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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 158 and 260

[Docket No. RM07–9–000]

Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines

September 20, 2007.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In this Notice of Proposed Rulemaking, the Federal Energy Regulatory Commission (Commission) proposes to amend its financial forms, statements, and reports for natural gas companies, contained in FERC Form Nos. 2, 2–A and 3–Q. The proposed revisions reflect the fact that in the present regulatory environment, where interstate natural gas pipelines are no longer required to file a triennial restatement of rates, and the number of filed rate cases has declined sharply, FERC Form Nos. 2, 2–A, and 3–Q need to be expanded and otherwise revised in order for the Commission and the public to have sufficient information to assess the justness and reasonableness of pipeline rates. The proposed changes will enhance the forms' usefulness by updating them to reflect current market and cost information relevant to interstate natural gas pipelines and their customers. In addition, the Commission proposes to eliminate FERC Form No. 11.

DATES: Comments must be filed on or before November 13, 2007.

ADDRESSES: You may submit comments, identified by Docket No. RM07–9–000, by one of the following methods:

- **Agency Web site:** <http://www.ferc.gov>. Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.

- **Mail:** Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Introduction

1. The Commission proposes to amend its forms, reports and statements for natural gas companies.¹ Specifically, the Commission proposes changes to FERC Form No. 2 (Form 2), Annual report for major natural gas companies,² FERC Form No. 2–A (Form 2–A), Annual report for nonmajor natural gas companies,³ and FERC Form No. 3–Q (Form 3–Q), Quarterly financial report of electric utilities, licensees and natural gas companies.⁴ The Commission is proposing the changes to improve the

¹ Section 10 of the NGA, 15 U.S.C. 717g (1988), authorizes the Commission to prescribe rules and regulations concerning annual and other periodic or special reports, as necessary or appropriate for purposes of administering the NGA. The Commission may prescribe the manner and form in which such reports are to be made, and require from natural gas companies specific answers to all questions on which the Commission may need information.

² 18 CFR 260.1.

³ 18 CFR 260.2.

⁴ 18 CFR 260.300.

forms, reports and statements to provide, in greater detail, the information the Commission needs to carry out its responsibilities under the Natural Gas Act (NGA) to ensure that rates are just and reasonable, and to provide pipeline customers, state commissions, and the public the information they need to assess the justness and reasonableness of pipeline rates. The proposed changes would require pipelines to provide additional information regarding their sources of revenue and amounts included in rate base, and identify costs related to affiliate transactions, incremental facilities, and discounted and negotiated rates. They would be effective January 1, 2008. Accordingly, companies subject to the new requirements would file their new Form 3–Q beginning with the first quarter of 2009 and their new Forms 2 and 2–A in 2009 for calendar year 2008. Finally, the Commission proposes to eliminate the requirement to file FERC Form No. 11 (Form 11) and to extend the period of time to May 18 of the year following the submittal of annual and quarterly forms to file the Report of Certification.⁵

II. Background

A. General

2. The Commission strives to ensure that its reporting requirements keep pace with the evolution of the natural gas industry. Before the advent of Order No. 636 and its progeny, interstate natural gas pipeline companies provided both sales and transportation services.⁶ Gas costs were entered into a

⁵ See 18 CFR 158.11. The Commission is concurrently issuing a Notice of Inquiry (NOI) in Docket No. RM07–20–000, titled Fuel Retention Practices of Natural Gas Pipelines, seeking comments on several specific proposals for natural gas pipeline rate recovery of fuel and lost and unaccounted-for gas. The NOI addresses Commission policy regarding the method of cost recovery used by pipelines and seeks comments on whether that policy should be changed. While the instant proposed rulemaking in Docket RM07–9–000 addresses changes to the Commission's financial forms, the NOI addresses the method of recovery of fuel and seeks comments on whether it should change the current policy and prescribe a uniform recovery method for all pipelines. Therefore, there is no conflict between the two proposals.

⁶ See *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, FERC Stats. & Regs. ¶ 30,939, *order on reh'g*, Order No. 636–A, FERC Stats. & Regs. ¶ 30,950, *order on reh'g*, Order No. 636–B, 61 FERC

purchased gas adjustment (PGA) account and were periodically adjusted and passed through to customers. The quid pro quo for the ability to recover the gas costs through a PGA tracker was the requirement that the pipelines file to restate their rates every three years. The PGA regulations, and the triennial filing requirement therein, were eliminated when the Commission issued a Final Rule that changed pipeline filing and reporting requirements in the post-Order No. 636 environment.⁷

3. In Order No. 636, the Commission restructured pipeline services and required pipelines to unbundle their sales and transportation services. Accordingly, shippers were able to buy gas at the wellhead or from gas marketers, and purchase pipeline capacity from other shippers in the secondary market, as well as from the pipeline. Order No. 636 authorized pipelines to make unbundled commodity sales at market-based rates at the wellhead because it concluded that, after unbundling, sellers of short-term or long-term gas supplies (whether pipelines or other sellers) would not have market power over the sale of natural gas.

4. In 1995, in Order No. 581, the Commission issued a Final Rule revising the filing and reporting requirements for interstate natural gas pipeline companies to reflect the changed regulatory environment of unbundled pipeline sales for resale at market-based prices and open-access transportation of natural gas.⁸ The Commission eliminated outdated reporting requirements but revised Forms 2 and 2-A to provide financial, rate, and statistical information on transactions that it deemed more useful in monitoring the restructured industry.⁹

5. In 2000, in Order No. 637, the Commission again amended its regulations in response to the growing development of more competitive markets for natural gas and the transportation of natural gas.¹⁰ The rule

revised the Commission's regulatory approach to pipeline pricing by permitting pipelines to propose peak/off-peak and term differentiated rate structures. Although the rule did not change the financial forms, it required pipelines to provide additional data on their Web sites, including: (1) Information regarding the pipeline's capacity and released capacity transactions, including names of parties to the contract, rate charged, and receipt and delivery points; and, (2) information concerning market affiliates, including an organizational chart showing the structure of the parent corporation and the position within that structure of all affiliates. These additional reporting requirements were designed to provide more transparent pricing information and to permit more effective monitoring for the exercise of market power and undue discrimination.¹¹

6. Since the Commission eliminated the triennial restatement of rates filing requirement in Order No. 636, there has been a decline in filings under NGA section 4.¹² Of course, the Commission may, on its own motion, institute an investigation under NGA section 5 to determine if pipeline rates are just and reasonable.¹³ The Commission relies also on section 5 complaints, which may be filed by state public utility commissions or pipeline customers, to review gas rates outside of a section 4 rate proceeding. In a section 5 proceeding, the complainant has the burden of proof and must have access to the information needed to meet that burden. A section 5 complaint may rely on Forms 2, 2-A, and 3-Q financial data and that data must be sufficient to support a complaint.

7. Within the past year, two section 5 complaints were filed with the Commission, both relying on data provided in Forms 2 and 2-A to argue that the pipelines' rates were unjust and unreasonable.¹⁴ In *National Fuel*, the complainants contended that it had

been 11 years since the Commission had reviewed National Fuel's rates and that during that time the rates had become unjust and unreasonable.¹⁵ Relying upon Forms 2 and 3-Q data, the complainants prepared an analysis for the most recent three-year period, which allegedly demonstrated significant excess revenue and an equity return near 20 percent.¹⁶ National Fuel argued in response to the complaint that the Form 2 data relied upon by the complainants was not sufficient and that only a detailed cost and revenue study could provide justification for an investigation into a pipeline's rates under NGA section 5. Complainants acknowledged that the lack of certain data in Form 2 hindered the performance of a full rate analysis, but argued that the complaint, nonetheless, presented evidence sufficient to initiate an investigation of National Fuel's rates.¹⁷

8. In its order setting the case for hearing, the Commission found that the complainants had raised serious questions as to whether the rates established in 1995 settlements allowed National Fuel to recover revenue substantially in excess of its costs.¹⁸ The Commission rejected National Fuel's contention that a detailed cost and revenue study is the sole means of justifying an investigation into a pipeline's rates under section 5, and that Form 2 data could provide the starting point for such an investigation.¹⁹ However, the Commission denied complainants' request for summary disposition, noting that data extrapolated from Form 2 was, in some cases, unclear and not adequate to support a summary disposition.²⁰

9. On December 21, 2006, the Commission set for hearing another complaint filed by a group of customers that contended that Southwest Gas' rates had not been reviewed in 17 years and that during that time, the rates had become unjust and unreasonable.²¹ Complainants submitted a cost and revenue study using information from Southwest Gas' Form 2-A, which allegedly demonstrated that the pipeline was earning a return on equity as high as 32 percent.²² The complainants sought an immediate rate reduction and a hearing. The Commission found that

⁷ 61,272 (1992), *order on reh'g*, 62 FERC ¶ 61,007 (1993), *aff'd in part and remanded in part sub nom. United Distribution Cos. v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996), *order on remand*, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

⁸ *Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs*, FERC Stats. & Regs. ¶ 31,025 (1995).

⁹ *Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies*, Order No. 581, FERC Stats. & Regs. ¶ 31,026 (1995), *order on reh'g*, Order No. 581-A, FERC Stats. & Regs. ¶ 31,032 (1996).

¹⁰ *Id.*

¹¹ *Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091,

clarified, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, *reh'g denied*, Order No. 637-B, 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002), *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh'g*, 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n v. FERC*, 428 F.3d 255 (D.C. Cir. 2005).

¹² *Id.* See also 18 CFR 284.13.

¹³ 15 U.S.C. 717c.

¹⁴ 15 U.S.C. 717d.

¹⁵ *Public Service Commission of New York, Pennsylvania Public Utility Commission and Pennsylvania Office of Consumer Advocate v. National Fuel Gas Supply Corp.*, 115 FERC ¶ 61,299 (2006) (National Fuel), *order approving uncontested settlement*, 118 FERC ¶ 61,091 (2007); *Panhandle Complainants v. Southwest Gas Storage Co.*, 117 FERC ¶ 61,318 (2006) (Southwest Gas).

¹⁶ *National Fuel* at P 7.

¹⁷ *Id.*

¹⁸ Motion for Leave to Answer and Answer of the Joint State Agencies to National Fuel Gas Supply Corporation's Answer to Complaint at 6.

¹⁹ *National Fuel* at P 37.

²⁰ *Id.*

²¹ *Id.* at P 42.

²² See *Southwest Gas*, 117 FERC at P 1.

²³ *Id.*

the complainants' rate study did not support an immediate rate reduction, but set the matter for hearing.²³

10. Against this backdrop, Commission staff initiated a review of Forms 1, 1-F, 2, 2-A, and 3-Q data in the fall of 2006. As part of this review, staff met with both filers and users of annual and quarterly reports for the purpose of reexamining the breadth of data collected by the forms and to determine the need for additional information, deletions, or other clarifications. Thereafter, on February 15, 2007, the Commission issued a Notice of Inquiry (NOI).²⁴

B. Notice of Inquiry

11. In the NOI, the Commission sought comment on the need for changes or additions to the financial information reported in the Commission's quarterly and annual financial reports, FERC Form Nos. 1, 1-F, 2, 2-A, 3-Q, 6 and 6-Q applicable to the electric utility, natural gas, and oil pipeline industries. Specifically, the Commission asked commenters to address the question of whether the Commission's financial reports provide sufficient information to the public to permit an evaluation of the filers' jurisdictional rates, and whether these forms should otherwise be modified. The NOI posed 12 general questions and also invited commenters to raise other questions or issues that might aid the Commission's assessment of the forms.²⁵ The 12 questions are listed in Appendix B to this order.

12. On March 28, 2007, the Commission received 35 comments from FERC Form Nos. 1, 1-F, 2, 2-A, 3-Q, 6 and 6-Q users and jurisdictional entities that file the reports.²⁶ On April 27, 2007, 15 reply comments were filed. After reviewing the comments, the Commission has determined that each of the forms merits its own separate review. Addressing changes or amendments to all of the forms that serve the electric, gas, and oil pipeline industries in a single proceeding, would be an unwieldy task with the potential to cause confusion among the industries, which could delay the Commission's action. Accordingly, this Notice of Proposed Rulemaking (NOPR) addresses changes, additions, and

amendments to the forms applicable to natural gas companies—Forms 2, 2-A, and 3-Q. Potential changes or amendments to the annual and quarterly forms applicable to electric utilities and oil pipelines, Forms 1, 1-F, 6 and 6-Q will be addressed in future orders.

C. Comments to Notice of Inquiry

13. As noted, the Commission received 35 comments and 15 reply comments in response to the NOI. Eleven initial comments and two reply comments specifically address Forms 2, 2-A, and 3-Q data.²⁷ Not surprisingly, as a general matter, pipeline customers and state commissions support revising the forms and pipelines oppose revisions that would require filing additional information. The Industry Coalition urges the Commission to revise Form 2 to require additional detail which, in their view, would permit a proper evaluation of pipelines' cost-based rates and ensure that those rates are just and reasonable.²⁸ The Industry Coalition asks the Commission to require greater detail in several areas: (1) Capital structure; (2) deferred taxes; (3) gas purchases and sales; (4) state income tax rates; (5) miscellaneous assets; (6) corporate overhead costs; (7) volumes and revenues associated with discounted and negotiated rate services; (8) revenues and costs associated with at-risk facilities; and (9) calculation of the rate of return.²⁹

14. In addition, the Industry Coalition states that it has attempted to quantify the burdens and benefits associated with each proposal and estimates that the burden associated with providing the additional material would be low to moderate. The Industry Coalition also asks the Commission to require types of information contained in Form 2 to be replicated in the quarterly Form 3-Q, to the extent possible. In addition, the Coalition suggests changes specific to Form 3-Q, including (1) a separate report of fuel used for operation and maintenance; and (2) information that is consistent with page 520 of Form 2 related to fuel use.

15. Several state agencies, including the New York State Public Service Commission (NYPSC), the Kansas Corporation Commission (KCC), the Missouri Public Service Commission (MoPSC), and the Public Utilities

Commission of Ohio (PUCO), filed comments recommending changes to the forms. The KCC claims that current Form 2 data is inadequate and advocates the reinstatement of a periodic rate refiling requirement in the three to five year range.³⁰ In the absence of such a requirement, the KCC suggests specific changes to Form 2 which are similar, in part, to the changes recommended by the Industry Coalition. KCC's proposals include the following: (1) Calculation of the pipeline's rate of return; (2) identification of which components of deferred tax and regulatory asset and liability balances are included in rate base; (3) detail on miscellaneous current and accrued assets; (4) detail concerning gas purchase and sales accounts; (5) detail concerning corporate administrative costs; (6) identification of revenues associated with negotiated rate contracts and with at-risk facilities; and (7) information concerning the pipeline's capital structure.³¹ PUCO requests that debt accounts balances for Form 2 be shown separately for each debt issuance and asks the Commission to make the data available in electronic format that can be compared and analyzed electronically.³²

16. The NYPSC asserts that currently the forms contain no information related to affiliate transactions and recommends that utilities be required to describe and quantify each type of affiliate transaction, similar to the requirements adopted in Form 60 for service companies and recommends that a schedule, modeled on Schedule XVI, be added to Form 2.³³ The NYPSC also recommends that each company report its contributions to other post-employment benefits and pension funds.³⁴ As an alternative to a cost and revenue study, the NYPSC recommends that the Commission require pipelines to provide a more detailed breakdown of Accounts 480–484 Sales, according to revenues and quantities of gas that comprise each sale.³⁵ The NYPSC also asks that pipelines provide additional detailed information, such as billing determinants for each rate schedule, the separate identification of revenues and costs associated with trackers or special surcharges, and the amount of deferred taxes included in rate base for cost-of-service purposes.³⁶

²³ *Id.* at P 19.

²⁴ *Assessment of Information Requirements for FERC Financial Forms, Notice of Inquiry*, 72 FR 8316 (February 26, 2007), FERC Stats. & Regs. ¶ 35,554 (2007). While the outreach meetings addressed only Forms 1 and 2, the NOI invited comments from filers and users of Form 6 and 6-Q as well.

²⁵ NOI at P 16.

²⁶ Parties who filed comments and reply comments are listed on Appendix C.

²⁷ In some instances, comments were filed which addressed more than one financial form.

²⁸ Initial Comments of the Industry Coalition at 4. The Industry Coalition is comprised of the American Public Gas Association, the Independent Petroleum Association of America, the Natural Gas Supply Association, and the Process Gas Consumers Group.

²⁹ See Industry Coalition Comments at 5–6.

³⁰ KCC Comments at 4. For purposes of this NOPR, the term “at-risk” facilities has the same meaning as “incremental” facilities.

³¹ *Id.* at 7.

³² PUCO Comments at 3.

³³ NYPSC Comments at 6.

³⁴ *Id.* at 7.

³⁵ *Id.* at 9.

³⁶ *Id.* at 10–11.

17. MoPSC suggests that several accounts in Form 2, not currently required for Form 2-A filers, be added to Form 2-A, including detail of miscellaneous current accrued liabilities; detail of revenues from gathering, transmission, and storage; miscellaneous general expense; and charges for outside consultative services.³⁷ For all of these accounts, the Form 2 has a threshold reporting requirement of \$250,000. MoPSC requests that the schedules be included in Form 2-A and that the threshold for reporting be lowered to \$50,000 or \$100,000.³⁸

18. Comments opposing revisions, in part or in whole, to the annual and quarterly financial reports were filed by the Interstate Natural Gas Association of America (INGAA), the American Gas Association (AGA), Boardwalk Pipeline Partners, L.P. (Boardwalk), Williston Basin Interstate Pipeline Co. (Williston), and Washington Gas Light Company (Washington Gas). INGAA urges the Commission to balance the amount of information it needs in periodic reports for the purpose of administering section 5 against the burden it places on the pipelines. INGAA contends that the information now provided in both Forms 2 and 2-A is sufficient for the Commission's responsibilities under the NGA. INGAA notes that in two recent decisions, the Commission relied on Forms 2 and 2-A data to initiate an investigation of pipeline rates under section 5.³⁹ In addition, INGAA asserts that pipelines file other reports or postings that provide information supplemental to Form 2, including posting an index of customers and identifying contracts with negotiated rates. INGAA also contends that pipeline Web sites provide information on pipeline capacity and discounts awarded.⁴⁰ INGAA states that the Commission should be careful that an expanded Form 2 does not blur the distinction between sections 4 and 5, thus shifting the burden of proof established under section 5.⁴¹ Finally, INGAA suggests that the Commission should be wary of converting Form 2 from a financial reporting document to the equivalent of an annual cost and revenue study.⁴² INGAA states that any proposal that would require additional

information not collected in accord with the Uniform System of Accounts, or reported in a different format, will result in additional regulatory burdens.

19. Williston Basin, Boardwalk Pipeline, AGA, and Washington Gas concur with INGAA that Form 2 data, as now filed, provides sufficient information to allow users to evaluate pipeline rates. The commenters echo INGAA's concern that the current Form 2 not be transformed into a cost and revenue study, and that pipelines not be required to file an annual mini-rate case, thereby reversing the statutory burden of proof for section 5.⁴³ Williston Basin suggests several technical revisions and requests that the Commission discontinue the Form 11 and incorporate that information in the Form 3-Q.⁴⁴ Washington Gas states that Form 2 should remain as it is, and that if the Commission determines that more information is needed to monitor rates, a new form for reporting this ratemaking information should be created.⁴⁵

20. Only INGAA and Williston Basin filed reply comments. Both commenters reiterate the assertion that the information contained in Forms 2 and 3-Q is sufficient to allow the Commission and other users to adequately evaluate pipeline rates.⁴⁶ In response to the KCC's complaint that pipeline rate filings have declined since the end of the triennial rate review, INGAA asserts that pipeline rate filings continue to be made.⁴⁷ INGAA further asserts that the elimination of triennial rate review has had beneficial effects: (1) Customer settlements now dictate the timing of pipeline rate cases; (2) repeal of the triennial rate review is an incentive for controlling and reducing pipeline costs; (3) pipeline rates have remained stable for the last decade and have actually gone down in real (inflation adjusted) dollars; and (4) the quality of pipeline service has improved due to the increased flexibility provided by Order No. 637.⁴⁸

21. INGAA's reply comments also address specific proposals or requests for information made by the Industry Coalition, the NYPSC, the KCC, and MoPSC.⁴⁹ INGAA argues that:

- Some requests, e.g., more detailed information on deferred taxes and identification of the appropriate capital structure, would require filers to make

the sort of subjective judgment that is involved in a litigated rate case.⁵⁰

- The forms are currently designed to report what has actually occurred, and not to make projections based on the data.⁵¹

- Requiring a rate of return calculation and the detail requested on gas purchases would turn Form 2 into a mini-rate case,

- Other sources of information are available to the public, e.g., pipelines' operational sales and purchase reports and fuel tracker filings.⁵²

- If the Commission needs additional information from time to time, that need can be met through the Commission's audit authority on a case-by-case basis.⁵³

- Commenters may review pipelines' operational sales and purchase reports, cashout reconciliation reports and fuel tracker filings, all of which are routinely filed by pipelines.⁵⁴

- Pipelines already provide details of their effective income tax rate, and such details are disclosed in the Notes to Financial Statements and include the total dollar amount for taxes broken down between current and deferred taxes, and

- Other items, such as the calculation of the income tax of a particular state changing from a tax based on net income to a tax based on gross receipts are burdensome to calculate and subjective.⁵⁵

22. INGAA states that its members have no objection to identifying the entity whose capital structure is now reported on page 218a of Form 2, which provides a computation of the allowance for funds used during construction (AFUDC), but requiring the pipeline to state whether it believes this number is appropriate for a rate case would require the pipeline to speculate on a potentially contentious issue in a fully litigated rate case.⁵⁶ Generally, INGAA contends that the information provided in all of the areas identified by the Industry Coalition and others is already burdensome, and that the information sought is, in many instances, available elsewhere, e.g., in the pipelines' index of customers and other information posted on pipelines' Web sites.⁵⁷ INGAA further argues that the proposal to require pipelines to identify costs and revenues associated

³⁷ Comments of MoPSC at 5-8.

³⁸ Comments of MoPSC at 7-8.

³⁹ INGAA Initial Comments at 5; *National Fuel*, 115 FERC ¶ 61,299, on reconsideration, 115 FERC ¶ 61,368 (2006) and *Southwest Gas*, 117 FERC ¶ 61,318 (2006).

⁴⁰ *Id.* at 6.

⁴¹ *Id.* at 6-7, (citing *Public Service Comm'n v. FERC*, 866 F.2d 487, 490-91 (D.C. Cir. 1989)).

⁴² *Id.* at 7.

⁴³ Boardwalk Pipeline Comments at 5.

⁴⁴ Williston Basin Comments at 6-7.

⁴⁵ Washington Gas Comments at 3.

⁴⁶ Williston Basin Reply Comments at 2; INGAA Reply Comments at 2.

⁴⁷ *Id.* at 7.

⁴⁸ *Id.* at 8-9.

⁴⁹ *Id.* at 9.

⁵⁰ *Id.* at 10.

⁵¹ *Id.* at 1.

⁵² *Id.* at 4-5.

⁵³ *Id.* at 3.

⁵⁴ *Id.* at 13-14.

⁵⁵ *Id.* at 15-16.

⁵⁶ *Id.* at 11-12.

⁵⁷ *Id.* at 20.

with at-risk facilities could essentially impose a cost and revenue study obligation for these facilities and should not be required outside of a section 4 or 5 proceeding.⁵⁸ Similarly, INGAA contends that a requirement to include billing determinants for each rate schedule would impose a substantial burden because it would effectively require the preparation of a schedule equivalent to a Schedule G, required for a section 4 filing.⁵⁹

23. Finally, INGAA suggests that certain items required by Form 2 be deleted as burdensome or of limited usefulness, including: (1) Pages 508–509, Compressor Stations; (2) page 357, Charges for Outside Professional and Other Consultative Services; and (3) page 261, Reconciliation of Reported Net Income with Taxable Income for Federal Income Taxes.

III. Discussion

A. General

24. The steady decline of section 4 rate filings, the concerns regarding the adequacy of data in Forms 2 and 2–A expressed in both the *National Fuel* and *Southwest Gas* complaints, and the comments received in response to the NOI indicate a need to update and supplement Forms 2, 2–A, and 3–Q. While a hiatus in section 4 rate case filings does not, in every instance, support a conclusion that the pipeline is earning excess revenues, some pipelines have not filed a section 4 rate case in more than a decade, and their costs of service and revenues have gone unreviewed as a consequence.⁶⁰ If shippers cannot readily access the data they need to make informed assessments regarding the propriety of the rates charged, they are left without any plausible means of assessing the justness and reasonableness of those rates and are forced to accept the information provided at face value or attempt to initiate expensive and time-consuming section 5 proceedings to obtain the data.

25. The proposed additions or changes to Forms 2, 2–A and 3–Q require a pipeline to provide additional, detailed information regarding the pipeline's costs and revenues, including a reconciliation of gas supplied by shippers for compressor fuel and gas losses; disaggregation of certain cost

data; provision of additional information related to affiliate transactions; and the distinction between services provided at discounted or negotiated rates and costs recovered through incremental, as opposed to rolled-in, rates. As noted above, we believe that all of the proposed changes will better facilitate the forms users' ability to make a meaningful assessment of the pipeline's cost of service and current rates. We have endeavored, however, to achieve a balance between the benefits these changes will facilitate and the imposition of any additional burden on the pipelines. Most of the information requested is data that is maintained by the pipeline and can be transferred to existing and new schedules. In addition, as discussed below, we are proposing the elimination of Form 11, which would lessen pipelines' filing requirements.

26. Several schedules are being added to Form 2–A as well as to Form 2. The Commission regulates 44 pipelines that are classified as “nonmajor” and required to file Form 2–A. It is no less important that customers of pipelines classified as nonmajor be provided with the information we propose to add to Form 2. Form 2–A filers now provide less data than do Form 2 filers. As with Form 2, the information we are adding to Form 2–A is information we deem necessary to enable customers, state commissions, and the Commission to assess existing pipeline rates. Complaints regarding the dearth of data have been made by customers of both major and nonmajor pipelines and we believe all are entitled to the same information.⁶¹

27. We have not adopted many of the commenters' proposals. For example, we reject the KCC's request that we resurrect the triennial rate restatement requirement for all pipelines and AGA's alternative suggestion that we create a new form to supplement Form 2.⁶² We reject as burdensome the Industry Coalition's and the MoPSC's requests that pipelines not using the rate of return on equity approved in the pipeline's last rate case provide the calculation and derivation of the return used at present. We reject also the Industry Coalition's request that pipelines provide additional information on capital structure used for ratemaking purposes since it would

require the pipeline to speculate on the pipeline's preferred capital structure.

28. We acknowledge INGAA's concern that an expanded Form 2 could blur the distinction between sections 4 and 5, and shift the burden of proof established under section 5, and we invite commenters to address this issue. However, the changes proposed herein do not affect existing rates nor change any rates on file. The requested data is designed to provide the Commission and pipeline customers with information that will aid their ability to make a reasonable assessment of a pipeline's cost of service. Along the same lines, the requested data is not the functional equivalent of a cost and revenue study. Therefore, the revised Form 2 will not be used to limit an entity's rights under the NGA and our regulations. Nor will the revised Form 2 change our obligation to rule on complaints, petitions, or other requests for relief based on a full record and substantial evidence.

29. At the same time, we find no merit in INGAA's argument that much of the data sought by Form 2 users is available elsewhere, in forms and filings made before state agencies, the Commission, other federal agencies, or in the pipeline's tariff. We do not believe that users should have to piece together and interpret from myriad sources information that is readily available to the pipeline and can, without a substantial increase in burden, be incorporated into Forms 2 and 2–A. Also, much of the information cited by INGAA is not coterminous with Form 2 data and cannot be used for purposes of comparison.

30. Additionally, as discussed below, INGAA has requested that the Commission eliminate three schedules from Form 2. As discussed below, we reject INGAA's request to eliminate information now reported in Form 2. INGAA first requests that the Commission delete pages 508–509 of Form 2 which provide details on compressor stations. The schedule shows plant, expenses, amount of gas and usage in total hours intended to assist Form 2 users in calculating a depreciation analysis of remaining life for compressor plant. In addition, some compressor stations are built as part of expansion projects with incremental rates. The separation of costs by compressor station is a key element to assist in determining the appropriate allocations of costs to generate incremental rates. In addition, in order to provide more clarity regarding fuel use for compressor stations, we propose to revise pages 508–509 of Form 2 to require pipelines to provide both the

⁵⁸ *Id.* at 22.

⁵⁹ *Id.* at 24–25.

⁶⁰ The records indicate that as many as 15 major and 20 nonmajor gas pipelines have not filed a section 4 rate case in more than a decade. Also, although INGAA contends that pipeline rate cases are quite common, a review of the cases cited by INGAA reveals that most were filed because prior settlement agreements required the filing.

⁶¹ See, e.g., *Southwest Gas*, 117 FERC at P 4 (complaint filed by Form 2–A users).

⁶² See, e.g., *Public Service Commission of New York v. FERC*, 866 F.2d 487 (D.C. Cir. 1989); see also *United Distribution Companies v. FERC*, 88 F.3d 1105, 1175–6 (D.C. Cir. 1996).

amounts used and expenditures made for gas and electric power.

31. INGAA asks that the Commission eliminate Page 357, Charges for Outside Professional and Other Consultative Services. As discussed below, the Commission is adding a new Page 358 to Forms 2 and 2-A where information currently provided on Page 357 would be reported. INGAA asserts that the schedule has no value for ratemaking purposes. The information required for Page 357, now proposed to be substituted by a new page 358, allows Form 2 users to identify the annual charges for outside consulting activities and the identification of associated company charges. The Commission believes this information is of value to forms users and the reporting requirement will be retained.

32. Finally, we reject INGAA's request to eliminate page 261, Reconciliation of Reported Net Income With Taxable Income for Federal Income Taxes. The Commission believes page 261 should be retained because it can provide information as to book and tax timing differences, thereby indicating if costs are included in the revenue requirement which may not be deductible for tax purposes. The reconciliation reflects revenues reported for book purposes which are not included for income tax purposes. In other words, for example, AFUDC equity is isolated and can be used as a means of checking the reasonableness of the AFUDC included in the tax calculation.

B. Overview of FERC Forms 2, 2-A, 3-Q, and 11.

33. Before describing the proposed changes, the Commission believes that an overview of Forms 2, 2-A, and 3-Q, as well as a related form (Form 11) would be helpful. As discussed above, these forms are the vehicles the Commission uses to obtain financial and certain operational information from interstate natural gas companies. The forms provide information concerning a company's past performance and its future prospects, information compiled using a standard chart of accounts contained in the Commission's Uniform System of Accounts (USoFA).⁶³ The forms contain schedules which include a basic set of financial statements: Comparative Balance Sheet, Statement of Income and Retained Earnings, Statement of Cash Flows, and the Statement of Comprehensive Income and Hedging Activities. Supporting schedules containing supplementary information are filed, including revenues and the related quantities of

products sold or transported; account balances for various operating and maintenance expenses; selected plant cost data; and other information.

34. Currently, there are 74 Form 2 filers, 44 Form 2-A filers and 118 Form 3-Q filers. The Form 2 is an annual reporting requirement for "major" natural gas pipeline companies, *i.e.*, natural gas companies that transport or store gas in excess of 50 million Dth in each of the three previous calendar years. The Form 2-A is an abbreviated version of the Form 2 for "non-major" natural gas pipeline companies, *i.e.*, natural gas companies that do not meet the filing threshold for Form 2 but have total gas sales or volume transactions exceeding 200,000 Dth in each of the three previous calendar years. Form 3-Q is a quarterly filing requirement for filers of Forms 2 and 2-A, which requires gas companies to file certain Form 2 and 2-A information on a quarterly basis. The increased frequency of information provided in Form 3-Q allows for more timely evaluations of the adequacy of existing cost-based rates and improves the transparency of financial information submitted to the Commission. Finally, Form 11 is a quarterly filing made by natural gas companies that transport or store gas in excess of 50 million Dth in each of the three previous years. Filers must report quantities shipped or stored and revenues received under each rate schedule for each month of the quarter.

C. Proposed Adjustments to the Annual and Quarterly Reports

35. The proposed revisions fall into three categories of information. The first group, "Acquisition and Disposition of Gas," covers revenue data that is not now included in the forms, in particular, reporting revenue from shipper-supplied gas. The second group, "New Rate Policies and Affiliate Transactions," pertains to pipelines' affiliate transactions, discounted or negotiated rates, and incremental facilities. The third group, "Rate Base and Other Key Cost-of-Service Components," involves information regarding deferred income tax expense, state income tax, wages and salaries, and pensions. All of the proposed changes are reflected in the attached schedules, Appendix D.

1. Acquisition and Disposition of Gas *a. Shipper-Supplied Gas*

36. As an initial matter, as noted, the issue of the appropriate rate methodology used by natural gas pipelines for compressor fuel and lost and unaccounted-for gas is before the

Commission in Docket No. RM07-2-000, Notice of Inquiry, Fuel Retention Practices of Natural Gas Companies, seeking comments on whether the Commission should prescribe a uniform method for all pipelines to use in recovering these costs.⁶⁴ In this NOPR, the Commission is not proposing a change to the pipelines' recovery methods; rather, it simply is proposing that pipelines provide forms users with detailed financial data of how each pipeline accounts for these costs. Therefore, there should be no conflict between what is proposed here with whatever is proposed in the RM07-2-000 proceeding.

37. The Commission's USoFA requires that pipelines electing to recognize shipper-provided gas as revenue must also recognize an equal amount of purchased gas expense. Pipelines must credit the appropriate transportation revenue account (Accounts 489.1 through 489.4) and record an equal amount in Account 805, Other Gas Purchases. The USoFA also requires that all gas consumed in compressor stations or used for other operational purposes be recognized in the appropriate expense accounts in accordance with the existing USoFA requirements. Finally, for those pipelines not electing to recognize all shipper provided gas as revenue, the Commission requires that the value of gas received from shippers under tariff allowances that is not consumed in operations nor returnable to customers through rate tracking mechanisms be credited to Account 495, Other Gas Revenues, and charged to Account 805. Despite these accounting and reporting requirements for gas used in operations, gas lost, and gas sold, Forms 2 and 2-A users cannot readily determine the disposition and value of any shipper-supplied gas that exceeds the pipelines' operational needs or the source and cost of any gas acquired to meet deficiencies in shipper-supplied gas.

38. The Industry Coalition, NYPSC, and the KCC all request that pipelines be required to provide details of gas purchases and sales, including an accounting of gas that pipelines retain from shippers.⁶⁵ The Commission agrees that forms users should have access to this information in order to assess the sources of revenue recorded for gas sales by pipelines. With escalating gas prices and a declining number of full section 4 rate reviews,

⁶⁴ See *Fuel Retention Practices of Natural Gas Companies*, Notice of Inquiry, Docket No. RM07-20-000, 120 FERC ¶ 61,255 (2007).

⁶⁵ See Industry Coalition comments at 5; NYPSC Comments at 10; KCC Comments at 7.

⁶³ See 18 CFR part 201.

the disposition of this gas has become an important item in the pipeline's cost of transportation.⁶⁶

39. The Commission is proposing to add a new schedule entitled "Shipper-Supplied Gas for the Current Quarter" (pages 521-A and 521-B) to Forms 2, 2-A, and 3-Q, which would require the pipeline to report: (1) The difference between the volume of gas received from shippers and the volume of gas consumed in pipeline operations each month; (2) the disposition of any excess and the accounting recognition given to such disposition including the basis of valuing the gas and the specific accounts charged or credited; and (3) the source of gas used to meet any deficiency and the accounting recognition given to the gas used to meet the deficiency, including the accounting basis of the gas and the specific account(s) charged or credited. The Commission also proposes to add page 520 to Form 3-Q in order to provide more timely reporting of this information. In addition, in order to provide more clarity for gas purchase activity, we are proposing to require pipelines to provide in a footnote to page 520, the volumes of gas purchased applicable to each of the gas purchase expense accounts.⁶⁷ Currently, pipelines must report the dollar amount of gas purchases by type of purchase on the Gas Operation and Maintenance Expenses schedule on page 319 of Forms 2 and 2-A, and they are required to report the related volumes only in the aggregate on the Gas Account—Natural Gas schedule on page 520.

b. Other Gas Dispositions

40. The Commission collects information concerning different types of gas operating revenue on the schedule entitled Gas Operating Revenue, pages 300–301 of Forms 2 and 2-A. This schedule currently combines on one line sales data related to residential, commercial and industrial, other sales to public authorities, sales for resale and interdepartmental sales. The Industry Coalition and the KCC request that pipelines provide greater detail concerning these accounts and be required to separately identify these costs and provide an accounting for each.⁶⁸ The Commission agrees that detail concerning these accounts would provide important data that would enable users to identify the dispositions of gas acquired by or tendered to the pipeline and how those transactions

may affect the pipeline's cost of service. Accordingly, the Commission proposes to expand the detail provided on pages 300–301 of Forms 2 and 2-A to require filers to report sales amounts reported in Accounts 480 (Residential Sales); 481 (Commercial and Industrial Sales); Account 482 (Other Sales to Public Authorities); Account 483 (Sales for Resale); and 484 (Interdepartmental Sales).

41. Both the Industry Coalition and the KCC seek detail concerning the types of revenues recorded in Account 495, Other Gas Revenues. Under the Commission's USofA, pipelines record in Account 495 miscellaneous revenues derived from gas operations not includible in any of the other gas revenue accounts. Additionally, pipelines are required to report these revenues on the schedule entitled Other Revenues (Account 495) on page 308 of Form 2. The descriptions and aggregations of amounts reported by pipelines on this schedule, however, do not allow users of the data to obtain a meaningful understanding of the nature of the business activities from which the revenues are derived. It is important for users of the data to understand which customer classes or groups may be affected by the miscellaneous revenues.

42. In order to provide additional information, the Commission proposes to modify the schedule for Account 495, Other Gas Revenues, on page 308 of Form 2 and add a new schedule to Form 2-A to specify that the following types of revenues must be separately reported on the schedule: (a) Commissions on sale or distribution of gas of others; (b) compensation for minor or incidental services provided for others; (c) profit or loss on sale of material and supplies not ordinarily purchased for resale; (d) sales of steam, water, or electricity, including sales or transfers to other departments; (e) miscellaneous royalties; (f) revenues from dehydration and other processing of gas of others except as provided for in the instructions to Account 495; (g) revenues for rights and/or benefits received from others which are realized through research, development, and demonstration ventures; (h) gains on settlements of imbalances receivables and payables; (i) revenues from penalties earned pursuant to tariff provisions, including penalties associated with cash-out settlements, and (j) revenues from shipper-supplied gas.

2. New Rate Policies and Affiliate Transactions

a. Affiliate Transactions

43. Forms 2 and 2-A filers are required to disclose information regarding any significant financial changes, including information regarding sales, transfers or mergers of affiliates in the Notes to Financial Statements schedule page 122.1. However, forms filers are not required to provide detailed information regarding affiliate transactions. The absence of affiliate information makes it impossible for forms users to determine the type and extent of all affiliate transactions. In this regard, the NYPSC points out that at present, Form 2 does not require any reporting related to affiliate transactions.⁶⁹ NYPSC believes that additional controls and disclosures of affiliate transactions are needed, not only to ensure that costs are just and reasonable, but to prevent cross-subsidization between regulated and unregulated companies.⁷⁰ The Commission agrees that information concerning the nature and extent of affiliate transactions is important because these transactions are not conducted at arms' length and could provide opportunities for inappropriate cross-subsidization.

44. To ensure that forms users have access to more detailed information regarding affiliate transactions, the Commission proposes several revisions. First, the Commission proposes to add a new Schedule, page 358, "Transactions with Associated (Affiliated) Companies" that would require filers to report associated (affiliated) transactions, which include administrative and general costs billed from the parent. The Commission believes this proposed new schedule would provide the transparency necessary to improve the detection of cross-subsidization. Second, on page 358, we propose to add the requirement that filers report the following: (1) A description of the good or service transacted; (2) the name of the Associated (Affiliated) Company; (3) the FERC account charged or credited; and (4) the amount charged or credited. We propose that where amounts billed to or from affiliates are based on an allocation process, filers be required to explain the basis of the allocation in a footnote. This would be a new schedule for both Forms 2 and 2-A. Finally, we propose to amend the instructions for page 357, Charges for Outside Professional and Other Consultative Services, to exclude

⁶⁶ See *National Fuel*, 115 FERC at P 21.

⁶⁷ 18 CFR part 201, Account Nos. 800–805.

⁶⁸ Industry Coalition Comments at 5; KCC Comments at 7.

⁶⁹ NYPSC's Comments at 6.

⁷⁰ *Id.* at 6.

associated (affiliated) transactions, and remove the \$250,000 threshold for reporting services. This schedule is already in existence in Form 2, but will be a new addition to Form 2-A.

b. Incremental Pricing Policy

45. Construction of the interstate natural gas pipeline system began in earnest in the 1940's. As consumption increased, pipelines expanded their facilities to meet the growing demand. The majority of these early expansions involved adding facilities that were integrated into the pipeline's mainline system and provided benefits to all customers using the system. For this reason, the cost of those facilities was considered to be a part of the pipeline's cost of serving all customers. This "rolled-in" approach remained the predominant rate methodology for new additions to existing pipeline systems through the early 1990s. Under a predominantly rolled-in rate regime, financial information reported in Forms 2 and 2-A on an aggregate company-wide basis was sufficient for Commission oversight of pipeline rates. The Commission's pricing policy for pipeline capacity expansions has evolved, due in part to changes in the industry brought about by Order No. 636, and its predecessor, Order No. 436.⁷¹ Current Commission policy requires that a pipeline be prepared to financially support expansion projects without relying on subsidization from existing customers.⁷²

46. In concert with this changing pricing policy, the Commission has granted an increasing number of companies incremental and other rate treatments for facility expansions.⁷³ Under these more recent pricing methods, new and existing customers pay different rates based on the cost of the different facilities that provide service to them. In the individual cases where incremental rates have been

approved, the Commission has required the pipelines to maintain their accounting records so as to be able to readily identify the facilities and related costs used to provide service to the customers that pay the incremental rates.⁷⁴ Until now, the Commission has not required the disaggregation of costs and revenues associated with incremental rate treatment in Forms 2 and 2-A. The Industry Coalition believes that a proper assessment of rates requires that these facilities be considered separately.⁷⁵ Without this information, they claim that pipeline customers cannot evaluate the reasonableness of different rates that are determined from distinct and separate facilities.⁷⁶

47. The Commission agrees with the Industry Coalition, and proposes to add a new schedule to Forms 2 and 2-A which would provide information regarding a company's individual rate treatments for services. The proposed new schedule at page 217, entitled "Non-Traditional Rate Treatment Afforded New Projects," would report: (1) The name of the facility; (2) docket number under which the facility was approved; (3) the type of rate treatment (e.g., incremental or another rate treatment); (4) the amount of plant in service; (5) the amount of accumulated depreciation; (6) amount of accumulated deferred income taxes; (7) amount of operating expenses; (8) the amount of maintenance expenses; (9) the amount of depreciation expense; (10) incremental revenues; and (11) other expenses. Because the Commission already requires the companies to separately account for each rate treatment, the Commission believes the burden for the company to identify each facility and the associated costs would be minimal.

c. Discounted Rate Services and Negotiated Rate Services

48. At present, certain pages in Form 2 require filers to report the dollar amounts and volumes associated with each type of transportation service provided. These are pages 300–301, Gas Operating Revenue; pages 302–303, Revenues from Gas Transportation of Others Through Gathering Facilities; pages 304–305, Revenues from Gas Transportation of Others Through Transmission Facilities; 306–307, Revenues from Storing Gas of Others; and page 308, Other Gas Revenues, which require filers to report the dollar amounts and volumes associated with

each type of transportation service provided. Form 2 does not, however, require filers to identify the volumes and revenues applicable to discounted, negotiated, or recourse rates. Both the Industry Coalition and the KCC believe that this information is invaluable to shippers because it would allow for the proper assessment and analysis of adequacy of rates.⁷⁷

49. The Commission permits pipelines to negotiate individualized rates⁷⁸ which, unlike discounted rates,⁷⁹ are not constrained by the maximum and minimum rates in the pipeline's tariff.⁸⁰ However, pipelines must permit shippers the option of paying the traditional cost-of-service recourse rates in their tariffs, instead of requiring them to negotiate rates for any particular service.⁸¹ The Commission relies on the availability of recourse rates to prevent pipelines from exercising market power by assuring that the customer can revert to the just and reasonable tariff rate if the pipeline unilaterally demands excessive prices or withholds service.⁸² At present, individual pipelines may provide services from the same facilities using different rates—negotiated, discounted, or recourse rates. In these circumstances, the Commission agrees with the Industry Coalition and the KCC that it is important for the customer and the Commission to know the level of services provided under each rate structure in order to protect against cross-subsidization and to ensure that the rate for recourse service remains just and reasonable. Therefore, we propose to add a new schedule, page 313, Discounted Services and Negotiated Services, which would require pipeline filers to report the revenues and volumes applicable to discount and negotiated rate services provided during the period.

⁷⁷ Industry Coalition comments at 6; see also KCC Comments at 7.

⁷⁸ *Alternatives to Traditional Cost of Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,076, reh'g denied, 75 FERC ¶ 61,024 (1996), petitions for review denied sub nom. *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement); *Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), order on reh'g and clarification, 114 FERC ¶ 61,042 (2006), dismissing reh'g and denying clarification, 114 FERC ¶ 61,304 (2006).

⁷⁹ See 18 CFR 284.10(c)(5).

⁸⁰ See *Northern Natural Gas Co.*, 105 FERC ¶ 61,299 (2003) (clarifying the distinction between discounted and negotiated rates).

⁸¹ A recourse rate is a cost of service based rate for natural gas pipeline service that is on file in a pipeline's tariff and available to customers who do not negotiate a rate with the pipeline company.

⁸² Negotiated Rate Policy Statement at 61,238–42.

⁷¹ *Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 436, FERC Stats. & Regs. ¶ 30,665 (1985), vacated and remanded, *Associated Gas Distributors v. FERC*, 824 F.2d 981 (D.C. Cir. 1987), cert. denied, 485 U.S. 1006 (1998), readopted on an interim basis, Order No. 500, FERC Stats. & Regs. ¶ 30,761 (1987), remanded, *American Gas Ass'n v. FERC*, 888 F.2d 136 (D.C. Cir. 1989), readopted on an interim basis, Order No. 500–H, FERC Stats. & Regs. ¶ 30,867 (1989), aff'd in part and remanded in part, *American Gas Ass'n v. FERC*, 912 F.2d 1496 (D.C. Cir. 1990), cert. denied, 498 U.S. 1084 (1991).

⁷² See *Certification of New Interstate Natural Gas Pipeline Facilities, Statement of Policy*, 88 FERC ¶ 61,227 (1999), order clarifying policy, 90 FERC ¶ 61,128 (2000), order clarifying policy, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

⁷³ See, e.g., *Qwestar Pipeline Co.*, 93 FERC ¶ 61,279 (2000); *Independence Pipeline, et. al.*, 89 FERC ¶ 61,283 (1999); and *Transcontinental Gas Pipeline Corp.*, 76 FERC ¶ 61,318 (1996).

⁷⁴ See 18 CFR 154.309.

⁷⁵ Industry Coalition Comments at 6.

⁷⁶ *Id.*

3. Rate Base and Other Key Cost-of-Service Components

a. Deferred Income Taxes

50. The Industry Coalition and the KCC request that the Commission require pipelines to identify the components of deferred taxes that are included in the pipeline's rate base.⁸³ Both suggest that the information would provide Form 2 users with an essential element needed to calculate the pipeline's current rates. At present, Form 2 filers are required to report only a single line of data for the total deferred income tax balances related to gas operations on the schedules titled Accumulated Deferred Income Taxes (Account 190) pages 234–235, Accumulated Deferred Income Taxes—Other Property (Account 282) pages 274–275, and Accumulated Deferred Income Taxes—Other (Account 283) pages 276–277. Although Form 2 filers also must identify and report on these pages the deferred income taxes related to other income and deductions as well as classification of the total deferred income tax amounts between federal, state and local income tax, this information does not provide any significant insight into the source of the deferred income taxes related to gas operations. Form 2–A filers report even less information concerning their deferred income tax amounts. Form 2–A filers report only the total amount of deferred income taxes (by applicable deferred income tax account) on their balance sheet and income statement. Unlike Form 2, no additional supporting information for these amounts is presently required in Form 2–A.

51. The Commission agrees that deferred income tax balances are an important factor in determining rate base and evaluating a pipeline's earned rate of return. Customers need to know the amount of deferred tax balances related to gas operations that would be included in the pipeline's cost of service in order to assess the reasonableness of the rates currently paid. At present, the level of detail required for deferred income taxes related to gas operations in both Forms 2 and 2–A does not provide this information.⁸⁴ Accordingly, the

Commission is proposing to add an instruction to each of the deferred income tax schedules noted above to require pipelines to provide, in a footnote to those schedules, a summary of the type and amount of deferred income taxes reported in the beginning-of-year and end-of-year balances for deferred income taxes used to develop jurisdictional recourse rates. These revisions meet the concerns of the Industry Coalition that users be provided additional information to enable them to calculate the pipeline's rate base and evaluate the pipeline's current rates.

52. The Commission also proposes to add those deferred tax reporting schedules to Form 2–A so that all pipeline customers, not just those of larger pipelines, would have this key piece of information which the Commission believes is essential to an assessment of the reasonableness of the rates for pipeline service. Also, we propose a technical correction to each of the deferred income tax reporting schedules to delete one of the lines for reporting “other” deferred income taxes. This will eliminate the confusion caused by providing two lines for reporting this information.

b. State Income Tax Expense

53. The KCC and MoPSC ask that filers be required to provide the pipeline's current effective overall state income tax rate.⁸⁵ Both argue that the information now provided in Forms 2 and 2–A is inadequate. Currently, in Form 2, the amount of state income tax paid or payable for the current year is reported by state on the schedule titled Taxes Accrued, Prepaid and Charged During Year, Distribution of Taxes Charged, pages 262–3. The aggregate state deferred income tax for the entire reporting entity is reported in Form 2 schedules for accumulated deferred income taxes, as noted above. However, this information does not readily permit the Commission or the pipeline's customers to determine the amount of state income tax expense (both current and deferred) that should be associated with the before-tax net income generated from the sales of transportation services under more than one rate structure (e.g., where the pipeline provides transportation services for some customers on a rolled-in basis and others on an incremental basis). Since state income taxes are a valid component of the cost of providing service, the Commission and the pipeline's customers must be able to determine the amount of state income

tax expense applicable to each of these rate structures in order to evaluate the reasonableness of the return earned from providing the disparate services on an after-tax basis. For that purpose, we propose to add a column Q to the Taxes Accrued, Prepaid and Charged During Year, Distribution of Taxes Charged schedule on pages 262–3 of Form 2 and to add the same schedule to Form 2–A to require pipelines to report state and local income tax rates.

c. Regulatory Assets and Liabilities

54. The KCC requests that pipelines identify regulatory asset and liability balances included in rate base.⁸⁶ Currently, Forms 2 and 2–A filers are required to report a break-out of regulatory assets and liabilities on page 232, Other Regulatory Assets, and page 278, Other Regulatory Liabilities. Commission regulations require companies to establish regulatory assets and liabilities where future recovery from rate payers or refund to rate payers is probable. However, during a rate case the validity of any regulatory asset or regulatory liability can be challenged. In order to enable Form 2 and 2–A users to determine which regulatory assets are recovered and which regulatory liabilities are refunded, the Commission proposes to revise the regulatory asset schedule by adding footnote citations for each regulatory asset to identify the regulatory approval to record the item and adding a column to identify amounts written off during the period as non-recoverable. In addition, we propose to revise the regulatory liability schedule by adding footnote citations for each regulatory liability to identify the regulatory approval to refund the item and adding a column to identify amounts written off during the period as non-refundable.

d. Distribution of Salaries and Wages

55. The Distribution of Salaries and Wages schedule of Form 2, pages 354–355, requires natural gas companies to report the distribution of total salaries and wages for the year, segregated according to particular operating functions of the company. The schedule allows users of the forms to review and analyze the payroll distribution of the company. However, the schedule does not provide for the recording of payroll costs billed to the company by affiliated companies. Both the KCC and the Industry Coalition request that the Commission require pipeline companies to provide more information on pipeline

⁸³ Industry Coalition Comments at 4; KCC Comments at 7.

⁸⁴ In contrast to the single line reported in Form 2, the deferred income balances are comprised of numerous book and income tax timing differences, many of which are not used in formulating jurisdictional rates. See, e.g., Transcontinental Gas Pipe Line Corporation's general section 4 rate filing in Docket No. RP06–569–000, Schedule B–1, pages 1–16 (reflecting approximately 120 timing differences generating deferred income taxes, with only approximately 15 used in the rate base calculation).

⁸⁵ KCC Comments at 7; MoPSC Comments at 4.

⁸⁶ KCC Comments at 7.

overhead and shared service costs.⁸⁷ Based on our experience in section 4 rate cases, natural gas company affiliates have become a larger cost of operations for many natural gas companies as these affiliated companies are increasingly providing the workforce for the natural gas company's operations. The salary and wage expenses that affiliated companies charge to the natural gas companies are not currently reported in the Distribution of Salaries and Wages schedule by all filers of Form 2. As a consequence, an important tool used for evaluating the reasonableness of the level of salaries and wages charged to pipeline operations, and thus included in the cost of service, is compromised.

56. To enhance the usability of the Distribution of Salaries and Wages schedule, the Commission proposes to add an instruction and a new column that would require all filers of Form 2 to report salaries and wages billed by affiliates or affiliated service companies separately from other salary and wage distributions. The new column to pages 354–355 would be titled "Payroll Billed by Affiliated Companies." Requiring natural gas companies to file this payroll distribution information would allow the forms user to determine the level of salaries and wages included in the natural gas company's operations and maintenance expenses, make valid comparisons of the amounts between entities and periods, and better assess the reasonableness of the levels for cost of service purposes.

e. Employee Pensions and Benefits

57. NYPSC requests that pipelines be required to report information concerning pension and other post-employment benefits.⁸⁸ NYPSC states that presently, Form 2 does not require any reporting related to these expenses, and believes that these expense components are material to a rate assessment.⁸⁹ Presently, the USofA requires pipelines to record the cost of pension and other employee benefits in Account 926, Employee Pensions and Benefits. Instruction 3 to page 122.1, Notes to Financial Statements, requires filers to furnish details on their pension plans, post-retirement benefits other than pensions (PBOPS), and post-employment benefit plans, including the current year's cash contribution to each plan. Despite these accounting and disclosure requirements, information about the costs of the various employee benefit plans charged to expense each

period is not readily available in Forms 2 and 2–A. This is due to the complexity of the disclosure requirements for defined PBOP's, the participation by pipelines in multi-employer benefits plans in which they are assigned a portion of the cost of the total plan, and the flexibility in how information is displayed and described in a footnote disclosure.

58. We agree that it is important that forms users be able to identify the types and costs of employee benefits. Therefore, we propose to amend Instruction 3 to page 122.1 to require filers that participate in multi-employer post-retirement benefit plans to disclose the amount of cost recognized in the filer's financial statements for each plan for the period presented and the basis for determining the filer's share of the total plan costs. In addition, we are proposing to add a schedule entitled Employee Pensions and Benefits, page 352, to both Forms 2 and 2–A, to provide additional details about the types and costs of benefits provided to employees. The Commission believes that requiring pipelines to provide this level of detail would permit forms users to assess the cost of employee benefits and better compare this information between periods and entities.

f. Asset Retirement Obligation (ARO)

59. The Commission amended its regulations in Order No. 631 to update the accounting and financial reporting requirements for asset retirement obligations (ARO) under its USofA for public utilities and licensees, natural gas and oil pipeline companies.⁹⁰ An asset retirement obligation is a liability resulting from a legal obligation to retire or decommission a plant asset. Recently, some pipelines have sought to recover ARO costs in their overall cost of service.⁹¹ As a result of this increasing trend, the Commission believes that it has become increasingly important to make the accounting for AROs more transparent to the users of the financial statements as the statements currently do not provide the level of detail required to perform a thorough analysis of a company's asset retirement obligations.

60. The Commission is proposing to add a new instruction to the Notes to the Financial Statements schedule, page 122.1. The new instruction would

require natural gas companies to disclose: (1) Details on the initial accounting for asset retirement obligations; (2) any subsequent changes in the measurement or method of accounting for the obligations; and (3) the final accounting for the settlement of the obligations, including recognition of any gains or losses on the settlement. In addition, it would require identification of ARO costs that are recovered through rates and placed into funding mechanisms or deposit accounts, (e.g., trust funds, insurance policies, surety bonds).

61. Account No. 824 of the USofA requires pipelines to maintain records of costs incurred in operating underground storage plant and other underground storage expenses, not includable in other accounts, including research and development expenses. Account No. 859 requires that pipelines maintain records of the costs of labor, material used and expenses incurred in operating transmission system equipment and transmission system expenses not includable in other accounts, including research and development expenses. This information is currently not provided in Form 2. We invite comments on whether research and development expenditures included in Account Nos. 824 and 859 should be reported in Form 2.

D. Proposed Elimination of Form 11

62. Williston Basin suggested that Form 11, Natural Gas Pipeline Company Quarterly Statement of Monthly Data be eliminated and that the information required by Form 11 be reported in Form 3–Q.⁹² Form 11 is a quarterly filing made by natural gas companies whose gas transported or stored for a fee exceeded 50 million Dth in each of the three previous years.⁹³ The form collects information concerning selected revenues and associated quantities for each month by applicable rate schedule. The data is submitted electronically on a quarterly basis. The Commission requests that Form 11 users advise whether the information reported in the form is relied upon by pipeline shippers, and, specifically, how the data is used. In addition, both filers and users of Form 11 are asked to respond whether the information reported in Form 11 could, alternatively, be incorporated into Form 3–Q.

E. Proposed Adjustments to the CPA Certification Statement

63. Each natural gas company not classified as Class C or D prior to

⁸⁷ Industry Coalition Comments at 6; KCC Comments at 7.

⁸⁸ NYPSC Comments at 7.

⁸⁹ *Id.*

⁹⁰ *Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations*, Order No. 631, 68 FR 19610 (April 21, 2003), FERC Stats. & Regs. ¶ 31,142, *order on reh'g*, Order No. 631–A, 104 FERC ¶ 61,183 (2003).

⁹¹ See, e.g., *Transcontinental Pipe Line Corporation*, 116 FERC ¶ 61,314 (2006); *Dominion Cove Point LNG, LP*, 116 FERC ¶ 61,110 (2006).

⁹² Williston Basin Comments at 7.

⁹³ See 18 CFR 260.3.

January 1, 1984, is required to file with the Commission a letter or report of an independent accountant certifying approval, together with the filing of the applicable Form 2 or 2-A.⁹⁴ The Commission's regulations require that an independent certified public accountant test for compliance in all material respects with the USofA and published accounting releases for those schedules listed in the General Instructions of the applicable Form 2 or 2-A.⁹⁵ Natural gas companies that file a Form 2 or 2-A are required to file the Certified Public Accountant's (CPA) Certification Statement on April 18 of the following calendar year.

64. The Commission proposes to extend the filing date for the CPA Certification Statement until May 18 of the following calendar year for natural gas companies. This proposal would reduce the filing and administrative burden by allowing more time for the company and the certified public accountant to identify and resolve issues that may arise during the course of the examination.

F. Miscellaneous Issues

65. The NOPR posed two questions that are not directly related to the forms. The first is whether interstate pipelines should be required to notify the Commission when their total sales or transactions fall below the minimum thresholds established in the Commission's regulations such that the

pipeline believes that it is no longer subject to the filing requirements.⁹⁶ The KCC and MoPSC responded that the Commission should require such notification.⁹⁷ MoPSC observes that this requirement would allow the Commission and the public to determine if a report is late or no longer required.⁹⁸ INGAA and Williston Basin stated that they did not object to this requirement. The Commission agrees that notification of non-filing status would be helpful to the Commission and users of Forms 2 and 2-A. Accordingly, at such time as a pipeline now subject to the reporting requirements in either Form 2 or 2-A has, in three consecutive years, experienced volumes and transactions below the threshold levels specified in the Commission's regulations and believes that they are no longer required to file a Form 2 or 2-A, must notify the Commission of this change. The pipeline must file the notification on the date that the form would otherwise be due.

66. The Commission also asked commenters whether the Commission should require a showing of good cause before granting an extension of time in which to file the required reports. Both MoPSC and the KCC support such a requirement.⁹⁹ The Commission agrees that any request for an extension of time in which to comply with Commission regulations or a Commission order must

show good cause. Without such a showing, the request may not be granted. The Commission staff is monitoring filers' timely compliance with the reporting requirements and will continue to do so.

IV. Information Collection Statement

67. The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget for review under Section 3507(d) of the Paperwork Reduction Act of 1995.¹⁰⁰ The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

Estimated Annual Burden:

The Commission estimates that on average it will take respondents from fifty-nine to one hundred and fifty-six hours to comply with the proposed requirements. Most of the additional information required to be reported is already compiled and maintained by the pipelines, and will not substantially increase the existing reporting burden. This will result in total hours for the following collections of information:

Data collection form (a)	Number of respondents (b)	Change in the number of hours per respondent (c)	Filing periods (d)	Change in the total annual hours (e)=(b)×(c)×(d)
FERC Form 2	74	50	1	3700
FERC Form 2-A	44	135	1	5940
FERC Form 3-Q	118 (74 _m , 44 _{nm})	7	3	2478 (1554 _m , 924 _{nm})
FERC Form 11	74	-3	4	(-888)
Relevant Totals	59 _m , 156 _{nm}	11,230 (4366 _m , 6864 _{nm})

nm=nonmajor company.
m=major company.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. As most of the required data is already maintained by the pipelines, the Commission estimates that the collection costs will not be overly burdensome.

Title: FERC Form No. 2, "Annual Report of Major Natural Gas Companies"; FERC Form No. 2-A, "Annual report for Nonmajor public

utilities and licensees"; FERC Form No. 3-Q, "Quarterly financial report of electric utilities, licensees, and natural gas companies."

Action: Proposed information collection.

OMB Control Nos. 1902-0028 (Form 2); 1902-0030 (Form 2-A); 1902-0205 (Form 3-Q), and 1902-0032 (Form 11).

Respondents: Businesses or other for profit.

Frequency of responses: Annually and quarterly.

Necessity of the information: The information maintained and collected under the requirements of Part 141 is essential to the Commission's oversight duties. The data now reported in the forms does not provide sufficient information to the Commission and the public to permit an evaluation of the filers' jurisdictional rates. Since the triennial restatement of rates

⁹⁴ See 18 CFR 158.11. The C and D classifications refer to pipelines now defined as Nonmajor. See 18 CFR part 201 General Instructions.

⁹⁵ See 18 CFR 158.10.

⁹⁶ See 18 CFR 260.1 and 260.2.

⁹⁷ KCC Comments at 8; MoPSC Comments at 10.

⁹⁸ MoPSC Comments at 10.

⁹⁹ *Id.* See KCC Comments at 8.

¹⁰⁰ 44 U.S.C. 3507(d).

requirement was abolished and pipelines are no longer required to submit this information, the need for current and relevant data is greater than in the past. The information collection proposed in the NOPR will increase the forms' usefulness to both the public and the Commission. Without this information, it is difficult for the Commission and the public to perform an assessment of pipeline costs, and thereby help to ensure that rates are just and reasonable.

Internal Review: The Commission has reviewed the proposed changes and has determined that the changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support associated with the information requirements.

68. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Chief Information Officer, phone (202) 502-8415, fax: (202) 273-0873, e-mail: Michael.miller@ferc.gov]

V. Environmental Analysis

69. 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.¹⁰¹ No environmental consideration is necessary for the promulgation of a rule that addresses information gathering, analysis, and dissemination,¹⁰² and, also, addresses accounting.¹⁰³ No environmental consideration is raised by the promulgation of a rule that is procedural or does not substantially change the effect if legislation or regulations being amended, and therefore, fall under these exclusions.¹⁰⁴ These proposed rules, if finalized, involve information gathering, analysis, and dissemination. Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required.

¹⁰¹ See Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987) FERC Stats. & Regs. ¶30,783 (1987).

¹⁰² See 18 CFR 380.4(a)(5).

¹⁰³ See 18 CFR 380.4(a)(16).

¹⁰⁴ See 18 CFR 380.4(a)(2)(ii).

VI. Regulatory Flexibility Act

70. The Regulatory Flexibility Act of 1980 (RFA)¹⁰⁵ requires rulemakings to contain either a description and analysis that the rule will have on small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities.¹⁰⁶ Under the industry standards used for purposes of the RFA, a natural gas company qualifies as a "small entity" if it has annual revenues of \$6.5 million or less. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity.¹⁰⁷ Thus, most interstate natural gas companies to which the rules proposed herein, if finalized, would not fall within the RFA's definition of small entities. Consequently, the rules proposed herein, if finalized, will not have a significant economic effect on a substantial number of small entities.

VII. Comment Procedures

71. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due on or before November 13, 2007. Comments must refer to Docket No. RM07-9-000, and must include the commenter's name, the organization he or she represents, if applicable, and his or her address.

72. The Commission encourages comments to 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 commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing.

73. Commenters who are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC, 20426.

74. 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. Commenters on this notice of proposed rulemaking are not required to serve copies of their comments on other commenters.

¹⁰⁵ 5 U.S.C. 601-612.

¹⁰⁶ *Id.*

¹⁰⁷ 5 U.S.C. 601(3).

VIII. Document Availability

75. 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 the Commission's home page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington DC 20426.

76. From the Commission's home page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary 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.

77. User assistance is available for eLibrary and the Commission's Web site during normal business hours. For assistance, please contact FERC Online Support at 1-866-208-3676 (toll free) or 202-502-6652 or e-mail at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail at public.referenceroom@ferc.gov.

List of Subjects

18 CFR Part 158

Natural gas, Reporting requirements.

18 CFR Part 260

Natural gas, Reporting requirements.

By direction of the Commission.

Commissioner Wellinghoff concurring with a separate statement attached.

Kimberly D. Bose,
Secretary.

In consideration of the foregoing, the Commission proposes to amend parts 158 and 260 of Title 18 of the *Code of Federal Regulations*, as set forth below:

PART 158—ACCOUNTS, RECORDS, MEMORANDA AND DISPOSITION OF CONTESTED AUDIT FINDINGS AND PROPOSED REMEDIES

1. The authority citation for part 158 continues to read as follows:

Authority: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7102-7352.

2. Section 158.11 is revised to read as follows:

§ 158.11 Report of certification.

Each natural gas company not classified as Class C or Class D prior to January 1, 1984 shall file with the

Commission by May 18 of the following calendar year, a letter or report of the independent accountant certifying approval, covering the subjects and in the format prescribed in the General Instructions of the applicable Form No. 2 or Form No. 2-A. The letter or report shall also set forth which, if any, of the examined schedules do not conform to the Commission's requirements and shall describe the discrepancies that exist. The Commission shall not be bound by the certification of compliance made by an independent accountant pursuant to this paragraph.

PART 260—STATEMENTS AND REPORTS (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.

§ 260.3 [Removed]

2. Section 260.3 is removed.

WELLINGHOFF, Commissioner, *concurring*:

The adequacy of data reported in Forms 2, 2-A and 3-Q has been questioned for years. Based on the comments received in response to the NOI in this proceeding, the need to update and supplement these forms is clear. Today, we propose modifications that should correct many deficiencies in these forms.

We have endeavored to make the changes necessary to provide the data needed by the Commission to carry out our responsibility, and for the form users to effectively exercise their rights, under NGA Section 5. Most of the information requested is data that is maintained by the pipeline and can readily be transferred to existing and new schedules. Conversely, I do not believe that we have blurred the distinction between NGA sections 4 and 5, a concern expressed by some commenters. I urge parties in their comments to focus on whether our proposed modifications have struck the proper balance.

I also have a specific request for comment. As noted, these forms are the vehicles the Commission uses to obtain financial and certain operational information from pipelines. The forms provide information concerning a pipeline's past performance and its future prospects. For example, a pipeline is currently required to provide a statement and system map identifying and detailing all important changes in the facilities it operates.¹⁰⁸ I propose that pipelines submit an Energy Efficiency Statement as well. I believe advancement of energy efficient infrastructure is critical to help address the energy crisis our country faces. The Energy Efficiency Statement would describe how the pipeline has incorporated efficiency in the facility changes it reports. Such transparency will be useful in encouraging energy efficiency improvements by pipelines and

more broadly disseminating the best practices throughout the industry.

For this reason, I respectfully concur.

Jon Wellingshoff,

Commissioner.

[FR Doc. E7-19015 Filed 9-26-07; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2006-0544; FRL-8470-8]

Approval and Promulgation of Air Quality Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request from Ohio to amend its State Implementation Plan (SIP) emission statement reporting regulation. Ohio submitted the SIP revision requests to EPA on May 1, 2006, and supplemented on May 22, 2007. Ohio held a public hearing on the submittal on September 8, 2005. The SIP revision concurrently rescinds and revises portions of Ohio Administrative Code Chapter 3745-24 to be consistent with the Clean Air Act emission statement program reporting requirements for stationary sources. The revision makes the rule more general to apply to all counties designated nonattainment for ozone, and not to a specific list of counties.

DATES: Comments must be received on or before October 29, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0544, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: mooney.john@epa.gov.

3. *Fax*: (312) 886-5824.

4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday,

8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, Hatten.Charles@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 4, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E7-18895 Filed 9-26-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2007-0943; FRL-8473-9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Missouri; Clean Air Mercury Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

¹⁰⁸ General Corporate Information and Financial Statements, Important Changes during the Year and Gas Plant Statistical Data, System Map.