

consumer reporting agency pursuant to FCRA section 623(b).¹⁶

Accordingly, consumer reporting agencies and furnishers must reasonably investigate disputes received directly from consumers that are not frivolous or irrelevant—and furnishers must reasonably investigate all indirect disputes received from consumer reporting agencies—even if such disputes do not include the entity’s preferred format, preferred intake forms, or preferred documentation or forms.

Consumer reporting agencies must provide to the furnisher all relevant information regarding the dispute that it received from the consumer.

Enforcers may bring a claim if a consumer reporting agency fails to promptly provide to the furnisher “all relevant information” regarding the dispute that the consumer reporting agency receives from the consumer.¹⁷ Through its supervision, the CFPB has found that consumer reporting agencies tend to ingest dispute information from consumers using automated protocols, and they also share dispute information with furnishers electronically.¹⁸ The use of these technologies has reduced the cost and time to transmit relevant information.

When transmitting information about a dispute, a consumer reporting agency may be able to demonstrate that it has transmitted “all relevant information” even if it does not provide original documents in paper form. However, given that primary sources of evidence provided by consumers can be dispositive in determining whether there has been a furnishing error, and given that the character of a primary source of evidence is probative and thus relevant to the investigation,¹⁹ it will be difficult for a consumer reporting agency to prove that it complied with the FCRA if it does not provide electronic images of primary evidence for evaluation by the furnisher.²⁰

¹⁶ 15 U.S.C. 1681s–2(b). See Brief for Consumer Financial Protection Bureau and Federal Trade Commission as Amici Curiae Supporting Plaintiff-Appellant, *Ingram v. Waypoint Resource Group, LLC*, Third Circuit Court of Appeals (No. 21–2430).

¹⁷ 15 U.S.C. 1681i(a)(2)(A).

¹⁸ Consumer Financial Protection Bureau, *Bulletin 2013–09* (Sept. 4, 2013), at 1, https://files.consumerfinance.gov/f/201309_cfpb_bulletin_furnishers.pdf (alerting furnishers to the fact that consumer reporting agencies have begun forwarding images of relevant documentation to furnishers as part of the reasonable investigation of disputes).

¹⁹ For example, a copy of a bill supporting the consumer’s dispute conveys information regarding the persuasiveness of a consumer’s dispute that data about the bill would not.

²⁰ Federal Trade Commission, *40 Years of Experience with the Fair Credit Reporting Act: An FTC Staff Report with Summary of Interpretations* (July 2011), at 77, <https://www.ftc.gov/sites/default/>

The consumer reporting agency’s failure to provide the furnisher with all relevant information limits the furnisher’s ability to reasonably investigate the dispute. A furnisher must “review all relevant information” provided by the consumer reporting agency.²¹ Accordingly, consumer reporting agency compliance with the obligation to provide all relevant information is crucial to the consumer’s right to have their dispute reasonably investigated.

About Consumer Financial Protection Circulars

Consumer Financial Protection Circulars are issued to all parties with authority to enforce Federal consumer financial law. The CFPB is the principal Federal regulator responsible for administering Federal consumer financial law, see 12 U.S.C. 5511, including the Consumer Financial Protection Act’s prohibition on unfair, deceptive, and abusive acts or practices, 12 U.S.C. 5536(a)(1)(B), and 18 other “enumerated consumer laws,” 12 U.S.C. 5481(12). However, these laws are also enforced by State attorneys general and State regulators, 12 U.S.C. 5552, and prudential regulators including the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration. See, e.g., 12 U.S.C. 5516(d), 5581(c)(2) (exclusive enforcement authority for banks and credit unions with \$10 billion or less in assets). Some Federal consumer financial laws are also enforceable by other Federal agencies, including the Department of Justice and the Federal Trade Commission, the Farm Credit Administration, the Department of Transportation, and the Department of Agriculture. In addition, some of these laws provide for private enforcement.

Consumer Financial Protection Circulars are intended to promote consistency in approach across the various enforcement agencies and parties, pursuant to the CFPB’s statutory

files/documents/reports/40-years-experience-fair-credit-reporting-act-ftc-staff-report-summary-interpretations/110720fcra-report.pdf (“A CRA does not comply with this provision if it merely indicates the nature of the dispute, without communicating to the furnisher the specific relevant information received from the consumer. For example, if the consumer claimed “never late” and submitted documentation (such as cancelled checks) to support his/her dispute, a CRA does not comply with the requirement that it provide “all relevant information” if it simply notifies the furnisher that the consumer disputes the payment history without communicating the evidence received.”).

²¹ 15 U.S.C. 1681s–2(b)(1)(B).

objective to ensure Federal consumer financial law is enforced consistently. 12 U.S.C. 5511(b)(4).

Consumer Financial Protection Circulars are also intended to provide transparency to partner agencies regarding the CFPB’s intended approach when cooperating in enforcement actions. See, e.g., 12 U.S.C. 5552(b) (consultation with CFPB by State attorneys general and regulators); 12 U.S.C. 5562(a) (joint investigatory work between CFPB and other agencies).

Consumer Financial Protection Circulars are general statements of policy under the Administrative Procedure Act. 5 U.S.C. 553(b). They provide background information about applicable law, articulate considerations relevant to the Bureau’s exercise of its authorities, and, in the interest of maintaining consistency, advise other parties with authority to enforce Federal consumer financial law. They do not restrict the Bureau’s exercise of its authorities, impose any legal requirements on external parties, or create or confer any rights on external parties that could be enforceable in any administrative or civil proceeding. The CFPB Director is instructing CFPB staff as described herein, and the CFPB will then make final decisions on individual matters based on an assessment of the factual record, applicable law, and factors relevant to prosecutorial discretion.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–25138 Filed 11–22–22; 8:45 am]

BILLING CODE 4810–AM–P

FEDERAL TRADE COMMISSION

16 CFR Part 314

RIN 3084–AB35

Standards for Safeguarding Customer Information

AGENCY: Federal Trade Commission.

ACTION: Final rule; delay of effectiveness.

SUMMARY: The Federal Trade Commission is delaying the effective date of portions of the amended Safeguards Rule as published on December 9, 2021.

DATES:

Effective date: This final rule is effective November 23, 2022.

Applicability date: The applicability of the provisions set forth in § 314.5 is delayed from December 9, 2022 until June 9, 2023.

FOR FURTHER INFORMATION CONTACT:

David Lincicum (202–326–2773), Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:**I. Final Rule and Delay of Effectiveness**

On December 9, 2021, the Federal Trade Commission (Commission) amended the Safeguards Rule, 16 CFR part 314. While portions of the amended rule became effective on January 10, 2022, certain provisions were originally to become effective December 9, 2022. 16 CFR 314.5.

The Commission is aware there is a reported shortage of qualified personnel to implement information security programs and supply chain issues may lead to delays in obtaining necessary equipment for upgrading security systems.¹ In addition, these difficulties were exacerbated by the COVID–19 pandemic that has been active as financial institutions have attempted to come into compliance with the amended Safeguards Rule. These issues may make it difficult for financial institutions, especially small ones, to come into compliance with the amended Safeguards Rule by December 9, 2022. Accordingly, the Commission is delaying the effective date of those portions of the Safeguards Rule that were to go into effect on December 9, 2022, until June 9, 2023.²

II. Administrative Procedure Act

The Commission is issuing the final rule without prior notice and the opportunity for public comment and, as explained below, without the delayed effective date ordinarily prescribed by the Administrative Procedure Act

¹ See, e.g., James Legg, “Confronting the shortage of security professionals,” *Forbes.com* (Oct. 21, 2021), <https://www.forbes.com/sites/forbesbusinesscouncil/2021/10/21/confronting-the-shortage-of-cybersecurity-professionals/>; Cyber Seek, *Cybersecurity Supply/Demand*, <https://www.cyberseek.org/heatmap.html>; Robert Triggs, “The global computer chip shortage explained,” *Androidauthority.com* (June 5, 2022), <https://www.androidauthority.com/computer-chip-shortage-1212941/>.

² The Safeguards Rule’s ongoing rulemaking was included in the Commission’s Spring 2022 Regulatory Agenda, but that Agenda did not contemplate this final rule extending the effective date of parts of the final rule issued on December 9, 2021. See Fed. Trade Comm’n, *Standards for Safeguarding Consumer Information*, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202204&RIN=3084-AB35>. Pursuant to Section 22(d)(4) of the FTC Act, 15 U.S.C. 57–b3(d)(4), this Rule was not included in the Commission’s Spring 2022 Regulatory Agenda because the Commission first considered this final rule and the reasons supporting it after its approval of the Agenda.

(APA).³ Pursuant to section 553(b)(3)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”⁴

The Commission believes the public interest is best served by revising 16 CFR 314.5 to delay the effective date of certain portions of the Safeguards Rule and by making such revision effective immediately upon publication in the *Federal Register*. As noted above, the COVID–19 pandemic has disrupted economic activity in the United States. This has exacerbated a reported shortage of qualified information security personnel and supply chain issues that can lead to delays involving equipment necessary to upgrade information security systems. Delaying the effective date of these portions of the amended Safeguards Rule will allow financial institutions additional time to effectively and efficiently bring their information security programs into compliance with the Rule.⁵ For these reasons, the Commission finds that there is good cause consistent with the public interest to issue the rule without advance notice and comment.⁶

The APA also requires a 30-day delayed effective date, except for “(1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.”⁷ As noted above, the Commission finds there is good cause to revise the effective date of the portions of the Safeguards Rule that were previously designated to go into effect on December 9, 2022, immediately.⁸ The Commission recognizes that, while this rule revision goes into effect immediately, the result of the revision is to give regulated parties additional time to come into compliance, so they would not be prejudiced if the change goes into effect immediately. Furthermore, the delay of an effective date of a substantive rule requirement is a “substantive rule[]” that “relieve[s] a restriction” for a period of time, which

³ 5 U.S.C. 553.

⁴ *Id.* at 553(b)(3)(B).

⁵ The revised deadline should also go into effect as soon as possible because the original deadline in December 2022 is imminent.

⁶ See 5 U.S.C. 553(b)(3)(B).

⁷ *Id.* at 553(d).

⁸ See *id.* at 553(d)(3).

makes it eligible to take effect without the ordinary wait of 30 days.⁹

III. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA), an agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Commission has reviewed this final rule pursuant to authority delegated by the OMB and has determined it does not contain any collections of information pursuant to the PRA.

IV. Regulatory Flexibility Act and Congressional Review Act

The Regulatory Flexibility Act (RFA)¹⁰ requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(3)(B) of the APA, the Commission has determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the Commission is not issuing a notice of proposed rulemaking. Accordingly, the Commission has concluded the RFA’s requirements relating to initial and final regulatory flexibility analyses do not apply. In any event, the extension of the effective date will reduce the burden of complying with the Rule for all covered financial institutions, including small businesses.

Pursuant to the Congressional Review Act (5 U.S.C. 801 through 808), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

List of Subjects in 16 CFR Part 314

Consumer protection, Credit, Data protection, Privacy, Trade practices.

For the reasons stated above, the Federal Trade Commission amends 16 CFR part 314 as follows:

PART 314—STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION

■ 1. The authority citation for part 314 continues to read as follows:

Authority: 15 U.S.C. 6801(b), 6805(b)(2).

■ 2. Revise § 314.5 to read as follows:

⁹ *Id.* at 553(d)(1).

¹⁰ 5 U.S.C. 601–612.

§ 314.5 Effective date.

Sections 314.4(a), (b)(1), (c)(1) through (8), (d)(2), (e), (f)(3), (h), and (i) are effective as of June 9, 2023.

By direction of the Commission.

April J. Tabor,
Secretary.

Note: the following statement will not appear in the Code of Federal Regulations.

Concurring Statement of Commissioner Christine S. Wilson

The Safeguards Rule requires financial institutions to develop, implement, and maintain a comprehensive information security program to protect customer information.¹ In 2021, the Commission updated the Safeguards Rule to add several prescriptive requirements that necessitate significant investment to effectively implement.² I voted against the revisions to the rule, in part, because I feared the new obligations would inhibit flexibility and impose substantial costs, especially on small businesses.³ Despite assurances that financial institutions were already implementing many of the requirements of the amended rule or had sophisticated compliance programs that could easily adopt and pivot to address new obligations, I was concerned that the Commission did not understand fully the economic impact of the proposed changes. It has become clear that the Commission may have underestimated the burdens imposed by the rule revisions.

While I continue to note my concerns about the revisions to the recently amended Safeguards Rule, I support extending the effective date. Labor shortages of qualified personnel have hampered efforts by companies to implement information security programs. Some estimates place the

shortage of cybersecurity professionals in the 500,000 range.⁴ Supply chain issues also have led to delays in obtaining necessary equipment for upgrading systems. These factors are outside the control of financial institutions and have complicated efforts by companies to meet the requirements of the amended rule by year end.

The revisions finalized in December 2021 did not merely codify basic security practices of most financial institutions. Rather, the modifications imposed new onerous, misguided, and complex obligations. Safeguarding customer information is important. But it is still unclear whether these mandates will translate into a significant reduction in data security risks or offer other substantial consumer benefits. Regardless of the rule's effects, companies should be given the time necessary to correctly implement the final rule's burdensome requirements. For these reasons, I support extending the effective date until June 2023.

[FR Doc. 2022-25201 Filed 11-22-22; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Parts 154, 260, and 284**

[Docket No. RM21-18-000; Order No. 884]

Revised Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission issues this final rule to require natural gas pipelines to submit all supporting statements, schedules and workpapers in native format (e.g., Microsoft Excel) with all links and formulas included when filing a Natural Gas Act section 4 rate case.

DATES: This rule is effective December 23, 2022.

FOR FURTHER INFORMATION CONTACT:

⁴Data gathered under a Commerce Department grant indicates that there are over 500,000 unfilled cybersecurity job openings. The research indicates that nationally, there are only enough cybersecurity workers in the United States to fill 68% of the cybersecurity jobs that employers demand. Cyber Seek, *Cybersecurity Supply/Demand Heat Map*, <https://www.cyberseek.org/heatmap.html> (last visited Nov. 14, 2022).

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SUPPLEMENTARY INFORMATION:

1. In this final rule, the Federal Energy Regulatory Commission (Commission) revises the filing and reporting requirements for natural gas pipelines filing a Natural Gas Act (NGA) section 4 rate case.¹ As discussed below, we adopt the Commission's proposal pursuant to the Notice of Proposed Rulemaking (NOPR) issued on May 19, 2022,² to establish a rule to require natural gas pipelines to submit all supporting statements, schedules and workpapers in native format (e.g., Microsoft Excel) with all links and formulas included when filing an NGA section 4 rate case.

I. Background

2. When a natural gas pipeline files under NGA section 4 to change its rates, the Commission requires the pipeline to provide detailed support for all the components of its cost of service.³

3. Commission regulations require that natural gas pipelines filing general NGA section 4 rate cases provide certain statements (Statements A through P) and associated schedules.⁴ In 1995, the Commission issued its *Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs* (Order No. 582), stating that Statements I, J and a portion of H (containing state tax formulations) must be received in spreadsheet format with formulas included, as the data provided in these statements and schedules are essential to understanding a natural gas pipeline's position with regard to cost allocation and rate design.⁵ The Commission explained that although these spreadsheets could be obtained through discovery, that process is burdensome and inhibits better-

¹ 15 U.S.C. 717c.

² *Revised Filing & Reporting Requirements for Interstate Nat. Gas Co. Rate Schedules & Tariffs*, 87 FR 31783 (May 25, 2022), 179 FERC ¶ 61,114 (2022) (NOPR).

³ 18 CFR 154.312 and 154.313 (2021).

⁴ 18 CFR 154.312.

⁵ *Filing & Reporting Requirements for Interstate Nat. Gas Co. Rate Schedules & Tariffs*, Order No. 582, 60 FR 52,960, 52,994 (Oct. 11, 1995), FERC Stats. & Regs. ¶ 31,025 (1995) (cross-referenced at 72 FERC ¶ 61,300), *order on clarification*, 76 FERC ¶ 61,077 (1996).

¹ 16 CFR part 314.

² The amended Rule was published in the *Federal Register* on December 9, 2021. 86 FR 70272 (Dec. 9, 2021). As I noted at the time of the final rule's publication, I appreciated Staff's diligent work on the Safeguards Rule and commitment to consider input from all relevant parties. Staff's continued commitment to address the serious concerns of parties impacted by the Safeguards Rule is laudable.

³ Dissenting Statement of Commissioner Noah Joshua Phillips and Commissioner Christine S. Wilson, Final Rule Amending the Gramm-Leach-Bliley Act's Safeguards Rule (Oct. 27, 2021), https://www.ftc.gov/system/files/documents/public_statements/1597994/joint_statement_of_commissioners_phillips_and_wilson_in_the_matter_of_regulatory_review_of_the_1.pdf; Dissenting Statement of Commissioner Noah Joshua Phillips and Commissioner Christine S. Wilson, Review of Safeguards Rule (Mar. 5, 2019), https://www.ftc.gov/system/files/documents/public_statements/1466705/rev_review_of_safeguards_rule_cmr_phillips_wilson_dissent.pdf.