

# **Guidance on Repairs to Interstate Natural Gas Pipelines Pursuant to FERC Regulations (July 2005)**

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## **I. Guidance on Activities Allowed Under the FERC Regulations**

The guidance we<sup>1</sup> are providing here is to help the interstate natural gas pipeline industry (industry), agencies and other interested parties understand better the expedition of projects under the Pipeline Safety Improvement Act of 2002 (PSIA).<sup>1</sup> This guidance explains which repair projects occurring as a result of the integrity management program require no/or minimal notification to the Federal Energy Regulatory Commission (FERC or Commission) before starting the project, versus those that could require a complete analysis under Commission regulations.

A summary of the potential construction options is provided below: You can access these regulations [and](http://www.ferc.gov/legal/ferc-regs.asp) the Natural Gas Act through our website at <http://www.ferc.gov/legal/ferc-regs.asp> (access Title 18 CFR).

- Section 2.55(a) (auxiliary installations)
- Section 2.55(b) (replacement of facilities)
- Blanket Certificate (Subpart F of Part 157)
- Section 7 of the Natural Gas Act (Operation and Maintenance)

## **II. Summary of Allowable Activities under FERC Programs**

### ***A. Operation and Maintenance of Certificated Projects***

Operation and routine maintenance activities can be done without any authorization from FERC beyond the certificate authorizing the construction/operation of the facilities. All the testing including, if necessary, excavating the pipeline for direct inspection can be done if all construction related activities remain in the original right-of-way footprint. If the inspection indicates pipe replacement is needed, then under certain conditions it can be done under the exemption from certificate authorization provided by section 2.55(b) of the regulations (which is explained in detail below in the Summary of FERC Programs). These conditions are:

- a. The replaced pipe goes in the same permanent right-of-way as the pipe being replaced.

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<sup>1</sup> The pronouns we, us, and our refer to the staff of the FERC's Office of Energy Projects.

- b. Replacement of the pipeline uses the same construction area that was used in the original installation.
- c. The new pipe has substantially equivalent capacity as the replaced pipe.

If these conditions can't be met, then the authorization conferred by the blanket certificate may be able to be used. The blanket certificate program includes conditions requiring consultations with federal agencies for endangered species, essential fish habitat, cultural resources, and coastal zone management concerns among others. The blanket certificate also has project cost limitations.

If the blanket certificate program is used but a variance from a measure in our Plan or Procedures<sup>2</sup> is needed, the company should contact staff immediately so that we can be sure to process a written request quickly. Initial contact information is provided at the end of this guidance. Failure to make this contact can result in a delay.

If the requirements of the blanket program cannot be met, then the company must get a project-specific certificate to authorize the replacement.

None of these regulations exempt the industry from the applicable portions of any other agency's authority. Actions covered by section 2.55(b) are not federal actions by FERC and therefore do not require any FERC involvement in compliance with any regulations such as the Endangered Species Act or the National Historic Preservation Act. However, if these or any other statutes have requirements applicable to non-governmental entities, they still apply. Under the blanket program or the regular certificate process FERC does have an obligation to be involved, either through regulation (the blanket program) or actively in the case of a certificate filing.

### ***B. Section 2.55(a) and 2.55(b)***

This section covers installation of auxiliary facilities [2.55(a)] and replacement of facilities [2.55(b)] which are physically deteriorated or obsolete as long as there will be no reduction or abandonment of service through the facilities, and the replacement will have substantially the equivalent design capacity as the original facility. See appendix 1 to this guidance for a description of the kinds of installations which qualify as auxiliary under section 2.55(a).

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<sup>2</sup> Plan = Upland Erosion Control, Revegetation and Maintenance Plan  
Procedures = Wetland and Waterbody Construction and Mitigation Procedures  
These documents can be found at [www.ferc.gov/industries/gas/enviro/guidelines.asp](http://www.ferc.gov/industries/gas/enviro/guidelines.asp)

These 2.55(a) facilities and 2.55(b) replacements are exempt from Natural Gas Act regulations and there are no requirements to comply with standard environmental conditions. However, all replacement facilities must be constructed within the same right-of-way, compressor station, or other aboveground facility site as the facility being replaced. In addition, all construction activity involved with the installation of such replacements must use only the land area originally used for installation of the facilities being replaced. Clarification of the requirement for the use of the same construction area may be found in appendix A to Part 2 of the Commission's regulations. (See appendix 2 to this guidance)

An Annual Report must be filed by May 1 of each year, which identifies all replacement projects completed during the previous calendar year that do not exceed the cost limit specified in column 1 of Table I of 18 CFR section 157.208(d) (less than \$8,000,000 in 2005). Replacement projects that exceed this amount require advanced notification to the FERC. Annual reports are not required for projects that require Advance Notification or that only involve aboveground replacement and did not involve compression facilities or the use of earthmoving equipment.

If a replacement project exceeds the cost limitation (over \$8,000,000 in 2005), an Advance Notification must be filed at least 30 days before beginning construction (unless immediate replacement is required to comply with U.S. Department of Transportation (DOT) safety regulations).

For both the Annual Report and Advance Notification, the following information must be provided for our review of each project:

- A description of the facilities, including the pipeline length and diameter, capacity and cost, compressor horsepower, metering facilities, taps, valves, etc.;
- The specific reason for replacement of the facilities;
- For 30-day Advance Notifications, a general location map (showing the facilities in relation to existing facilities);
- A current USGS 7.5-minute-series topographic map (showing the location of each facility);
- The actual (or anticipated) start and end dates of construction; and
- A description of the procedures to be used for erosion control, revegetation and maintenance, and stream and wetland crossings (a plan should be submitted, but it does not have to be our recommended Plan and Procedures).

### **C. Blanket Certificate - Subpart F of Part 157**

Pipeline integrity repairs, replacements, construction, or abandonment activities which do not meet the requirements of 2.55(a) or 2.55(b) facilities must be authorized under one of several sections of the blanket certificate:

- section 157.208, construction, acquisition, operation, and replacement of any eligible facility or miscellaneous rearrangement of any facilities; or
- section 157.209, temporary compression facilities.

The primary portion of the blanket program which would apply to Integrity Management issues is section 157.208.<sup>3</sup> That section provides for two types of facilities; (1) “eligible” facilities, and (2) “any” facilities.

(1) An “eligible” facility is completely defined in section 157.202. Briefly, it is any facility, other than mainline pipeline and compression facilities, needed to provide service within certificated levels, or facilities to allow the certificate holder to receive gas into its system and interconnections for transporters of gas under Part 284. In addition, it includes any replacement (including mainline) that doesn’t qualify under section 2.55 because of incidental increases in capacity or the need to move the facility or use new workspace. Finally, replacements and the modification of facilities (including mainline) to rearrange gas flows or increase compression to restore service in an emergency due to sudden unforeseen damage to mainline facilities are eligible facilities.

If an activity involves an eligible facility or qualifies as a miscellaneous rearrangement, it may proceed under section 157.208 with certain conditions. The blanket certificate program requires that all projects must be completed in compliance with section 157.206(b). (See further discussion of these standard conditions below.)

(2) The broad category of “any” facility is used in the context of authorization to do miscellaneous rearrangements of “any” facility. This authorization has only one restriction—it doesn’t include underground storage injection/withdrawal wells. The blanket allows “miscellaneous rearrangement” of “any” facility where “miscellaneous rearrangement” means relocation or modification that does not result in any change of service, and which is on the same property or is required:

- By highway or dam construction, encroachment of residential, commercial, or industrial areas, erosion, or changes in water courses; or

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<sup>3</sup> Sections 157.211, delivery points, and 157.216, abandonment, may in some cases be needed, but would usually be associated with more significant activity under section 157.208.

- To respond to natural forces to ensure safety or maintain operational integrity.

If there is a change of service or something that is other than a simple relocation or modification of an existing facility, then the activity is not a miscellaneous rearrangement. It becomes a construction, acquisition, operation, or replacement which can only be done if the facility is an “eligible” facility.

Minor projects<sup>4</sup> under section 157.208(a) and temporary compression under section 157.209 may be done automatically under the appropriate requirements of those sections. These activities are subject to the Annual Report.

In addition, construction projects under section 157.208 above \$8,000,000 require prior notice to the Commission before start of the activity. For these activities, there is a 45-day period following the Commission’s notice of the Prior Notice filing during which protests of the activity may be filed. If there are no protests, the activity may begin on the 46th day. If there are protests, the activity may not go forward under the blanket regulations unless the protests are withdrawn. If all protests are withdrawn, the activity may proceed on the day following the withdrawal of the last protest. Otherwise the Commission must issue an Order before the project can be constructed.

The following sections describe the standard environmental conditions which apply to any construction under the blanket program and all the primary requirements for section 157.208 activities.

### **Standard Environmental Conditions for All Blanket Projects**

The standard environmental conditions and requirements of section 157.206(b) apply to all projects under the blanket program of Subpart F of Part 157 or to NGPA section 311 facilities used to provide Part 284 transportation, but only if the project involves ground disturbance or changes to operational air or noise emissions. This section of the regulations states that the company will adopt the requirements set forth in section 380.15, Siting and Maintenance Requirements, and “shall issue the relevant portions thereof to construction personnel, with instructions to use them.” In addition, it states that all activities will be consistent with all applicable law and the provisions of the following statutes and regulations or compliance plans developed to implement them.

- Clean Water Act and the National Pollutant Discharge Elimination System Program

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<sup>4</sup> Minor projects are those that do not exceed the cost limit specified in column 1 of Table I of 18 CFR section 157.208(d) (less than \$8,000,000 in 2005).

- Clean Air Act
- National Historic Preservation Act of 1966 (NHPA)
- Archeological and Historic Preservation Act of 1974
- Coastal Zone Management Act of 1972 (CZM)
- Endangered Species Act of 1973 (ESA)
- Executive Order 11988 (May 24, 1977) requiring federal agencies to evaluate the potential effects of any actions it may take on a floodplain
- Executive Order 11990 (May 24, 1977) requiring an evaluation of the potential effects of construction on wetlands
- Wild and Scenic Rivers Act
- National Wilderness Act
- National Parks and Recreation Act of 1978
- Magnuson-Stevens Fishery Conservation and Management Act

In order to be in compliance with these statutes under the blanket program for replacements/integrity management projects which cannot be done under 2.55(b), the project sponsor:

- Must comply with Appendix I of Subpart F, involving consultation with the U.S. Fish and Wildlife Service and/or the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (as appropriate), and the project may go forward only if this consultation results in the agency(ies) concluding that:
  - There are no listed or proposed species or their critical habitat in the project area, or
  - There are listed species or their critical habitat in the project area, but the project is not likely to adversely affect a listed species or its habitat, or
  - There is no need for further consultation
- If proposed species or their critical habitat occur within the project area, the project sponsor implements (at its discretion) mitigation resulting from continued consultation with the agency(ies).
- Must comply with Appendix II of Subpart F, involving consultation with the State Historic Preservation Office (SHPO) and/or the Tribal Historic Preservation Officer (THPO) (as appropriate), and this consultation results in the agency(ies) concurring that:
  - No surveys are required, and no eligible properties are in the project area;

- Surveys are required and that as a result of the surveys no eligible properties are found in the project area; or
  - There are eligible properties in the project area, but the project would have no effect on any such cultural resource property.
- Must obtain the appropriate state agency's determination that the project will comply with the state's coastal zone management plan unless the appropriate state agency waives its right of review, if applicable;
  - Must adhere to the Commission staff's current Plan and Procedures, or must obtain staff or appropriate state or federal agency approval to use other specific alternatives;
  - Must make sure that the project will not have a significant adverse impact on a sensitive environmental area (see table 1 for the list of sensitive environmental areas from 18 CFR 157.202(b)(11));
  - Must make sure that the noise attributable to any new compressor station, compression added to an existing station, or any modification, upgrade or update to an existing station does not exceed an  $L_{dn}$  of 55 dBA at any noise-sensitive area (NSA) (such as schools, hospitals, or residences) unless the NSA is established after facility construction or modification.

If a project cannot meet all of the above conditions, then it is not allowed to proceed under the blanket program. If it is to proceed, a filing must be made to the Commission for a certificate under section 7 of the NGA.

A project is not allowed under the blanket program if the activity is located within 0.5 mile (project authorized under section 157.208 only) of a nuclear power plant which is either operating or under construction, or for which a construction permit has been filed with the Nuclear Regulatory Commission.

Table 1  
**Sensitive Environmental Areas**

The habitats of species which have been identified as endangered or threatened under the Endangered Species Act and Essential Fish Habitat as identified under the Magnuson-Stevens Fishery Conservation and Management Act

National or State Forests or Parks

Properties listed on, or eligible for inclusion in, the National Register of Historic Places, or the National Register of Historic Landmarks

Floodplains and wetlands

Designated or proposed wilderness areas, national or state wild and scenic rivers, wildlife refuges and management areas and sanctuaries

Prime agricultural lands, designated by the Department of Agriculture

Sites which are subject to use by American Indians and other Native Americans for religious purposes

### **Landowner Notification**

With two exceptions, landowner notification is required prior to any construction of projects done for the integrity management program under the Subpart F blanket program. One exception is any replacement which is not foreseen and requires immediate attention. Another exception is any replacement which would meet the section 2.55(b) requirements except that the replacement is not of the same capacity.

The definition of “landowner” is found in section 157.6(d)(2). The specific requirements for the contents of the landowner notice are in section 157.203(d).

For automatically authorized projects, landowners must be notified at least 30 days prior to commencing construction or at the time the company initiates easement negotiations, whichever is earlier. A landowner may waive the 30-day prior notice requirement in writing, as long as the notice has been provided.

For projects for which the Commission must receive advance notification, the landowners must be notified within at least three (3) business days following the date that a docket number is assigned to the notice by the Commission, or at the time the company initiates easement negotiations, whichever is earlier.

### **Annual Report for Construction Projects (sections 157.208(a & b) and section 157.209**

Projects that qualify for automatic authorization are for (1) projects constructed under section 157.208; (2) do not exceed the cost limit specified in column 1 of Table I of section 157.208(d) (less than \$8,000,000 in 2005); and, (3) meet the requirements of

section 157.209. These projects are reported on an annual basis in an Annual Report that is due by May 1 of each year.

For projects constructed under section 157.208(a) and section 157.209, the annual report must provide a description of the contacts made, reports produced, and results of consultations completed before construction to comply with the ESA, NHPA, and CZM. The annual report must also provide the date and name of the agency that cleared the project. Actual documentation is not required, although it is helpful to include the “clearance” from the agency.

Projects conducted under section 157.208(b) also must be included in the annual report. However, since environmental information was provided in the notice filed prior to construction, no additional environmental information is required for the annual report.

### **Contents of a Prior Notice Filing Under section 157.208(b)**

Projects that require prior notice under section 157.208(b) are those that cost more than the limitations set forth in column 1 but less than the amount specified in column 2 of Table I in section 157.208(d) (from \$8,000,000 to \$22,000,000 in 2005). For these projects, a concise analysis of the relevant issues outlined in section 380.12 is required in addition to a general description of the activity that is to take place. For projects to be completed under this section, include the following environmental information for each project:

- A description of the facilities, including the length and diameter, wall thickness and maximum allowable operating pressure of the pipeline; for compressors, the size, type and number of compressor units, horsepower required, horsepower existing and proposed, volume of fuel gas, suction and discharge pressure and compression ratios; metering facilities, taps, valves, etc.;
- The specific purpose of the facilities and relationship to other existing and planned facilities;
- A general location map (showing the facilities in relation to existing facilities);
- USGS 7.5-minute-series topographic maps or maps of equivalent detail (showing the location of each facility) and any sensitive environmental area within 0.25 mile of construction;
- The anticipated start and end dates of construction;
- A concise analysis summarizing the existing environmental conditions, the anticipated significant impacts as a result of construction of the facilities, and mitigation measures proposed to reduce or avoid impact on the quality

of the human environment, including impact on sensitive environmental areas;

- A statement that the project will comply with the requirements of section 157.206(b), including for compression facilities, the Clean Air Act and the applicable state implementation plans developed under the Clean Air Act, and the Ldn of 55 dBA at any NSA;
- Copies of correspondence or documentation of consultation with the FWS, SHPO, and appropriate state coastal zone management agency as described above under reporting requirements for Annual Reports; and
- Copies of all agreements received to comply with the ESA, the NHPA, and the CZM.

### **Additional Projects that could occur as a result of the Integrity Management Program**

Potentially delivery point and abandonment projects could occur in relation to integrity management repairs/replacements, if so then the regulations in section 157.211 and section 157.216 must be followed.

Installation of delivery points under section 157.211(a)(1), and abandonment under section 157.216(a), may be done automatically under the appropriate requirements of those sections. Projects that qualify for automatic authorization are those that meet the applicable subsections of section 157.211 or section 157.216. These projects are reported on an annual basis in an Annual Report that is due by May 1 of each year. For section 157.211 and for section 157.216, if earth disturbance was involved, only the date of the “clearance” is required.

Activities which require prior notice include the installation of delivery points under section 157.211(a)(2), and abandonment under section 157.216(b).

### **Prior Notice Filings under section 157.211(a)(2) and section 157.216(b)**

Although the regulations do not specifically require the filing of environmental information for construction or abandonment of facilities under these sections (other than USGS maps), the standard environmental conditions of section 157.206(b) apply to these projects. However, the following environmental information will assist us in our review:

- A description of the activity and its purpose;
- The anticipated start and end dates of activity;
- The county and state where the activity will take place;

- A general location map of where the activity will take place (copies of pipeline system maps or USGS topographic maps are acceptable provided that enough detail is included to allow us to locate the facilities in the field);
- A statement that the project will comply with the requirements of section 157.206(b) before construction; and
- Copies of correspondence or documentation of consultation (e.g., telephone conversations or meetings) with the:
  - FWS and NMFS (see Appendix I of Subpart F, referenced at section 156.206(b)(3)(i));
  - SHPO and THPO (see Appendix II of Subpart F, referenced at section 156.206(b)(3)(ii)); and
- Consistency determination from the appropriate agency that administers the state's coastal zone management plan, if applicable.

#### ***D. Where to go for questions***

Contact: Mr. Douglas A. Sipe  
Project Manager, Gas Branch 2  
[douglas.sipe@ferc.gov](mailto:douglas.sipe@ferc.gov)  
202.502.8837

Or

Mr. John S. Leiss  
Chief, Gas Branch 2  
[john.leiss@ferc.gov](mailto:john.leiss@ferc.gov)  
202.502.8058

Federal Energy Regulatory Commission  
888 First Street, NE  
Washington DC 20426

## Endnotes

<sup>i</sup> On November 15, 2002, Congress passed the Pipeline Safety Improvement Act of 2002 (PSIA), which was signed into law on December 17, 2002, and codified at 49 U.S.C. 60109. This law requires the Research and Special Programs Administration/Office of Pipeline Safety of the DOT to “issue regulations prescribing standards to direct an operator’s conduct of a risk analysis and adoption and implementation of an integrity management program” no later than 12 months after December 17, 2002. The statute sets forth minimum requirements for integrity management programs for gas pipelines located in High Consequence Areas (HCAs).

The final DOT regulations require operators to develop integrity management programs for gas transmission pipelines located where a leak or rupture could do the most harm, i.e., could impact HCAs. The rule requires gas transmission pipeline operators to perform ongoing assessments of pipeline integrity, to improve data collection, integration, and analysis; to repair and remediate the pipeline as necessary; and to implement preventive and mitigative actions. The regulations comprehensively address statutory mandates, safety recommendations, and conclusions from accident analyses, all of which indicate that coordinated risk control measures are needed to improve pipeline safety.

The PSIA directed federal agencies and departments having jurisdiction over the permitting of work needed for pipeline repairs to establish a coordinated and expedited pipeline repair permit review process. The process must be designed to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within the time periods to be established and specified by the Secretary of Transportation, pursuant to the PSIA, and in accordance with the statutory and regulatory requirements of the other agencies.

In accordance with Section 16 of the PSIA, to carry out this mandate and in recognition of the fact that timely repair of both natural gas and hazardous liquid pipelines is essential to facilitate the nation’s ability to meet the goal of sufficient availability and use of natural gas and liquid fuels, several federal agencies have entered into a Memorandum of Understanding (MOU). Agencies who signed the MOU are: Council on Environmental Quality; DOT; Environmental Protection Agency; Department of the Interior; Department of Commerce; Department of Defense; FERC; Department of Agriculture; Department of Energy; and the Advisory Council on Historic Preservation.

## **Appendix 1: 2.55(a) Auxiliary Facilities**

(a) Auxiliary installations.

- (1) Installations (excluding gas compressors) which are merely auxiliary or appurtenant to an authorized or proposed transmission pipeline system, and which are installations only for the purpose of obtaining more efficient or more economical operation of the authorized or proposed transmission facilities, such as: Valves; drips; pig launchers/receivers; yard and station piping; cathodic protection equipment; gas cleaning, cooling and dehydration equipment; residual refining equipment; water pumping, treatment and cooling equipment; electrical and communication equipment; and buildings.

## **Appendix 2: Appendix A to Part 2--Guidance for Determining the Acceptable Construction Area for Replacements**

These guidelines shall be followed to determine what area may be used to construct the replacement facility. Specifically, they address what areas, in addition to the permanent right-of-way, may be used.

Pipeline replacement must be within the existing right-of-way as specified by Sec. 2.55(b)(1)(ii). Construction activities for the replacement can extend outside the current permanent right-of-way if they are within the temporary and permanent right-of-way and associated work spaces used in the original installation.

If documentation is not available on the location and width of the temporary and permanent rights-of-way and associated work space that was used to construct the original facility, the company may use the following guidance in replacing its facility, provided the appropriate easements have been obtained:

- a. Construction should be limited to no more than a 75-foot-wide right-of-way including the existing permanent right-of-way for large diameter pipeline (pipe greater than 12 inches in diameter) to carry out routine construction. Pipeline 12 inches in diameter and smaller should use no more than a 50-foot-wide right-of-way.
- b. The temporary right-of-way (working side) should be on the same side that was used in constructing the original pipeline.

- c. A reasonable amount of additional temporary work space on both sides of roads and interstate highways, railroads, and significant stream crossings and in side-slope areas is allowed. The size should be dependent upon site-specific conditions. Typical work spaces are:

ITEM	Typical extra area (width/length)
Two lane road (bored)	25-50 by 100 feet
Four lane road (bored)	50 by 100 feet
Major river (wet cut)	100 by 200 feet
Intermediate stream (wet cut)	50 by 100 feet
Single railroad track	25-50 by 100 feet

- d. The replacement facility must be located within the permanent right-of-way or, in the case of nonlinear facilities, the cleared building site. In the case of pipelines this is assumed to be 50-feet-wide and centered over the pipeline unless otherwise legally specified.

However, use of the above guidelines for work space size is constrained by the physical evidence in the area. Areas obviously not cleared during the original construction, as evidenced by stands of mature trees, structures, or other features that exceed the age of the facility being replaced, should not be used for construction of the replacement facility.

If these guidelines cannot be met, the company should consult with the Commission's staff to determine if the exemption afforded by Sec. 2.55 may be used. If the exemption may not be used, construction authorization must be obtained pursuant to another regulation under the Natural Gas Act.