

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 260 and 284

(Docket No. RM05-12-000)

Modification of Natural Gas Reporting Regulations

(May 27, 2005)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to standardize the filing format for reporting natural gas service interruptions and emergency natural gas sale, transportation and exchange. The Commission is also proposing to modernize the filing method, develop a tracking method for filings, and develop an electronic notification system to notify appropriate Commission staff when the information is filed with the Commission. In addition, the Commission seeks comment on affording Critical Energy Infrastructure Information (CEII) protection where applicable. These modifications are the result of a review conducted by the Commission's Information Assessment Team (FIAT) of the Commission's current information collections by evaluating their original purposes and current uses, and to propose ways to reduce the reporting burden on industry through the elimination, reduction, streamlining or reformatting of current collections. The modification of the regulations to modernize the filing method and standardize the filing

format should streamline the process and reduce the burden of filing information under FERC-576 “Report of Natural Gas Service Interruptions” and FERC-588 “Emergency Natural Gas Sale, Transportation and Exchange Transactions.” In addition, the Commission proposes to provide CEII protection for the information contained on both information collection requirements and seeks comment on this proposal. The Commission believes these modifications will not in any way prejudice the rights of any participant in those proceedings or anyone interested in the Commission’s natural gas program.

**DATES:** Comments are due [**insert date 45 days after publication in the FEDERAL REGISTER**]

**ADDRESSES:** Comments may be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: The Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street N.E., Washington, DC, 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Modifications of Natural Gas Reporting  
Regulations

Docket No. RM05-12-000

NOTICE OF PROPOSED RULEMAKING

(May 27, 2005)

**Introduction**

The Federal Energy Regulatory Commission (Commission) has reviewed its natural gas regulations in order to determine whether they contain any outdated requirements or impose any unnecessary burdens on persons subject to the Commission's jurisdiction. This review was conducted by the FERC Information Assessment Team (FIAT) that was tasked by the Chairman to assess the Commission's information needs. Goal 2 of the tasks identified by the team to meet this mission included identifying all of the Commission's current information collections, through forms and filing requirements (electric, hydropower, natural gas, oil and general), and evaluate their original purposes and current uses, and propose ways to reduce the reporting burden on industry through elimination, reduction, streamlining or reformatting of current collections. The modification of the regulations proposed in this rule will modernize the filing method and standardize the filing format to ensure greater filing efficiency for the information filed under FERC-576 "Report of Natural Gas Service Interruptions" and FERC-588 "Emergency Natural Gas Sale, Transportation and Exchange Transactions." In addition,

because information filed under both information collections reference the location of energy facilities, the Commission is proposing to limit access to this information under its Critical Energy Infrastructure Information (CEII) procedures. The Commission believes that these modifications would not in any way prejudice the rights of any participant in those proceedings or anyone interested in the Commission's natural gas program.

### **Background**

1. Under the Natural Gas Act (NGA) (Public Law 75-688)<sup>1</sup> a natural gas company must obtain the Commission's authorization to engage in the transportation or exchange of natural gas in interstate commerce. The Commission oversees the continuity of service in the transportation of natural gas in interstate commerce. Under section 7(d) of the NGA,<sup>2</sup> the Commission may issue a temporary certificate in cases of emergency to ensure maintenance of adequate service or to serve particular customers without notice or hearing. Section 10(a) of the NGA<sup>3</sup> requires natural gas pipeline companies to file reports with the Commission as prescribed by rules or regulations or by order as appropriate, to assist the Commission in performing its regulatory duties. The provisions of section 16 of the NGA<sup>4</sup> authorize the Commission to prescribe forms, statements, declarations and reports, including the information they are to contain and the time frames for filing the information.

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<sup>1</sup> 15 U.S.C. 717-717w. (2000).

<sup>2</sup> 15 U.S.C. 717f. (2000).

<sup>3</sup> 15 U.S.C. 717i. (2000).

<sup>4</sup> 15 U.S.C. 717o. (2000).

2. The information filed under FERC-576 “Report of Natural Gas Service Interruptions” notifies the Commission in a timely manner of any interruption to service or possible hazard to public health or safety. The Commission, in response to timely notification of a serious interruption, may contact other pipelines to determine available supply, and if necessary, authorize transportation or construction of facilities to alleviate the problem. The information collected identifies serious interruptions of service to any wholesale customer involving facilities operated under the Commission’s certificate authorization. The information collected may include: (1) the date of service interruption; (2) the date of reporting of the interruption to the Commission; (3) location of the interruption; (4) brief description of the facility involved and the cause of the interruption; (5) customer(s) affected; (6) duration of the interruption, and (7) volumes of natural gas interrupted.

3. FERC-588 “Emergency Natural Gas Sale, Transportation and Exchange Transactions” is also authorized by the provisions of the NGA. However, section 7(c) (1) (B) of the NGA exempts from certificate requirements “temporary acts or operations for which the issuance of a certificate will not be required in the public interest.”<sup>5</sup> The Natural Gas Policy Act (NGPA) (Public Law 95-621)<sup>6</sup> also provides for the reporting of non-certificated interstate transactions involving intrastate pipelines and local distribution companies.

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<sup>5</sup> 15 U.S.C. 717f. (2000).

<sup>6</sup> 15 U.S.C. 3301-3432. (2000).

4. An emergency is defined as any situation in which an actual or expected shortage of gas supply or capacity would require an interstate pipeline company, intrastate pipeline company, local distribution company or Hinshaw pipeline to curtail deliveries of gas or provide less than the projected level of service to any customer. These situations include a sudden, unanticipated loss of natural gas supply or capacity, sudden, anticipated loss of natural gas supply or capacity, or any situation in which the participant, in good faith, determines that immediate action is required for the protection of life or health or the maintenance of physical property. Respondents are to file a report within forty-eight hours after the commencement of the transportation, sale or exchange of deliveries of natural gas commence, a request to extend the sixty-day term of the emergency transportation, if needed, and a termination report.

### **Discussion**

5. In this Notice of Proposed Rulemaking (NOPR) the Commission is proposing to amend Parts 260 and 284 of its regulations governing interruptions of natural gas service to wholesale customers involving certificated facilities (18 C.F.R. § 260.9) and the emergency reconstruction of certificated facilities (18 C.F.R. § 284.270).

6. The Commission intends to modernize the filing method and to assist jurisdictional entities when filing information in response to the requirements of 18 C.F.R. § 260.9 “Report by natural gas pipeline companies on service interruptions occurring on the pipeline system” and 18 C.F.R. Subpart I “Emergency natural gas sale, transportation, and exchange transactions.” The Commission will provide for the electronic submission of data, and will standardize the filing format. In addition, the

Commission proposes to develop an internal tracking mechanism to provide staff with timely information on the submission of reports for service interruptions and emergency natural gas transaction reports. The latter, as required by 18 C.F.R. 284.270, calls for the submission of forty-eight hour reports for sales transactions, transportation, exchanges and the termination reports.

7. The current requirements of 18 C.F.R. 260.9 direct that natural gas pipeline companies must report to the Commission serious service interruptions to communities, major Government installations and large industrial plants outside of communities, or interruptions that the pipeline considers to be significant. The pipeline must notify the Commission of the interruption with the following information: (1) the location of the interruption; (2) the time of the interruption; (3) the customers affected by the interruption and (4) the emergency actions taken to maintain the service. The pipeline must also provide the Commission with a copy of the failure report filed with the Department of Transportation, and the pipeline must file the interruption report with the state commissions in the affected states. Natural gas pipeline companies currently submit this information in hardcopy as well as any electronic means, including facsimile transmission or telegraph.

8. The information provided for under 18 C.F.R. 284.270 of the Commission's regulations permits the Commission to determine whether an emergency gas sale, transportation or exchange qualifies for an exemption under section 7(c) of the NGA. The information must be filed within 48 hours after an emergency transaction begins, and within 30 days after termination of the transaction. The filer must also submit a report



with the U.S. Department of Transportation and may use the telegraph as a medium for transmitting this information.

9. Because the telegraph is an outdated method for submitting this information, the Commission proposes to require instead the electronic submission of the information required in both 18 C.F.R. 260.9 and 18 C.F.R. 284.270. For Internet filing provisions, see 18 C.F.R. 385.2003 (c). The benefits of having this information filed electronically include efficient delivery of the information, immediate confirmation to the filer of the Commission's receipt of the information, and almost immediate access by Commission staff. The electronic submission of information will reduce the number of data entry errors, permit Commission staff to conduct analysis in a timely manner, and provide for the storage of information on optical storage media, thus saving valuable storage. Electronic reporting will also provide time and resource savings for all parties by reducing the number of personnel needed to submit paper filings, particularly since it will eliminate paper processing and mailing. All parties, including the Commission, will benefit by having current data and the integrity of the data will increase because jurisdictional entities and the Commission will be able to correct the errors more promptly.

10. In Order No. 630<sup>7</sup>, the Commission issued procedures for gaining access to CEII, which would not otherwise be made available under the Freedom of Information Act.<sup>8</sup> These procedures made in the aftermath of the September 11, 2001 terrorist attacks, and

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<sup>7</sup> *Critical Energy Infrastructure Information*, 68 Fed. Reg. 9857 (March 3, 2003), FERC Stats. & Regs. ¶ 31,140 (2003).

<sup>8</sup> 5 U.S.C. 552. (2000).

instituted to restrict unrestrained access to certain types of information because of the threat of terrorism, keep sensitive infrastructure information out of the public domain. By placing restrictions on the use of this information, the Commission will decrease the likelihood terrorists could use such information to plan or execute terrorist attacks. The Commission defines CEII as information about “existing or proposed critical infrastructure that: (i) relates to the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act; and, (iv) does not simply give the location of critical infrastructure.” (18 C.F.R. 388.113 (c) (1)) Critical infrastructure means “existing or proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of these matters.” (18 C.F.R. 388.113(c) (2)) In submitting information under both 18 C.F.R. 260.9 and 284.270, pipelines must provide descriptions of the facilities and their location in order to describe why there is an interruption of service or the measures that they are taking to reconstruct the pipeline. If this information remained publicly available, it could provide those planning or executing terrorist attacks with an opportunity to take advantage of vulnerabilities in the energy infrastructure. It is for this reason the Commission seeks comment on placing the information filed in response to 18 C.F.R. 260.9 and 18 C.F.R. 284.270 under CEII protection. CEII may be released to a requester with a legitimate need for the information who is willing to abide by an appropriate non-disclosure agreement. See 18 C.F.R. 3881.113.

## **INFORMATION COLLECTION STATEMENT**

11. The Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.<sup>9</sup>

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.

### **12. Estimated Annual Burden**

<u>Data Collection</u>	<u>Number of Respondents</u>	<u>Number of Responses</u>	<u>Number of Hours Per Response</u>	<u>Total Annual Hours</u>
<u>FERC-576</u>	22	1	1	22
<u>FERC-588</u>	8	1	10	80
Totals				102

*Title:* Report of Service Interruptions (FERC-576)

Emergency Natural Gas Sale, Transportation & Exchange (FERC-588)

*Action:* Proposed Collections

*OMB Control Nos.* 1902-0004 & 1902-0144

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<sup>9</sup> 5 C.F.R. 1320.11.

*Respondents:* Businesses or other for profit

*Frequency of Responses:* On occasion.

*Necessity of the information:* The proposed regulations will revise the reporting requirements for service interruptions and emergency transactions to streamline the requirements and reduce the burden for the respondents. The information filed with the Commission informs it of serious natural gas pipeline service interruptions and also of the need for emergency reconstruction of natural gas pipelines or the need to sell, transport or make exchanges due to actual or expected shortages of gas supply.

*Internal Review:* The Commission has reviewed the proposed amendments to its regulations to modify the filing method, standardize the format and create an internal tracking mechanism for Commission staff. The revisions to the regulations will provide more effective and efficient information by providing current data by electronic submission. This method of filing will reduce data errors and thus preserve the integrity of the data. The Commission will be able to conduct further analysis of filed reports in a more timely fashion and expedite dissemination to Commission staff to ensure a timely response. The Commission also proposes to change the availability of the information to the public by classifying it as subject to CEII protection and seeks comment on this proposal. By invoking this protection, the Commission seeks to minimize the available information on vulnerabilities in the energy infrastructure to those persons who either plan or will execute a terrorist attack. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

Interested persons may obtain information on the information requirements by contacting the following: The Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426 [Attention: Michael Miller, Office of the Executive Director, Phone (202)502-8415, fax: (202)273-0873, e-mail: [michael.miller@ferc.gov](mailto:michael.miller@ferc.gov).]

For submitting comments concerning the collection of information(s) and the associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202)395-4650, fax: (202)395-7285].

### **Environmental Analysis**

13. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>10</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.<sup>11</sup> This proposed rule, if finalized, is procedural in nature and therefore falls under this exception. Therefore, no environmental consideration would be necessary.

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<sup>10</sup> Order No. 486, *Regulations Implementing the National Environmental Policy Act*, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

<sup>11</sup> 18 CFR 380.4(a) (2) (ii).

**Regulatory Flexibility Act Certification**

14. The Regulatory Flexibility Act of 1980 (RFA)<sup>12</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities.<sup>13</sup> The Commission is not required to make such an analysis if a rule would not have such an effect.

15. The Commission does not think that the proposed amendments to its regulations would have such an impact on small entities. Based on past experience, most of the pipelines filing either an interruption service report or an emergency transaction report under the proposed regulations would be entities that do not meet the RFA's definition of a small entity. Further, if the proposed regulations are adopted, all pipelines, including small entities, should benefit through reduced staffing and processing costs by being able to submit this information electronically. Therefore, the Commission certifies that this rule will not have a significant impact on a substantial number of small entities.

**Comment Procedures**

16. The Commission invites interested persons to submit comments on the matters and issues that it proposes to adopt, including any related matters or alternative proposals that

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<sup>12</sup> 5 U.S.C. 601-612 (2000).

<sup>13</sup> The RFA definition of "small entity" refers to the definition provided in the Small Business Act, which defines a "small business concern" a business which is independently owned and operated and which is not dominant in its field of operation. 15 U.S.C. 632 (2000). The Small Business Size Standards component of the North American Industry Classification System defines a small pipeline for transportation of natural gas as one that, including its affiliates, did not have total annual revenues for the preceding fiscal years exceeding \$6.0 million. 13 CFR 121.201 (Sectors 48-49, Sub sector 486, Pipeline Transportation, North American Industry Classification System, NAICS) ( 2004)

commenters may wish to discuss. Comments are due **[insert 45 days after publication in the FEDERAL REGISTER]**. Comments must refer to Docket No. RM05-12-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

17. Comments may be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats and commentors may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: The Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street N.E., Washington, DC, 20426.

18. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commentors commenting on this proposal are not required to serve copies of their comments on other commenters.

### **Document Availability**

19. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington D.C. 20426.

20. From FERC's Home Page on the Internet, this information is available in the eLibrary. The full text of this document is available in the eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number, excluding the last three digits of this document, in the docket number field.

21. User assistance is available for eLibrary and the FERC's website during normal business hours. For assistance contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. E-Mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov) or 202-502-8371.

List of subjects in 18 CFR Part 260

Statements, Reporting and recordkeeping requirements

List of subjects in 18 CFR Part 284

Natural Gas, reporting and recordkeeping requirements

By direction of the Commission.

Linda Mitry,  
Deputy Secretary.



In consideration of the foregoing, the Commission proposes to amend Parts 260 and 284, Title 18 of the Code of Federal Regulations, as set forth below:

**PART 260 - - STATEMENTS AND REPORT (SCHEDULES)**

1. The authority citation for part 260 continues to read as follows:

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

2. Part 260 is amended by revising section 260.9, paragraph (b) and (e) to read as follows:

**§ 260.9 Report by natural gas pipeline companies on service interruptions occurring on the pipeline system**

\* \* \* \* \*

(b) Reporting requirement. Natural gas pipeline companies must report such interruptions to service by electronic submission, to the Commission and the Director, Division of Pipeline Certificates, Office of Energy Projects, Federal Energy Regulatory Commission, Washington, D.C. 20426 (Fax: (202) 502-8625) at the earliest feasible time following such interruption to service, and must state briefly:

\* \* \* \* \*

(Submit in electronic format in accordance with § 385.2003. This report is an electronic file that is classified as a “qualified document.” As a qualified document, no paper copy version of the filing is required unless there is a request for privileged and protected treatment or the document is combined with another document as provided in § 385.2003(c)(3) or (4).)

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(e) Copies of the report on interruption of service must be sent electronically to the State commission in those States where service has been or might be affected.

**PART 284 - - SUBPART I - EMERGENCY NATRUAL GAS SALE, TRANSPORTATION AND EXCHANGE TRANSACTIONS**

1. 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.

2. Part 284 – Subpart I is amended by revising section 284.270, paragraphs (a), (b) and (c) to read as follows:

**§ 284.270 Reporting requirements.**

Each report shall be submitted in electronic format in accordance with § 385.2003.

All reports are electronic files classified as “qualified documents.” As qualified documents, no paper copy version of the filing is required unless there is a request for privileged and protected treatment or the document is combined with another document as provided in § 385.2003(c)(3) or (4).

\* \* \* \* \*

(a) Forty-eight hour report for sales transactions. Within 48 hours after deliveries of emergency natural gas commence, the purchasing participant must notify the Commission electronically of the sale, stating, in the following sequences:

\* \* \* \* \*

(b) Forty-eight hour report for transportation (excluding exchanges).

Within 48 hours after deliveries commence in an emergency natural gas transaction which does not involve the sale of emergency natural gas, the recipient of the emergency natural gas shall notify the Commission electronically of the transportation, stating in the following sequence:

\* \* \* \* \*

(c) Forty-eight hour report for exchanges. Within 48 hours after an

exchange transaction for emergency natural gas commences, the initial recipient of the exchange volumes shall notify the Commission electronically of the exchange, stating in the following sequence:

\* \* \* \* \*