

# Proposed Rules

Federal Register

Vol. 77, No. 225

Wednesday, November 21, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 152

[Docket No. RM13-1-000]

#### Enhanced Natural Gas Market Transparency

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

**ACTION:** Notice of Inquiry.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) seeks comments on what changes, if any, should be made to its regulations under the natural gas market transparency provisions of section 23 of the Natural Gas Act (NGA), as adopted in the Energy Policy Act of 2005 (EPA 2005). In particular, the Commission is considering the extent to which quarterly reporting of every natural gas transaction within the Commission's NGA jurisdiction that entails physical delivery for the next day (i.e., next day gas) or for the next month (i.e., next month gas) would provide useful information for improving natural gas market transparency.

**DATES:** Comments are due January 22, 2013.

**ADDRESSES:** You may submit comments, identified by docket number in accordance with the requirements posted on the Commission's Web site, <http://www.ferc.gov>. Comments may be submitted by any of the following methods:

- **Agency Web Site:** Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format, at <http://www.ferc.gov/docs-filings/efiling.asp>.

- **Mail/Hand Delivery:** Commenters unable to file comments electronically must mail or hand deliver an original and copy of their comments to: Federal Energy Regulatory Commission,

Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

**Instructions:** For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Jamie Marcos (Legal Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-6628, [Jamie.Marcos@ferc.gov](mailto:Jamie.Marcos@ferc.gov).

Kamaria Martin (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-8015, [Kamaria.Martin@ferc.gov](mailto:Kamaria.Martin@ferc.gov).

Issued November 15, 2012.

1. In this Notice of Inquiry, the Federal Energy Regulatory Commission (Commission) seeks comments on what changes, if any, should be made to its regulations under the natural gas market transparency provisions of section 23 of the Natural Gas Act (NGA), as adopted in the Energy Policy Act of 2005 (EPA 2005).<sup>1</sup> In particular, the Commission is considering the extent to which quarterly reporting of every natural gas transaction within the Commission's NGA jurisdiction that entails physical delivery for the next day (i.e., next day gas) or for the next month (i.e., next month gas)<sup>2</sup> would provide useful information for improving natural gas market transparency.

2. The Commission is considering amending its regulations pursuant to the natural gas market transparency provisions added to the NGA by EPA 2005.<sup>3</sup> Section 23 of the NGA directs the Commission "to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce" and states that the

<sup>1</sup> Energy Policy Act of 2005, Public Law 109-5, § 316, 119 Stat. 594 (2005) (EPA 2005) (*codified as* 15 U.S.C. 717t-2).

<sup>2</sup> Under section 1(b) of the NGA, the Commission has jurisdiction to regulate the transportation and sale for resale of natural gas in interstate commerce and any natural gas company engaged in such transportation or sale. 15 U.S.C. 717(b). The Commission's jurisdiction, however, does not extend to "first sales" removed from the Commission's NGA section 1(b) jurisdiction by the Wellhead Decontrol Act of 1989, sales of imported natural gas, sales of imported liquefied natural gas, and sales and transportation by NGA section 1(b)-(d) entities. See *infra* n.25.

<sup>3</sup> EPA 2005 § 316 (*codified as* 15 U.S.C. 717t-2).

Commission may obtain "information about the availability and prices of natural gas sold at wholesale and in interstate commerce" from "any market participant."<sup>4</sup> Thus, section 23 grants the Commission the authority to require submission of information regarding the availability and prices of wholesale physical natural gas in interstate commerce as it is considering in this Notice of Inquiry. In addition, section 4A of the NGA states that "[i]t shall be unlawful for any entity, directly or indirectly, to use or employ, in connection with the purchase or sale of natural gas \* \* \* subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance \* \* \* in contravention of such rules and regulations as the Commission may prescribe as necessary in the public interest or for the protection of natural gas ratepayers."<sup>5</sup>

3. This Notice of Inquiry will assist the Commission in determining whether additional changes should be made to its regulations under the natural gas market transparency provisions of section 23 of the NGA, as adopted in the EPA 2005,<sup>6</sup> and the appropriate scope and particulars of any such changes.

<sup>4</sup> Natural Gas Act § 23, 15 U.S.C. 717t-2 (2006) (NGA § 23). Section 23 of the NGA states: "[a](2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.

[(a)](3) The Commission may—(A) obtain the information described in paragraph (2) from any market participant; and (B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b). \* \* \*

(b)(1) Rules described in subsection (a)(2), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

[(b)](2) In determining the information to be made available under this section and the time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information." NGA § 23.

<sup>5</sup> Natural Gas Act § 4A, 15 U.S.C. 717C-1 (2006) (NGA § 4A).

<sup>6</sup> EPA 2005, Public Law 109-58, 119 Stat. 594.

## I. Background

### A. Commission Authority

4. EPAAct 2005 amended the NGA by adding the natural gas market transparency provisions at section 23.7 Section 23 of the NGA directs the Commission “to facilitate price transparency” and grants it the authority to “prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section [23]” and to obtain “information about the availability and prices” from “any market participant,” except for natural gas producers, processors, or users with a *de minimis* market presence of natural gas sold at wholesale in interstate commerce.<sup>8</sup> In so doing, NGA section 23 requires that the Commission consider the degree of price transparency provided by existing price publishers and trade processing services, and rely on such publishers and services to the maximum extent possible. In addition, any rules issued pursuant to NGA section 23 must provide for “the dissemination, on a timely basis, of information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.”<sup>9</sup> However, NGA section 23 also directs the Commission to exempt from disclosure information that, if disclosed, would be “detrimental to the operation of an effective market or [that would] jeopardize system security,” and “to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of proprietary trading information.”<sup>10</sup>

5. In 2006 after EPAAct 2005 added section 23 to the NGA, Commission staff conducted an extensive outreach effort to formulate options for implementing EPAAct 2005’s transparency provisions for wholesale natural gas and electric markets. As a result, the Commission used its new transparency authority to adopt additional filing and posting requirements for the sale or transportation of physical natural gas in

interstate commerce in Order Nos. 704, 720, and 720–A.<sup>11</sup>

6. Specifically, Order No. 704 requires that “any buyer or seller of more than a *de minimis* volume of natural gas report volumes of relevant transactions in an annual filing using a new Form No. 552.”<sup>12</sup> In issuing Order No. 704, the Commission explained that the “final rule will facilitate transparency of the price formation process in natural gas markets by collecting information to understand in broad terms the size of the natural gas market and the use of fixed prices and of index prices.”<sup>13</sup>

7. In Order No. 720, the Commission required, pursuant to NGA section 23, major non-interstate pipelines to post scheduled flow information and information for each receipt and delivery point with a design capacity greater than 15,000 MMBtu per day.<sup>14</sup> Order No. 720 also requires interstate pipelines to post information regarding no-notice service.<sup>15</sup> The Commission also issued Order No. 720–A, which broadly affirmed Order No. 720, but granted certain requests for rehearing and clarification, including a finding that major non-interstate pipelines must post scheduled flow data for virtual or pooling points, subject to certain conditions. On appeal in *Texas Pipeline Association v. FERC*, the Fifth Circuit Court of Appeals vacated Order Nos. 720 and 720–A as the reporting requirements contained therein applied to major non-interstate pipelines.<sup>16</sup>

<sup>11</sup> *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, FERC Stats. & Regs. ¶ 31,260 (2007), *order on reh’g*, Order No. 704–A, 73 FR 55726 (Sept. 26, 2008), FERC Stats. & Regs. ¶ 31,275 (2008), *order dismissing reh’g and clarification*, Order No. 704–B, 125 FERC ¶ 61,302 (2008) (Order No. 704) (“Without confidence in the basic processes of price formation, market participants cannot have faith in the value of their transactions, the public cannot believe that the prices they see are fair, and it is more difficult for the Commission to ensure that jurisdictional prices are ‘just and reasonable.’”); *see also Pipeline Posting Requirements under Section 23 of the Natural Gas Act*, Order No. 720, 73 FR 73494 (Dec. 2, 2008), FERC Stats. & Regs. ¶ 31,283, at P 3 (2008), *order on reh’g*, Order No. 720–A, 130 FERC ¶ 61,040 (2010) (Order No. 720). The Commission has also exercised its authority to issue rules pursuant to the Electric Market Transparency Rules in section 220 of the Federal Power Act. *See Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, Order No. 768, 77 FR 61896 (Oct. 11, 2012), FERC Stats. & Regs. ¶ 31,336 (2012) (Order No. 768) (extending Electric Quarterly Report filing requirements additional market participants that are exempt from the Commission jurisdiction under section 205 of the Federal Power Act).

<sup>12</sup> Order No. 704, FERC Stats. & Regs. ¶ 31,260 at PP 2–3.

<sup>13</sup> *Id.* P 7.

<sup>14</sup> Order No. 720, FERC Stats. & Regs. ¶ 31,283 at P 1.

<sup>15</sup> *Id.*

<sup>16</sup> *Texas Pipeline Ass’n v. FERC*, 661 F.3d 258 (5th Cir. 2011).

However, the court’s decision did not disrupt the reporting and posting obligations of interstate pipelines.<sup>17</sup>

8. In addition to adding the natural gas market transparency provisions to the NGA, EPAAct 2005 also added section 4A, which prohibits market manipulation in the natural gas markets and authorized the Commission to prescribe rules “as necessary in the public interest or for the protection of natural gas ratepayers.”<sup>18</sup> Pursuant to section 4A, the Commission issued Order No. 670, which added Part 1c to the Commission’s regulations<sup>19</sup> setting forth rules that prohibit market manipulation in the natural gas market.<sup>20</sup> Since issuing Order No. 670, the Commission has increased its efforts to prevent and detect market manipulation. As part of that effort, the Commission has sought to increase price transparency in the natural gas and electric markets to deter manipulative activities<sup>21</sup> and to obtain additional market information to be able to better detect potential manipulative activities.<sup>22</sup>

9. While Order Nos. 704 and 720 began the Commission’s effort to facilitate price transparency in the natural gas markets as directed by Congress in EPAAct 2005, the Commission has identified additional areas of the natural gas market in which it believes increased transparency may be necessary for market participants to better understand the market activities that produce the prices that are reported to indices. The additional information that may be necessary to facilitate price transparency may also assist the Commission in detecting, and ultimately deterring, market manipulation in the natural gas markets. As a result, the Commission is now seeking comments on whether it should amend its regulations to further facilitate price transparency in the natural gas markets. In particular, the

<sup>17</sup> Order Granting Motion to Clarify Opinion, *Texas Pipelines Ass’n v. FERC*, 661 F.3d 258 (Dec. 20, 2011).

<sup>18</sup> EPAAct 2005 § 315 (*codified as* 15 U.S.C. 717c).

<sup>19</sup> 18 CFR Part 1c (2012).

<sup>20</sup> *Prohibition of Energy Market Manipulation*, Order No. 670, FERC Stats. & Regs. ¶ 31,202 (2006).

<sup>21</sup> *See, e.g.*, Order No. 704, FERC Stats. & Regs. ¶ 31,260, Order No. 720, FERC Stats. & Regs. ¶ 31,283, Order No. 768, FERC Stats. & Regs. ¶ 31,336.

<sup>22</sup> *See, e.g.*, Order No. 768; *Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators*, Order No. 760, 77 FR 26674, FERC Stats. & Regs. ¶ 31,330 (2012) (requiring each regional transmission organization and independent system operator to electronically deliver to the Commission, on an ongoing basis, data related to the markets that it administers.)

<sup>7</sup> *See* EPAAct 2005 § 316 (*codified as* 15 U.S.C. 717t–2). EPAAct 2005 similarly amended the Federal Power Act. *See* EPAAct 2005 § 1281 (*codified as* 16 U.S.C. 824t) (amending the FPA to add the Electricity Market Transparency Rules in section 220).

<sup>8</sup> NGA § 23.

<sup>9</sup> *Id.* § 23(a)(2).

<sup>10</sup> *Id.* § 23(b).

Commission is considering proposing to require all market participants engaged in sales of wholesale physical natural gas in interstate commerce to report quarterly to the Commission every natural gas transaction within the Commission's NGA jurisdiction that entails physical delivery for the next day (i.e., next day gas) or for the next month (i.e., next month gas).

#### *B. Areas Identified To Increase Price Transparency in the Natural Gas Markets*

10. The Commission recognizes that some data are currently available to assess the validity of price signals to the market and the incentives for natural gas market manipulation. In particular, under Order No. 704, natural gas market participants that buy or sell above 2.2 Bcf annually of wholesale natural gas for next day delivery or next month delivery are required to report annually through Form No. 552 their annual sales and purchase volumes, by product (i.e., gas for next day vs. next month delivery) and by transaction type (e.g., fixed and index priced), and whether the specific transaction was reported to natural gas index price publishers. These data may be reported either by individual company affiliates as their traded volumes or by their parent company as rolled-up aggregate volumes. The data reported through Form No. 552 are publicly available.<sup>23</sup> In addition to the Form No. 552 data, the Commission receives tick data from the Intercontinental Exchange (ICE) for physical and financial natural gas transactions and natural gas futures tick data from NYMEX.<sup>24</sup> These tick data are also available to market participants. The Commission and market participants also have access to some information about the transactions that contribute to the formation of the daily and monthly indices reported by *Platts* and the daily indices reported by *Natural Gas Intelligence*. Additionally, the Commission surveys publicly available scheduled flows on natural gas pipelines to discern fundamental activities underpinning regional prices.

11. However, the information that is currently available does not provide full market visibility or price transparency. Much of the data that is currently available is aggregated and does not provide transaction-specific details. For example, the transactional details of off-exchange transactions of physical natural gas are unavailable. Similarly, the data available through Form No. 552

reporting do not include information on price, date, location, or counterparty. The buyers and sellers who report through Form No. 552 are only required to report those monthly transactions that are conducted during bid week for next calendar month delivery. And, while buyers and sellers report whether a transaction was reported to an index publisher, they do not identify the index publisher to whom the transaction was reported. Moreover, the publicly available information on scheduled natural gas pipeline flows is also only available in an aggregated format.

12. The Commission is considering amending its regulations to provide greater natural gas market transparency and to assist the Commission in detecting potential manipulation. Specifically, the Commission is considering whether requiring all market participants engaged in sales of wholesale physical natural gas in interstate commerce to report quarterly to the Commission every natural gas transaction within the Commission's NGA jurisdiction that entails physical delivery for the next day (i.e., next day gas) or for the next month (i.e., next month gas) will improve natural gas market transparency.<sup>25</sup> In particular, the Commission is considering requiring market participants to report the following data elements for all jurisdictional transactions that entail physical delivery for the next day (i.e., next day gas) or for the next month (i.e., next month gas), in a standardized, electronic format and on a quarterly

basis: Name, address, and contact information of the trading company, name and location of its holding company, product traded (i.e., next day-delivery natural gas and next month-delivery natural gas), trade execution method (i.e., exchange or off-exchange, and name of exchange or broker) and settlement type (e.g., fixed or index priced), volume (in MMBtu) of natural gas traded, location (hub), price, and date and time of the transaction, name of the counterparty, and the name(s) of the Index publisher(s) to which each transaction was reported.

13. As the Commission is considering whether it should amend its regulations pursuant to NGA section 23, it is also considering whether it should disseminate any transactional data that it would collect publicly to comply with section 23's requirement that any rules issued pursuant to section 23 provide for timely public dissemination of information about the availability and prices of natural gas.<sup>26</sup> Specifically, the Commission is considering releasing the transactional information to the public on a quarterly basis, one month after it is reported to the Commission.

14. The Commission believes such regular reporting of every natural gas transaction within the Commission's NGA jurisdiction that entails physical delivery for the next day or for the next month would facilitate price transparency in the natural gas market by enabling buyers and sellers of natural gas to better understand the trading and prices that contribute to the daily and monthly indices. Market participants lack a complete understanding of the actions that produce the prices that are reported to the indices. Increased confidence in these indices requires greater transparency to assure prices are a result of fundamental supply and demand forces and not the result of manipulation or other abusive market conduct.

15. Furthermore, obtaining such information would significantly increase the information available to the Commission concerning transactions in the natural gas markets thereby enhancing its ability to identify the potential for manipulation in the natural gas markets, to examine more efficiently the manipulative behavior, and to assess the effects of manipulation.

## II. Questions

16. The Commission invites all comments on the best approaches to enhance the Commission's surveillance of natural gas markets and transparency. In particular, the Commission requests

<sup>25</sup> As noted above, *supra* n.2, the Commission has jurisdiction to regulate the transportation and sale for resale of natural gas in interstate commerce and any natural gas company engaged in such transportation or sale. 15 U.S.C. 717(b). The Commission's jurisdiction, however, does not extend to "first sales" removed from the Commission's NGA section 1(b) jurisdiction by the Wellhead Decontrol Act of 1989, and sales and transportation by NGA sections 1(c) and (d) entities. The term "first sale" is defined in section 2(21) of the Natural Gas Policy Act of 1978. Section 2(21) sets forth a general rule that all sales in the chain from the producer to the ultimate consumer are "first sales" until the gas is purchased by an interstate pipeline, an intrastate pipeline, or an LDC. If an interstate pipeline, intrastate pipeline, or LDC purchases the gas, no subsequent sale of that gas is a "first sale." In addition, sales by an interstate pipeline, intrastate pipeline, LDC, or their affiliates are not "first sales," unless the sale is attributable to volumes produced by the pipeline, LDC or any affiliate. See *In the Matter of Amendments to Blanket Sales Certificates*, 107 FERC ¶ 61,174, at PP 19–28 (2004). NGA section 3(b)(1) also provides that the importation of natural gas from a nation with which there is in effect a free trade agreement and the importation of liquefied natural gas shall be treated as a first sale within the meaning of NGPA section 2(21). 15 U.S.C. 717(b)(1). The Commission is not currently considering requiring reporting of those sales of natural gas that have been excluded from its NGA section 1(b) jurisdiction.

<sup>23</sup> Order No. 704, FERC Stats. & Regs. ¶ 31,260.

<sup>24</sup> "Tick data" refers to market data that shows the price and volume of every consummated trade.

<sup>26</sup> NGA § 23(a)(2).

comment as to what extent market transparency would be enhanced by requiring market participants to report the transactional data it is considering. The Commission also asks commenters to respond to the following questions.

*(A) Questions Related to the Type of Transactional Information the Commission Should Consider Requiring Market Participants To Report*

17. Data received through exchanges and collected through other Commission reports neither provide full market visibility necessary for surveillance purposes nor facilitate price transparency, because much of it is only available in an aggregate format without transaction-specific details. Thus, the Commission is considering requiring market participants to report key data elements for all jurisdictional sales of wholesale physical natural gas in interstate commerce that entail physical delivery for the next day (i.e., next day gas) or for the next month (i.e., next month gas), in a standardized, electronic format and on a quarterly basis. Such key elements could include name, address and contact information of the trading company, name and location of its holding company, product traded (i.e., next day-delivery natural gas and next month-delivery natural gas), trade execution method (i.e., exchange or off-exchange, and name of exchange or broker) and settlement type (e.g., fixed or index priced), volume (in MMBtu) of natural gas traded, location (hub), price, and date and time of the transaction, name of the counterparty, and the name(s) of the Index publisher(s) to which each transaction was reported. With this context, the Commission requests comments on the following questions:

(1) What specific data elements should the Commission require to be filed? Should the key data elements noted above be required to be included in such submission or are there additional data elements the Commission should require? Explain why or why not. Are there data elements that the Commission should not require to be reported for commercial or burden reasons? If so, explain why.

(2) Should the Commission collect this data on a quarterly basis? If not, which other reporting frequency should be considered by the Commission and why (i.e. monthly, semi-annually, annually)?

(3) Should the Commission limit the transactional reporting requirements being considered to near-term delivery (i.e., next-day and next-month delivery physical natural gas products) or should

the Commission consider reporting requirements for other products as well (i.e., intra-day, balance of month, other non-next day delivery strips, exercised next-month gas options, and/or futures that have delivery obligations beyond prompt month)? Explain why or why not.

*(B) Questions Related to Possible Public Dissemination*

18. In order to satisfy section 23's requirement that the information obtained through rules issued pursuant to section 23 be publicly disseminated on a timely basis,<sup>27</sup> the Commission is considering whether and how to publicly disseminate any transactional data collected. In particular, the Commission is considering releasing all of the information submitted quarterly, one month after it is submitted to the Commission. For example, transactions completed from January 1 through March 31 would be reported by May 1. Data collected through this process would provide a timely retrospective view of the trading activities. Thus, the Commission requests comment on the following questions:

(1) Which of the key data elements mentioned above in paragraph 17, if any, should be made public? Explain why the Commission should or should not make certain data elements public.

(2) Should the Commission mask, aggregate, or modify the reported data in any manner prior to public dissemination? Explain why the collected data should or should not be masked, aggregated, or modified.

(3) If commercial sensitivity is an issue, is there an appropriate time lag for making information available (i.e., one month, two months)? What are the competitive impacts of publicly disseminating the transactional data being considered by the Commission on a lagged basis? Would public disclosure of transactional data negatively affect the competitiveness of market participants? Provide a detailed explanation as to why public disclosure of transactional data would or would not negatively affect the competitiveness of market participants.

<sup>27</sup> NGA § 23(a)(2). Section 23 also requires the Commission to consider whether public dissemination of this information could be detrimental to the operation of an effective market or jeopardize system security. *Id.* § 23(b)(1). Moreover, the Commission must also seek to ensure that consumers and competitive markets are protected from the adverse effects of anticompetitive behavior that could be facilitated by untimely disclosure of transactional information. *Id.* § 23(b)(2).

*(C) Questions Related to the Scope of the Transactional Reporting Requirement Being Considered by the Commission*

19. As noted above, the Commission is considering limiting the scope of the reporting requirement to only natural gas sales within the Commission's NGA section 1(b) jurisdiction that entail physical delivery for the next day or next month. Under section 1(b) of the NGA, the Commission has jurisdiction to regulate the transportation and sale for resale of natural gas in interstate commerce and any natural gas company engaged in such transportation or sale.<sup>28</sup> The Commission's jurisdiction, however, does not extend to "first sales," which were removed from the Commission's NGA section 1(b) jurisdiction by the Wellhead Decontrol Act, and sales and transportation by NGA section 1(c)-(d) entities.<sup>29</sup> Thus, the Commission is considering not requiring reporting of information relating to transactions that are outside of the Commission's NGA section 1(b) jurisdiction. The Commission, therefore, requests comment on the following questions:

(1) Should the Commission consider including all sales "at wholesale and in interstate commerce"<sup>30</sup> in the reporting requirement being considered by the Commission, including any such sales removed from the Commission's NGA section 1(b) jurisdiction by the Wellhead Decontrol Act of 1989? Explain why or why not.

(2) How could the Commission minimize any difficulties in determining whether a sale is subject to the Commission's NGA section 1(b) jurisdiction?

(3) What would be the commercial impacts, if any, of limiting the reporting requirement to sales subject to the Commission's NGA section 1(b) jurisdiction? Would the benefits of increased market transparency from requiring the reporting of jurisdictional sales outweigh any disadvantages of limiting the reporting requirement to such sales?

*(D) Questions Regarding the Burden to Market Participants*

20. The Commission recognizes that there would be some burden to market participants in instituting this requirement to report transactional data as discussed in this Notice of Inquiry. As such, the Commission is considering several conditions to the reporting requirements that would help to

<sup>28</sup> 15 U.S.C. 717(b).

<sup>29</sup> See *supra* n.25.

<sup>30</sup> NGA § 23(a)(2).

alleviate some of the burden. For example, the Commission recognizes that companies already gather data and report in Form No. 552, the Annual Report of Natural Gas Transactions, which requires reporting of information on an annual, aggregated basis that is similar to the information that the Commission is now, in this Notice of Inquiry, considering to require be reported on a quarterly, transaction-specific basis. However, after several years of receiving and analyzing annual, aggregated information through Form No. 552, the Commission believes that it may be necessary for market participants to report more granular transaction-specific information on a more frequent basis to increase natural gas price transparency and to assist in the Commission's surveillance efforts. Therefore, in order to alleviate any additional burden to market participants, the Commission is considering discontinuing the existing public data reporting requirements through Form No. 552, after a full year of individual transactions data are reported to the Commission. Additionally, the Commission is considering instituting a *de minimis* volume for which market participants are required to report to the Commission.

(1) What would the burden be on market participants to adapt their existing systems to be able to provide the information in compliance with new reporting requirements for market participants engaged in sales of wholesale physical natural gas in interstate commerce above a *de minimis* volume to report to the Commission every natural gas trade within the Commission's NGA jurisdiction that entails physical delivery for the next day (i.e., next day gas) or for the next month (i.e., next month gas)? Estimate the incremental burden of reporting such transactional data on a quarterly basis given that much of the same information is currently gathered for and reported annually through Form No. 552. Estimate the initial reporting burdens (start up time and resources) as well as the ongoing reporting burden that would be necessary for market participants to comply with the reporting requirement being considered, the percentage of those additional costs compared with normal business operation costs, and provide an explanation and support for any estimate. Is there an additional burden for those market participants who do not report to index publishers versus those who do?

(2) If the Commission decides to require transaction-specific reporting as

it is considering in this Notice of Inquiry, should the Commission discontinue the existing public data reporting requirements through Form No. 552, initiated by Order No. 704, after a full year of individual transaction data are reported to the Commission? What would be the benefits and drawbacks with regard to market transparency of collecting only one or both data sets?

(3) Should the Commission establish a threshold up to which market participants with a *de minimis* market presence would not be subject to the reporting requirements? The Annual Report of Natural Gas Transactions, Form No. 552, collects information from market participants that sold and purchased 2.2 Bcf or more of physical gas in the reporting year. Should the Commission establish a similar threshold for the reporting requirements being considered in this NOI? If so, what is a reasonable threshold and on what basis should it be established (i.e., by total quarterly sales and purchases, prior year's annual sales and purchases)?

### III. Comment Procedures

21. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due January 22, 2013. Comments must refer to Docket No. RM13-1-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

22. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

23. Commenters that are not able to file comments electronically must mail or hand deliver an original and copy of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

24. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to

serve copies of their comments on other commenters.

### IV. Document Availability

25. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

26. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

27. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

By direction of the Commission.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012-28228 Filed 11-20-12; 8:45 am]

BILLING CODE 6717-01-P

## THE PRESIDIO TRUST

### 36 CFR Part 1002

#### Public Use Limit on Commercial Dog Walking; Revised Disposal Conditions

**AGENCY:** The Presidio Trust.

**ACTION:** Proposed rule and request for comments.

**SUMMARY:** The Presidio Trust (Trust) is proposing a public use limit on persons who are walking four or more dogs at one time in Area B of the Presidio of San Francisco (Presidio) for consideration (Commercial Dog Walkers). The limit will require any person walking four or more dogs at one time for consideration in Area B to possess a valid Commercial Dog Walking permit obtained from the City and County of San Francisco (City). Commercial Dog Walkers with four or more dogs at one time in Area B will be required to comply with the terms and