

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF-2007-36, dated December 21, 2007, and Bombardier Service Bulletin 601R-28-059, Revision E, dated October 29, 2007, for related information.

Issued in Renton, Washington, on March 18, 2008.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. E8-6299 Filed 3-26-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 922

[Docket No. 080302355-8413-01]

**RINs 0648 AT14, 0648 AT15, 0648 AT16**

#### Office of National Marine Sanctuaries Regulations

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Proposed rule.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) previously published proposed revised management plans, revised Designation Documents, and revised regulations for the Cordell Bank National Marine Sanctuary (CBNMS), Gulf of the Farallones National Marine Sanctuary (GFNMS), and Monterey Bay National Marine Sanctuary (MBNMS). The currently pending proposed regulations would revise and provide greater clarity to existing regulations.

After reviewing public comments on the proposed rules, including a request from the California State Water Resources Control Board to prohibit discharges from certain vessels in national marine sanctuaries offshore of California, and further analyzing vessel discharge issues, NOAA now proposes additional discharge regulations for the CBNMS, GFNMS, and MBNMS consistent with the request of the California State Water Resources Control Board. This proposed rule would prohibit discharge of treated

waste from vessels 300 gross registered tons (GRT) or more with sufficient holding tank capacity to hold treated sewage while within the sanctuary and limit the exception for graywater discharges to vessels less than 300 GRT, and vessels 300 GRT or more without sufficient holding tank capacity to hold graywater while within the MBNMS.

**DATES:** Comments will be considered if received by May 9, 2008.

**ADDRESSES:** Written comments should be sent by mail to: Sean Morton, JMPR Management Plan Coordinator, NOAA's Office of National Marine Sanctuaries, 1305 East-West Highway, N/ORM-6, Silver Spring, MD 20910, by e-mail to: [jointplancomments@noaa.gov](mailto:jointplancomments@noaa.gov), or by fax to (301) 713-0404. Copies of the DMP/DEIS are available from the same address and on the Web at: <http://www.sanctuaries.nos.noaa.gov/jointplan>. Comments can also be submitted to the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

#### FOR FURTHER INFORMATION CONTACT:

Sean Morton, NOAA Office of National Marine Sanctuaries, 301-713-7264 or [sean.morton@noaa.gov](mailto:sean.morton@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 304(e) of the National Marine Sanctuaries Act (16 U.S.C. 1434 *et seq.*) (NMSA), the ONMS conducted a review of the management plans for the CBNMS, GFNMS, and MBNMS. The review resulted in proposed new management plans for the sanctuaries, some proposed revisions to existing regulations, some proposed new regulations, and some proposed changes to the designation documents. Certain discharges or deposits of material or other matter from within or into the sanctuaries from vessels in general and certain discharges or deposits from cruise ships were among regulations proposed for modification or addition.

For the CBNMS, proposed new regulations (71 FR 59039, October 6, 2006) included prohibitions on:

- Discharging or depositing from within or into the Sanctuary any material or other matter from a cruise ship, except vessel engine and generator cooling water.

For the CBNMS, proposed revisions to existing regulations (71 FR 59039, October 6, 2006) would:

- Clarify that discharges/deposits allowed from marine sanitation devices apply only to Type I and Type II marine sanitation devices and all vessel operators are required to lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;

- Remove an exception for discharging or depositing food waste resulting from meals on board vessels; and

- Revise language for discharges and deposits from beyond the boundary of the sanctuary that subsequently enter the Sanctuary and injure Sanctuary resources.

For the GFNMS, proposed new regulations (71 FR 59338, October 6, 2006) included prohibitions on:

- Discharging or depositing from within or into the sanctuary any material or other matter from a cruise ship, except vessel engine and generator cooling water; and
- Discharging or depositing, from beyond the boundary of the sanctuary, any material or other matter that subsequently enters the sanctuary and injures a sanctuary resource or quality.

For the GFNMS, proposed revisions to existing regulations (71 FR 59338, October 6, 2006) would:

- Clarify that discharges/deposits allowed from marine sanitation devices apply only to Type I and Type II marine sanitation devices, and that the vessel operators are required to lock all marine sanitation devices in a manner that prevents discharge of untreated sewage; and

- Remove exceptions to the discharging or depositing prohibition that pertain to discharge of municipal sewage.

For the MBNMS, proposed new regulations (71 FR 59050, October 6, 2006) included prohibitions on:

- Discharging or depositing any material or other matter from a cruise ship other than vessel engine cooling water, vessel generator cooling water, or anchor wash.

For the MBNMS, proposed revisions to existing regulations (71 FR 59050, October 6, 2006) would:

- Clarify that discharges/deposits allowed from marine sanitation devices apply only to Type I and Type II marine sanitation devices and that vessel operators are required to lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;
- Clarify that the prohibition against discharges/deposits applies to discharges/deposits both within and into the sanctuary;
- Clarify that discharges/deposits resulting from cruise ship generator cooling water, anchor wash, and clean bilge water (defined as not containing detectable levels of harmful matter) are excepted from the cruise ship discharge/deposit prohibition.

NOAA published these proposals in 2006 in the CBNMS, GFNMS, and MBNMS Draft Management Plans

(DMPs) and Draft Environmental Impact Statement (DEIS), available online at: <http://sanctuaries.noaa.gov/jointplan/>. On October 6, 2006 NOAA issued notices of availability of the DMPs and DEIS, and published the associated proposed rules.

With regard to vessel discharges/deposits from marine sanitation devices, NOAA's proposed action only allowed discharges from Type I and Type II marine sanitation devices and required vessel operators to lock marine sanitation devices in a manner preventing discharge of untreated sewage. NOAA's proposed action prohibited most discharges/deposits from within or into the sanctuaries from cruise ships.

After receiving comments on the DEIS and proposed rules, in particular from the California State Water Resources Control Board, NOAA proposes to expand the range of vessels subject to the discharge requirements to better address potential impacts of sewage and graywater discharges from large vessels other than cruise ships. The impact of the regulations is within the range of the alternatives discussed in the original DEIS. Additional analysis related to these proposed regulations is included in Supplemental Draft Environmental Impact Statement (SDEIS).

### Background

NOAA distributed the draft management plans and DEIS, and published the proposed rules, on October 6, 2006 and accepted comments through January 5, 2006. During public review, NOAA received a wide range of comments, including substantial public and agency comments about changes proposed for sanctuary regulation of sewage and graywater discharges/deposits from vessels of 300 GRT or more. Comments included a request that NOAA expand the cruise ship discharge regulation to prohibit sewage discharges from other large vessels. In addition, comments from California state agencies and environmental non-governmental organizations indicated that NOAA's proposed exception for graywater discharges is inconsistent with the California Clean Coast Act (California Public Resources Code sec. 72420–72422) prohibiting graywater discharges from vessels 300 GRT or more within state waters.

On May 11, 2007, NOAA also received a request from the California State Water Resources Control Board to prohibit discharges from certain vessels in national marine sanctuaries offshore of California. The California Clean Coast Act requires the State Water Resources Control Board to request the appropriate

federal agencies to prohibit the release of wastes from cruise ships and oceangoing ships into state marine waters and the four national marine sanctuaries in California. The request referenced the California Clean Coast Act [California Senate Bill 771 (Chapter 588, Statutes of 2006)], and specifically requested NOAA prohibit release from large passenger vessels (cruise ships) and other oceangoing ships (300 gross tons or more) of hazardous waste, oily bilgewater, other waste, and sewage sludge into the marine waters of the state and marine sanctuaries. These proposed rules include prohibitions consistent with the request from the State of California for the CBNMS, GFNMS, and MBNMS.

Existing or currently pending regulations published in October 2006 (71 FR 59039, 71 FR 59050, 71 FR 59338) already prohibit discharge of hazardous waste, oil bilge water and sewage sludge.

The revised proposed discharge/deposit regulations: (1) Provide an exception for treated sewage discharges only applicable to vessels less than 300 GRT, and vessels greater than 300 GRT without sufficient holding tank capacity to hold sewage while within the sanctuary and (2) provide an exception for graywater discharges applicable to vessels less than 300 GRT, and vessels 300 GRT or more without sufficient holding tank capacity to hold graywater while within the MBNMS. Discharge of graywater is already prohibited, without exception, in the CBNMS and GFNMS.

The graywater discharge exception for vessels without sufficient holding tank capacity to hold graywater while within the MBNMS is proposed because many vessels are designed without the ability to retain graywater, and as such must discharge graywater directly as it is produced. Some vessels mix graywater with untreated sewage where it is treated in the vessel marine sanitation device (MSD). If graywater is retained in an MSD and, consequently, mixed with any sewage, it is considered blackwater.

The primary purpose of these revised regulations is to reduce potentially harmful effects of large-vessel sewage and graywater discharges on sanctuary qualities and resources. The revisions described herein affect two of the exceptions to the prohibition on discharging or depositing material or other matter into the sanctuary: the exception for treated sewage for the CBNMS, GFNMS, and MBNMS, and the exception for biodegradable matter including sewage for the MBNMS. Proposed revisions would result in substantive changes regarding sewage and graywater.

NOAA will publish any final regulations for the CBNMS, GFNMS, and MBNMS after reviewing all comments to the currently pending proposed rules and this proposed rule.

### Environment

The CBNMS protects an area of 526 square miles (399 square nautical miles) off the northern California coast. The main feature of the Sanctuary is Cordell Bank, an offshore granite bank located on the edge of the continental shelf, about 43 nautical miles (nmi) northwest of the Golden Gate Bridge and 20 nmi west of the Point Reyes lighthouse. CBNMS is entirely offshore and shares its southern and eastern boundary with the GFNMS. The CBNMS eastern boundary is six miles from shore and the western boundary is the 1000 fathom isobath on the edge of the continental slope. CBNMS is located in one of the world's four major coastal upwelling systems. The combination of oceanic conditions and undersea topography provides for a highly productive environment in a discrete, well-defined area. The vertical relief and hard substrate of the Bank provide benthic habitat with near-shore characteristics in an open ocean environment 20 nmi from shore. The Cordell Bank National Marine Sanctuary was established in 1989 to protect and preserve the extraordinary ecosystem, including marine birds, mammals, and other natural resources of Cordell Bank and its surrounding waters.

The GFNMS lies off the coast of California, to the west and north of San Francisco. The GFNMS is composed of offshore waters extending out to and around the Farallon Islands and nearshore waters (up to the mean high tide line) from Bodega Head to Rocky Point in Marin. The GFNMS is characterized by the widest continental shelf on the west coast of the contiguous United States. In the Gulf of the Farallones, the shelf reaches a width of 32 nautical miles (59 km). Shoreward of the Farallon Islands, the continental shelf is a relatively flat sandy/muddy plain, which slopes gently to the west and north from the mainland shoreline. The Farallon Islands lie along the outer edge of the continental shelf, between 13 and 19 nautical miles (24 and 35 km) southwest of Point Reyes and approximately 26 nautical miles (48 km) due west of San Francisco. In addition to sandy beaches, rocky cliffs, small coves, and offshore stacks, the GFNMS includes open bays (Bodega Bay, Drakes Bay) and enclosed bays or estuaries (Bollinas Lagoon, Tomales Bay, Estero Americano, and Estero de San Antonio). The Gulf of the Farallones National

Marine Sanctuary was established in 1981 to protect and preserve this unique and fragile ecological community.

The MBNMS is located offshore of California's central coast, adjacent to and south of the GFNMS. It encompasses a shoreline length of approximately 268 miles between Marin in Marin County and Cambria in San Luis Obispo County and approximately 4,016 square nautical miles of ocean and coastal waters, and the submerged lands thereunder, extending an average distance of 30 miles from shore. Supporting some of the world's most diverse marine ecosystems, it is home to numerous mammals, seabirds, fishes, invertebrates, and plants in a remarkably productive coastal environment. The MBNMS was established in 1992 for the purposes of protecting and managing the conservation, ecological, recreational, research, educational, historical, and esthetic resources and qualities of the area.

According to Lloyds Maritime Information Services, in 2000, 3,575 cargo vessels called at ports on San Francisco Bay, including 1,936 container vessels, 787 tankers, 626 dry bulk vessels, and 226 other types (Bureau of Transportation Statistics 2002). Approximately half of these vessels transit south off the coast of California, while the other half transit north or west of San Francisco. Data from the U.S. Army Corps of Engineers show a similar level of movement, with approximately 3,600 vessels (including foreign and domestic vessels, tugs, and barges) entering San Francisco Bay from the Pacific Ocean each year (USACE 2002a). In addition, approximately 3,000 large vessels transit along the northern/central California coast every year (Pacific States/British Columbia Oil Spill Task Force 2002), passing through the three sanctuaries.

### Summary of the Proposed Regulatory Amendments

#### *Regulation of Vessel Sewage*

The proposed regulations would revise the prohibition to address sewage discharges/deposits from within or into the CBNMS, GFNMS, and MBNMS from vessels of 300 GRT or more. The prohibitions would only apply to vessels with sufficient holding tank capacity to hold sewage while within the sanctuary.

The revised regulations would better address NOAA's concerns about possible impacts from large volumes of treated sewage discharges within the sanctuaries from large vessels in addition to cruise ships. Untreated

sewage discharges are prohibited within the national marine sanctuaries. Vessel sewage discharges are more concentrated than domestic land-based sewage. They may contain bacteria or viruses that can cause disease in humans and wildlife, may contain high concentrations of nutrients that can lead to eutrophication (the process that can cause oxygen-depleted "dead zones" in aquatic environments), and may yield unpleasant esthetic impacts to the sanctuary environment (diminishing sanctuary resources and their ecological, conservation, esthetic, recreational and other qualities). Large vessels may have either Type II marine sanitation devices (MSDs) that treat sewage, or Type III MSDs that hold sewage until it can be legally pumped out or discharged.

In 2006, approximately 75% of the large oceangoing vessels that called on California ports were using a Type II MSD. While these devices are designed to lower fecal coliform bacteria counts (to a standard of 200 fecal coliform per 100 milliliter of sample) and reduce total suspended solids (to a standard of 150 milligrams per liter), studies in Alaska of cruise ship wastewater discharges have shown high rates of failure in the ability of conventional MSDs to meet legal discharge standards (Alaska Department of Environmental Conservation 2004). Furthermore, monitoring and testing of MSD discharges (outside of Alaska) is not legally required of large vessel operators, so reductions in treatment effectiveness may go undetected.

#### **Regulation of Vessel Graywater**

The proposed action would also amend the exception to the prohibition on discharging or depositing graywater from within or into the MBNMS. The revised regulation would provide an exception for discharging or depositing graywater from vessels less than 300 GRT, and vessels 300 GRT or greater without sufficient holding tank capacity to hold graywater while within the MBNMS.

The revised regulation would better address NOAA's concerns about the potential impacts of graywater discharges from large vessels in the MBNMS. Graywater from vessels includes wastewater from showers, baths, and galleys. Graywater can contain a variety of substances including (but not limited to) detergents, oil and grease, pesticides and food wastes (Eley 2000). Very little research has been done on the impacts of graywater on the marine environment, but many of the chemicals commonly found in graywater are known to be toxic (Casanova *et al.*

2001). These chemicals have been implicated in the occurrence of cancerous growths in bottom-dwelling fish (Mix 1986). Furthermore, studies of graywater discharges from large cruise ships in Alaska (prior to strict state effluent standards for cruise ship graywater discharges) found very high levels of fecal coliform in large cruise ship graywater (well exceeding the federal standards for fecal coliform from Type II MSDs). These same studies also found high mean total suspended solids in some graywater sources (exceeding the federal standards for total suspended solids from Type II MSDs).

In summary, the revised proposed discharge regulations would prohibit the following discharges: (1) Within or into the CBNMS, GFNMS, and MBNMS all treated sewage/deposits from vessels 300 GRT or more with sufficient holding tank capacity to hold sewage while within the sanctuary and (2) within or into the MBNMS, all graywater from vessels 300 GRT or more with sufficient holding tank capacity to hold graywater while within the MBNMS.

### Miscellaneous Rulemaking Requirements

#### *National Environmental Policy Act*

NOAA has prepared a Supplemental Draft Environmental Impact Statement (SDEIS) to evaluate the proposed revisions to the discharge/deposit regulations analyzed in the DEIS. Copies are available at the address and Web site listed in the ADDRESSES section of this proposed rule. Responses to comments received on this proposed rule will be published in the Final Environmental Impact Statement and preamble to the final rule.

#### *Executive Order 12866: Regulatory Impact*

This proposed rule has been determined to be not significant within the meaning of Executive Order 12866.

#### *Executive Order 13132: Federalism Assessment*

NOAA has concluded this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. The ONMS consulted with a number of entities within the State who participated in development of this proposed rule, including but not limited to the California Coastal Commission, California Regional Water Quality Control Board, California Department of Fish and Game, and California Resources Agency.

*Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows:

Based primarily on recent socioeconomic studies, and on-site surveys of visitor use, NMSP has identified the following small entities as defined by the Regulatory Flexibility Act. Small business concerns operating within the CBNMS, GFNMS, and MBNMS (sanctuaries) include over 500 commercial fishing operations, six mariculture operations, more than 30 consumptive recreational charter businesses, over 30 non-consumptive recreational charter businesses, approximately 3 motorized personal watercraft businesses, and approximately 10 marine salvage companies.

Small organizations operating within the sanctuaries include non-governmental organizations (NGOs) and/or non-profit organizations (NPOs) dedicated to environmental education, research, restoration, and conservation concerning marine and maritime heritage resources. There are approximately 50 small organizations active in the sanctuaries including non-profit organizations (NPOs) involved in education, research, restoration, and conservation activities. Cambria, Carmel-by-the-Sea, Pacific Grove, City of Monterey, City of Seaside, Del Rey Oaks, Marina, Castroville, Pajaro, Soquel, Capitola, Rio Del Mar, Aptos, Pacifica, Half Moon Bay, San Mateo County Harbor District, Santa Cruz Port District and Moss Landing Harbor District would qualify as "small governmental jurisdictions" directly adjacent to the sanctuaries.

The proposed modifications to the sanctuaries' discharge/deposit regulation prohibiting waste discharges from vessels 300 GRT or greater is applicable to any small entities that operate vessels of this size in the Sanctuary. However, no small entities among those identified above operate vessels 300 GRT or more within the sanctuaries. Because this action would not have a significant economic impact on a substantial number of small entities, no initial regulatory flexibility analysis is required, and none was prepared.

*Request for Comments*

NOAA requests comments on this proposed rule concerning vessel discharges and deposits of sewage and graywater, which supplements the currently pending proposed rules published on October 2006 (71 FR 59039, 71 FR 59050, 71 FR 59338).

**List of Subjects in 15 CFR Part 922**

Administrative practice and procedure, Boats and Boating safety, Coastal zone, Education, Environmental protection, Fish, Harbors, Marine mammals, Marine pollution, Marine resources, Marine safety, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research, Water pollution control, Water resources, Wildlife.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 21, 2008.

**Steve Kozak,**

*Chief of Staff for Ocean Services and Coastal Zone Management.*

Accordingly, for the reasons set forth above, 15 CFR part 922 is proposed to be amended as follows:

**PART 922—[AMENDED]**

1. The authority citation for part 922 continues to read as follows:

**Authority:** 16 U.S.C. 1431 *et seq.*

2. In § 922.82 revise paragraphs (a)(2) introductory text and (a)(2)(ii) to read as follows:

**§ 922.82 Prohibited or otherwise regulated activities.**

(a) \* \* \*

(2) Discharging or depositing from within or into the Sanctuary, other than from a cruise ship, any material or other matter except:

\* \* \* \* \*

(ii) For a vessel less than 300 gross registered tons (GRT), or a vessel 300 GRT or greater without sufficient holding tank capacity to hold sewage while within the Sanctuary, biodegradable effluents incidental to vessel use and generated by: An operable Type I or II marine sanitation device (U.S. Coast Guard classification) that is approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended (FWPCA), 33 U.S.C. 1322.

Vessel operators must lock all marine sanitation devices in a manner that prevents discharge or deposit of untreated sewage;

\* \* \* \* \*

3. In § 922.111 revise paragraphs (a)(1)(i) introductory text and (a)(1)(i)(B) to read as follows:

**§ 922.111 Prohibited or otherwise regulated activities.**

(a) \* \* \*

(1) \* \* \*

(i) Discharging or depositing from within or into the Sanctuary, other than from a cruise ship, any material or other matter except:

\* \* \* \* \*

(B) For a vessel less than 300 gross registered tons (GRT), or a vessel 300 GRT or greater without sufficient holding tank capacity to hold sewage while within the Sanctuary, biodegradable effluents incidental to vessel use and generated by an operable Type I or II marine sanitation device (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended (FWPCA), 33 U.S.C. 1322. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge or deposit of untreated sewage;

\* \* \* \* \*

4. In § 922.132 revise paragraphs (a)(2)(i) introductory text and (a)(2)(i)(B) through (E), and add paragraph (a)(2)(i)(F) to read as follows:

**§ 922.132 Prohibited or otherwise regulated activities.**

(a) \* \* \*

(2)(i) Discharging or depositing from within or into the Sanctuary, other than from a cruise ship, any material or other matter, except:

\* \* \* \* \*

(B) For a vessel less than 300 gross registered tons (GRT), or a vessel 300 GRT or greater without sufficient holding tank capacity to hold sewage while within the Sanctuary, biodegradable effluent incidental to vessel use and generated by an operable Type I or II marine sanitation device (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended (FWPCA), 33 U.S.C. 1322. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge or deposit of untreated sewage;

(C) Biodegradable vessel deck wash down, vessel engine cooling water, vessel generator cooling water, anchor wash, clean bilge water (meaning not containing detectable levels of harmful matter as defined);

(D) For a vessel less than 300 gross registered tons (GRT), or a vessel 300 GRT or greater without sufficient holding tank capacity to hold graywater

while within the Sanctuary, graywater as defined by section 312 of the FWPCA that is biodegradable;

(E) Vessel engine or generator exhaust; or

(F) Dredged material deposited at disposal sites authorized by the U.S. Environmental Protection Agency (EPA) (in consultation with the U.S. Army Corps of Engineers (COE)) prior to the effective date of Sanctuary designation (January 1, 1993), provided that the activity is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval existing on January 1, 1993. Authorized disposal sites within the Sanctuary are described in appendix C to this subpart.

\* \* \* \* \*

[FR Doc. E8-6189 Filed 3-26-08; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 358

[Docket No. RM07-1-000]

#### Standards of Conduct for Transmission Providers

March 21, 2008.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to revise its Standards of Conduct for transmission providers to make them clearer and to refocus the rules on the areas where there is the greatest potential for affiliate abuse. By doing so, we will make compliance less elusive and facilitate Commission enforcement. We also propose to conform the Standards to the decision of the U.S. Court of Appeals for the D.C. Circuit in *National Fuel Gas Supply Corporation v. FERC*, 468 F.3d 831 (D.C. Cir. 2006). On January 18, 2007, the Commission issued a Notice of Proposed Rulemaking (initial NOPR), and received both initial and reply comments from interested persons.

After giving consideration to these comments and to our own experience in enforcing the Standards, the Commission believes it to be necessary and appropriate to modify the approach proposed in the initial NOPR. The Commission is therefore issuing a new NOPR, and invites all interested persons to submit comments in response to the regulations proposed herein.

**DATES:** Comments are due May 12, 2008.

**ADDRESSES:** You may submit comments, identified by docket number by any of the following methods:

- *Agency Web Site:* <http://ferc.gov>. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

- *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

#### FOR FURTHER INFORMATION CONTACT:

Kathryn Kuhlen, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, [Kathryn.Kuhlen@FERC.gov](mailto:Kathryn.Kuhlen@FERC.gov), (202) 502-6855.

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## I. Introduction

1. The Federal Energy Regulatory Commission is proposing to reform its Standards of Conduct for Transmission Providers. The primary purpose of our proposed reforms is to strengthen the Standards by making them clearer and by refocusing the rules on the areas where there is the greatest potential for affiliate abuse. By doing so, we also will make compliance less elusive and subjective for regulated entities, and facilitate enforcement of the Standards by the Commission. We also propose to

reform our regulations to comply with the U.S. Court of Appeals for the D.C. Circuit decision in *National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831 (D.C. Cir. 2006).

2. On January 18, 2007, the Commission issued a Notice of Proposed Rulemaking (initial NOPR) to modify the Standards. The primary purpose of the initial NOPR was to remedy the defects identified by the D.C. Circuit in *National Fuel*, particularly the court's rejection of the Standards' treatment of Energy Affiliates

of natural gas pipelines. The Commission also sought to remedy other specific flaws in the Standards, such as by removing impediments to integrated resource planning. In proposing these reforms we did not, however, undertake a broader review of the Standards to determine whether they were continuing to prevent affiliate abuse in the manner most likely to foster compliance and enhance enforcement. Based on comments received on the NOPR, as well as the comments received at our recent