

§ 1b.1

18 CFR Ch. I (4–1–10 Edition)

§ 1b.1 Definitions.

For purposes of this part—

(a) *Formal investigation* means an investigation instituted by a Commission Order of Investigation.

(b) *Preliminary Investigation* means an inquiry conducted by the Commission or its staff, other than a formal investigation.

(c) Investigating officer means the individual(s) designated by the Commission in an Order of Investigation as Officer(s) of the Commission.

(d) *Enforcement Hotline* is a forum in which to address quickly and informally any matter within the Commission's jurisdiction concerning natural gas pipelines, oil pipelines, electric utilities and hydroelectric projects.

[43 FR 27174, June 23, 1978, as amended by Order 602, 64 FR 17097, Apr. 8, 1999]

§ 1b.2 Scope.

This part applies to investigations conducted by the Commission but does not apply to adjudicative proceedings.

§ 1b.3 Scope of investigations.

The Commission may conduct investigations relating to any matter subject to its jurisdiction.

§ 1b.4 Types of investigations.

Investigations may be formal or preliminary, and public or private.

§ 1b.5 Formal investigations.

The Commission may, in its discretion, initiate a formal investigation by issuing an Order of Investigation. Orders of Investigation will outline the basis for the investigation, the matters to be investigated, the officer(s) designated to conduct the investigation and their authority. The director of the office responsible for the investigation may add or delete Investigating Officers in the Order of Investigation.

§ 1b.6 Preliminary investigations.

The Commission or its staff may, in its discretion, initiate a preliminary investigation. In such investigations, no process is issued or testimony compelled. Where it appears from the preliminary investigation that a formal investigation is appropriate, the staff will so recommend to the Commission.

§ 1b.7 Procedure after investigation.

Where it appears that there has been or may be a violation of any of the provisions of the acts administered by the Commission or the rules, opinions or orders thereunder, the Commission may institute administrative proceedings, initiate injunctive proceedings in the courts, refer matters, where appropriate, to the other governmental authorities, or take other appropriate action.

§ 1b.8 Requests for Commission investigations.

(a) Any individual, partnership, corporation, association, organization, or other Federal or State governmental entity, may request the Commission to institute an investigation.

(b) Requests for investigations should set forth the alleged violation of law with supporting documentation and information as completely as possible. No particular forms or formal procedures are requested.

(c) It is the Commission's policy not to disclose the name of the person or entity requesting an investigation except as required by law, or where such disclosure will aid the investigation.

§ 1b.9 Confidentiality of investigations.

All information and documents obtained during the course of an investigation, whether or not obtained pursuant to subpoena, and all investigative proceedings shall be treated as nonpublic by the Commission and its staff except to the extent that (a) the Commission directs or authorizes the public disclosure of the investigation; (b) the information or documents are made a matter of public record during the course of an adjudicatory proceeding; or (c) disclosure is required by the Freedom of Information Act, 5 U.S.C. 552. Procedures by which persons submitting information to the Commission during the course of an investigation may specifically seek confidential treatment of information for purposes of Freedom of Information Act disclosure are set forth in 18 CFR part 3b and § 1b.20. A request for confidential treatment of information for purposes of Freedom of Information Act disclosure shall not, however, prevent disclosure for law enforcement

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purposes or when disclosure is otherwise found appropriate in the public interest and permitted by law.

§ 1b.10 By whom conducted.

Formal Commission investigations are conducted by the Commission or by an individual(s) designated and authorized in the Order of Investigation. Investigating Officers are *officers* within the meaning of the statutes administered by the Commission and are authorized to perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Investigating Officers shall have such duties as the Commission may specify in an Order of Investigation.

§ 1b.11 Limitation on participation.

There are no parties, as that term is used in adjudicative proceedings, in an investigation under this part and no person may intervene or participate as a matter of right in any investigation under this part. Section 2.72 of the rules is specifically not applicable to private investigations conducted by the Commission or its staff.

§ 1b.12 Transcripts.

Transcripts, if any, of investigative testimony shall be recorded solely by the official reporter, or by any other person or means designated by the investigating officer. A witness who has given testimony in an investigation shall be entitled, upon written request, to procure a transcript of the witness' own testimony on payment of the appropriate fees, except that in a non-public formal investigation, the office responsible for the investigation may for good cause deny such request. In any event, any witness or his counsel, upon proper identification, shall have the right to inspect the official transcript of the witness' own testimony. This provision supersedes §385.1904(b) of this chapter.

[43 FR 27174, June 23, 1978, as amended by Order 225, 47 FR 19054, May 3, 1982]

§ 1b.13 Powers of persons conducting formal investigations.

Any member of the Commission or the Investigating Officer, in connection with any formal investigation ordered

by the Commission, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements or other records relevant or material to the investigation.

§ 1b.14 Subpoenas.

(a) Service of a subpoena upon a person named therein shall be made by the investigating officer (1) by personal delivery, (2) by certified mail, (3) by leaving a copy thereof at the principal office or place of business of the person to be served, (4) or by delivery to any person designated as agent for service or the person's attorney.

(b) At the time for producing documents subpoenaed in an investigation, the subpoenaed party shall submit a statement stating that, if true, such person has made a diligent search for the subpoenaed documents and is producing all the documents called for by the subpoena. If any subpoenaed document(s) are not produced for any reason, the subpoenaed party shall state the reason therefor.

(c) If any subpoenaed documents in an investigation are withheld because of a claim of the attorney-client privilege, the subpoenaed party shall submit a list of such documents which shall, for each document, identify the attorney involved, the client involved, the date of the document, the person(s) shown on the document to have prepared and/or sent the document, and the person(s) shown on the document to have received copies of the document.

§ 1b.15 Non-compliance with compulsory processes.

In cases of failure to comply with Commission compulsory processes, appropriate action may be initiated by the Commission or the Attorney General, including but not limited to actions for enforcement or the imposition of penalties.

§ 1b.16 Rights of witnesses.

(a) Any person who is compelled or requested to furnish documentary evidence or testimony in a formal investigation shall, upon request, be shown