

intends to monitor the experiences under these two rules to ensure that it has done so. Therefore, in six months the Commission will solicit public comment to determine whether submitters or requesters of CEII are experiencing any problems with the new processes.

III. Information Collection Statement

19. The Office of Management and Budget's (OMB's) regulations require that OMB approve certain information collection requirements imposed by agency rule.¹⁵ OMB approved the final rule issued in Order No. 630 on May 2, 2003. Two changes have been made to the information collection requirements in this order on rehearing. The number of copies of CEII have been changed from one original to an original plus two copies in order to facilitate staff review of filings. This requirement does not exceed OMB's restriction against requiring more than an original plus two copies and does not change the burden estimates.¹⁶ In addition, the revised rule requires requesters to identify any other names by which they have been known, and to give the dates they used such names. This requirement is intended to verify the identity of the requester. OMB regulations provide an exemption where a person is required to provide only facts that are necessary for identification.¹⁷ Again, this change does not change the burden estimates. Although the Commission believes these changes are not substantive or material changes requiring OMB approval, a courtesy copy is being submitted to OMB.

IV. Environmental Analysis

20. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.¹⁸ Included in the exclusions are rules that are clarifying, corrective, or procedural or that do not substantively change the effect of the regulations being amended. This rule is clarifying and procedural in nature and therefore falls under the exceptions; consequently, no environmental consideration is necessary.

V. Regulatory Flexibility Act Certification

21. The Regulatory Flexibility Act of 1980 (RFA)¹⁹ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect. The Commission certifies that this rule does not have such an impact on small entities.

VI. Document Availability

22. 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 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

23. From FERC's Home Page on the Internet, this information is available in the Elibrary or the Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and WordPerfect format for viewing, printing, and/or downloading. To access this document in FERRIS, type the docket number excluding the last three digits of this document in the docket number field.

24. User assistance is available for FERRIS and the FERC's Web site during normal business hours via e-mail at FEROnlineSupport@ferc.gov or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659, or through the Public Reference Room at (202) 502-8371 Press 0.

VII. Effective Date

25. The revisions implemented in this order on rehearing of the rule are effective September 5, 2003.

26. The provisions of 5 U.S.C. 801 regarding Congressional review of final rules do not apply to this final rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

List of Subjects in 18 CFR Part 388

Confidential business information, Freedom of information.

By the Commission.

Magalie R. Salas,
Secretary.

■ In consideration of the foregoing, the Commission amends part 388, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 388—INFORMATION AND REQUESTS

■ 1. The authority citation for part 388 continues to read as follows:

Authority: 5 U.S.C. 301-305, 551, 552 (as amended), 553-557; 42 U.S.C. 7101-7352.

■ 2. In § 388.112, the heading is revised, paragraph (a)(3) is added, and paragraphs (b) through (e) are revised, to read as follows:

§ 388.112 Requests for special treatment of documents submitted to the Commission.

(a) *Scope.* * * *

(3) Any person submitting documents containing maps or diagrams that reveal the location of critical energy infrastructure as defined in § 388.113 but do not rise to the level of CEII should follow the procedures for filing non-Internet public (NIP) information.

(b) *Procedures.* A person claiming that information warrants special treatment as NIP, CEII, or privileged must file:

(1) A written statement requesting NIP, CEII or privileged treatment for some or all of the information in a document, and the justification for special treatment of the information; and

(2) The following, as applicable:

(i) An original plus the requisite number of copies of both the public and NIP volumes, if any, filed and marked in accordance with instructions issued by the Secretary;

(ii) An original plus two copies of the CEII volume, if any, filed and marked in accordance with instructions issued by the Secretary; and

(iii) An original only of the privileged volume, if any, filed and marked in accordance with instructions issued by the Secretary.

(c) *Effect of privilege or CEII claim.* (1) For documents filed with the Commission:

(i) The Secretary of the Commission will place documents for which privileged or CEII treatment is sought in accordance with paragraph (b) of this section in a nonpublic file while the request for privileged or CEII treatment is pending. By placing the documents in a nonpublic file, the Commission is not making a determination on any claim of privilege or CEII status. The Commission retains the right to make

¹⁵ 5 CFR part 1320(2003).

¹⁶ See 5 CFR 1320.5(d)(2)(iii).

¹⁷ 5 CFR 1320.3(1).

¹⁸ Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986-1990 ¶30,783 (1987).

¹⁹ 5 U.S.C. 601-612.