

experimental use, full operational use for meteorologists or full operational use for end users. The board's determinations are based upon criteria such as users needs, costs and benefits, risks, product readiness and budget.

FAA has the sole responsibility and authority to make decisions intended to provide a safe, secure, and efficient U.S. national airspace system. However, it behooves FAA to not make decisions in a vacuum. Therefore, FAA seeks input from the user community at quarterly meetings before decisions are finalized. Two such meetings were held in January and April 2004.

At the quarterly meetings, industry users are invited to provide for development of concepts of use (ConUse) for individual aviation weather products approaching specific AWTT board decision points. In 2004, meetings are also being used to acquire input for an aviation weather roadmap. Meetings are announced in the **Federal Register** and open to all interested parties.

While this meeting is the normal quarterly meeting, input will not be sought for any specific weather product. Rather, it is intended to acquire input for the aviation weather roadmap from one specific user group: General aviation pilots. All interested users in other user groups may attend and observe, however only certain, focused information will be sought from the specific group.

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of FAA Headquarters.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient seating capacity for the expected participation. There will be neither admission fee nor other charge to attend and participate.

(c) Attendees should present themselves to the receptionist at the front entrance of the AOPA, 421 Aviation Way, Frederick, MD 21701-4756. Attendees will be further directed to the meeting room location.

(d) FAA personnel will lead a session intended to refine an aviation weather roadmap. Comments from the specific user group will be sued to complete and/or verify a decision-making matrix regarding specific types of weather phenomena. Comments/Feedback on the proposed documents will be captured through discussion between FAA personnel and those focused users attending the meeting.

(e) FAA will not take any action items from this meeting nor make any

commitments to accept specific users suggestions. The meeting will not be formally recorded. However, informal tape recordings may be made of the presentations to ensure that each respondent's comments are noted accurately.

(f) An official verbatim transcript or minutes of the informal meeting will not be made. However, a list of the attendees and a completed matrix will be produced. Any person attending may receive a copy of the written information upon request to the information contact, above.

(g) Every reasonable effort will be made to hear each person's feedback consistent with a reasonable closing time for the meeting. Written feedback is also solicited and may be submitted to FAA personnel for the period July 15-August 31, 2004.

Agenda

(a) Opening Remarks and Discussion of Meeting Procedures.

(b) Review of AWTT user input process.

(c) Focused Input Session.

(d) Closing Comments.

* * * * *

Issued in Washington, DC, on June 28, 2004.

Richard J. Heuwinkel,

Acting Staff Director, Office of Aerospace Weather Policy and Standards.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 5, 16, 156, 157, 385

[Docket No. RM04-9-000]

Electronic Notification of Commission Issuances

June 23, 2004.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations governing notice of Commission issuances. This change would affect both service list and mailing list recipients. The revisions are needed to allow the Commission, in most instances, to send notice of issuances via e-mail. The proposed revisions are intended to increase the speed with which recipients receive issuances and

reduce Commission costs, and will also provide more accurate and up-to-date service lists for parties to Commission proceedings to employ. The Commission also is proposing a revision to its regulations governing service by participants to Commission proceedings upon other participants to encourage greater use of service by electronic means. Finally, the Commission is proposing to clarify its regulations to ensure that documents with certification or verification requirements may be filed electronically.

DATES: Comments are due August 2, 2004.

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

FOR FURTHER INFORMATION CONTACT:

Wilbur Miller, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426; (202) 502-8953.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

1. As part of its effort to reduce the use of paper in compliance with the Government Paperwork Elimination Act,¹ the Federal Energy Regulatory Commission (Commission) is proposing revisions to its regulations that will provide, in most instances, for notice of Commission issuances to be provided by e-mail rather than postal mail. These revisions cover both service lists, which are comprised of parties to Commission proceedings, and mailing lists, which are informal groups of persons and entities that have interests that could be affected by events in certain types of Commission proceedings. The Commission also is proposing to make service by electronic means the preferred method of service by participants in Commission proceedings upon other participants, and to clarify its regulations to ensure that documents with signature certification or verification requirements may be filed electronically.

2. The Commission since 2000 has issued a series of rulemakings to convert the amount of paper involved in its proceedings, as far as possible, to

¹ 44 U.S.C. 3504.

electronic formats. These rulemakings have been intended both to reduce the cost, to the public and the Commission, of extensive use of paper documents, and to make information regarding Commission proceedings and other activities more accessible and usable by maintaining that information in electronic form. The Commission to date has instituted electronic filing via the Internet for most documents submitted in proceedings under 18 CFR part 385,² as well as many of its forms.³ Service of documents by participants in a proceeding upon other participants also may be made by electronic means, rather than through postal mail or other physical delivery, upon agreement of the participants.⁴ In addition, in August 2002, the Commission initiated a system of electronic registration to act as a gateway to its online services. The eRegistration system allows users to input identifying information as a precursor to using services such as electronic filing, electronic subscription, or electronic service. The eRegistration system has been available on the Commission's Web site, <http://www.ferc.gov>, and is required for persons wishing to file documents electronically.

Service Lists

3. The Commission is proposing to initiate an eService program during 2005 that will require each person on a service list to provide an eRegistered e-mail address so that the Commission's Secretary, pursuant to Rule 2010(b),⁵ will be able to serve issuances upon parties by electronic means, and so that parties may electronically serve one another. Such service would employ contact e-mail addresses as they are listed on official service lists maintained by the Commission and accessible on the Commission's Web site at the FERC Online page. The Commission is proposing to make electronic service—generally e-mail—the default form of service by parties upon one another, as explained below.

4. To implement eService, the Commission proposes revising Rule 2010 to require persons eligible to receive service under that rule to eRegister pursuant to 18 CFR 390.1 (2003). The requirement of eRegistration would apply only to participants who become eligible for inclusion on a

service list after the effective date of the final rule. Participants already on existing service lists would not be required to take any additional steps. The Commission anticipates, however, that it will inform these contacts that they may eRegister and, as they do so, will eventually provide a means of replacing their contact information on existing service lists with their newer eRegistration contact information. A person may eRegister through the FERC Online page at <http://www.ferc.gov/docs-filing/ferconline.asp>. If a person who has not eRegistered attempts to file a document with the Commission electronically, the system will prompt the user first to eRegister.

5. When a person submits an initial filing on behalf of one or more participants, that person will by default become the representative contact listed on the official service list for the party or parties on whose behalf he is filing. The contact person may, as part of the same filing or via a subsequent filing, identify, with names and e-mail addresses, additional contacts for one or more of the parties the person represents. These additional contacts, if they have eRegistered with the e-mail address that the filer provided for them, will also appear on the service list associated with their party or parties. If a person listed as a contact on a filing is not yet eRegistered, then the eService system will generate an e-mail to that contact informing him that in order to get on the official service list for the relevant proceeding, he will need to first eRegister. This e-mail invitation to eRegister to get on the service list will include a link to FERC Online. Once the person eRegisters, the system will automatically place that person as a contact on the service list for that proceeding. The eRegistration system will also require a postal address, which may be necessary in instances where e-mail is not a practical medium.

6. The official service list will initially include the names of all persons designated to receive service in the initial pleading, excluding protests, or in a tariff or rate filing, as well as the representatives of Commission trial staff.⁶ When an intervention is filed, the contacts for the intervenor will be added to the service list.⁷ If the intervention is filed electronically, the intervenor will be added to the service list automatically. If it is filed in paper form, Commission staff will add the intervenor manually. If the intervention is eventually denied, the intervenor will

be removed from the service list at that time.

7. Service lists will continue to be available via the "Service List" menu option on the FERC Online home page. The URL address to which the service list menu option links, as well as links to individual service lists, however, are subject to change. Therefore, persons accessing these service lists may need to change their bookmarks at times. Service lists found via the service list page will continue to be the official lists for all proceedings; therefore, persons required to serve documents in Commission proceedings will still be required to use the list available through the FERC Online page. In addition to including contacts' e-mail addresses, the new Web-based service list page on FERC Online will provide enhanced capabilities to search for service lists. As currently planned, eService will allow users to search for service lists by docket number, contact information, and/or organization name. Service lists will be available for viewing, downloading, and printing.⁸ All contacts' e-mail addresses will be visible on service lists, but will be accessible only to eRegistrants who log on to FERC Online. Restricted service lists, as well as the regular service lists, will eventually be accessible via the FERC Online service list page, although this function may not be available immediately.

8. As noted above, with the eService initiative the Commission intends that the Secretary will serve Commission issuances electronically using contacts' eRegistered e-mail addresses maintained on the official service lists. Contacts will receive links to Commission issuances and notices contained in eLibrary, in the same manner in which the eSubscription system currently functions. The Commission intends to implement the eService system and begin electronic service of issuances by the Secretary in February, 2005, and will make a public announcement at the time it begins serving issuances electronically. The Commission anticipates that this change in procedures will provide faster and more reliable notice of Commission issuances, while producing some savings in mailing costs.

9. The Commission believes that the eRegistration system will provide reliability that is equivalent to postal mail-based service. Once a contact is registered, the system uses the contact's

² Order No. 619, Electronic Filing of Documents, FERC Statutes and Regulations, Regulations Preambles July 1996–December 2000 ¶ 31,107 (2000).

³ See <http://www.ferc.gov/docs-filing/eforms-elec.asp>.

⁴ 18 CFR 385.2010(f)(3) (2003).

⁵ 18 CFR 385.2010(b) (2003).

⁶ See 18 CFR 385.2010(c)(1) (2003).

⁷ See 18 CFR 385.2010(f) (2003).

⁸ Current download formats for service lists will be retained, including delimited with comma, delimited with space, delimited with tab, delimited with tilde, Excel, and database file (dbf).

registered e-mail address for service and notification pertaining to Commission proceedings. It will be incumbent on participants in Commission proceedings to ensure that their contact information is kept up-to-date, just as it has always been incumbent on participants to ensure that the Commission and other relevant persons have their current postal mailing addresses.

10. To effectuate eService, the Commission is proposing to revise Rule 2010 to provide that, to be included on a service list, a person must be eRegistered. This requirement would apply only to persons who become eligible for inclusion on service lists after the effective date of the final rule. Rule 2010 also would be revised to provide that service by the Secretary will be by electronic means, unless such means are impractical, in which case service will be by postal mail.

11. As part of the proposed revisions, the Commission would provide that persons who are unable to register or to receive service electronically may apply for a waiver and register by a paper form. The procedures for paper registration are already provided in 18 CFR 390.3. In such cases, the Commission would manually enter the person's registration information in eService, and that person would continue to receive postal mail service, both from other participants and from the Commission. In addition, the Secretary has authority under § 390.4 to find filers to be exempt from eRegistration requirements where eRegistration offers no value to the participant.

Service by Participants

12. As noted above, service by participants in Commission proceedings upon other participants currently is by postal mail or other physical delivery, unless the participants agree otherwise. The Commission in this notice is proposing to revise its service rules⁹ to change the "default" form of participant service to service by electronic means. The Commission believes this change will encourage the use of e-mail rather than paper, without producing any hardship. The proposed provision requires that participants serve one another by electronic means unless they agree to do otherwise or unless one or more participants cannot receive electronic service. In the latter case service will be by postal mail or other physical delivery. This revision would be effective only for proceedings initiated after the effective date of the final rule, because existing mailing lists

will not have the e-mail addresses of persons listed on those lists before that date.

13. One alternative approach would be to enable participants to serve documents by providing the link to the document in eLibrary. This would eliminate the necessity of attaching documents to e-mails. Such a change would require a revision to the Commission's rules to allow service on other participants to be made after the link became available. The Commission invites comments on this possible approach.

Mailing Lists

14. As a part of its responsibility to keep the public informed of regulatory activities that may be of interest to them, the Commission creates mailing lists in connection with various proceedings related to hydroelectric projects and natural gas facilities. These mailing lists include State and Federal agencies, members of Congress and other elected officials, Indian tribes, landowners, and other individuals and organizations that might have an interest in the relevant proceeding. Persons on a mailing list are given the opportunity, at their option, to continue to receive copies of certain documents issued by the Commission in the proceeding.

15. In the natural gas area, the process of sending out notices to mailing lists may be triggered by the environmental review process, or by certain other events. Once the process begins, the Commission establishes a mailing list from existing lists and other information maintained by Commission Staff, and information provided by the applicant. The Commission issues a notice, the content of which depends on the nature of the proceeding, and mails it to the persons and organizations on the mailing list. The notice explains that, if the recipient wishes to continue to receive Commission-issued environmental documents related to the proceeding, he must return a request in a mailer, which is provided. Recipients who do not return the mailer may be dropped from the mailing list.¹⁰ Mailing lists in natural gas proceedings may number in the thousands of recipients, the large majority of whom are landowners.

16. Mailing lists in hydropower proceedings operate somewhat differently. The Commission typically

sends out many notices of different events or stages of the process. Although some occur during the term of the license, most are related to license/relicense application processing and can occur both before and after the application is filed. Most of the recipients are official or institutional in nature, mainly Federal, State and local agencies, elected officials and Indian tribes, although non-governmental organizations and local citizens often participate. The number of recipients typically is much lower than in gas pipeline proceedings. Recipients generally are not expected to respond in order to continue receiving documents.

17. The Commission is proposing in both the gas and hydropower areas to provide notice, where possible, in electronic form through e-mail. It therefore requests comment on a system in which it would send notice, through postal mail as is currently done, at the beginning of a proceeding. The notice would provide a URL that would take the recipient to a Web page specific to the relevant mailing list, which would not be directly linkable from the Commission's Web site.¹¹ This page in turn would direct the recipient to the Commission's eRegistration system. There, the recipient would go through the brief registration process and would sign up to receive e-mail notification of certain documents issued by the Commission in the relevant proceeding. The recipient also would be asked for a mailing address, in the event that it is necessary to send some documents by postal mail. The Commission does not intend to make these e-mails or mailing addresses public; they would be available for use by the Commissions to provide notification regarding FERC documents to mailing list recipients. E-mails subsequently would contain links to the relevant documents. The initial notice would explain that, if the recipient was unable to receive e-mail notifications, the attached form could be mailed to the Commission explaining this fact. In those instances, the documents would be sent by postal mail, as is currently the case. In cases where the mailing list must be expanded during a proceeding, such as where the location of a project changes, "new" mailing list members will be notified by postal mail in the same manner as the "original" ones.¹² The

¹¹ The Commission needs to keep track specifically of mailing list recipients, which it could not do if the "signup" page was available to the general public.

¹² For those mailing list members that are institutional or official in nature, the Commission may be able to notify them initially via e-mail rather than postal mail.

⁹ 18 CFR 385.2010(f) (Rule 2010(f)).

¹⁰ Mailing lists are distinct from service lists, which are comprised of persons and entities who have become parties to a proceeding. See 18 CFR 385.2010. A member of a mailing list may or may not intervene and become a party, and thus may or may not be on the service list.

new mailing list procedures would apply only to proceedings commenced after the procedures were adopted.

18. The purpose of the automated mailing list feature will be different from that of the Commission's eSubscription service. The latter is available to anybody who wishes to receive notification of all documents in a specific proceeding. Thus, an eSubscriber gets documents both received and issued by the Commission. The Commission's interest in eSubscription is to ensure that the service is operationally efficient and that it provides value to the subscriber. On the other hand, the Commission needs to keep track of the persons on the mailing list in a hydropower or natural gas facility proceeding, to maintain a record of whether persons who may be impacted by the proceeding are receiving notice of relevant developments.

19. As noted above, the Commission may need to send some documents to mailing list recipients by postal mail. For example, most environmental impact statements and environmental assessments include site-specific location maps and engineering drawings that can not appropriately be made available on the Internet. 18 CFR 388.113. The Commission's Internet site does, however, provide information on how to obtain copies of the material. Additionally, in such cases the Commission generally sends copies of the environmental documents to all mailing list members via postal mail. It may eventually be possible for the Commission to provide mailing list members with some form of electronic access to such documents.

20. Certain sections of the Commission's regulations contain requirements that the Commission provide notice of specified events to specified recipients. These recipients, along with others added by the Commission, make up the mailing list for the relevant notice provision. The Commission is proposing to revise these sections to provide that notice will be by electronic means if practical, and otherwise by postal mail. The affected provisions are as follows:

- § 5.4(b)(1)(iii)—Request for acceleration of license expiration date.
- § 5.8(e)(3)—Commencement of proceeding and scoping document, or approval to use traditional licensing process or alternative procedures.
- § 5.19(c)(2)—Tendering notice and schedule.
- § 16.6(d)(1)(iii)—Notification under section 15 of the Federal Power Act.

- § 16.9(d)(1)(iii), (d)(2)(ii)—License applications under sections 14 and 15 of the Federal Power Act.

- § 156.8—Applications for orders under section 7(a) of the Natural Gas Act.

- § 157.9—Applications for certificates of public convenience and necessity and for orders approving abandonment under section 7 of the Natural Gas Act.

21. The conversion of as much as possible of the Commission's mailing lists will serve two primary purposes. First, interested persons will receive notice more promptly than they would through postal mail. Second, the Commission will be able to reduce its costs significantly; mailing lists often number in the thousands. The Commission remains committed, however, to providing reasonable notice to persons who may be affected by its proceedings. Any technological advancements will have to be compatible with this goal.

22. Consequently, the Commission requests comment on the changes to its practices described above. In particular, the Commission would like to receive comments addressing the question whether the proposed revisions would provide adequate notification to affected persons and whether other methods might better achieve the Commission's stated purposes. The Commission also would welcome any comments identifying notice provisions not covered in this proposal that should be revised.

Electronic Signature and Verification

23. The Commission's regulations currently provide that, in documents filed via the internet pursuant to Rule 2003(c),¹³ the typed characters representing a person's name suffice as that person's signature. The Commission is proposing to expand that provision to cover signatures in all documents submitted in electronic form pursuant to the Commission's regulations. In addition, the Commission proposes to revise Rule 2003(c) to clarify its regulations to state specifically that any requirement for certification, notarization, verification, or any similar means by which a witness represents that his testimony is true, may be satisfied through the provisions of 28 U.S.C. 1746. That statute provides that a requirement in any rule or regulation for a sworn declaration, verification, certification, statement, oath or affidavit may be satisfied by a declaration under penalty of perjury that the matter attested to is

true and correct. Although the statute applies of its own force to documents submitted under the Commission's regulations, the Commission wishes to ensure that persons submitting documents to it will not see a need to provide notarization or other means of verification that may be incompatible with electronic means of submission.

24. In connection with the above changes, the Commission also is proposing to require that a person or entity submitting a document that requires any form of verification to maintain a document with a physical signature on file until such time as the relevant proceeding is concluded. This measure should ensure that the purposes of requiring a statement under oath, such as ensuring that the person stating or swearing to the information understands the significance of his or her undertaking, continue to be met. Generally, the physically signed document should be retained at least until the time for all potential requests for rehearing and petitions for judicial review has expired, and all requested rehearing or review has been concluded. The person or entity retaining the signed copy should err on the side of caution, as premature disposal of such a document could result in negative inference with respect to its veracity.

Information Collection Statement

25. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.¹⁴ This proposed rulemaking would not contain any information collection requirements and compliance with the OMB regulations is thus not required.

Environmental Analysis

26. 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.¹⁵ The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.¹⁶ This proposed rule, if finalized, is procedural in nature and therefore falls under this exception; consequently, no

¹⁴ 5 CFR 1320.12.

¹⁵ 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).

¹⁶ 18 CFR 380.4(a)(2)(ii).

¹³ 18 CFR 385.2003(c) (2003).

environmental consideration would be necessary.

Regulatory Flexibility Act Certification

27. The Regulatory Flexibility Act of 1980¹⁷ 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 analyses if a rule would not have such an effect. The Commission certifies that this proposed rule, if finalized, would not have such an impact on small entities.

Comment Procedures

28. 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 August 2, 2004. Comments must refer to Docket No. RM04-9-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

29. 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 that 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.

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

Document Availability

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

32. 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 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.

33. User assistance is available for eLibrary and the FERC'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 (e-mail at FERCOnlineSupport@FERC.gov), or the Public Reference Room at 202-502-8371, TTY 202-502-8659 (e-mail at public.reference.room@ferc.gov).

List of Subjects

18 CFR Part 5

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 CFR Part 16

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 CFR Part 156

Administrative practice and procedure, Natural Gas, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric utilities, Penalties, Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

Magalie R. Salas,
Secretary.

In consideration of the foregoing, the Commission proposes to amend parts 5, 16, 156, 157, and 385, Chapter I, title 18, *Code of Federal Regulations*, as follows:

PART 5—INTEGRATED LICENSE APPLICATION PROCESS

1. The authority citation for part 5 continues to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601-2645; 42 U.S.C. 7101-7352.

2. Amend § 5.4 by revising paragraph (b)(1)(iii) to read as follows:

§ 5.4 Acceleration of a license expiration date.

* * * * *

(b) * * *

(1) * * *

(iii) Notifying appropriate Federal, State, and interstate resource agencies and Indian tribes, and non-governmental organizations likely to be interested, by electronic means if practical, otherwise by mail.

* * * * *

3. Amend § 5.8 by revising paragraph (e)(3) to read as follows:

§ 5.8 Notice of commencement of proceeding and scoping document, or of approval to use traditional licensing process or alternative procedures.

* * * * *

(e) * * *

(3) Notifying appropriate Federal, State, and interstate resource agencies, State water quality and coastal zone management plan consistency certification agencies, Indian tribes, and non-governmental organizations, by electronic means if practical, otherwise by mail.

4. Amend § 5.19 by revising paragraph (c)(2) to read as follows:

§ 5.19 Tendering Notice and Schedule.

* * * * *

(c) * * *

(2) Notifying appropriate Federal, State, and interstate resource agencies, State water quality and coastal zone management plan consistency certification agencies, Indian tribes, and non-governmental organizations, by electronic means if practical, otherwise by mail.

* * * * *

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

5. The authority citation for part 16 continues to read as follows:

Authority: 16 U.S.C. 791a-825r; 42 U.S.C. 7101-7352.

6. Amend § 16.6 by revising paragraph (d)(1)(iii) to read as follows:

§ 16.6 Notification procedures under section 15 of the Federal Power Act.

* * * * *

(d) * * *

(1) * * *

(iii) Notifying the appropriate Federal and State resource agencies, State water quality and coastal zone management consistency certifying agencies, and Indian tribes, by electronic means if practical, otherwise by mail.

* * * * *

7. Amend § 16.9 by revising paragraphs (d)(1)(iii) and (d)(2)(ii) to read as follows:

¹⁷ 5 U.S.C. 601-612.

§ 16.9 Applications for new licenses and nonpower licenses for projects subject to sections 14 and 15 of the Federal Power Act.

* * * * *

(d) * * *

(1) * * *

(iii) Notifying appropriate Federal, State, and interstate resource agencies, Indian tribes, and non-governmental organizations, by electronic means if practical, otherwise by mail.

(2) * * *

(ii) Provide the notice to appropriate Federal, State, and interstate resource agencies and Indian tribes, by electronic means if practical, otherwise by mail; and

* * * * *

PART 156—APPLICATIONS FOR ORDERS UNDER SECTION 7(a) OF THE NATURAL GAS ACT

8. The authority citation for part 156 continues to read as follows:

Authority: 52 Stat. 824, 829, 830; 56 Stat. 83, 84; 15 U.S.C. 717f, 717f(a), 717n, 717o.

9. Revise § 156.8 to read as follows:

§ 156.8 Notice of application.

Notice of each application filed, except when rejected in accordance with § 156.6, will be published in the **Federal Register** and copies of such notice sent to the state affected thereby via electronic means if practical, otherwise by mail.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

10. The authority citation for part 156 continues to read as follows:

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

11. Revise § 157.9 to read as follows:

§ 157.9 Notice of application.

Notice of each application filed, except when rejected in accordance with § 157.8, will be issued within 10 days of filing, and subsequently will be published in the **Federal Register** and copies of such notice sent to States affected thereby, by electronic means if practical, otherwise by mail. Persons desiring to receive a copy of the notice of every application shall so advise the Secretary.

PART 385—RULES OF PRACTICE AND PROCEDURE

12. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

13. Amend § 385.2005 by adding paragraph (b)(3) and revising paragraph (c) to read as follows:

§ 385.2005 Subscription and verification (Rule 2005).

* * * * *

(b) * * *

(3) Any requirement that a filing include or be supported by a sworn declaration, verification, certificate, statement, oath, or affidavit may be satisfied by compliance with the provisions of 28 U.S.C. 1746, provided that the filer, or an authorized representative of the filer, maintains a copy of the document bearing an original, physical signature until after such time as all administrative and judicial proceedings in the relevant matter are closed and all deadlines for further administrative or judicial review have passed.

(c) *Electronic signature.* In the case of any document filed in electronic form under the provisions of this Chapter, the typed characters representing the name of a person shall be sufficient to show that such person has signed the document for purposes of this section.

14. Amend § 385.2010 by redesignating paragraphs (g) through (i) as (h) through (j), adding new paragraph (g), and revising paragraphs (b), (c), (e)(1) and (f) as follows:

§ 385.2010 Service (Rule 2010).

* * * * *

(b) *By the Secretary.* The Secretary will serve, as appropriate:

(1) A copy of any complaint on any person against whom the complaint is directed;

(2) A copy of any notice of tariff or rate examination or order to show cause, on any person to whom the notice or order is issued;

(3) A copy of any rule or any order by a decisional authority in a proceeding on any person included on the official service list, or applicable restricted service list, for the proceeding or phase of the proceeding, provided that such person has complied with paragraph (g) of this section.

(c) *Official service list.* (1) The official service list for any proceeding will contain:

(i) The name, address and, for proceedings commenced after February

1, 2005, e-mail address of any person designated for service in the initial pleading, other than a protest, or in the tariff or rate filing which is filed by any participant; and

(ii) The name of counsel for the staff of the Commission.

(2) Any designation of a person for service may be changed by following the instructions for the Commission's electronic registration system, located on its Web site at <http://www.ferc.gov> or, in the event that the proceeding was commenced prior to February 1, 2005, or the person designated for service is unable to use the electronic registration system, by filing a written notice with the Commission and serving the notice on each person whose name is included on the official service list.

* * * * *

(e) *Intervenors.* (1) If a motion to intervene or any notice of intervention is filed, the name, address and, for proceedings commenced after February 1, 2005, e-mail address of any person designated for service in the motion or notice are placed on the official service list or any applicable restricted service list, provided that such person has complied with paragraph (g) of this section. Any person placed on the official service list under this paragraph is entitled to service in accordance with this section. If a motion to intervene is denied, the name, address and e-mail address of each person designated for service pursuant to that motion will be removed from the official service list.

* * * * *

(f) *Methods of service.* Service of any document must be made:

(1) In the case of service by participants, by electronic means, unless such means are impractical or the parties agree otherwise, in which case service shall be made by:

(i) United States mail, first class or better; or

(ii) Delivery in a manner that, and to a place where, the person on whom service is required may reasonably be expected to obtain actual and timely receipt.

(2) In the case of service by the Secretary, by electronic means, unless such means are impractical, in which case service shall be made by United States mail.

(g) *Electronic registration.* In the case of proceedings commenced after February 1, 2005, any person, to be included on a service list, must have complied with the procedures for electronic registration made available on the Commission's web site, at <http://www.ferc.gov>, unless such person has secured a waiver under the provisions

of § 390.3 of this chapter, or is exempt under the provisions of § 390.4 of this chapter.

* * * *

[FR Doc. 04-14893 Filed 7-1-04; 8:45 am]

BILLING CODE 6717-01-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404 and Part 416

[Regulations Nos. 4 and 16]

RIN 0960-AF85

Mandatory Exclusion of Health Care Providers and Representatives From Participating in Programs Administered by the Social Security Administration, Including Representative Payment

AGENCY: Social Security Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule creates a new administrative procedure requiring the Social Security Administration (SSA) to exclude representatives and health care providers who are convicted of fraud in the title II or title XVI disability programs administered by SSA or who are assessed civil monetary penalties from further participation in those programs for at least five years. The Foster Care Independence Act of 1999 amended the Social Security Act and requires SSA to create an administrative procedure for imposing penalties for false or misleading statements. This proposed rule will exclude those representatives and health care providers from participating in the programs and from serving as a representative payee.

DATES: To be sure your comments are considered, we must receive them by August 31, 2004.

ADDRESSES: You may give us your comments by: using our Internet site facility (*i.e.*, Social Security Online) at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs> or the Federal eRulemaking Portal at <http://www.regulations.gov>; e-mail to regulations@ssa.gov, telefax to (410) 966-2830; or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site for your review, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** on <http://www.gpoaccess.gov/fr/index.html>. It is also available on the Internet site for SSA (*i.e.*, Social Security Online): <http://policy.ssa.gov/pnpublic.nsf/LawsRegs>.

FOR FURTHER INFORMATION CONTACT:

Charles M. Urban, Social Insurance Specialist, Professional Relations Branch, Office of Disability Programs, Office of Disability and Income Support Programs, Social Security Administration, 6401 Security Boulevard, Room 4634 Annex Building, Baltimore Maryland 21235-6401, Charles.M.Urban@ssa.gov, 410-965-9029, or TTY, 410-966-5609, or FAX 410-965-6659 for information about these regulations. For information on eligibility or filing for benefits: Call our national toll-free number, 1-(800) 772-1213 or TTY 1-(800) 325-0778, or visit our Internet Web site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background

There is no provision under the present law to exclude representatives and health care providers convicted of violations from further participation in Social Security programs. Social Security and Supplemental Security Income (SSI) law stipulate that anyone who knowingly or willfully makes, or causes to be made, any false statements or misrepresentations in applying for or continuing to receive Social Security or SSI payments shall be fined under title 18 of the U.S.C., imprisoned for not more than five years or both. Federal law also provides that any person who makes, or causes to be made, a statement or representation of material fact for use in any initial or continuing review of an individual's eligibility for Social Security disability benefits (title II) or Supplemental Security Income (SSI) (title XVI) benefits that the person knows or should know is false or misleading or omits a material fact or makes such a statement with knowing disregard for the truth is subject to a civil penalty of not more than \$5,000 for each such statement or representation plus up to twice the value of the amount paid fraudulently.

Fraud prevention is a top priority of the Social Security Administration. Professionals and others who play a role in helping individuals apply for Social Security and SSI have a special responsibility to maintain high standards of truthfulness. The evidence, opinion, advice and recommendations

they provide are often crucial to the eligibility determination process. Thus, any such representative or health care provider who gives false or misleading information or otherwise commits fraud as part of the eligibility determination must be subject to serious penalties. This is especially the case since experience shows that some of these individuals commit fraud in many cases, thereby resulting in substantial sums of money being paid fraudulently to numerous recipients. For instance, in December 1997, a cooperative team, consisting of members from the SSA, the Office of the Inspector General (OIG) and the State Disability Determination Service (DDS), conducted a joint vulnerability review of an extended family in a small Georgia town. There were 181 members of this family, which spanned 4 generations, receiving benefits under title XVI of the Social Security Act (the Act). The same medical provider was the treating source and conducted consultative examinations (CEs) for many of these family members. The findings of the review resulted in the creation of Cooperative Disability Investigation (CDI) units in several major cities. The IG reported on February 3, 1999, in his testimony to the Subcommittee on Human Resources that the CDIs have produced data that illustrate the need to sanction third-party facilitators who engage in fraudulent activities, as many of the allegations involved third-party facilitators such as physicians, lawyers, interpreters, and other service providers. The 1998 GAO report, "Supplementary Security Income: Action Needed on Long-Standing Problems Affecting Program Integrity," GAO/HHS-98-158, also found that the title XVI program was vulnerable to fraud and abuse.

We believe those representatives and health care providers who commit fraud or make false statements in any of the SSA administered programs should have administrative sanctions applied and be excluded from participating in any SSA program.

For these reasons, we propose to add a new section in both part 404 subpart P and part 416 subpart I to exclude representatives and health care providers who have committed fraud in any program administered by SSA from further participation in these programs for a period of at least five years.

Purposes of Administrative Sanctions

Administrative sanctions are civil remedies that agencies impose under their own authority to protect their programs from transactions with untrustworthy individuals or entities