

part 284, subpart I, emergency provisions are insufficient because the anticipated duration of the reconstruction effort will be longer than 60 days, or (3) new facilities needed to restore service are not permitted under the existing part 157, subpart F, regulations because the new facilities would expand capacity on, extend, or loop a mainline. Although the proposed revisions enlarge the § 157.202 definition of eligible facilities, other constraints on construction under blanket authority remain.

26. Among these other applicable constraints are regulations governing prior notice requirements, project cost limits, reporting requirements, and the standard conditions of § 157.206, covering environmental compliance. While environmental compliance with certain statutory requirements lies beyond the Commission's jurisdictional purview, and is thus beyond our discretion to affect, we can act on our own to modify compliance with our own regulations. We propose to do so by removing prior notice and project cost limit requirements to permit a company to act under blanket authority to respond to an emergency caused by a sudden unanticipated loss of gas or capacity that threatens life, health, or property.

27. Provided a project meets the relevant part 157 criteria, and will cost no more than \$7.5 million,²¹ blanket authorization is automatic, and construction can commence at the sponsoring company's discretion. However, projects expected to exceed \$7.5 million are subject to a 45-day prior notice provision, pursuant to § 157.205(a). We propose to modify § 157.205(a) to provide an exception to these prior notice proceedings for emergency reconstruction, inserting the phrase "except for activity required to restore service to prevent loss of life, impairment of health, or damage to property in an emergency due to a sudden unanticipated loss of natural gas supply or capacity," as follows: "No activity described in §§ 157.208(b), 157.211(a)(2), 157.214 or 157.216(b), except for activity required to restore service in an emergency due to a sudden unanticipated loss of natural gas supply or capacity, is authorized by a blanket certificate granted under this subpart, unless, prior to undertaking such activity" notice requirements are fulfilled. This proposed qualification presumes that in an emergency, the public interest in rectifying service at

the earliest possible date will outweigh the public benefit of providing 45-day advance notice of planned reconstruction.

28. We note that although this proposed amendment will omit the prior 45-day public notice requirement of § 157.205(a) in an emergency, we retain the separate prior landowner notice requirement of § 157.203(d). Section 157.203(d) directs a company to make a good faith effort to notify all affected landowners 30 days prior to commencing construction. We expect a company that seeks to build around an accident site, as part of the process of considering alternative routes, will make a good faith effort to identify and inform affected landowners in advance of any new construction. Given the process involved in acquiring new easements, and given that landowners, to which pipeline companies must give 30-days notice pursuant to the Commission's landowner notification requirements, may agree to waive the remainder of that 30-day notice period, we do not expect this prior landowner notice provision to impede a company's capability to commence emergency reconstruction activities. The Commission recognizes that there may be instances where timely reconstruction of facilities could be delayed by companies' inability to obtain landowners' agreement to waive the remainder of the 30-notice period. In such instances, the Commission will consider requests to waive the remainder of the 30-day notice period.

29. Even with mainline rerouting without prior notice, action under blanket authority would be thwarted if emergency reconstruction expenses were to exceed the part 157 project cost limit. Accordingly, we propose to lift the project cost cap for emergency response efforts. This proposed exemption is not to be interpreted as an invitation to undertake open-ended system expansions; it applies exclusively to emergency response projects, and extends only as far as is necessary to restore service to pre-emergency capacity levels.²² Therefore,

²² In an effort to encourage pipeline companies to quickly add capacity to meet pressing market needs in the Western United States (particularly California), we adopted several temporary measures. Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States, 94 FERC ¶ 61,272 (2001), *further order and reh'g dismissed*, 95 FERC ¶ 61,225 (2001), *order on requests for clarification and reh'g*, 96 FERC ¶ 61,155 (2001). Inter alia, for the period May 14, 2001, through April 30, 2002, we increased the dollar limitations on blanket certificate projects under both the automatic provisions and the prior notice provisions for construction of facilities to deliver additional gas into the western region, expanded the scope of eligible facilities for such

we propose to amend § 157.208(a) to provide for automatic authorization for emergency reconstruction, without any restriction on project cost, by interjecting the phrase "or if the project is required to restore service to prevent loss of life, impairment of health, or damage to property in an emergency due to a sudden unanticipated loss of natural gas supply or capacity" as follows:

If the project cost does not exceed the cost limitations set forth in column 1 of Table I, under paragraph (d) of this section, or if the project is required to restore service in an emergency due to a sudden unanticipated loss of natural gas supply or capacity, the certificate holder is authorized to make miscellaneous rearrangements of any facility, or acquire, construct, replace, or operate any eligible facility.

30. In an emergency, the Commission expects to make, and expects affected pipelines to make, every reasonable effort to restore essential service as rapidly as possible. We believe these proposed amendments to part 157 offer the best way to authorize emergency reconstruction, particularly in view of the comparatively sparse use of and ambiguities that remain regarding the scope of the part 284 emergency provisions. As noted, this proposed expanded blanket authority will apply only when acting in response to an emergency due to a sudden unanticipated loss of gas supply or capacity that threatens life, health, or property.²³

31. Under the standard part 157.207 reporting requirements, a company submits an annual report—a compilation describing projects completed pursuant to blanket authority during the year. Since we are proposing to provide self-implementing automatic authorization for emergency reconstruction and to omit prior notice for emergency reconstruction, we find it prudent to require, in addition to an annual report, that companies relying

projects, and provided, upon request, for shortening of the 45-day prior notice time frame. We propose an analogous approach here, not to encourage additional construction, but to establish authority to be held in reserve, to be called upon to meet a specific need.

²³ Emergency circumstances are extraordinary circumstances, and but for emergencies, we expect companies to proceed, as they have to date, to manage gas flows, system maintenance, and construction on their systems under the current authorities. Because we do not anticipate any need for the Commission to arbitrate what constitutes an emergency, we decline to adopt INGAA's proposal that the Commission declare that an emergency exists in order to trigger exemptions and actions. We believe pipeline companies will be able to identify emergencies conditions on their systems and invoke the proposed expanded blanket authority, as appropriate, without any preliminary determination from the Commission.

²¹ As previously noted, this amount is adjusted annually, and appears in Table 1, column 1, of 18 CFR 157.208(d) (2002).