

standard annual blanket report.”¹⁵ It is in part in anticipation of inevitable infirmities in an advance report that we expect a company undertaking emergency reconstruction to consult with the Commission during reconstruction, and to that end, where necessary, the Commission will have a staff member present on site.

34. In response to Northern Natural, we observe that the existing § 260.9 requirement to report serious service interruptions occurring on a pipeline system is not affected by the new regulations set forth herein. We acknowledge the utility of allowing an advance report, described in the new § 157.207 general reporting requirements, to be filed by electronic means. Accordingly, we will provide an electronic filing option for these advance reports via the eFiling link on the Commission Web site at www.ferc.gov. Companies filing advance reports in accordance with the emergency blanket certificate provisions should select the filing type “Notice/Report of Intent to Use Emergency Procedures” from the eFiling System Filing Type Selection menu for Gas. If the report cannot be electronically filed due to file size or content restrictions (e.g., large maps) in the Commission’s eFiling system, then the report may be submitted on CD ROM. We will post procedures for filing these advance reports on our Web site and update those procedures as the eFiling system expands to accommodate more complex filings.

35. We clarify that the requirement for advance notice only applies, as described in § 157.207, “[i]n the case of an emergency due to a sudden unanticipated loss of natural gas supply or capacity.” When a pipeline is acting under existing non-emergency blanket authority, the existing annual report requirement applies, as do the existing project cost limit and 45-day prior notice requirements. Pursuant to the existing blanket regulations, non-emergency projects under the current \$7.5 million cost cap qualify for automatic no-notice authorization.

Compliance With Environmental Obligations

36. INGAA urges that the Commission work with other relevant governmental entities in order to coordinate the environmental review process to expedite permits and approvals needed to effect pipeline repairs. INGAA observes that for emergency actions subject to an EIS—but not for emergency actions subject to an EA—the

Commission may consult with CEQ with the aim of developing alternative NEPA compliance arrangements.¹⁶ To address this regulatory asymmetry, INGAA proposes that the Commission expressly waive its requirement that an EA be prepared in the case of an emergency.

37. NiSource suggests that “[t]he presence of a Commission Staff inspector (with stop work authority)” on site may prove “inconsistent with the emergency response action environment that will dominate the construction project.”¹⁷ However, if the Commission chooses to send a representative to oversee emergency reconstruction, NiSource requests that the representative have broad authority to grant on-site variances, including variances of the Commission’s environmental construction guidelines.

38. The Ohio PUC advocates deploying Commission staff to the affected site to coordinate with other federal, state, and local agencies to review routing and environmental mitigation. FWS recommends Commission staff be present and actively involved where reconstruction cuts a new right-of-way.

39. FWS asks that we clarify the applicability of the environmental compliance conditions of § 157.206(b) to actions proceeding under the expanded emergency blanket provisions. In addition, FWS proposes that the Commission introduce an emergency action plan into its certification of interstate pipeline facilities that would include the consideration of alternative right-of-way routes, surveyed in advance to determine areas of environmental sensitivity, and list contact numbers for the appropriate agencies’ field offices.

Commission Response

40. Under § 380.4(a)(21) of our regulations, certain activities authorized under the part 157, subpart F, blanket certificate regulations are categorically excluded from environmental review. However, construction projects subject to prior notice under § 157.208(b) normally require an EA.¹⁸ In addition, in all cases, projects constructed under blanket certificate authorization are subject to the environmental conditions of § 157.206(b). That section requires that the certificate holder adopt specific siting and maintenance provisions, that the project activities are consistent with all applicable environmental statutes, regulations, and compliance plans, and

that the project “shall not have a significant adverse impact on a sensitive environmental area.”

41. Construction performed under the emergency rule adopted herein is subject to the environmental requirements of § 157.206(b). Among other things, these provisions require all authorized activities to be consistent with applicable environmental laws, impose limits on compressor noise, require companies to adopt the environmental mitigation conditions set out in § 380.15 of the Commission’s regulations, and prohibit any activity that would have an adverse effect on a sensitive environmental area. To the extent that a company cannot comply with the § 157.206(b) requirements, the company cannot rely on blanket certificate authority to complete the project, and would have to seek separate authorization. In addition, as provided in the new § 385.308(x)(7) discussed below, the regulations established herein specifically delegate to the OEP Director the authority to ensure the protection of environmental resources during the course of construction. This includes authority to employ staff with stop work authority to monitor construction activities. Under all of these circumstances, we find that a project undertaken in accordance with these expanded emergency blanket regulations, including the specified environmental limitations, will not constitute a major federal action significantly affecting the quality of the human environment and will not require a separate EA prior to construction.

42. We do not share NiSource’s concern that having Commission Staff on site might impede emergency reconstruction efforts. To the contrary, we expect the presence of Commission Staff with authority to ensure compliance with environmental mitigation measures, including the authority to grant on-site variances to enable a company to adopt alternative means to meet environmental requirements, will speed reconstruction efforts. Accordingly, we will amend our § 375.308 regulations to specify that a staff member designated by the OEP Director, present on the emergency construction site as necessary or appropriate, shall have delegated authority sufficient to ensure environmental protection. Specifically, we will add a new § 375.308(x)(7), to state that the OEP Director, or the Director’s designee, has the delegated authority to “Take whatever steps are necessary to ensure the protection of all environmental resources during the construction or operation of natural gas

¹⁶ See 40 CFR 1506.11 (2002).

¹⁷ NiSource’s Comments, at 6 (February 27, 2003).

¹⁸ See 18 CFR 380.5(b)(2) (2002).

¹⁵ FERC Stats. & Regs. ¶ 32,567, at 34,686.