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VII. Effective Date

79. These regulations are effective April 2, 2003.

80. The provisions of 5 U.S.C. 801 regarding Congressional review of final rules does 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 Parts 375 and 388

18 CFR Part 375

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

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 parts 375 and 388, chapter I, title 18, 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. Add § 375.313 to subpart C to read as follows:

§ 375.313 Delegations to the Critical Energy Infrastructure Information Coordinator.

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

(a) Receive and review all requests for critical energy infrastructure information as defined in § 388.113(c)(1).

(b) Make determinations as to whether particular information fits within the definition of CEII found at § 388.113(c)(1).

(c) Make determinations as to whether a particular requester's need for and ability and willingness to protect critical energy infrastructure information warrants limited disclosure of the information to the requester.

(d) Establish reasonable conditions on the release of critical energy infrastructure information.

(e) Release critical energy infrastructure information to requesters who satisfy the requirements in paragraph (b) of this section and agree in writing to abide by any conditions set forth by the Coordinator pursuant to paragraph (c) of this section.

PART 388—INFORMATION AND REQUESTS

3. 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.

4. Section 388.112 is revised to read as follows:

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

(a) *Scope.* (1) Any person submitting a document to the Commission may request privileged treatment by claiming that some or all of the information contained in a particular document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, and should be withheld from public disclosure.

(2) Any person submitting documents containing critical energy infrastructure information (CEII) as defined in § 388.113 should follow the procedures specified in this section.

(b) *Procedures.* A person claiming that information is privileged under paragraph (a) of this section must file:

(1) For documents submitted in hard copy,

(i) A written statement requesting privileged treatment for some or all of the information in a document, and the justification for nondisclosure of the information;

(ii) One of the following:

(A) In all cases where the privileged information or CEII can, as a practical matter, be segregated into a separate document or appendix:

(1) Fourteen copies of the original document, indicating in bold print on the front page either "Privileged Information Contained in Attachment" or "Critical Energy Infrastructure Information Contained in Attachment," and

(2) One separate document or appendix, indicating in bold print on the front page either "Contains Privileged Information—Do Not Release" or "Contains Critical Energy Infrastructure Information—Do Not Release," with every page in the document or appendix marked either "Privileged Information—Do Not Release" or "Critical Energy Infrastructure Information—Do Not Release," or

(B) In cases where the privileged information or CEII cannot reasonably or coherently be separated into a separate document or appendix:

(1) The original document, indicating in bold print on the front page either "Contains Privileged Information—Do Not Release," or "Contains Critical Energy Infrastructure Information—Do Not Release," and, on every page containing privileged information or CEII, the marking "Privileged Information—Do Not Release," or "Critical Energy Infrastructure Information—Do Not Release," with the privileged information or CEII clearly identified, and

(2) Fourteen copies of the document without the information for which privileged treatment is sought, and with a statement indicating that information has been removed for privileged treatment, and

(iii) The name, title, address telephone number, e-mail address, and facsimile number of the person or persons to be contacted regarding the request for privileged treatment of documents submitted to the Commission.

(2) For documents submitted on electronic media,

(i) A written statement requesting privileged treatment for some or all of the information on the electronic media,