

has an audit committee, the members are independent. In determining whether a member is independent, registrants must use the definition of independence in Sections 303.01(B)(2)(a) and (3) of the NYSE's listing standards, Section 121(A) of the AMEX's listing standards, or Rule 4200(a)(15) of the NASD's listing standards, as such sections may be modified or supplemented, and state which of these definitions was used. Whichever definition is chosen must be applied consistently to all members of the audit committee.

(v) The information required by paragraph (e)(3) of this Item shall not be deemed to be "soliciting material," or to be "filed" with the Commission or subject to Regulation 14A or 14C (17 CFR 240.14a-1 *et seq.* or 240.14c-1 *et seq.*), other than as provided in this Item, or to the liabilities of section 18 of the Exchange Act (15 U.S.C. 78r), except to the extent that the registrant specifically requests that the information be treated as soliciting material or specifically incorporates it by reference into a document filed under the Securities Act or the Exchange Act. Such information will not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference.

(vi) The disclosure required by this paragraph (e)(3) need only be provided one time during any fiscal year.

(vii) Investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), other than closed-end investment companies, need not provide the information required by this paragraph (e)(3).

\* \* \* \* \*

Dated: December 22, 1999.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-33849 Filed 12-29-99; 8:45 am]

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Parts 375 and 376**

[Docket No. RM00-4-000; Order No. 613]

**Delegations of Authority**

Issued December 21, 1999.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is amending regulations to revise delegations of authority and related provisions to reflect changes in the Commission's internal structure.

**DATES:** This final rule is effective January 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Wilbur Miller, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208-0953.

**SUPPLEMENTARY INFORMATION:** 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.fed.us>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

- CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994
- CIPS can be access 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 8.0 format for viewing, printing, and/or downloading
- RIMS contains images 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 from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208-2222 (E-Mail to [WebMaster@ferc.fed.us](mailto:WebMaster@ferc.fed.us)) or the Public Reference at (202) 208-1371 (E-Mail to [public.referenceroom@ferc.fed.us](mailto:public.referenceroom@ferc.fed.us)).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

**I. Introduction**

The Federal Energy Regulatory Commission (Commission) is amending 18 CFR Parts 375 and 376 to revise the

delegations to certain Commission officials and to make related changes in connection with changes in the Commission's internal structure. These changes came about as a result of the Chairman's FERC First initiative, which reorganized many of the Commission's internal operations with the objective of making them more responsive to the public's needs. As a result, the positions to which the Commission formerly delegated a number of authorities will no longer exist. This rulemaking reassigns those authorities to the new offices.

**II. Background**

The Commission's staff, at the Chairman's direction, has undertaken a re-engineering effort, called FERC First, to re-examine and, where appropriate, restructure its organization and processes. One result of this effort has been a decision to replace a number of the Commission's internal organizations with others that are better structured to meet the challenges of changing energy markets. Among the new offices that the Commission has established, or is establishing, are the Office of Markets, Tariffs and Rates (OMTR); the Office of Energy Projects (OEP); and the Office of Finance, Accounting and Organization (OFAO). Among the offices being eliminated are the Office of the Chief Accountant, the Office of Pipeline Regulation, the Office of Electric Power Regulation, the Office of Energy Policy, the Office of the Executive Director and the Office of Hydropower Licensing.

**III. Discussion**

The change in internal structure requires that many of the Commission's delegations of authority be revised to reflect the fact that the positions to which the existing delegations were made, in some cases, have been or are being eliminated. This rulemaking is intended solely to transfer existing delegations rather than to alter the existing scope of delegated authority within the Commission. Apart from the provisions being revised in this rulemaking, there may be other references in the Commission's regulations to official positions or offices that will no longer exist after the reorganization of the Commission's staff. These regulations will be revised in due course. The existing delegations are being revised as follows:

*Part 375*

*Office of the Chief Accountant (existing § 375.303).* The Office of the Chief Accountant has been moved into OFAO, with the Chief Accountant reporting to the Director of OFAO.

Consequently, most of the delegations contained in this section are being transferred to the Director. Authorities contained in subsections 375.303(d)(1) and (e) are being transferred to OMTR. Section 375.303(g) is being deleted because it is obsolete.

*Office of Pipeline Regulation (existing § 375.307).* These delegations are being divided between the Directors of OMTR and OEP. In particular, where a delegation concerns pipeline facilities or both facilities and services, it is being transferred to OEP. Where it concerns services only, it is being transferred to OMTR.

*Office of Electric Power Regulation (existing § 375.308).* These delegations are being transferred to OMTR.

*Office of Economic Policy (existing § 375.310).* This section is being deleted as obsolete.

*Office of the Executive Director (existing § 375.313).* These delegations are being transferred to OFAO.

*Office of Hydropower Licensing (existing § 375.314).* These delegations are being transferred to OEP.

#### Part 376

Part 376 governs the Commission's organization and its operations during emergency conditions. This rulemaking updates the list of officials authorized to conduct operations during emergency conditions and replaces references to the former position of Executive Director with the Director, OFAO.

#### General

The Commission is issuing this as a final rule without a period for public comment. Under 5 U.S.C. 553(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice, or where the agency finds that notice and comment is unnecessary. This rule concerns only matters of internal agency procedure and will not affect regulated entities or the general public. Therefore, the Commission finds notice and comment procedures to be unnecessary.

#### IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions and analyses of rules that will have a significant impact on a substantial number of small entities. 5 U.S.C. 601-612. The Commission is not required to make such analyses if a rule would not have such an effect. Because this rule concerns only matter of internal agency procedure, it will have no impact upon any entity other than the Commission.

#### V. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment. Order No. 486, Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶30,783 (1987). The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Among these are rules that are clarifying, corrective, or procedural, or that do not substantively change the effect of the regulations being amended. 18 CFR 380.4(a)(2)(ii). This rule is procedural in nature and therefore falls under this exception; consequently, no environmental consideration is necessary.

#### VI. Information Collection Statement

This rulemaking contains no information collections.

#### VII. Congressional Review

The provisions of 5 U.S.C. 801, regarding Congressional review of rulemakings, do not apply to this rulemaking because it concerns agency procedure and practice and will not substantially affect the rights and obligations of non-agency parties. 5 U.S.C. 804(3)(C).

#### List of Subjects

##### 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

##### 18 CFR Part 376

Civil defense, Organization and functions (Government agencies).

By the Commission.

( S E A L )

**David P. Boergers,**  
Secretary.

In consideration of the foregoing, the Commission amends Parts 375 and 376, Chapter I, Title 18, of the *Code of Federal Regulations*, as follows:

#### PART 375—THE COMMISSION

1. The authority citation for Part 375 continues to read as follows:

**Authority:** 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791-825r, 2601-2645; 42 U.S.C. 7101-7352.

2. Section 375.303 is revised to read as follows:

#### § 375.303 Delegations to the Chief Accountant.

(a) The Commission authorizes the Chief Accountant or the Chief Accountant's designee to issue interpretations of the Uniform System of Accounts for public utilities, licensees, natural gas companies and oil pipeline companies.

(b) Pass upon any proposed accounting matters submitted by or on behalf of public utilities, licensees, natural gas companies, and oil pipeline companies, that require Commission approval under the Uniform System of Accounts, except that if the proposed accounting matters involve unusually large transactions or unique or controversial features, the Director must present the matters to the Commission for consideration.

(c) Pass upon applications to increase the size or combine property units of public utilities, licensees, natural gas companies and oil pipeline companies.

3. Section 375.307 is revised to read as follows:

#### § 375.307 Delegations to the Director of the Office of Markets, Tariffs and Rates.

The Commission authorizes the Director or the Director's designee to:

(a) Sign all correspondence on behalf of the Commission with state regulatory commissions and agencies in connection with non-financial auditing matters.

(b) Pass upon any uncontested application for authorization to issue securities or to assume obligations and liabilities, filed by public utilities and licensees pursuant to part 34 of this chapter.

(c) Sign non-financial audit reports of jurisdictional companies.

(d) In connection with non-financial audits, pass upon and review requests by state and federal agencies to review staff audit working papers if the company agrees to the release of the audit working papers provided:

(1) The papers are examined at the Commission; and

(2) The requester

(i) Only makes general notes concerning the contents of the audit working papers,

(ii) Does not make copies of the audit working papers, and

(iii) Does not remove the audit working papers from the area designated by the Director.

(e) Take appropriate action on the following types of uncontested applications for authorizations and uncontested amendments to applications and authorizations and impose appropriate conditions:

(1) Applications by a pipeline for the deletion of delivery points but not facilities;

(2) Applications to abandon pipeline services, but not facilities, involving a specific customer or customers, if such customer or customers have agreed to the abandonment;

(3) Applications for temporary or permanent certificates (and for amendments thereto) for services, but not facilities, in connection with the transportation, exchange or storage of natural gas, provided that the cost of construction of the certificate applicant's related facility is less than the limits specified in column 2 of table I in § 157.208(d) of this chapter;

(4) Blanket certificate applications by interstate pipelines and local distribution companies served by interstate pipelines filed pursuant to §§ 284.221 and 284.224 of this chapter;

(5) Applications for temporary certificates involving transportation service or sales, but not facilities, pursuant to § 157.17 of this chapter;

(6) Dismiss any protest to prior notice filings involving existing service, made pursuant to § 157.205 of this chapter, that does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection;

(7) Applications pertaining to approval of changes in customer names where there is no change in rate schedule, rate, or other incident of service;

(8) Applications for approval of customer rate schedule shifts;

(9) Applications filed under section 1(c) of the Natural Gas Act and part 152 of this chapter, for declaration of exemption from the provisions of the Natural Gas Act and certificates held by the applicant; and

(10) Applications and amendments requesting authorizations filed pursuant to section 7(c) of the Natural Gas Act for new or additional service to right-of-way grantors either directly or through a distributor, where partial consideration for the granting of the right-of-way was the receipt of gas service pursuant to section 7(c) of the Natural Gas Act.

(f) Act upon filings for all initial rate schedules, rate schedule changes and notices of changes in rates submitted by gas companies and impose conditions to the following extent, in uncontested cases:

(1) Accept a tariff or rate schedule filing, except a major pipeline rate increase under section 4(e) of the Natural Gas Act and under subpart D of part 154 of this chapter, if it complies with all applicable statutory

requirements, and with all applicable Commission rules, regulations and orders for which a waiver has not been granted, or if a waiver has been granted by the Commission, if it complies with the terms of the waiver;

(2) Reject a tariff or rate schedule filing, if it patently fails to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders for which a waiver has not been granted; and

(3) Advise the filing party of any actions taken under paragraph (b)(1) or (b)(2) of this section and designate rate schedules, rate schedule changes, and notices of changes in rates, and the effective date thereof.

(g) Take appropriate action on the following:

(1) Any notice of intervention or petition to intervene, filed in an uncontested application for pipeline service and not facilities, or an uncontested rate schedule proceeding;

(2) An uncontested request from one holding an authorization, granted pursuant to the Director's delegated authority, to vacate all or part of such authorization;

(3) Petitions to permit after an initial 60-day period one additional 60-day period of exemption pursuant to § 284.264(b) of this chapter where the application or extension arrives at the Commission later than 45 days after the commencement of the initial period of exemption and where only services are involved; and

(4) Applications for extensions of time to file required reports, data and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

(h) Undertake the following actions:

(1) Issue reports for public information purposes. Any report issued without Commission approval must:

(i) Be of a noncontroversial nature, and

(ii) Contain the statement, "This report does not necessarily reflect the view of the Commission," in bold face type on the cover;

(2) Issue and sign deficiency letters regarding natural gas applications; and

(3) Accept for filing, data and reports (including Forms 1, 1F, 2, 2A, and 6) required by Commission orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such orders or decisions and, when appropriate, notify the filing party of such acceptance.

(i) Take appropriate action on requests or petitions for waivers of:

(1) Any action incidental to the exercise of delegated authority, including waiver of notice as provided in section 4(d) of the Natural Gas Act, provided the request conforms to the requirements of § 385.2001 of this chapter;

(2) Filing requirements for statements and reports under Parts 260, 261 and 357 of this chapter;

(3) Fees prescribed in §§ 381.207, 381.403, and 381.505 of this chapter in accordance with § 381.106(b) of this chapter;

(4) Annual charges prescribed in § 382.202 of this chapter in accordance with the standard set forth in § 382.105 of this chapter;

(5) Section 154.403 of this chapter, as necessary, in order to rule on out-of-cycle purchased gas adjustment filings;

(6) The requirements of subpart C of part 292 of this chapter governing cogeneration and small power production facilities made by any state regulatory authority or nonregulated electric utility pursuant to § 292.402 of this chapter;

(7) Annual charges prescribed in § 382.201 of this chapter in accordance with the standard set forth in § 382.105 of this chapter; and

(8) Deny or grant, in whole or in part, requests for waiver of the requirements for statements or reports under § 141.1 of this chapter (FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees and Others) and § 141.2 of this chapter (FERC Form No. 1-F, Annual Report for Nonmajor Public Utilities and Licensees), and of the filing of FERC Form No. 1 on electronic media (§ 385.2011 of this chapter, Procedures for filing on electronic media, paragraphs (a)(6), (c), and (e)).

(j) Take the following actions relating to the regulation of oil pipelines under the Interstate Commerce Act:

(1) Accept any uncontested item which has been filed consistent with Commission regulations and policy;

(2) Reject any filing which patently fails to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders for which a waiver has not been granted;

(3) Prescribe for carriers the classes of property for which depreciation charges may be properly included under operating expenses, review the fully documented depreciation studies filed by the carriers, and authorize or revise the depreciation rates reflected in the depreciation study with respect to each of the designated classes of property; and

(4) Refer any matter to the Commission which the Director believes

should be acted upon by the Commission.

(k) Take the following actions with respect to rates, rate schedules, and rate filings:

(1) Accept for filing all uncontested initial rate schedules and uncontested rate schedule changes submitted by public utilities, including changes which would result in rate increases; waive the requirement of statutory notice for good cause shown; advise the filing party of such acceptances; and designate rate schedules and the effective dates thereof;

(2) Approve uncontested rates and rate schedules filed by the Secretary of Energy or his designee, for power developed at projects owned and operated by the federal government and for services provided by federal power marketing agencies;

(3) Reject a rate filing, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements or Commission rules, regulations and orders; and

(4) Assign to an Administrative Law Judge (ALJ), with the ALJ's concurrence, uncontested interim electric rate motions that would result in lower rates, pending Commission action on settlement agreements.

(l) Take appropriate action on uncontested applications for:

(1) The sale or lease or other disposition of facilities, consolidation of facilities, and acquisition of securities of public utilities under section 203 of the Federal Power Act;

(2) Interlocking positions under section 305(b) of the Federal Power Act;

(3) Certification of the qualifying status for small power production and cogeneration facilities under § 292.207 of this chapter; and

(4) The extension of time for public utilities to file required reports, data, and information and to do other acts required to be done within a specific time period by any rule, regulation or order of the Commission.

(m) Take appropriate action on:

(1) Notices of intervention or petitions to intervene in an uncontested rate schedule proceeding;

(2) Requests for authorization for a designated representative to post and file rate schedules of public utilities which are parties to the same rate schedule; and

(3) Filings related to uncontested nonexempt qualifying small power production facilities, including action on requests for waivers of the Commission's regulations under the Federal Power Act and related

authorizations consistent with Massachusetts Refusetech, Inc., 31 FERC ¶ 61,048 (1985), and the orders cited therein without limitation as to whether qualifying status is by Commission certification or notice of qualifying status, provided that in the case of a notice of qualifying status, any waiver is granted on condition that the filing party has correctly noticed the facility as a qualifying facility.

(n) Undertake the following actions:

(1) Redesignate proceedings, rate schedules, and other authorizations and filings to reflect changes in the names of persons and municipalities subject to invoking Commission jurisdiction under the Federal Power Act, where no substantive changes in ownership, corporate structure or domicile, or jurisdictional operation are involved;

(2) Issue deficiency letters regarding electric rate schedule filings, refund reports, corporate applications for the sale, lease or disposition of property, consolidation of facilities, acquisition of securities of public utilities and applications to hold interlocking positions;

(3) With respect to amendments to agreements, contracts, and rate schedules (including approved rate settlements), and data and reports submitted by public utilities pursuant to Commission opinions, orders, decisions, or other actions or presiding officers' initial decisions:

(i) Accept for filing any amendment, contract, rate schedule, data and reports which are in compliance and, when appropriate, notify the filing party of such acceptance; or

(ii) Reject for filing any amendment, contract, rate schedule, data, and reports which are not in compliance or not required and, when appropriate, notify the filing party of such rejection; and

(4) Adopt final allocations of costs for federal multiple-purpose reservoir projects for which the Commission has statutory responsibility, and review and comment on cost allocations prepared by others.

(o) In connection with the regulation of oil pipelines under the Interstate Commerce Act, refer any matter to the Commission which the Director believes should be acted upon by the Commission.

4. Section 375.308 is removed and § 375.314 is redesignated as § 375.308 and its heading and introductory text are revised and paragraphs (v) through (z) are added to read as follows:

#### § 375.308 Delegations to the Director of the Office of Energy Projects.

The Commission authorizes the Director or the Director's designee to:

\* \* \* \* \*

(v) Take appropriate action on the following types of uncontested applications for authorizations and uncontested amendments to applications and authorizations and impose appropriate conditions:

(1) Applications or amendments requesting authorization for the construction or acquisition and operation of facilities that have a construction or acquisition cost less than the limits specified in column 2 of table I in § 157.208(d) of this chapter;

(2) Applications by a pipeline for the abandonment of pipeline facilities;

(3) Applications for temporary certificates for facilities pursuant to § 157.17 of this chapter;

(4) Petitions to amend certificates to conform to actual construction;

(5) Applications for temporary certificates for facilities pursuant to § 157.17 of this chapter;

(6) Dismiss any protest to prior notice filings made pursuant to § 157.205 of this chapter and involving pipeline facilities that does not raise a substantive issue and fails to provide any specific detailed reason or rationale for the objection;

(7) Applications for temporary or permanent certificates (and for amendments thereto) for the transportation, exchange or storage of natural gas, provided that the cost of construction of the applicant's related facility is less than the limits specified in column 2 of table 1 in § 157.208(d) of this chapter; and

(8) Applications for blanket certificates of public convenience and necessity pursuant to subpart F of part 157 of this chapter, including waiver of project cost limitations in §§ 157.208 and 157.215 of this chapter, and the convening of informal conferences during the 30-day reconciliation period pursuant to the procedures in § 157.205(f).

(w) Take appropriate action on the following:

(1) Any notice of intervention or petition to intervene, filed in an uncontested application for pipeline facilities;

(2) An uncontested request from one holding an authorization, granted pursuant to the Director's delegated authority, to vacate all or part of such authorization;

(3) Petitions to permit after an initial 60-day period one additional 60-day period of exemption pursuant to

§ 284.264(b) of this chapter where the application or extension arrives at the Commission later than 45 days after the commencement of the initial period of exemption when the emergency requires installation of facilities; and

(4) Applications for extensions of time to file required reports, data, and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

(x) Undertake the following actions:

(1) Compute, for each calendar year, the project limits specified in table I of § 157.208 and table II of § 157.215(a) of this chapter, adjusted for inflation, and publish such limits as soon as possible thereafter in the **Federal Register**;

(2) Issue reports for public information purposes. Any report issued without Commission approval must:

(i) Be of a noncontroversial nature, and

(ii) Contain the statement, "This report does not necessarily reflect the view of the Commission," in bold face type on the cover;

(3) Issue and sign deficiency letters regarding natural gas applications;

(4) Accept for filing, data and reports required by Commission orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such orders or decisions and, when appropriate, notify the filing party of such acceptance;

(5) Reject requests which patently fail to comply with the provisions of 157.205(b) of this chapter; and

(6) Take appropriate action on requests or petitions for waivers of any action incidental to the exercise of delegated authority, including waiver of notice as provided in section 4(d) of the Natural Gas Act, provided the request conforms to the requirements of § 385.2001 of this chapter.

(y) Take appropriate action on the following:

(1) Any action incidental to the exercise of delegated authority, including waiver of notice as provided in section 4(d) of the Natural Gas Act, provided the request conforms to the requirements of § 385.2001 of this chapter; and

(2) Requests or petitions for waivers of filing requirements for statements and reports under §§ 260.8 and 260.9 of this chapter.

(z) Approve, on a case-specific basis, and make such decisions as may be necessary in connection with the use of pre-filing collaborative procedures, for the development of an application or certificate or abandonment authorization under Section 7 of the

Natural Gas Act, or the development of an application for facilities under Section 3 of the Natural Gas Act, and assist in the pre-filing collaborative and related processes.

**§ 375.310 [Removed]**

5. Section 375.310 is removed.

**§ 375.311 [Redesignated as § 375.310]**

6. Section 375.311 is redesignated as § 375.310.

**§ 375.312 [Redesignated as § 375.311]**

7. Section 375.312 is redesignated as § 375.311.

**§ 375.313 [Redesignated as § 375.312]**

8. Section 375.313 is redesignated as § 375.312 and is revised to read as follows:

**§ 375.312 Delegations to the Director of the Office of Finance, Accounting and Operations.**

The Commission authorizes the Director or the Director's designee to:

(a) Sign all correspondence with respect to financial accounting and reporting matters on behalf of the Commission.

(b) Pass upon actual legitimate original cost and depreciation thereon and the net investment in jurisdictional companies and revisions thereof, and sign audit reports resulting from the examination of the books and records of jurisdictional companies,

(1) If the company agrees with the audit report, or

(2) If, in the case of a financial audit, the company does not agree with the audit report, provided that notification of the opportunity for a hearing under Section 301(a) of the Federal Power Act or Section 8(a) of the Natural Gas Act accompanies the audit report.

(c) Pass upon and approve requests by state and federal agencies to review staff working papers from financial audits if the company agrees to the release of the audit working papers provided:

(1) The papers are examined at the Commission, and

(2) The requester—  
(i) Only makes general notes concerning the contents of the audit working papers,

(ii) Does not make copies of the audit working papers, and

(iii) Does not remove the audit working papers from the area designated by the Director.

(d) With regard to billing errors noted as a result of the Commission staff's examination of automatic adjustment tariffs approved by the Commission, approve corrective measures, including recomputation of billing and refunds, to the extent the company agrees.

(e) Deny or grant, in whole or in part, requests for waiver of the requirements of parts 352 and 356 of this chapter, except if the matters involve unusually large transactions or unique or controversial features, the Director must present the matters to the Commission for consideration.

(f) Prescribe the updated fees for part 381 of this chapter in accordance with § 381.104 of this chapter.

(g) Prescribe the updated fees for part 381 of this chapter in accordance with § 388.109(b)(2) of this chapter.

(h) Deny or grant, in whole or in part, petitions for waiver of fees prescribed in § 381.302 of this chapter in accordance with § 381.106(b) of this chapter.

(i) Deny or grant, in whole or in part, petitions for exemption from fees prescribed in part 381 of this chapter in accordance with § 381.108 of this chapter.

(j) Determine the annual charges for administrative costs, for use of United States lands, and for use of government dams or other structures.

(k) Grant or deny waiver of penalty charges for late payment of annual charges.

(l) Give credit for overpayment of annual charges.

(m) Deny or grant, in whole or in part, petitions for exemption from annual charges under § 11.6 of this chapter for state and municipal licensees.

(n) Grant or deny petitions for waiver of annual charges for oil pipelines.

**PART 376—ORGANIZATION, MISSION, AND FUNCTIONS: OPERATIONS DURING EMERGENCY CONDITIONS**

9. The authority citation for Part 376 is revised to read as follows:

**Authority:** 5 U.S.C. 553; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

10. In § 376.105, paragraph (b)(2) is revised to read as follows:

**§ 376.105 Chairman.**

\* \* \* \* \*

(b) \* \* \*

(2) The selection, appointment, and fixing of the compensation of such personnel as he deems necessary.

\* \* \* \* \*

11. In § 376.204, paragraph (b)(2) is revised to read as follows:

**§ 376.204 Delegation of Commission's authority during emergency conditions.**

\* \* \* \* \*

(b) \* \* \*

(2) The list referred to in paragraph (b)(1) of this section is:

(i) Director of the Office of Finance, Accounting and Operations;

(ii) Director of the Office of Markets, Tariffs and Rates;

(iii) Director of the Office of Energy Projects;

(iv) General Counsel;

(v) Executive Assistant to the Chairman;

(vi) Deputy Directors, Office of Markets, Tariffs and Rates, in order of seniority;

(vii) Deputy Directors, Office of Energy Projects, in order of seniority;

(viii) Deputy General Counsel;

(ix) Associate General Counsels, Assistant General Counsels and Solicitor, in order of seniority;

(x) Assistant Directors and Division heads, Office of Markets, Tariffs and Rates; Assistant Directors and Division heads, Office of Energy Projects; and Assistant General Counsels; in order of seniority.

\* \* \* \* \*

12. Section 376.206 is revised to read as follows:

**§ 376.206 Delegation of functions of certain Commission staff members.**

When, by reason of emergency conditions, the Secretary; Director of the Office of Finance, Accounting and Operations; Director of any Office or Division, or officer in charge of a regional office, is not available and capable of carrying out his functions, such functions are delegated to staff members designated by the Chairman to perform such functions. If no staff member so designated is available and capable of carrying out his functions, such functions are delegated to the next subordinate employee in the Office or Division of the highest grade and longest period of service in that grade.

13. Section 376.207 is revised to read as follows:

**§ 376.207 Personnel and fiscal functions.**

Subject to modifications or revocation by authority of the Director of the Office of Finance, Accounting and Operations, during the continuation of emergency conditions authority to effect temporary appointments of such additional officers and employees, to classify and allocate positions to their proper grades, to issue travel orders, and to effect emergency purchases of supplies, equipment and services shall be exercised by the respective Directors of Offices and officials in charge of regional offices, their deputies, or staff in line of succession, as may be required for the discharge of the lawful duties of such organization.

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1, 31, 35a, 301, 502, 503, 509, 513, 514, 516, 517, 520, 521, and 602**

[TD 8856]

RIN 1545-AX44

**General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Related Collection, Refunds, and Credits; Revision of Information Reporting and Backup Withholding Regulations; and Removal of Regulations Under Parts 1 and 35a and of Certain Regulations Under Income Tax Treaties**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This document contains changes delaying the effective date to final regulations (TD 8734), which were published in the **Federal Register** of October 14, 1997, relating to the withholding of income tax on certain U.S. source income payments to foreign persons. The Department of the Treasury and the IRS believe it is in the best interest of tax administration to delay the effective date of the final withholding regulations to ensure that both taxpayers and the government can complete changes necessary to implement the new withholding regime. As extended by this document, the final withholding regulations will apply to payments made after December 31, 2000.

**DATES: Effective Dates:** The amendments in this final rule are effective January 1, 2001. As of December 31, 1999, the effective date of the final regulations published at 62 FR 53387, October 14, 1997, and delayed by TD 8804 (63 FR 72183, December 31, 1998), is delayed from January 1, 2000, until January 1, 2001; however, the effective date of the addition of §§ 31.9999-0 and 35a.9999-0 and the removal of § 35a.9999-0T remains October 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Laurie Hatten-Boyd, (202) 622-3840 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are the subject of this amendment provide guidance under sections 1441, 1442, and 1443 of the Internal Revenue Code (Code) on certain U.S. source income

paid to foreign persons, the related tax deposit and reporting requirements under section 1461 of the Code, and the related changes under sections 163(f), 165(j), 871, 881, 1462, 1463, 3401, 3406, 6041, 6041A, 6042, 6045, 6049, 6050A, 6050N, 6109, 6114, 6402, 6413, and 6724 of the Code.

**Need for Changes**

On April 29, 1999, in Notice 99-25 (1999-20 I.R.B. 1), the IRS and Treasury announced their decision to extend the effective date of the final regulations. When originally published in the **Federal Register** on October 14, 1997 (62 FR 53387), the final regulations were applicable to payments made after December 31, 1998 and, generally, granted withholding agents until after December 31, 1999, to obtain the new withholding certificates (Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY) and statements required under those regulations. On April 13, 1998, in Notice 98-16 (1998-15 I.R.B. 12), the IRS and Treasury announced the decision to extend the effective date of the final regulations to January 1, 2000 and to provide correlative extensions to the transition rules for obtaining new withholding certificates and statements. Those extensions were published on December 31, 1998 at 63 FR 72183 as TD 8804. This amendment serves to make the final regulations applicable to payments made after December 31, 2000 and to require mandatory use of the new withholding certificates and statements for payments made after that date.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Finally, it has been determined that the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to these regulations because the regulations do not impose a collection of information on small entities. Pursuant to 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations (61 FR 17614) was submitted to the Small Business Administration for comment on its impact on small business.

**List of Subjects**

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.