affected banks, the Board today is describing below all the Federal Reserve routing symbol changes to appendix A that will be made between now and the end of 2004.

#### 1. Cleveland.

The operations of the Pittsburgh branch will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Cleveland head office:

0410	2410
0412	2412
0430	2430
0432	2432
0433	2433
0434	2434

#### 2. Cincinnati.

The operations of the Charleston and Indianapolis offices and the Louisville branch will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Cincinnati branch:

0420	2420
0421	2421
0422	2422
0423	2423
0515	2515
0519	2519
0740	2740
0749	2749
0813	2813
0830	2830
0839	2839
0863	2863

#### 3. Baltimore.

The operations of the Richmond head office will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Baltimore branch:

0510	2510
0520	2520
0521	2521
0522	2522
0540	2540
0550	2550
0560	2560
0570	2570

#### 4. Charlotte.

The operations of the Columbia office will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Charlotte branch:

0530	2530
0531	2531
0532	2532
0539	2539

#### 5. Jacksonville.

The operations of the Miami branch will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Jacksonville branch:

0630	2630
0631	2631
0632	2632
0660	2660
0670	2670

#### 6. Chicago.

The operations of the Milwaukee office will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Chicago head office:

0710	2710
0711	2711
0712	2712
0719	2719
0750	2750
0759	2759

#### 7. Des Moines.

The operations of the Omaha branch will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Des Moines office:

0730	2730
0739	2739
1040	3040
1041	3041
1049	3049

#### 8. Memphis.

The operations of the Little Rock branch will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Memphis branch:

0820	2820
0829	2829
0840	2840
0841	2841
0842	2842
0843	2843

#### 9. Dallas.

The operations of the El Paso and San Antonio branches will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Dallas head office:

1110	3110
1111	3111
1113	3113
1119	3119
1120	3120
1122	3122
1123	3123
1140	3140
1149	3149
1163	3163

The Federal Reserve routing symbols assigned to all other Federal Reserve branches and offices will remain the same.

### Administrative Procedure Act

The Board has not followed the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of the final rule. The revisions to the introductory language and routing number lists are technical in nature. In addition, the routing number revisions are required by the statutory and regulatory definitions of "check-processing region." Because there is no substantive change on which to seek public input, the Board accordingly has determined that the § 553(b) notice and comment procedures are unnecessary.

### Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the final rule will not have a significantly adverse economic impact on a substantial number of small entities. These amendments are technical, and the routing number changes are required by law. Moreover, these amendments apply to all banks regardless of their size. Many small banks generally provide next-day availability for all checks and will not be affected by this amendment. For the subset of small banks that does distinguish between checks subject to next-day availability and those subject to longer holds, the final rule should necessitate only minimal programming changes. Some of these affected banks might also have to modify their funds availability disclosures and notify both new and existing customers of the modified funds availability schedules.

### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no new collections of information and proposes no substantive changes to existing collections of information pursuant to the Paperwork Reduction Act.

### 12 CFR Chapter II

#### List of Subjects in 12 CFR Part 229

Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements.

#### Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR part 229 to read as follows:

## PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

■ 1. The authority citation for part 229 continues to read as follows:

**Authority:** 12 U.S.C. 4001 *et seq.*

■ 2. Appendix A to Part 229 is amended as follows:

- a. Introductory paragraphs A and B are revised and a new paragraph C is added.
- b. The heading and text of the Federal Reserve Offices routing list are revised.
- c. The Federal Home Loan Banks routing list is revised.

The additions and revisions read as follows:

### Appendix A to Part 229—Routing Number Guide to Next-Day Availability Checks and Local Checks.

A. Each bank is assigned a routing number by Thomson Financial Publishing Inc., as agent for the American Bankers Association. The routing number takes two forms: a fractional form and a nine-digit form. A paying bank generally is identified on the face of a check by its routing number in both the fractional form (which generally appears in the upper right-hand corner of the check) and the nine-digit form (which is printed in magnetic ink along the bottom of the check). Where a check is payable by one bank but payable through another bank, the routing number appearing on the check is that of the payable-through bank, not the payor bank.

B. The first four digits of the nine-digit routing number (and the denominator of the fractional routing number) form the "Federal Reserve routing symbol," and the first two digits of the routing number identify the Federal Reserve District in which the bank is located. Thus, 01 will be the first two digits of the routing number of a bank in the First Federal Reserve District (Boston), and 12 will be the first two digits of the routing number of a bank in the Twelfth District (San Francisco). Adding 2 to the first digit denotes a thrift institution. Thus, 21 identifies a thrift in the First District, and 32 denotes a thrift in the Twelfth District.

C. Each Federal Reserve check processing office is listed below, followed by the Federal Reserve routing symbols of the banks that are located within the check-processing region served by that office. Because some check processing regions cross Federal Reserve District lines, there are some cases in which banks in different Federal Reserve Districts are located in the same check-processing region and therefore considered local to each other. For example, banks in Fairfield County, Connecticut are located in Second District and have Second District routing numbers (0211 or 2211), but the Windsor Locks office of the First District processes the checks of these banks. Thus, as indicated below, checks drawn on banks with 0211 or 2211 routing numbers would be local for First District banks served by the Windsor Locks office but would be nonlocal for other Second District depository banks.

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## FEDERAL RESERVE BANKS

0110 0001 5	0720 0029 0
0111 0048 1	0730 0033 8
0210 0120 8	0740 0020 1
0212 0400 5	0750 0012 9
0213 0500 1	0810 0004 5
0220 0026 6	0820 0013 8
0310 0004 0	0830 0059 3
0410 0001 4	0840 0003 9
0420 0043 7	0910 0008 0
0430 0030 0	0920 0026 7
0440 0050 3	1010 0004 8
0510 0003 3	1020 0019 9
0519 0002 3	1030 0024 0
0520 0027 8	1040 0012 6
0530 0020 6	1110 0003 8
0539 0008 9	1120 0001 1
0610 0014 6	1130 0004 9
0620 0019 0	1140 0072 1
0630 0019 9	1210 0037 4
0640 0010 1	1220 0016 6
0650 0021 0	1230 0001 3
0660 0010 9	1240 0031 3
0710 0030 1	1250 0001 1
0711 0711 0	

## FEDERAL HOME LOAN BANKS

0110 0053 6	0740 0101 9
0212 0639 1	0810 0091 9
0260 0973 9	0910 0091 2
0410 0291 5	1010 0091 2
0420 0091 6	1011 0194 7
0430 0143 5	1110 1083 7
0430 1862 2	1119 1083 0
0610 0876 6	1210 0070 1
0710 0450 1	1240 0287 4
0730 0091 4	1250 0050 3

By order of the Board of Governors of the Federal Reserve System, May 20, 2003.

**Jennifer J. Johnson**

*Secretary of the Board.*

[FR Doc. 03-13030 Filed 5-27-03; 8:45 am]

**BILLING CODE 6210-01-S**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Parts 153, 157, and 375

[Docket Nos. RM03-4-000 and AD02-14-000; Order No. 633]

### Emergency Reconstruction of Interstate Natural Gas Facilities Under the Natural Gas Act

Issued May 19, 2003.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is amending its regulations to enable natural gas interstate pipeline companies to replace mainline facilities using a route other than the existing right-of-way, and to commence construction without prior notice and

without project cost constraints, when immediate action is required to restore service in an emergency due to a sudden unanticipated loss of natural gas or capacity for protection of life or health or for maintenance of physical property. In addition, the Commission is revising reporting requirements so that a natural gas company, in responding to an emergency, would submit a report describing intended actions to the Commission in advance of commencing construction, rather than reporting actions taken after the fact, as is currently the case. The Commission revises its regulations to state that the requirement to provide landowners with 30-day prior notice is met if all affected landowners grant easements. The Commission is also amending its regulations to specify that the revisions related to emergency reconstruction will apply to facilities subject to Section 3 of the Natural Gas Act (NGA). Finally, the Commission is amending its regulations to delegate authority to waive certain landowner notice requirements and to make certain judgments in the field regarding the construction and operation of gas facilities. An important objective of the final rule is the reconciliation of the Commission's regulatory responsibilities under its enabling statutes and federal environmental and safety laws with the need to protect persons and property.

**EFFECTIVE DATE:** The rule will become effective July 14, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Robert Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6022.

Gordon Wagner, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8947.

Berne Mosley, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8625.

**SUPPLEMENTARY INFORMATION:** Before Commissioners: Pat Wood, III, Chairman; William L. Massey, and Nora Mead Brownell.

#### Introduction

1. The Federal Energy Regulatory Commission (Commission) is amending part 157, subpart F, of its regulations to enable natural gas interstate pipeline companies to replace mainline facilities using a route other than the existing right-of-way, and to commence construction without 45-day prior