

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 260

(Docket No. RM06-18-000)

Revision of Regulations to Require
Reporting of Damage to Natural Gas Pipeline Facilities

(Issued June 9, 2006)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend section 260.9 of its regulations requiring the reporting of natural gas pipeline service interruptions to add a requirement that jurisdictional natural gas pipelines report (1) damage to pipeline facilities that results in loss of or reduction in service through such facilities, and (2) when service through such facilities has been restored. The Commission also proposes to amend sections 260.9(b) and (e) to eliminate references to reporting by telegraph and to require reporting by e-mail or, as currently provided, by facsimile. The Commission further proposes to amend section 260.9(d) to change, from 20 to 30 days, the time by which a company must file with the Commission a copy of any incident report required by the U.S. Department of Transportation. The Commission invites public comments on these proposed revisions, which the Commission has determined are needed to ensure timely identification of damage to the nation's natural gas infrastructure as the result of hurricanes or other causes.

DATES: Comments are due [insert date 30 days after publication in the **FEDERAL REGISTER**]

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

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Revision of Regulations to Require Reporting
of Damage to Natural Gas Pipeline Facilities

Docket No. RM06-18 -000

NOTICE OF PROPOSED RULEMAKING

(Issued June 9, 2006)

I. Introduction

1. The Federal Energy Regulatory Commission is proposing to amend section 260.9 of its regulations.¹ Currently, section 260.9 requires that a natural gas company submit a report only when it experiences a serious service interruption involving facilities operated under certificate authority granted by the Commission under the Natural Gas Act (Act).² However, in situations where natural gas pipeline facilities are damaged, service interruptions can sometimes be avoided by rerouting gas supplies through other facilities or by means of other delivery arrangements. In these situations, section 260.9 does not presently require that companies report the damage to their pipeline facilities.

2. Even when arrangements can be made to avoid service interruptions as the result of damage to specific pipeline facilities, such damage can nevertheless place a strain on the nation's natural gas infrastructure. Widespread, severe damage can seriously threaten

¹ 18 CFR 260.9 (2005).

² 15 U.S.C. 717-717z (2006).

the stability of the infrastructure. The damage done by Hurricanes Katrina and Rita in the Gulf Coast area in late summer 2005 was widespread and severe. Offshore energy production was shut-in; pipelines, power lines, and other means of energy transportation were seriously damaged; and other important parts of the energy infrastructure system, such as natural gas processing plants, were closed. Hurricane recovery efforts are still ongoing.³

3. Before, during, and after the hurricanes, the U.S. Department of Energy led the federal effort to collect energy infrastructure information in accordance with the National Response Plan.⁴ As a participant in this effort, the Commission became aware that, while jurisdictional companies had kept the Commission informed of service interruptions as required by section 260.9 of the regulations, vital information regarding the physical condition of facilities affecting operation of the pipeline grid remained unknown to the Commission. This was generally attributable to the following factors: (1) only interruptions of firm service lasting more than three hours were required to be reported; (2) service requirements are generally lower during the “shoulder” months of September

³ As of May 3, 2006, shut-in gas production in the Gulf of Mexico from the two hurricanes was equivalent to 12.95% of current daily gas production. Hurricane Katrina/Hurricane Rita Evacuation and Production Shut-in Statistics Report as of Wednesday, May 3, 2006 [Final Report], U.S. Department of the Interior, Minerals Management Service (May 3, 2006).

⁴ Homeland Security Presidential Directive (HSPD)-5, issued February 28, 2003, directed the Secretary of Homeland Security to develop a National Response Plan establishing a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents. The National Response Plan issued in December 2004 includes protocols to help protect and restore critical infrastructure and key resources. Further information is provided on Homeland Security website at http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0566.xml.

through November; (3) pipelines and shippers were able to adjust nomination schedules; and (4) pipelines were able to make operational changes to meet firm service obligations, such as by rerouting flows and drawing upon storage volumes. The Commission took ad hoc steps at that time to collect information regarding the operational status of natural gas pipeline facilities, including informally requesting pipeline companies to report on all damaged facilities and service interruptions, and requesting industry groups, such as the Interstate Natural Gas Association of America (INGAA) and the American Gas Association (AGA), to report on the condition of infrastructure.

4. In order to encourage rapid restoration of service, the Commission took a number of actions, including temporarily raising cost limits and including mainline facilities within the definition of eligible facilities that may be constructed by natural gas companies under their Part 157, Subpart F blanket certificates;⁵ granting waivers on a case-by-case basis⁶ of the 120-day limit and other conditions in the Part 284, Subpart L emergency regulations;⁷ and granting waivers of tariff provisions to allow delivery of gas

⁵ Expediting Infrastructure Construction to Speed Hurricane Recovery, 113 FERC ¶ 61,169 (2005). On February 22, 2006, the Commission extended until February 28, 2007, the time by which blanket certificate facilities constructed pursuant to these waivers must be placed into service. 114 FERC ¶ 61,186 (2006). The Commission's regulations governing Part 157 blanket certificate activities are set forth at 18 CFR 157.201 et seq. (2005).

⁶ See, e.g., Discovery Gas Transmission, LLC, 113 FERC ¶ 61,025 (2005).

⁷ 18 CFR 284.261 et seq. (2005).

at alternative points when the usual delivery points were out of service from hurricane damage.⁸

5. As described above, the Commission has regulations in place and can grant appropriate waivers for natural gas companies to undertake necessary construction activities in crisis situations. However, the Commission's current reporting requirements are not adequate to permit a reliable "snapshot" of the natural gas infrastructure at any given time.⁹ This inadequacy can be addressed by amending section 260.9 to require that jurisdictional companies report any damage to facilities that limits service through those facilities, regardless whether service can be maintained by rerouting gas supplies through other facilities or by other means. The approaching hurricane season or other events such

⁸ Southern Natural Gas Company, 113 FERC ¶ 61,218 (2005).

⁹ In particular, a pipeline is only required to make an annual report of its construction activities under the automatic provisions of the blanket certificate regulations in Part 157, Subpart F. Section 157.207 of the regulations requires that a pipeline file this annual report on or before May 1 of each year. See 18 CFR 157.207 (2005). Since June 1 is the official start of the hurricane season, almost an entire year can pass before a pipeline is required by section 157.207 to report construction activities in response to hurricane damage under its Part 157 blanket certificate. Further, the information provided in these annual reports is not sufficient to determine whether a particular blanket certificate construction was undertaken due to damage to facilities resulting from a hurricane or other cause. In addition, while the emergency regulations in Part 284, Subpart, 18 CFR 284.261 et seq, require that the commencement of an emergency transportation, sale or exchange transaction be reported within 48 hours, the emergency regulations do not require the reporting of damage to facilities that may have made the emergency transaction necessary or reporting regarding facilities constructed to address the emergency. Thus, even if permanent authority to operate emergency facilities is later sought either under the temporary certificate provisions of section 157.17 or under the Part 157 blanket certificate prior notice provisions, as suggested under the definition of "emergency facilities" in section 284.262, information regarding any damaged facilities may be inadequate or not known for some time.

an earthquake or terrorist attack could result in damage to essential natural gas facilities or make it necessary to evacuate the pipeline personnel essential to the operation of such facilities. The Commission needs to ensure that it will have adequate information to assess the status of the nation's gas infrastructure at any given time and communicate such information to other agencies, such as the U. S. Department of Energy and U. S. Department of Transportation. Accordingly, the Commission is proposing to revise its reporting requirements in section 260.9 of the regulations, as described below.

II. Summary of Proposed Regulations

6. Section 260.9(a) currently requires that natural gas companies report serious service interruptions. The proposed regulations would add a new requirement that natural gas companies report (1) damage to certificated natural gas facilities that results in loss of or reduction in service through such facilities, and (2) when service through such facilities has been restored.

7. Section 260.9(b) would be amended to remove the reference to "telegraph" and to require that natural gas companies make required reports of interruptions to service or damage to facilities by e-mail or, as currently provided for in section 260.9(b), facsimile transmission.¹⁰ All reports shall be due at the earliest feasible time after an interruption of service or damage to pipeline facilities for which a report is required.

¹⁰ On May 27, 2005, the Commission issued a notice of proposed rulemaking in Docket No. RM05-12-000 which proposed, *inter alia*, to remove references to "telegraph" from section 260.9. See Modification of Natural Gas Reporting Regulations, 111 FERC ¶ 61,280 (2005). Adoption of this notice of proposed rulemaking's proposal to remove references to "telegraph" would supersede the proposal in Docket No. RM05-12-000 to revise section 260.9.

8. The information requirement of section 260.9(b) also would be revised to reflect the addition of the proposed new requirement that natural gas companies report damage to facilities and subsequently report when full service through such facilities has been restored. As revised, section 260.9(b) would require that a report of service interruption or damage to natural gas facilities state:

- (1) The location and cause of the service interruption or damage to pipeline or other certificated natural gas facilities;
- (2) The nature of any damage to natural gas facilities;
- (3) Specific identification of any natural gas facilities damaged;
- (4) The time the service interruption or damage to natural gas facilities occurred;
- (5) The customers affected by the service interruption or damage to natural gas facilities;
- (6) Emergency actions taken to maintain service; and
- (7) Company contact and telephone number.

9. Section 260.9(b) also would be revised to require that a company make a subsequent report stating when full service through damaged natural gas facilities has been restored.

10. Section 260.9(d) would be revised to change, from 20 days to 30 days following a service interruption or damage to facilities, the time within which a natural gas pipeline company must furnish to the Commission a copy of any incident report required by the U. S. Department of Transportation's reporting requirements under the Natural Gas

Pipeline Safety Act of 1968.¹¹ This revision is proposed because the U. S. Department of Transportation provides up to 30 days for incident reports to be made.

11. Section 260.9(e) currently requires that a company send copies of reports of service interruptions to state commissions. Section 260.9(e) would be revised by adding a new requirement that a company also must send state commissions copies of required reports of damage to facilities.

III. Environmental Analysis

12. The Commission is required to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) for any action that may have a significant adverse effect on the human environment.¹² No environmental consideration is raised by the promulgation of a rule that is procedural in nature or does not substantially change the effect of legislation or regulations being amended.¹³

13. The regulations proposed herein would make relatively minor changes to the type of information to be provided to the Commission by pipeline companies and the way in which it is provided, and would slightly alter the timeframe (by giving the companies more time) in which the copy of the incident report required to be filed with the U.S. Department of Transportation must be filed with the Commission. The modified procedures would not substantially change the regulatory requirements to which the

¹¹ 49 U.S.C. 60101 et seq.

¹² Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec.17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

¹³ 18 CFR 380.4(a) (2) (ii) (2005).

pipeline companies are currently subject. Accordingly, preparation of an environmental document is not required.

IV. Regulatory Flexibility Act Statement

14. The Regulatory Flexibility Act of 1980 (RFA)¹⁴ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such an analysis if proposed regulations would not have such an effect. Under the industry standards used for the RFA, a natural gas pipeline company qualifies as “a small entity” if it has annual receipts of \$6.5 million or less.

15. Most companies regulated by the Commission do not fall within the RFA’s definition of a small entity.¹⁵ Approximately 114 natural gas companies are potentially subject to the additional requirements proposed by this notice. For the year 2004 (the most recent year for which information is available), 32 of these companies had annual revenues of less than \$6.5 million. Of these 32 companies, 23 were non-major gas companies.

16. As discussed above, section 260.9 of the regulations already requires natural gas companies to report serious service interruptions. Frequently, service interruptions are

¹⁴ 5 U.S.C. 601-612.

¹⁵ 5 U.S.C. 601(3), citing section 3 of the Small Business Act, 15 U.S.C. 623. Section 3 of the SBA defines a “small business concern” as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System (NAICS) defines a small natural gas pipeline company as one that transports natural gas and whose annual receipts (total income plus cost of goods sold) did not exceed \$6.5 million for the preceding year. 13 CFR 121.201.

due to damage to facilities. Thus, the proposed new reporting requirements will only increase the number of reports that a company is required to file to the extent that damage to facilities does not result in a loss of or reduction in service. Further, the required information will already be known and identified by companies and can be submitted either by e-mail or facsimile.

17. In view of these considerations, the Commission hereby certifies that this notice's proposed amendments to the regulations, if promulgated, will not have a significant impact on a substantial number of small entities.

V. Information Collection Statement

18. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting, record keeping, and public disclosure (collections of information) requirements imposed by federal agencies.¹⁶ Pursuant to OMB regulations, the Commission is providing notice of its proposed information collection to OMB for review under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).¹⁷

19. As stated above, section 260.9 of the regulations already requires natural gas companies to report serious service interruptions. Frequently, service interruptions are due to damage to facilities. Thus, while the proposed new requirements will require reports of damage to facilities and subsequent reports of restoration of service, the proposed regulations will only increase the number of reports that a company is required

¹⁶ 5 CFR 1320.11 (2005).

¹⁷ 44 U.S.C. 3507(d) (2005).

to file to the extent that damage to facilities does not result in a loss of or reduction in service.

20. Further, information regarding damage to facilities will be readily ascertainable by companies and can be submitted either by e-mail or facsimile. The current provisions of section 260.9 provide for reports only by telegraph or facsimile. Telegraph is no longer a feasible option. Therefore, the proposed regulations require the companies to provide reports by facsimile or e-mail. Such electronic submission of information will reduce the number of data entry errors, permit Commission staff to conduct analysis in a timely manner, and provide for the storage of information on digital storage media.

21. Electronic filing saves time and resources for all parties since electronic filings require fewer personnel than paper filings by avoiding the need for paper processing and mailing. The integrity of the information should increase because jurisdictional entities and the Commission will be able to correct errors more promptly.

22. The Commission also expects that the requirements prescribed here will reduce the burden on the industry of reporting similar or identical information to multiple sources, since information collected by the Commission can be requested from the Commission by other agencies with a need for such information. For example, as discussed above, following Hurricanes Katrina and Rita, the Commission was called upon the U. S. Department of Energy for assistance in collecting energy infrastructure information in accordance with the National Response Plan.

23. FERC-576, "Report of Service Interruptions," identifies the Commission's information collection relating to Part 260, "Statements and Reports (Schedules)," of the

regulations which apply to natural gas pipeline companies having facilities subject to the Commission's jurisdiction under the Natural Gas Act. The instant notice of proposed rulemaking would require natural gas pipeline companies to report damage to jurisdictional facilities and restoration of service, in addition to the service interruptions already required to be reported. The proposed regulations also would require a company to submit a copy of a damage report to the relevant state agency and to submit to the Commission any incident report required by the U.S. Department of Transportation pursuant to the Natural Gas Pipeline Safety Act of 1968.¹⁸

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

24. The proposed new reporting requirements require a company to (1) make a report of damage to facilities that results in a loss or reduction of service through those particular facilities; (2) send a copy of the damage report to the relevant state commission; (3) make a follow-up report when full service has been restored through the damaged facilities; and (4) submit a copy of any incident report required by the Department of Transportation's regulations.

¹⁸ 49 U.S.C. Chapter 601.

25. The current provisions of section 260.9 allow for significantly damaged facilities to remain unreported when an interruption to service can be avoided. The Commission estimates that the new reporting requirements to fill this gap will result in 15 companies (respondents) being required to make at least one damage report. The Commission further estimates that the new reporting requirements will result in the submission of 35 damage reports. The Commission estimates that a company will need 75 minutes to prepare and submit a damage report; 15 minutes to submit a copy of the damage report to the relevant state commission; 15 minutes to prepare and submit a follow-up restoration of service report; and 15 minutes to submit a copy of a USDOT incident report. For purposes of preparing burden estimates for this rulemaking, the Commission treats all four of these requirements as one response, with the total time required being two hours.

26. In view of the above, the burden estimates for complying with the additional filing requirements of this rule pursuant to the procedures in proposed amended section 260.9 of the Commission's regulations are as set forth below:

Data Collection	Number of Respondents	Number of Responses	Hours per Response	Total Hours
FERC-576	15	35	2	70

Total Annual Hours for Collection: 70

These are mandatory information collection requirements.

Information Collection Costs: Because of the regional differences and the various staffing levels that will be involved in preparing the documentation (legal, technical and support) the Commission is using an hourly rate of \$150 to estimate the costs for filing

and other administrative processes (reviewing instructions, searching data sources, completing and transmitting the collection of information). The estimated cost is anticipated to be \$10,500 (70 hours X \$150).

Title: FERC 576 “Report of Service Interruptions”

Action: Proposed Information Collection

OMB Control No.: 1902-0004

Respondents: Natural gas companies/business or other for-profit.

Frequency of Responses: On occasion.

Necessity of Information: The proposed amended regulation will revise the reporting requirements for service interruptions and damage to facilities involving natural gas pipeline facilities subject to the Federal Energy Regulatory Commission’s jurisdiction. The information filed with the Commission informs it of serious pipeline service interruptions and also of damage to the nation's natural gas infrastructure. The proposed amendment would enhance this information by requiring filers to describe specifically which facilities have been damaged and how the damage occurred.

Internal Review: The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with this information requirement. The revisions will provide more complete, effective and useful information to the Commission without significantly increasing the burden to the regulated industry.

27. Interested persons may obtain information on the information requirements by contacting the following: The Federal Energy Regulatory Commission, 888 First Street,

NE, Washington, D.C. 20426 (Attention: Michael Miller, Office of the Executive Director, Phone (202) 502-8415; FAX (202) 273-0873; e-mail Michael.miller@ferc.gov.)

28. For submitting comments concerning the collection of information and the associated burden estimate(s), including suggestions for reducing this burden, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Administrative and Regulatory Affairs, Washington, D.C. 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission, Phone (202) 395-4650; FAX (202) 395-7285).

VI. Comment Procedures

29. 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 30 days after publication of this notice of proposed rulemaking in the Federal Register. Comments must refer to Docket No. RM06-18-000, and must include the commenters' names, the organization they represent, if applicable, and their address in their comments. Comments may be filed either in electronic or paper format. The Commission encourages electronic filing.

30. Comments may be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing. Commenters unable to file comments electronically must send an

original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street N.E., Washington, DC, 20426.

31. All comments will be placed in our public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below.

Commenters are not required to serve copies of their comments on other commenters.

VII. Document Availability

32. 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 print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington D.C. 20426.

33. From FERC'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 in eLibrary in PDF and Microsoft Word format for viewing, printing, and downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

34. User assistance is available for eLibrary and the FERC's website during normal business hours from our Help line at (202)502-8222 or the Public Reference Room at (202) 502-8371 Press 0, TTY (202)502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

List of subjects in 18 CFR Part 260

Natural gas; Reporting and recordkeeping requirements

By direction of the Commission.

Magalie R. Salas,
Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 260 of Chapter I, Title 18, Code of Federal Regulations, as follows:

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.

2. § 260.9 is revised to read as follows:

§ 260.9 Reports by natural gas pipeline companies on service interruptions and damage to facilities.

(a) Every natural gas company must report to the Director, Division of Pipeline Certificates, at the earliest feasible time:

(1) damage to any pipeline or other natural gas facilities operated under certificate authorization from the Commission that results in loss of or reduction of service through those facilities; and

(2) serious interruptions of service to any shipper involving facilities operated under certificate authorization from the Commission. Such serious interruptions of service shall include interruptions of service to communities, major government installations and large industrial plants outside of communities or any other interruptions which are significant in the judgment of the pipeline company. Interruptible service interrupted in accordance with the provisions of filed tariffs, interruptions of service resulting from planned maintenance or construction and interruptions of service of less than three hours duration need not be reported.

(b) Any report of service interruption or damage to facilities required by subparagraph (a) of this section must be submitted by the natural gas company by e-mail to pipelineoutage@ferc.gov or by facsimile transmission to the Director, Division of Pipeline Certificates, Office of Energy Projects at FAX number (202) 208-2853.

(1) Reports shall be made at the earliest feasible time after an interruption of service or damage to pipeline facilities for which a report is required, and must state:

- (i) The location and cause of the service interruption or damage to pipeline or other natural gas facilities;
- (ii) The nature of any damage to natural gas facilities;
- (iii) Specific identification of any facilities damaged;
- (iv) The time the service interruption or damage to facilities occurred;
- (v) The customers affected by the service interruption or damage to facilities;
- (vi) Emergency actions taken to maintain service; and
- (vii) Company contact and telephone number.

(2) Following a report of damage to natural gas facilities resulting in loss of or reduction of service through those facilities, the natural gas company shall report to the Director, Division of Pipeline Certificates, at the earliest feasible time when full service has been restored.

* * * * *

(d) Natural gas companies shall submit to the Director, Division of Pipeline Certificates, within 30 days of each interruption of service involving failure of facilities or of damage to any facilities on any part of the natural gas pipeline system operated under certificate authorization from the Commission a copy of any incident or damage reports required by Department of Transportation reporting requirements under the Natural Gas Pipeline Safety Act of 1968.

(e) A copy of an e-mail or facsimile report pursuant to subparagraph (b) of this section on interruption of service or damage to facilities must be sent to the State commission in those States where service has been or might be affected.