be required by law or regulation in connection with the exportation or transportation of any merchandise shipped or consigned by or to the Exporter and to receive or ship any merchandise on behalf of the Exporter.

The Exporter hereby certifies that all statements and information contained in the documentation provided to the Forwarding Agent relating to exportation are true and correct. Furthermore, the Exporter understands that civil and criminal penalties, may be imposed for making false or fraudulent statements or for the violation of any United States laws or regulations on exportation.

This power of attorney is to remain in full force and effect until revocation in writing is duly given by the Exporter and received by the Forwarding Agent.

In witness whereof, _____ (Full Name of Exporter/Exporting Company) caused these presents to be sealed and signed:

Witness: _____

Signature: _____

Capacity: _____

Date: _____

Bureau of the Census—Appendix B

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

Authorization to Prepare or Transmit Shipper's Export Information (Suggested Format)

I _____(Exporter), authorize _____(Forwarding Agent), to act as forwarding agent for export control and customs purposes and to sign any Shipper's Export Declaration (SED), or transmit such export information electronically, which may be required by law or regulation in connection with the exportation or transportation of any merchandise on behalf of said Exporter. The Exporter certifies that necessary and proper documentation to accurately complete the SED or transmit the information electronically is and will be provided to the said Forwarding Agent. Exporter further understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any United States laws or regulations on exportation and agrees to be bound by all statements of said agent based upon information or documentation provided by exporter to said agent.

Signature: _____(Exporter)

Capacity: _____

Date: _____

[FR Doc. 98–21024 Filed 8–5–98; 8:45 am]

BILLING CODE 3510–07–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Chapter I

Concept Release Concerning Performance Data and Disclosure for Commodity Trading Advisors and Commodity Pools

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period on Concept Release.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission issued a Concept Release concerning performance data and disclosure for commodity trading advisors and commodity pools on June 18, 1998 (63 FR 33297) with comments due by August 17, 1998. In response to a request from the Managed Funds Association, the Commission has determined to extend the comment period for an additional 30 days, until September 16, 1998. As indicated in the release, comments should be submitted by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to *secretary@cftc.gov*.

DATES: Comments must be received on or before September 16, 1998.

FOR FURTHER INFORMATION CONTACT:

Paul H. Bjarnason, Jr., Chief Accountant, (202) 418–5459, electronic mail: ''paulb@cftc.gov;'' or Robert B. Wasserman, Special Counsel, (202) 418–5092, electronic mail: ''rwasserman@cftc.gov,'' Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

Issued in Washington, D.C., on this *30*th day of July, 1998, by the Commodity Futures Trading Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 98–20928 Filed 8–5–98; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1b, 343, and 385

[Docket No. RM98–13–000]

Complaint Procedures

July 29, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to revise its regulations (Rule 206) governing complaints filed with the Commission under the Interstate Commerce Act, the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, and the Public Utility Regulatory Policies Act of 1978. The goals of the proposed revisions are to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner.

The Commission also proposes to revise certain sections of its procedural rules applicable to oil pipeline proceedings, to conform to the proposed changes in the complaint procedures regulations. In addition, the Commission proposes to revise its alternative dispute resolution regulations to conform to the changes made by the Administrative Dispute Resolution Act of 1996, and to codify its current Enforcement Hotline procedures in the rules relating to investigations.

DATES: Comments are due October 5, 1998.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1275.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via

Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202-208–2222, or by E-mail to RimsMaster@FERC.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn System Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

Notice of Proposed Rulemaking

The Federal Energy Regulatory Commission (Commission) is proposing to revise section 385.206 of its regulations (Rule 206) [1] governing complaints filed with the Commission under the Interstate Commerce Act, the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, and the Public Utility Regulatory Policies Act of 1978. The goals of the proposed revisions are to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner.

The Commission also proposes to revise certain sections of Part 343, Procedural Rules Applicable to Oil Pipeline Proceedings,[2] to conform to the proposed changes in the Commission's complaint procedures in Part 385 of the regulations. In addition, the Commission proposes to revise its alternative dispute resolution (ADR) regulations (Rules 604, 605 and 606) [3] to conform to the changes made by the Administrative Dispute Resolution Act of 1996,[4] and to codify its current Enforcement Hotline procedures in Part 1b, Rules Relating to Investigations.[5]

I. Background

The Commission first received requests to change its complaint procedures in filings arising out of a proceeding concerning interstate natural gas pipelines. The Pipeline Customer Coalition [6] filed a proposal for expedited procedures for the consideration and resolution of complaints filed with respect to natural gas pipeline rates, services, or practices.[7] The Interstate Natural Gas Association Of America (INGAA) filed its own proposal and comments in opposition to the Coalition's proposal.[8]

On March 30, 1998, in Docket No. PL98–4–000, the Commission held a symposium on the Commission's complaint procedures to determine (1) how well the Commission's current complaint procedures are working, (2) whether changes to the current complaint procedures are appropriate, and (3) what type of changes should be made.[9] Whereas the Coalition's and INGAA's proposals were restricted to complaints against pipelines, the purpose of the symposium was to discuss the Commission's complaint procedures on a generic basis. The Commission obtained a cross section of views from all segments of the gas, electric, and oil pipeline industries, as well as state regulatory agencies and members of the energy bar. The Commission received a number of comments following the symposium representing a broad range of interests from the natural gas pipeline, electric, and oil pipeline industries.

As a result of a commitment made by representatives of various segments of the electric industry at the March 30, 1998 symposium, the Electric Industry Dispute Resolution Working Group (Electric Working Group) [10] filed, in Docket No. PL98–4–000, recommendations and proposed procedures for dispute resolution.[11]

In addition, a team comprised of Staff from different offices within the Commission (called FERC First) recommended an initiative that focuses on revising internal procedures for a more timely resolution of contested matters and complaints. That proposal would accomplish this goal in two ways: (1) significantly expand use of consensual decision-making by greater emphasis on ADR techniques; and (2) use aggressive time limits for the issuance of decisions on matters that are not resolved in a consensual manner. The initiative also proposes new complaint processes for all types of issues and complaints.

II. Discussion

A. Overview

The natural gas and electric industries have undergone and will continue to undergo significant transformations as a result of changes to the Commission's regulatory policies. These industries are now operating in an environment which is increasingly driven by competitive market forces. Because of the short-term transactional nature of the electric and gas markets, and the fact that competitive changes happen quickly, timely and effective resolution of complaints has become more crucial. If the Commission is to use lighter-handed forms of regulation, to maintain balance and equity it must have an organized and fair complaint process to ensure that complainants will receive adequate protection and redress under the statutes administered and enforced by the Commission. An effective complaint

[1] 18 CFR 385.206 (1998).

[2] 18 CFR Part 343 (1998).

[3] 18 CFR 385.604–606 (1998).

[4] Pub. L. 104–320, 110 Stat. 3870 (October 19, 1996).

[5] 18 CFR Part 1b (1998).

[6] The Pipeline Customer Coalition consists of the American Iron and Steel Institute, the LDC Caucus of the American Gas Association, American Public Gas Association, Associated Gas Distributors, Georgia Industrial Group, Independent Petroleum Association of America, Natural Gas Supply Association, Process Gas Consumers, and United Distribution Companies.

[7] Comments and Petition of the Pipeline Customer Coalition, and Amended Petition of the Pipeline Customer Coalition for Proposed Rulemaking filed on May 31, 1996, and April 3, 1997, respectively, in Regulation of Negotiated Transportation Services of Natural Gas Pipelines, *et al.*, Docket Nos. RM96–7–000 and RM96–12–000.

[8] Comments and Petition of the Interstate Natural Gas Association of America filed on April 10, 1997, in Regulation of Negotiated Transportation Services of Natural Gas Pipelines, *et al.*, Docket Nos. RM96–7–000, RM96–12–000, and RM97–4–000.

[9] Symposium on Process and Reform: Commission Complaint Procedures, Docket No. PL98–4–000.

[10] The Electric Working Group includes representatives from American Public Power Association, Coalition for a Competitive Electric Market, Edison Electric Institute, Electric Power Supply Association, Illinois Municipal Electric Agency, National Rural Electric Cooperative Association and Transmission Access Policy Study Group, working with the assistance and support of the American Arbitration Association.

[11] Electric Industry Dispute Resolution Working Group Recommendations and Proposed Procedures for Dispute Resolution filed on June 23, 1998, in Symposium on Process and Reform: Commission Complaint Procedures, Docket No. PL98–4–000.

process would better enable the Commission to monitor activities in the marketplace and provides an early warning system for identifying potential problems. It is in this context that the Commission is proposing changes to its complaint procedures. Revised complaint procedures are necessary to provide assurance to the public that complaints will receive appropriate consideration and that complaints that require expedited consideration will receive it.

The Commission has received a number of proposals concerning its complaint procedures. These proposals are summarized below, and the Commission invites interested parties to comment on these proposals. The Commission has constructed its own proposal, incorporating what appeared to be the best, and most practical elements of the various proposals and the principles recommended by the Staff initiative. The goals of the Commission's proposed revisions are to encourage and support the resolution of disputes by the parties themselves prior to the filing of a formal complaint, to organize the complaint procedures so that all complaints are handled in a timely, fair manner based upon an appropriate record, and to assure those complaints deserving of expedition receive it, recognizing that the appropriate process to be used for a particular complaint depends on many factors including the parties involved, the harm alleged, and the facts and circumstances surrounding the complaint. The Commission's proposal furthers the goals of promoting early resolution of contested matters and complaints, and focusing on consensual decisionmaking, ADR, and expeditious decisionmaking.

B. Complaint Procedures

1. Proposed Revisions to the Complaint Procedures

Many disputes can be resolved by parties on an informal basis. Therefore, prior to employing any formal procedures, the Commission strongly encourages potential complainants to use informal procedures to resolve disputes to the extent possible. These informal procedures could include those contained in the tariffs of the pipelines and electric utilities, the Commission's Enforcement Hotline, or other types of voluntary ADR techniques. The Commission believes that informal resolution of disputes will be such an important element to the success of the Commission's revised complaint procedures, that it is prepared to make available resources for parties to call upon to aid their attempts to informally resolve disputes. For example, parties can employ the Commission's Enforcement Hotline to receive information, informal Staff opinions, or assistance in reaching a consensual resolution of a dispute. The Commission requests comments on other types of professional assistance the Commission might provide to facilitate informal dispute resolution. The Commission also requests comments on whether informal procedures prior to filing a formal complaint should be mandatory.

To the extent potential complaints can be resolved, or the number of issues in a potential complaint can be reduced informally, the Commission can then focus its attention on those complaints concerning the most difficult and contentious issues. Therefore, in the proposed rules the Commission proposes to require complaints to contain a statement of (1) whether informal procedures, including ADR or the Commission's Enforcement Hotline, were used or why they were not used and (2) whether the complainant believes that informal procedures, such as ADR, could successfully resolve the complaint if it were under Commission supervision.

Under the proposed revisions in this NOPR, the process at the Commission would begin with the filing of a formal complaint pursuant to Rule 206 of the Commission's Rules of Practice and Procedure.

The Commission proposes to revise Rule 206 to require that a complaint must satisfy certain informational requirements. Specifically, a complaint would have to: (1) clearly identify the action or inaction which is alleged to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful, or is contrary to a certificate or license condition, a tariff provision, or the terms of an exemption, (2) provide an explanation of the reasons why the action or inaction is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful, or is contrary to a condition in a certificate or license, a tariff provision, or the terms of an exemption, (3) set forth the business, commercial, economic or other issues presented by the action or inaction, service or practice as such relate to or affect the complainant, or, where applicable, the environmental or safety issues presented by the action or inaction, (4) quantify the financial impact or burden (if any) created for the complainant as a result of the action or inaction, or, where applicable, the environmental or safety impacts of the action or inaction, (5) indicate the practical and operational impacts imposed upon the complainant as a result of the action or inaction, or, where applicable, the environmental or safety impacts of the action or inaction, (6) state whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum, (7) state the specific relief requested, including interim relief to preserve the status quo, and in cases of interim relief, a detailed explanation why such relief is required addressing (a) the likelihood of success on the merits, (b) the nature and extent of the harm if interim relief is denied, (c) the balance of the relevant interests, *i.e.*, the hardship to nonmovant if interim relief is granted contrasted with the hardship to the movant if interim relief is denied, and (d) the effect, if any, of the decision on the public interest, (8) include all documents that support the facts in the complaint, including, but not limited to, contracts, affidavits, and testimony, and (9) state whether the Enforcement Hotline or other informal procedures were used, whether the complainant believes that ADR under the Commission's supervision could successfully resolve the complaint, and describe the formal or consensual process the complainant proposes for resolving the complaint.

In addition, the Commission proposes to revise Rule 206 to require a complainant to serve a copy of the complaint on the respondent and all others who the complainant knows will be affected simultaneously with filing at the Commission. Simultaneous service can be accomplished through electronic mail, fax, express delivery, or messenger. This would be a change from current Commission rules on service for other types of pleadings. The Commission is particularly interested in receiving comments on whether simultaneous service to affected parties is practical.

The Commission proposes to strictly enforce the filing requirements of Rule 206. Requiring a complainant to set forth its case in some detail should ensure that the respondent, interested parties, and the Commission have adequate information early in the complaint process so that each party may begin analyzing the complaint and consider proposed courses of action.

After a complaint is filed with the Commission, a public notice of the complaint would be issued within 2 days to give interested parties an opportunity to intervene and be heard.

This will be a ministerial action. The Commission does not propose to screen the complaint for sufficiency at that point. After an answer is filed, the Commission will consider any alleged deficiencies in the complaint. The Commission will exercise its discretion to determine the sufficiency of a complaint. However, a complainant who fails to meet the Commission's filing requirements runs the risk that its complaint will be dismissed for a failure to meet its burden unless it adequately explains why the information was not presented. The Commission also proposes to revise Rule 206 to provide that answers to complaints, comments, and interventions must be filed no later than 10 days after the complaint is filed. This process is patterned after the interstate natural gas pipeline rate rules where intervention and answer dates are triggered by the filing date and not the notice date.[12] This would be a change from the current complaint rules. The Commission requests comment as to whether 10 days from the date of filing of the complaint is adequate in all circumstances to file answers, comments, and interventions.

Certain sections of Part 343, Procedural Rules Applicable to Oil Pipeline Proceedings, will need to be revised to conform with the proposed changes to the Commission's complaint procedures. Therefore, the Commission proposes to revise paragraph (c)(3) of § 343.2 of the Commission's regulations to require that complaints involving non-rate matters must also comply with Rule 206. The Commission also proposes to revise § 343.4(a) to require that answers must be filed in accordance with Rule 206. Thus, the time for answers for oil pipeline complaints will be reduced from 30 days to 10 days after the filing of the complaint.

As a corollary to the more detailed filing requirements for a complaint, the Commission proposes to strictly enforce Rule 213 of the Commission's Rules of Practice and Procedure, which requires that an answer to a complaint ''admit or deny, specifically and in detail, each material allegation of the pleading answered'' and ''set forth every defense relied on.'' [13] This would help to define the controverted issues early and thus provide a framework for the Commission to decide on a procedure for resolving the dispute as quickly as possible. In addition, the Commission is proposing to revise Rule 213 to require that answers to complaints must include all documents that support the facts in the answer, including, but not limited to contracts, affidavits, and testimony. To the extent that a respondent does not comply with Rule 213, the Commission will consider granting the relief requested by the complainant based upon the pleadings alone. Respondents filing what is in essence a general denial would do so at their own peril. The respondent should also describe the formal or consensual process it proposes for resolving the complaint.

Once an answer has been filed, there are basically three different procedures that the Commission proposes to use to resolve issues raised in complaints. This is not a comprehensive list and the Commission asks for comments on others that might be appropriate. The objective in all instances would be selection of a fair and equitable process that would allow a resolution of the complaint as expeditiously as possible given the issues, parties, and circumstances. The Commission does not propose to establish any overall time limits within which complaints must be resolved, given the variability of possible issues and the limited extent of the Commission's resources. The Commission, however, would be committed to resolving complaints in the most expeditious manner possible. In this regard, therefore, the Commission indicates below some target time frames for the resolution of complaints depending on the type of procedure used.

The first possible procedural path for a complaint would be for a complaint to be decided by the Commission based upon the pleadings alone. In cases where the complaint is to be decided based upon the pleadings alone, the Commission would endeavor to issue an order on the complaint within 60–90 days after the answer is filed. The length of time in which an order could be issued would depend on the complexity of the complaint. A complaint concerning a straightforward interpretation of a tariff or contract should be resolved in 60 days or less, while a complaint concerning policy issues closely intertwined with difficult interpretation issues might take longer.

If a complaint does not lend itself to a decision on the merits based upon the pleadings, the Commission could order an expedited hearing before an ALJ, convene a conference, or assign the complaint to an ADR procedure, where appropriate. If the Commission takes one of these procedural paths, the intention is to issue an order selecting one of these paths within approximately 30 days after the answer is filed. The second possible procedural path for a complaint is an expedited hearing. In cases where the complaint is set for an expedited hearing before an ALJ, the objective would be to have an initial decision rendered within 60 days. The Commission's objective then would be to issue its order on an appeal from the initial decision concerning a complaint within 90 days after briefs opposing exceptions are filed. The overall time in which it would take to issue an order on exceptions from an initial decision could be reduced to the extent that parties can agree on reducing the time currently allowed for the filing of briefs on an opposing exceptions.[14] If there are no exceptions to the initial decision, then under Rule 712 [15] the ALJ's decision would become the final agency action.

Where the parties have agreed that ADR under the Commission's auspices would be beneficial, the Commission could issue an order directing that the complaint be resolved through alternative dispute resolution techniques such as mediation, arbitration, mini trial, or proceeding before a settlement judge. This is the third procedural path a complaint may take. Since ADR is a voluntary process, the time period in which a decision can be rendered is largely in the control of the affected parties. The Commission's objective, however, would be to issue any subsequent orders on complaints resolved through ADR in a meaningful time period.

It is important for parties to have a role in determining the process that should be used for resolving a complaint. If parties are unable to resolve their dispute through informal procedures, the Commission encourages them to at least agree on the procedures for resolving a formal complaint filed with the Commission. The parties should also inform the Commission when a decision is needed in order to satisfy their business needs. Under the proposed revisions, if the parties reach agreement concerning the procedures to be used and the requested time for action, every effort would be made to honor the proposal of the parties. Parties need to understand that the Commission's ability to resolve a complaint in a timely and meaningful manner will be enhanced if the parties can at least agree on a process if not the substance. Parties should also recognize that the more formal the complaint procedure the more time it is likely to

[12] 18 CFR 154.210 (1998).

[13] 18 CFR 385.213(c)(1998).

[14] Pursuant to Rule 711, 18 CFR 385.711 (1998), briefs on exceptions are due not later than 30 days after service of the initial decision and briefs opposing exceptions are due 20 days thereafter.

[15] 18 CFR 385.712 (1998).

take the Commission to render a decision.

There is undoubtedly a category of case that would require immediate action by the Commission. To the extent the Commission has the authority, the Commission could issue an order expeditiously to preserve the status quo pending a final resolution of the complaint on the merits.

In its proposal the Electric Working Group suggested that relief should be granted based on the following factors: (1) likelihood of success on the merits; (2) whether irreparable injury to complainant will occur if the relief is not granted; (3) whether the injury outweighs harm to the respondent or other parties to the proceeding if the relief is granted; and (4) other public interest considerations. These are the standards used by Courts of Appeal when considering requests to stay administrative orders, as well as deciding whether to grant preliminary relief,[16] but are not the standards currently used by the Commission to decide whether to stay its own orders.[17] The Commission proposes to adopt the standards proposed by the Electric Working Group but requests comments on whether other standards should be established for granting such interim relief.

2. Alternative Complaint Procedures

The procedures proposed here must be viewed against a background of a more complex energy market where regulated and unregulated companies are driven increasingly by competitive market forces. The dynamics of competitive markets and lighter-handed Commission regulation can be expected to change the nature of the complaints received. The Commission will be faced both with unusual commercial problems and with requests for relief in the context of rapidly moving competitive circumstances. The Commission therefore anticipates that greater demands will be placed upon it to respond expeditiously to resolve disputes.

The question the Commission now confronts is how to structure its processes to ensure rapid response to market issues. One of the elements of the Staff's proposal was for certain disputes to be assigned to Office Directors for resolution by Letter Order. The Electric Working Group also suggested that, where appropriate, a complaint could be assigned to an Office Director who would prepare a Letter Order for issuance by the Commission. It may be helpful to employ a Letter Order or delegation of some complaint responsibilities to staff or ALJs to achieve expedition where possible. Complaints represent an important source of information that allows the Commission to monitor activities in the marketplace. Based on complaints, the Commission is often able to identify instances where there is a need for policy change or development. Complaints frequently plow new legal ground as well. Thus, delegation of complaint authority would not be implemented in a way that would impair the Commission's growing monitoring role or exclude Commissioners from decisions involving complex fact issues, new policy concerns, or unresolved law or other important issues. In a limited and well-defined category of cases, perhaps delegations could be adopted that handle more routine commercial issues with real expedition, subject to rehearing before the Commission.

The Commission is therefore interested in comment on whether there may be a limited category of cases which could be handled by delegation or Commission letter order to expedite resolution without compromising the full Commission's oversight responsibility. In seeking comment in this area, the Commission is preparing itself for types and numbers of cases that are likely to arise from the competitive market and reinforcing its commitment to be more responsive to the evolving market. The Commission may also achieve expedition through deadlines for completing specific processes.

One avenue for resolving requests for interim relief expeditiously might be assignment to an administrative law judge. An ALJ could hold oral argument to determine whether to issue an order that would preserve the status quo pending a final decision on the merits of the complaint. In cases where such interim relief is requested, the ALJ could issue an order shortly after the oral argument. The ALJ would have the discretion to determine an appropriate time for action based upon the nature of the complaint. The Commission requests comment on whether this procedure would be an advantage in expediting the resolution of requests for immediate relief.

In addition to the procedures discussed above, the Commission would like to receive comments on whether there should be special procedures established in cases where small customers allege harm or there is a small amount of money in controversy. The Commission envisions that such procedures could be akin to a small claims court. The Commission requests comments on how it should define a small customer, and what could be an appropriate ceiling level for the amount in controversy.

The Commission requests comments on whether a complainant filing under a small claims court type procedure should be required to satisfy all the informational requirements contained in revised Rule 206. The Commission, for example, could create a standard short-form complaint in which the complainant would state why it is eligible for the procedure, provides a brief description of the facts and circumstances surrounding the complaint, and states the requested relief. The Commission could make such a short-form complaint available in both paper and electronic format and could even provide for the electronic filing of such a complaint. Similarly, the Commission could reduce the requirements for an answer under this procedure. There are a number of ways in which the Commission could handle a short-form complaint. An Office Director, acting under delegated authority, could issue an order based upon the pleadings. An ALJ could be assigned to issue orders on such complaints and where necessary hear arguments. Finally, a single Commissioner could be designated to decide such complaints, similar to the Motions Commissioner under the existing rules for interlocutory appeals.[18] In any of these instances, the Commission envisions that an order would be issued within 30 days after the complaint is filed. The order could be appealable to the Commission. The Commission requests comments on these proposals and other procedures that could be used in lieu of the proposed small claims court type process.

3. Other Approaches

The Commission has formulated proposed changes in its complaint procedures that incorporate what appeared to be the best and most practical elements from the various proposals it has received. Among those was one from the staff initiative. The FERC First Staff proposed a multi-disciplinary Commission team that would identify one of four potential resolution paths for a complaint: (1) ADR, if settlement is likely; (2) injunctive type relief from an

[16] *See* Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958).

[17] In acting on requests for stay, the Commission applies the standard set forth in section 705 of the Administrative Procedure Act, 5 USC 705 (1988), *i.e.*, the stay will be granted if ''justice so requires.''

[18] 18 CFR 385.715 (1998).

administrative law judge (ALJ) if the complaint is time sensitive; (3) an order issued by the Commission or an office director by delegation where clear precedent exists and where there are no genuine issues of material fact in dispute; and (4) hearing for a fact intensive dispute that would benefit from the development of an evidentiary record.

The Commission also has received three comprehensive industry proposals concerning revisions to the Commission's complaint procedures. These proposals, which are summarized below, were filed by the Coalition, INGAA, and the Electric Working Group. Their complete proposals can be found in their respective pleadings. The Commission requests parties to comment on these industry proposals. Given that the proposals are industry specific, the comments should include the extent to which such proposals, with modifications, could be adopted by the Commission on a generic basis, as well as what aspects of such proposals could be incorporated into the Commission's proposal discussed above. Although comments have been filed on the Coalition's, the Electric Working Group's, and INGAA's proposals, the Commission believes that parties may wish to formally comment given the Commission's plan to revise its complaint procedures on a generic basis.

a. The Coalition's Proposal. The Coalition's proposal would require natural gas pipelines' tariffs to contain a complaint procedure and would formalize procedures for use of the Commission's Hotline. A complainant's use of the Hotline and a pipeline's complaint procedure would be a prerequisite to using the expedited complaint procedures contained in the Commission's regulations.

A complaint would qualify for the expedited procedure if it concerns (1) an interpretation of the terms and conditions of a pipeline's tariff, a pipeline's executed service agreement, or a Commission approved settlement agreement, (2) an allegation that a pipeline is engaging in activities involving undue preference, undue discrimination, or unfair competition or which involve violations of law or Commission regulations, and (3) a proposal by the complainant to revise an executed service agreement, an existing pipeline tariff other than a change in the pipeline's approved rates or rate structure, or an operating practice not mentioned or defined in the pipeline tariff.

Each of the categories would require the Commission to meet strict time deadlines. For example, the Commission would have a total of 90 days to rule on complaints concerning interpretation issues.

Complaints concerning rates or rate structure would not qualify for the expedited procedure. The Commission would still have to summarily dispose of such complaints, as well as other complaints not eligible for the expedited procedures, within 120 days of the notice date or prescribe further procedures with a time for final action.

A complaint would have to contain a statement of the complaint with business reasons (including financial impact), indicate the absence of other regulatory relief, the specific relief or remedy requested, and a notice. Prior to issuing a notice, the Commission could send the complaint back to the filing party if it was deficient.

A notice would have to be issued in 15 days. The Coalition proposal would give a total of 45 days for interventions, answers and replies. Interventions would be due 12 days from the notice, answers would be due 30 days from the notice, and replies would be due 45 days from the notice. After all the pleadings are received, the Commission would have 30 to 120 days to act on the complaint depending on the type of complaint and the procedural mechanism chosen by the Commission, that is, summary disposition, a technical conference, hearing, etc.

b. INGAA's Proposal. Under INGA's proposal complaints eligible for expedited consideration are those for the interpretation of the terms and conditions of a natural gas company's tariff or service agreements. Included would also be complaints alleging undue discrimination in providing transportation and storage services. Complaints to change a pipeline's tariff or executed service agreement would not fall under this procedure, but under the existing Rule 206 procedure.

INGAA's proposal consists initially of informal negotiations between designated representatives of the pipeline and the complainant. If these negotiations are unsuccessful within a time certain, usually four business days, the complainant can seek informal advice from designated FERC Staff through a codified hotline procedure. If the parties with the help of the Staff cannot resolve the dispute within a time certain, usually nine days after initial contact of the pipeline by the Staff, the complainant has two options.

The complainant and the pipeline may agree to arbitration. The proposed procedures are similar to those already in place, but would provide for a direct appeal to the Commission of the arbitrator's decision if it is inconsistent with Commission orders, policies, regulations, or jeopardizes the operational integrity of the pipeline. These procedures would be subject to time limits.

The other option would be for the complainant to proceed directly from the hotline informal advice to the Commission under the formal complaint procedures under Rule 206. The Staff person who handled the Hotline procedure would indicate to the Commission the need for expediting the decision based on the materials that came out during the informal advice stage. No deadlines would be suggested to the Commission so as to assure the discretion it needs for dealing with such complaints.

The informal procedures, however, would not be prerequisites for a party to file a complaint under Rule 206.

c. The Electric Working Group's Proposal. Under the Electric Working Group's proposal, parties may agree at any time to ADR, including binding arbitration, of commercial disputes and issues that do not involve challenges to the justness and reasonableness of the rates, terms and conditions of filed contracts, tariffs or other rate schedules.

The disputing parties may initiate unilateral or bilateral contacts with a Dispute Resolution Task Force or the Enforcement Hotline.

For a fifteen month pilot period, complainant must submit a dispute to mediation prior to filing a complaint (other than complaints seeking to change filed rates, terms and conditions of service, or seeking expedited relief on the grounds of irreparable harm). The parties must engage in mediation efforts for a period not to exceed thirty days, with the objective of either settling the dispute or narrowing the policy issues and factual disputes remaining to be resolved.

The Electric Working Group suggested that the Commission create a Division of Dispute Resolution (DDR) that will determine which of several dispute resolution mechanisms will be employed to resolve those disputes not resolved by the pre-complaint procedures.

The DDR would select the appropriate procedure depending upon the issues presented by the complaint: (1) assignment to an Office Director who will prepare a Letter Order, for issuance by the Commission where required, that resolves the matter; (2) assignment to ADR procedures; (3) assignment to an ALJ who will set a schedule for cross motions for summary judgment and will issue a recommended decision; (4) assignment to an ALJ for hearing on an

expedited basis or a schedule to be determined by the ALJ; and (5) referral to the Commission.

C. Proposed Revisions to the ADR Regulations

In addition to revising the Commission's complaint procedures, the Commission is also proposing revisions to its ADR regulations in Rules 604, 605, and 606 of the Commission's Rules of Practice and Procedure. The Commission's ADR regulations, which were promulgated in Order No. 578, are based on the provisions of the Administrative Dispute Resolution Act (ADRA) of 1990.[19] In comments filed in Docket No. PL98–4–000, the American Arbitration Association (AAA) submits that several of the ADRA procedures adopted in the Commission's regulations actually impede the use of ADR. AAA states that under the 1990 Act, the disclosure requirements of the Freedom of Information Act (FOIA) preempted the confidentiality provisions of the ADRA. AAA states that materials in the government's possession or in the possession of a neutral who was a government employee were subject to release under FOIA unless a FOIA exemption applied. AAA contends that since confidentiality is essential to the effective use of mediation, the disclosure requirements contained in the 1990 ADRA and adopted by the Commission has a chilling effect upon the voluntary use of mediation.

AAA also asserts that voluntary use of arbitration has been curtailed by the inclusion of opt-out provisions in Rules 604 and 605. AAA states that the 1990 ADRA allowed an agency to terminate the arbitration proceeding at any point prior to the issuance of an award. In addition, an agency could vacate or opt-out of an arbitration award within 30 days after the service of the award. This 30 day opt-out period could be extended another 30 days at the discretion of the agency.

In 1996 Congress passed the Administrative Dispute Resolution Act of 1996. [20] The ADRA of 1996 provides that the confidentiality provisions of the Act pre-empt the disclosure requirements of the FOIA. In addition, the termination and opt-out provisions are eliminated. AAA submits that the Commission should amend its Rules of Practice and Procedure to bring existing Rules 604, 605, and 606 into compliance with the confidentiality, termination and opt-out provisions of the 1996 ADRA.

In addition, AAA asserts that the Commission should reverse the current requirement that any settlement agreement reached during an ADR process will be subject to the notice and comment provisions of Rule 602 ''unless the decisional authority, upon motion or otherwise, orders a different procedure.'' [21] AAA submits that the provision should indicate that agreements reached through mediation are not subject to notice and comment unless the Commission takes affirmative action within a set period of time (30 days). AAA believes that voluntary submission to ADR would increase if the procedural protections discussed above were enacted.

The Commission is proposing revisions to its regulations to address these concerns and requests parties to comment on them and any other related issues. The Commission proposes to revise Rules 604, 605 and 606 to conform to the 1996 ADRA by eliminating the termination and opt-out provisions, and providing that the confidentiality provisions of the 1996 ADRA pre-empt the disclosure requirements of the FOIA. The Commission is not proposing to revise the regulations to indicate that settlement agreements reached through ADR are not subject to the notice and comment requirements of Rule 602 unless the Commission takes affirmative action within 30 days, as suggested by the AAA. Such a change is not required to conform to the 1996 ADRA. Further, because in many instances settlements entered into by regulated companies can affect parties who were not part of the ADR process, it appears appropriate for the Commission to receive public comments on settlement agreements reached through ADR processes. However, the Commission requests comments on this issue.

D. Codification of Enforcement Hotline Procedures

To make the Enforcement Hotline easier to use, the Commission is proposing to codify the current Hotline procedures in a new Section 1b.21. The proposed procedures provide that the Hotline procedures may be used to address quickly and informally any matter within the Commission's jurisdiction, including disputes concerning natural gas pipelines, oil pipelines, electric utilities and hydroelectric projects. The Hotline Staff is authorized to provide information to the public and to give informal staff opinions that do not bind the General Counsel or the Commission. Any person may seek information or the informal resolution of a dispute by calling or writing to the Hotline. The Hotline Staff will informally seek information from the caller and any respondent, as appropriate. The Hotline Staff will attempt to resolve disputes without litigation or other formal proceedings. The Hotline Staff may not resolve matters that are before the Commission in docketed proceedings.

The proposed procedures also state that all information and documents obtained through the Hotline shall be treated as non-public by the Commission and its staff consistent with the provisions of section 1b.9. Calls to the Hotline may be made anonymously. Self-identification by the complainant makes it easier to provide a speedier resolution. Any person who contacts the Hotline is not precluded from filing a formal action with the Commission if discussions are unsuccessful at resolving the matter. A caller may terminate use of the Hotline procedures at any time.

The Hotline currently operates according to the procedures described above. The Commission proposes to codify them to alert the public to the availability of the Hotline and to provide information on the scope of the service.

III. Information Collection Statement

The following collection of information contained in this proposed rule is being submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995.[22] FERC identifies the information provided under 18 CFR Part 385 as FERC–600. FERC–600 consolidates certain existing information collection requirements from the various FERC program offices into one information collection number and accounts for the incremental burden placed on persons filing under the proposed regulations.

Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the burden on persons filing under the revised complaint procedures, including the use of automated information techniques.

[19] 5 U.S.C. 571–83 (1988), as amended by Pub. L. 102–354, 106 Stat. 944 (Aug. 26, 1992.)

[20] Pub. L. 104–320, 110 Stat. 3870 (October 19, 1996).

[21] 18 CFR 385.604(a)(5)(1998).

[22] 44 U.S.C. 3507(d) (1988).

Estimated Annual Burden: The burden estimates for complying with this proposed rule are as follows:

Data collection	Number of respondents	Number of responses	Hours per response	Total annual hours
FERC–600	75	75	14	1,050

Total Annual Hours for Collection (Reporting + record keeping, if appropriate) = 1,050.

Based on the Commission's experience with complaints, it is estimated that about 75 filings per year will be made over the next three years at a burden of 14 hours per filing, for a total annual burden of 1,050 hours under the proposed regulations. As described in this proposed rule, the Commission's expectation is that receiving more information in the complaint will lessen the subsequent burden on parties and will shorten the time for resolving a complaint. There is no annual reporting burden under the current regulations.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be:

Annualized Capital/Startup Costs—$55,260 Annualized Costs(Operations and Maintenance) _____ Total Annualized Costs $55,260. Average cost per Respondent $736.80.

The OMB regulations require OMB to approve certain information collection requirements imposed by agency rule.[23] Accordingly, pursuant to OMB regulations, the Commission is providing notice of its proposed information collection to OMB.

Title: FERC–600, Rules of Practice and Procedure

Action: Proposed Data Collection.

*OMB Control No. 1902–*_____

The respondent shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Respondents: Business or other for profit, including small businesses.

Frequency of Responses: Infrequent.

Necessity of Information: The proposed rule requires persons filing complaints and answers to complaints with the Commission to satisfy certain informational requirements, and to provide supporting documentation for the allegations in a complaint and answer to a complaint. The information will allow the Commission to properly evaluate a complaint and resolve it in a timely manner.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements. The Commission's Offices of General Counsel, Pipeline Regulation, Electric Power Regulation, and Hydropower Licensing, will use the data to make decisions with respect to the merits of a complaint. This internal review determination involves among, other things, an examination of adequacy of design, cost, reliability, redundancy of the information to be required. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the interstate natural gas pipeline, oil pipeline, electric and hydroelectric industries.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 273–0873, e-mail: michael.miller@ferc.fed.us].

For submitting comments concerning the collection of information and the associated burden estimate, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC, 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285.

IV. Environmental Analysis

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.[24] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[25] The actions proposed to be taken here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[26] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.[27] The Commission is not required to make such analyses if a rule would not have such an effect.[28]

The Commission does not believe that this rule would have such an impact on small entities. The majority of complaints filed with the Commission have been by companies who do not meet the RFA's definition of a small entity whether or not they are under the Commission's jurisdiction.[29] Further, the Commission is proposing to speed up the complaint process in general and in particular for those cases where small business entities have been the subject of an alleged detriment. This proposed rule will be beneficial to small entities. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Comment Procedures

The Commission invites interested persons to submit written 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. An original and 14 copies of comments must be filed with the Commission no

[23] 5 CFR 1320.11

[24] 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).

[25] 18 CFR 380.4.

[26] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[27] 5 U.S.C. 601–612 (1988).

[28] 5 U.S.C. 605(b)(1988).

[29] 5 U.S.C. 601(3)(1988).

later than October 5, 1998. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and should refer to Docket No. RM98–13–000. All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington, DC 20426, during regular business hours.

Additionally, comments should be submitted electronically. Commenters are encouraged to file comments using Internet E–Mail. Comments should be submitted through the Internet by E–Mail to comment.rm@ferc.fed.us in the following format: on the subject line, specify Docket No. RM98–13–000; in the body of the E–Mail message, specify the name of the filing entity and the name, telephone number and E–Mail address of a contact person; and attach the comment in WordPerfect® 6.1 or lower format or in ASCII format as an attachment to the E–Mail message. The Commission will send a reply to the E–Mail to acknowledge receipt. Questions or comments on electronic filing using Internet E–Mail should be directed to Marvin Rosenberg at 202–208–1283, E–Mail address marvin.rosenberg@ferc.fed.us.

Commenters also can submit comments on computer diskette in WordPerfect® 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. RM98–13–000 on the outside of the diskette.

List of subjects

18 CFR Part 1b

Investigations.

18 CFR Part 343

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 385

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

By direction of the Commission.

David P. Boergers,

Acting Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 1b, 343, and 385, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 1b—RULES RELATING TO INVESTIGATIONS

1. The authority citation for part 1b is amended to read as follows:

Authority: 15 U.S.C. 717 *et seq.*; 16 U.S.C. 792 *et seq.*; 49 U.S.C. 60502; 49 App. U.S.C. 1–85; 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267.

2. In § 1b.1, new paragraph (d) is added to read as follows:

* * * * *

(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.

3. In part 1b, new section 1b.21 is added to read as follows:

§ 1b.21 Enforcement Hotline.

(a) The Hotline Staff may provide information to the public and give informal staff opinions. The opinions given are not binding on the General Counsel or the Commission.

(b) Any person may seek information or the informal resolution of a dispute by calling or writing to the Hotline at the telephone number and address in paragraph (f) of this section. The Hotline Staff will informally seek information from the caller and any respondent, as appropriate. The Hotline Staff will attempt to resolve disputes without litigation or other formal proceedings. The Hotline Staff may not resolve matters that are before the Commission in docketed proceedings.

(c) All information and documents obtained through the Hotline Staff shall be treated as non-public by the Commission and its staff consistent with the provisions of § 1b.9 of this part.

(d) Calls to the Hotline may be made anonymously.

(e) Any person who contacts the Hotline is not precluded from filing a formal action with the Commission if discussions are unsuccessful at resolving the matter. A caller may terminate use of the Hotline procedure at any time.

(f) The Hotline may be reached by calling (202) 208–1390 or toll free (877) 303–4340 or writing to: Enforcement Hotline, Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426.

PART 343—PROCEDURAL RULES APPLICABLE TO OIL PIPELINE PROCEEDINGS

1. The authority citation for part 343 continues to read as follows:

Authority: 5 U.S.C. 571–583; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. In § 343.2 paragraph (c)(3) is revised to read as follows:

§ 343.2 Requirements for filing interventions, protests and complaints.

* * * * *

(c) * * *

(3) *Non-rate matters.* A protest or complaint filed against a carrier's operations or practices, other than rates, must allege reasonable grounds for asserting that the operations or practices violate a provision of the Interstate Commerce Act, or of the Commission's regulations. In addition to meeting the requirements of this paragraph, a complaint must also comply with the requirements of Rule 206.

* * * * *

3. In § 343.4 paragraph (a) is revised to read as follows:

§ 343.4 Procedures on complaints.

(a) *Responses.* The carrier must file an answer to a complaint filed pursuant to section 13(1) of the Interstate Commerce Act within 10 days after the filing of the complaint in accordance with Rule 206.

* * * * *

PART 385—RULES OF PRACTICE AND PROCEDURE

1. 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; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. In § 385.206, existing paragraph (b) is redesignated paragraph (e) and is revised, existing paragraph (c) is redesignated paragraph (g), and new paragraphs (b), (c), (d), and (f) are added to read as follows:

§ 385.206 Complaints (Rule 206).

* * * * *

(b) *Contents.* A complaint must:

(1) Clearly identify the action or inaction which is alleged to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful, or is contrary to a certificate or license condition, a tariff provision, or the terms of an exemption;

(2) Provide an explanation of the reasons why the action or inaction is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful, or is contrary to a certificate or license condition, a tariff provision, or the terms of an exemption;

(3) Set forth the business, commercial, economic or other issues presented by the action or inaction, service or practice as such relate to or affect the complainant, or, where applicable, the environmental or safety issues presented by the action or inaction;

(4) Quantify the financial impact or burden (if any) created for the

complainant as a result of the action or inaction, or, where applicable, the environmental or safety impacts of the action or inaction;

(5) Indicate the practical and operational impacts imposed upon the complainant as a result of the action or inaction, or, where applicable, the environmental or safety impacts of the action or inaction;

(6) State whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum;

(7) State the specific relief, including interim relief to preserve the status quo, or remedy requested, and in cases seeking interim relief, a detailed explanation of why such relief is required addressing:

(i) The likelihood of success on the merits;

(ii) The nature and extent of the harm if interim relief is denied;

(iii) The balance of the relevant interests, *i.e.*, the hardship to nonmovant if interim relief is granted contrasted with the hardship to the movant if interim relief is denied; and

(iv) The effect, if any, of the decision on the public interest;

(8) Include all documents that support the facts in the complaint, including, but not limited, to contracts, affidavits, and testimony;

(9) State:

(i) Whether the Enforcement Hotline or other informal procedures were used;

(ii) Whether the complainant believes that alternative dispute resolution (ADR) under the Commission's supervision could successfully resolve the complaint;

(iii) What types of ADR procedures could be used; and

(iv) Describe any process that has been agreed on for resolving the complaint.

(c) *Service.* Any person filing a complaint must serve a copy of the complaint on the respondent and others the complainant knows will be affected simultaneously with filing at the Commission and must so affirm in the complaint. Simultaneous service can be accomplished through electronic mail, fax, express delivery, or messenger.

(d) *Notice.* A public notice of the complaint will be issued.

(e) *Answers, interventions and comments.* (1) Unless otherwise ordered by the Commission, any respondent to a complaint must file an answer with the Commission within 10 days after the complaint is filed.

(2) Interventions and comments are also due within 10 days after the complaint is filed.

(f) *Complaint resolution procedures.* One of the following procedures may be used to resolve complaints:

(1) The Commission may issue an order on the merits based upon the pleadings;

(2) In cases where the affected parties consent, the Commission may assign a case to be resolved through alternative dispute resolution procedures in accordance with §§ 385.603 through 385.606; or

(3) The Commission may convene a conference or establish a hearing, including an expedited hearing, before an ALJ.

3. In § 385.213 paragraph (c)(4) is added to read as follows:

§ 385.213 Answers (Rule 213).

* * * * *

(c) * * *

(4) An answer to a complaint must include all documents that support the facts in the answer, including, but not limited to, contracts, affidavits and testimony.

* * * * *

4. In § 385.604, paragraph (d)(3) is removed, paragraphs (d)(4), (d)(5), and (d)(6) are redesignated paragraphs (d)(3), (d)(4), and (d)(5), paragraph (g) is removed, and paragraph (d)(2) is revised to read as follows:

§ 385.604 Alternative means of dispute resolution (Rule 604).

* * * * *

(d) * * *

(2) For matters set for hearing under subpart E of this part, a proposal to use alternative means of dispute resolution must be filed with the presiding administrative law judge.

* * * * *

5. In § 385.605, paragraph (f) is removed, and paragraphs (a)(4) and (e)(2) are revised to read as follows:

§ 385.605 Arbitration (Rule 605).

(a) * * *

(4) An arbitration proceeding under this rule may be monitored as provided in Rule 604(f).

* * * * *

(e) * * *

(2) The award in an arbitration proceeding will become final 30 days after it is served on all parties.

* * * * *

6. In § 385.606 paragraph (d) is redesignated paragraph (d)(1) and paragraphs (d)(2) and (l) are added:

§ 385.606 Confidentiality in dispute resolution proceedings (Rule 606).

* * * * *

(d) * * *

(2) To qualify for the exemption established under paragraph (l) of this section, an alternative confidential procedure under this paragraph may not provide for less disclosure than confidential procedures otherwise provided under this rule.

* * * * *

(l) A dispute resolution communication that may not be disclosed under this rule shall also be exempt from disclosure under 5 U.S.C. 552(b)(3).

[FR Doc. 98–20997 Filed 8–5–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–6137–4]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Proposed rule—Consistency Update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the South Coast Air Quality Management District (South Coast AQMD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts, contained in the Technical Support Document, is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments on the proposed update must be received on or before September 8, 1998.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air