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ADVISORY COUNCIL ON HISTORIC PRESERVATION

Draft Program Comment Regarding Historic Preservation Review Process for Projects Involving Historic Natural Gas Pipelines

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Intent to issue program comments on Historic Natural Gas Pipelines.

SUMMARY: The Advisory Council on Historic Preservation proposes a Program Comment to streamline the historic preservation review process for projects involving historic natural gas pipelines.

DATES: Submit comments on or before November 9, 2001.

ADDRESSES: Address all comments concerning this proposed program comment to Don Klima, Director, Office of Planning and Review, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax (202) 606-8672. You may submit electronic comments to: dklima@achp.gov.

FOR FURTHER INFORMATION CONTACT: Don Klima, 202-606-8505.

SUPPLEMENTARY INFORMATION: Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects of their undertakings on historic properties and provide the Advisory Council on Historic Preservation ("Council") a reasonable opportunity to comment with regard to such undertakings. The Council has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 ("Section 106 regulations").

The Council can streamline the regular Section 106 review process through program comments. 36 CFR

800.14(e). Instead of going through each of the steps detailed in subpart B of the Section 106 regulations, an agency can meet its Section 106 responsibilities for a specific program by taking into account the Council's program comments and following the steps set forth in those comments.

The Council is now proposing a program comment to help the Federal Energy Regulatory Commission ("Commission") meet its Section 106 responsibilities regarding natural gas pipelines. Specifically, the program comment deals with authorizations to construct, operate, and abandon natural gas pipelines and related pipeline facilities under Section 7 of the Natural Gas Act, 5 U.S.C. 717f, including the blanket authorizations under 18 CFR parts 157 and 284 of the Commission's regulations. The Commission's part 157, subpart F blanket authorization program applies to specified projects below a set cost level. Projects above that cost are processed pursuant to part 157, subpart A. Part 284 applies to activities conducted pursuant to section 311 of the Natural Gas Policy Act.

Consistent with Section 106, it is the Commission's responsibility to take into account the effect that issuing such authorizations has on historic properties. Due to the planning process for some pipeline projects, such as construction, many historic properties that might be affected by the construction can be avoided during right-of-way selection or during the construction process itself. However, in some pipeline projects, the historic properties simply cannot be avoided. Such is the case regarding existing natural gas pipelines and related pipeline facilities that are listed, or eligible for listing, in the National Register of Historic Places ("historic natural gas pipelines"). Natural gas pipelines and related pipeline facilities may be historic due to such things as their particular design and engineering features, or their association with important national or regional historic events and well-known persons. It is the Council's belief that the historic significance of historic natural gas pipelines is appropriately preserved through recordation of their historic attributes. This may include preservation of original construction drawings and documents, photographic recordation of current conditions,

assembly and archiving of historical documentation, and retention and curation of artifacts from or associated with the historic pipeline.

Although most historic natural gas pipelines could be treated fairly expeditiously during compliance with Section 106, under Commission regulations the occurrence of an effect on a historic natural gas pipeline as a practical matter disqualifies the pipeline company from completing the project under a blanket certificate. 18 CFR part 157, subpart F, Appendix II, and 18 CFR part 284. This creates delays since, absent the ability to proceed under a blanket certificate, a fuller environmental review must be conducted and completed by the Commission, which may take substantially more time and resources. The potential for delay can impede necessary maintenance, repair and replacement actions that are essential to protect public health, ensure pipeline safety and provide essential energy resources. Absent an effect finding, pipeline companies can proceed under a blanket certificate for many types of projects, substantially simplifying the approval process, reducing required documentation, and expediting the necessary work undertaken by the pipeline company. These program comments give certificate holders the ability to stay within their blanket certificate, so long as the relevant historic natural gas pipeline is appropriately documented.

For applicants who are unable to proceed under a blanket certificate, but who appropriately document the relevant historic natural gas pipeline, these program comments provide a more efficient and predictable process that also results in an acceptable preservation outcome.

This streamlining initiative is consistent with the Administration's National Energy Policy (Report of the National Energy Policy Group, May 2001), and Executive order 13212 (May 18, 2001), which requires agencies to "expedite their review of permits or take other actions as necessary to accelerate the completion of (projects that will increase the production, transmission, or conservation of energy), while maintaining safety, public health, and environmental protections."

Once issued, these program comments will remain in effect unless the Council

determines that the consideration of effects to historic natural gas pipelines is not being carried out in a manner consistent with these program comments and withdraws the comments. 36 CFR 800.14(e)(6).

These program comments will not apply to tribal land without the consent of the relevant tribe. The Council believes that these program comments have no consequences for historic properties of religious and cultural significance, regardless of location, to any Indian tribe or Native Hawaiian organization since they are limited to effects on only one type of historic property (i.e., historic natural gas pipelines). The Council is not aware of any historic natural gas pipelines that are of such significance to tribes or Native Hawaiian organizations.

The Council is seeking comments regarding the proposed program comments. Such comments must be received by the deadline set forth above in order to be considered by the Council.

The full text of the proposed program comment is reproduced below.

Program Comment for Historic Natural Gas Pipelines

I. Introduction

These program comments provide the Federal Energy Regulatory Commission ("Commission") with an alternate way to comply with its responsibilities under Section 106 of the National Historic Preservation Act ("Section 106"), with regard to effects on natural gas pipelines and related pipeline facilities ("pipelines") when authorizing projects under Section 7 of the Natural Gas Act by either (a) applicants pursuant to 18 CFR part 157, subpart A, or (b) certificate holders pursuant to 18 CFR part 157, subpart F and 18 CFR part 284 of the Commission's regulations ("pipeline projects").

II. Effects on Historic Natural Gas Pipelines

a. Evaluation

For pipeline projects affecting pipelines 50 years old or older not previously evaluated for eligibility for listing in the National Register of Historic Places ("National Register"), the applicant/certificate holder will consult with the appropriate State Historic Preservation Officer ("SHPO") to apply the National Register Criteria to the pipeline.

(1) If the applicant/certificate holder and SHPO agree that the pipeline is not eligible for listing in the National Register, then the pipeline will not be

treated as a historic property for Section 106 purposes.

(2) If the applicant/certificate holder and SHPO agree that the pipeline is eligible for listing in the National Register, proceed to subparagraph (b), below.

(3) If the applicant/certificate holder and the SHPO cannot agree on the eligibility of the pipeline, these program comments will not be applicable to the pipeline project.

b. Treatment

(1) For pipelines already listed or determined to be eligible for listing in the National Register and for those determined to be eligible for National Register listing pursuant to subparagraph (a)(2) ("historic pipelines"), the applicant/certificate holder will consult with the appropriate SHPO to determine the appropriate level and type of documentation. In determining what is appropriate, the applicant/certificate holder and the SHPO should consider the likelihood and magnitude of future impacts.

(2) If the applicant/certificate holder and SHPO agree regarding documentation, the applicant/certificate holder will document the historic pipeline, or relevant portion thereof, and contributing features as follows:

(i) Documentation will be carried out in accordance with the Secretary of the Interior's Guidelines for Architectural and Engineering Documentation to meet, at a minimum, the Documentation Level IV Standard.

(ii) The documentation will be placed in an appropriate depository as recommended by the SHPO.

(iii) Once the applicant/certificate holder and the SHPO have agreed regarding this documentation and deposit, the project cannot be found to have an effect (as defined under 36 CFR part 800) upon the characteristics that make the pipeline eligible for National Register listing, and the requirements of Section 106 with regard to the historic pipeline will be deemed to have been met. Documentation and deposit need not be completed for this provision to apply, except to the extent that modification of the historic pipeline would preclude the subsequent completion of the agreed-upon documentation and deposit.

(iv) For those pipeline projects carried out by an applicant under 18 CFR part 157, subpart A, the applicant will also submit to the Commission the information necessary to comply with 18 CFR 380.12 (f).

(3) If the applicant/certificate holder and the SHPO cannot agree on the level and type of documentation and/or the

depository, then these Program Comments will not be applicable.

III. Effects on Other Historic Properties

These program Comments address only pipeline project effects to historic pipelines. These program comments do not apply to potential effects to other properties listed in, or eligible for inclusion in, the National Register.

IV. Applicability

These Program Comments are not applicable on tribal lands, as defined under 36 CFR 800.16(x) ("all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities"), unless the relevant tribe consents. Federal agencies other than the Commission may use these program comments for pipeline projects that take place on federally administered lands under their jurisdiction.

Authority: 36 CFR 800.14(e)

Dated: October 16, 2001.

Ronald D. Anzalone,

Acting Executive Director.

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

SUPPLEMENTARY INFORMATION: The National Agricultural Research, Extension, Education, and Economics Advisory Board, which represents 30 constituent categories, as specified in section 802 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. No. 104-127), has scheduled a National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting, October 30, 2001–November 1, 2001.

On Tuesday, October 30, 2001, through Thursday, November 1, 2001, the Advisory Board will hold a general meeting at the Washington Court Hotel in Washington, DC. An Orientation