



Guidelines for Filing Critical Energy Infrastructure Information (CEII)

The Critical Energy Infrastructure Information (CEII) process is not intended as a mechanism for companies to withhold from public access information that does not pose a risk of attack on the energy infrastructure. Therefore, in an effort to achieve proper designation while avoiding misuse of the CEII designation, the Commission requires submitters to segregate public information from CEII and to file as CEII only information that truly warrants being kept from ready public access. To this end, the Commission emphasizes that 18 CFR § 388.112(b)(1) requires that submitters provide justifications for CEII treatment. The way to properly justify CEII treatment is by describing the information for which CEII treatment is requested and explaining the legal justification for such treatment.

The Commission has continuing concern for CEII filing abuses and will take action against applicants or parties who knowingly misfile information as CEII, including rejection of applications in which information is mislabeled as CEII. The Commission offers the following guidance for how various types of documents should be filed. We note that this guidance is for prospective filings. All documents currently filed at the Commission will retain their current designations (except for Non-Internet Public designations as explained below). Below are clarifying guidelines regarding CEII.

Further, we want to re-iterate that the labeling and treatment of non-public material discussed here pertains only to how the Commission handles such material. Materials provided voluntarily to or requested by persons outside the Commission's process are not necessarily subject to the same requirements or protections. Filers should contact those entities directly to inquire about the treatment of non-public material.



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Guidelines for submitting information previously classified as Non-Internet Public

On October 30, 2007, the Commission issued a Final Rule eliminating the Non-Internet Public (NIP) designation. Critical Energy Infrastructure Information, 121 FERC ¶ 61,107 (October 30, 2007). In the Final Rule, the Commission stated that it will provide a sixty-day time period from the date this order is issued in which previous submitters of NIP may specifically identify any documents they believe may now qualify for CEII protection. Upon receipt of a request to re-designate a document as CEII, Commission staff will review the documents to ensure that the document is consistent with this guidance. If Commission staff determines that the document should not be treated as CEII, the Commission will notify the submitter of this determination pursuant to 18 CFR 388.112(e). Requesters will also be notified if the Commission decides to re-classify the document as CEII. After the sixty-day period, all NIP documents not identified as CEII will be made publicly available.

Guidelines for filing CEII in Resource Reports 1, 11 and 13

These guidelines provide instructions on how to file Resource Reports 1, 11 and 13. In the Commission's experience, Resource Reports 1, 11 and 13 contain public information, CEII, and privileged information. It is imperative that the information submitted be filed with the proper designation. Pursuant to 388.112(b) of the Commission's regulations, each designation must be clearly labeled and filed as a separate volume. The Commission emphasizes that submitters must file public information, CEII, and privileged information as three separate volumes. Further, submitters must file as CEII or privileged only information that truly warrants exemption from ready public access.

- **Public** - The filing of Resource Reports 1, 11 and 13 should include a public volume for posting on eLibrary. In general, narratives such as descriptions of facilities and processes are public. However, if there are specific engineering details or design details of a critical infrastructure in narrative form, the information may be CEII or privileged. Except as described in the CEII section below, all of Resource Report 1 should be public. Examples of public aspects of Resource Report 11 include information demonstrating compliance with the siting requirements of Title 49 CFR, Part 193. Examples of public aspects of Resource Report 13



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- include design, engineering, and operating philosophies, as well as general descriptions of hazard detection and control.
- **CEII** - CEII is limited and includes specific engineering and detailed design information about liquefied natural gas facilities, components, tanks, and systems. Examples of CEII include: for pipelines, diagrams of valve and piping details at compressor stations, meter stations, and pipeline interconnections; and for LNG facilities, detailed piping and instrumentation diagrams, equipment and tank detail drawings, detailed hazard detection and control location specifics, and some sections of Emergency Response Plans.
 - **Privileged** - In general, manufacturers' proprietary or business confidential design information, and cultural resource reports are examples of privileged documents. Privileged documents are generally exempt from release pursuant to an act of Congress. For example, cultural resources may be exempt from release pursuant to the National Historic Preservation Act and should be filed as privileged. Also, material that a submitter can justify as exempt from public release pursuant to Freedom of Information Act (FOIA) Exemption 4 should be filed under this criterion. To qualify for Exemption 4 protection, the information must be (1) commercial or financial, (2) obtained from a person, and (3) privileged or confidential. Generally, to be "confidential" for purposes of Exemption 4, disclosure of the information must either impair the government's ability to obtain similar information in the future, or cause substantial harm to the competitive position of the submitter of the information. See National Parks & Conservation Ass'n v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974).

Guidelines for filing natural gas pipeline flow diagrams and associated information

These guidelines provide instructions on how to file natural gas pipeline flow diagrams and associated information including the diagrams filed in Exhibits G, G-1, and G-II of pipeline certificate applications, Exhibit V of abandonment applications, FERC Form 567, and other flow diagrams submitted for the analyses of gas pipeline applications. In general, natural gas pipeline flow diagrams are considered CEII. However, supporting information submitted with these flow



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diagrams often contain information that should be public. In the Commission's experience, information filed with the flow diagrams contains public information, CEII, and privileged information. Again, it is crucial that the information submitted be filed in its proper designation and in separate, clearly labeled volumes. See 18 CFR § 388.112(b).

- **Public** - In general, narratives such as descriptions of facilities and processes are public. However, if there are specific engineering details and design details of a critical infrastructure in narrative form, the information may be CEII or privileged. Examples of public information include design assumptions, engineering and operating philosophies, most design specifications of equipment and pipelines, and narrative descriptions of pipeline operations.
- **CEII** - CEII is limited and includes specific engineering and detailed design information about pipeline facilities, components, and equipment. Examples of CEII include detailed natural gas flow diagrams filed in Exhibits G, G-1, and G-II of pipeline certificate applications, Exhibit V of abandonment applications, and FERC Form No. 567. Also, pipeline computer simulation models may be considered CEII unless they contain proprietary or business confidential information, in which case they should be filed as privileged.
- **Privileged** - In general, documents containing manufacturers' proprietary or business confidential design information are examples of privileged documents. Material that a submitter can justify as exempt from public release pursuant to FOIA Exemption 4 should be filed under this criterion.

Guidelines for filing documents pertaining to the Commission's Division of Dam Safety and Inspections

These guidelines provide further instructions on how to file documents relating to hydropower projects. Some documents pertaining to the Commission's Division of Dam Safety (D2SI) contain only public information and some only CEII. In general, D2SI documents are not filed with a claim of privilege. A list of D2SI-specific documents and their usual CEII designation is available at: <http://www.ferc.gov/legal/ceii-foia/ceii/designation.asp>.



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- **Public** - In general, narratives such as general descriptions of facilities and processes are public. However, if there are specific engineering, design or operational details of a critical infrastructure in narrative form, the information may be CEII or privileged.
- **CEII** - CEII is limited and includes engineering, security, and detailed design information about proposed or existing critical infrastructure. Examples of CEII include detailed drawings and specifications, dam safety and technical reports, emergency action plans, hazard classification, construction design reports, public safety plans, and extreme event reports.

Guidelines for filing documents pertaining to the Commission's Division of Hydropower Licensing

These guidelines provide further instructions on how to file documents relating to applications to license hydropower projects with the Commission's Division of Hydropower Licensing (DHL). In hydropower licensing, only Exhibit F is CEII material. Exhibit F consists of design drawings of critical energy infrastructure information and a Supporting Design Report. Exhibit F is contained in applications for hydropower licenses. All other DHL documents contain only public information. In general, DHL documents are not filed with a claim of privilege.

Guidelines for filing FERC Form 715 Annual Transmission Planning and Evaluation Report

These guidelines provide further instructions on how to file parts of the FERC Form 715, Annual Transmission Planning and Evaluation Report (Form 715). The Form 715 is comprised of the following parts: Part 1, Identification and Certification; Part 2, Power Flow Base Cases; Part 3, Transmitting Utility Maps and Diagrams; Part 4, Transmission Planning Reliability Criteria; Part 5, Transmission Planning Assessment Practices; and Part 6, Evaluation of Transmission System Performance. Some parts of the Form 715 contain public information and some contain CEII. In general, Form 715 does not contain privileged information.



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- **Public** - In general, narratives such as descriptions of facilities and processes are public. The information found in Part 1 contains the filer's identification and contact information. This information should be filed publicly. Similarly, Parts 4 and 5 contain generic criteria used in evaluating and testing the filer's system. This generic information does not qualify as CEII and should be filed publicly.
- **CEII** - CEII is limited and includes engineering, security, and detailed design information about proposed or existing infrastructure. Information in Part 2 provides an electrical model and analysis of the filer's actual transmission system. Part 3 provides detailed one-line diagrams and geographic location and identification of all system components. Part 6 provides details of potential weaknesses of the filer's transmission system including possible solutions. These three parts contain CEII and should be filed as such.