■ 38. In § 388.106, the section heading, paragraph (a), and paragraph (b) introductory text are revised to read as follows:

§ 388.106 Requests for Commission records available from the Commission's website, *https://www.ferc.gov.*

(a) Publicly available documents may be obtained electronically from the Commission's website, *https://www.ferc.gov,* or by requesting them from the *public.referenceroom@ferc.gov* by reasonably describing the records sought. Additional information on charges and services is available on the website.

(b) The public records of the Commission that are available for inspection and copying upon request via the Commission's website, include:

* * * * *

■ 39. In § 388.108, the section heading and paragraphs (a)(1) introductory text and (b)(1)(i) are revised to read as follows:

§ 388.108 Requests for Commission records not available from the Commission's website, *https://www.ferc.gov.*

(a) * * *

(1) Except as provided in paragraph (a)(2) of this section, a person may request access to Commission records, including records maintained in electronic format, that are not available through the Commission's website, *https://www.ferc.gov,* by using the following procedures:

* * * * *

(b) * * *

(1) * * *

(i) Track One—records that are readily identifiable and were previously cleared for release (including those subject to multiple requests and placed on *https://www.ferc.gov*);

* * * * *

■ 40. In § 388.109, paragraph (a) and paragraph (b) introductory text are revised to read as follows:

§ 388.109 Fees for record requests.

(a) *Fees for records available through the Commission's website.* (1) The fee for finding and duplicating records available from the Commission's website, *https://www.ferc.gov,* will vary depending on the size and complexity of the request. A person can obtain a copy of the schedule of fees from the Commission's website, *https://www.ferc.gov.* In addition, copies of data extracted from the Commission's files through electronic media are available on a reimbursable basis, upon written request to the Commission.

(2) Stenographic reports of Commission hearings are made by a private contractor. Interested persons may obtain copies of public hearing transcripts from the contractor at prices set in the contract, or through the search and duplication service noted above. Copies of the contract are available for public inspection on the Commission's website, *https://www.ferc.gov.*

(b) *Fees for records not available through the Commission's website (FOIA or CEII requests).* The cost of duplication of records not available from the Commission's website, *https://www.ferc.gov,* will depend on the number of documents requested, the time necessary to locate the documents requested, and the category of the persons requesting the records. The procedures for appeal of denial of requests for fee waiver or reduction are set forth in § 388.110.

* * * * *

■ 41. In § 388.110, the section heading is revised to read as follows:

§ 388.110 Procedure for appeal of denial of requests for Commission records not publicly available, denial of requests for fee waiver or reduction, and denial of requests for expedited processing.

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[FR Doc. 2023–23587 Filed 10–27–23; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 153 and 380

[Docket No. RM22–8–000; Order No. 900]

Engineering and Design Materials for Liquefied Natural Gas Facilities Related to Potential Impacts Caused by Natural Hazards

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) issues this final rule to revise its regulations governing liquefied natural gas (LNG) facilities subject to sections 3 and 7 of the Natural Gas Act (NGA) by removing outdated references for seismic hazard evaluations and seismic design criteria for LNG facilities. In their place, the Commission codifies its existing practice of evaluating seismic and other natural hazards and design criteria for jurisdictional LNG facilities. These revisions are intended to reduce confusion about applicable technical requirements and clarify the information required in applications filed before the Commission to ensure the public is protected from potential catastrophic impacts caused by natural hazards from design through the operation of the LNG facilities.

DATES: This rule is effective December 29, 2023.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

1. In this final rule, the Federal Energy Regulatory Commission (Commission or FERC) revises its regulations under 18 CFR parts 153 and 380 governing liquefied natural gas (LNG) facilities subject to sections 3 and 7 of the Natural Gas Act (NGA) by removing references to a legacy agency (the National Bureau of Standards) that has been renamed and two technical standards [1] related to seismic hazard evaluation and seismic design criteria for LNG facilities (Uniform Building Code's (UBC) Seismic Risk Map of the United States (Map) and National Bureau of Standards Information Report (NBSIR) 84–2833, *Data Requirements for the Seismic Review of LNG Facilities*) that have become outdated. Consistent with the Commission's previous rulemakings to update outdated regulations,[2] the final rule codifies the

[1] The National Technology Transfer and Advancement Act of 1995 (NTTAA) defines ''technical standards'' as ''performance-based or design-specific technical specifications and related management systems practices.'' 15 U.S.C. 272 note. The Office of Management and Budget (OMB) clarifies that the definition of technical standard includes, among other things, the definition of terms; classification of components; delineation of procedures; specification of dimensions, materials, performance, designs, or operations; measurement of quality and quantity in describing materials, processes, products, systems, services, or practices; test methods and sampling procedures; formats for information and communication exchange; or descriptions of fit and measurements of size or strength. Office of Mgmt. & Budget, Exec. Office of the President, Revised OMB Circular A–119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities 2(a) (Jan. 27, 2016).

[2] *See, e.g., Revisions to Reguls. Governing Authorization for Constr. of Nat. Gas Pipeline Facilities,* Order No. 555, FERC Stats. & Regs. ¶ 30,928 (1991) (cross-referenced at 56 FERC ¶ 61,414), *withdrawn,* FERC Stats & Regs. ¶ 30,965

Continued

Commission's current practice for reviewing seismic and other natural hazard evaluation and design materials related to NGA section 3 and 7 applications for LNG facilities, as memorialized in the Commission's *Guidance Manual for Environmental Report Preparation for Applications Filed Under the Natural Gas Act, Volume II, Liquefied Natural Gas Project Resource Reports 11 and 13 Supplemental Guidance* (2017 Guidance).[3] The Commission uses such engineering and design materials to assist in determining that the construction and operation of a proposed LNG facility will be safe and reliable for its entire life. The purpose of the rulemaking is to reduce confusion about the informational requirements under parts 153 and 380 of the Commission's regulations.

I. Background

A. The Commission's Statutory Authority

2. Under section 3(e) of the NGA, the Commission has exclusive jurisdiction over authorizing the siting, construction, expansion, and operation of LNG terminals onshore and in state waters.[4] Additionally, section 3(a) of the NGA provides that the Commission may condition authorizations for the siting, construction, and operation of facilities used to import or export gas as it may find necessary or appropriate.[5] The Commission also issues certificates of public convenience and necessity for LNG and other facilities used for the transportation of natural gas in interstate commerce under section 7 of the NGA.[6] When acting on applications filed pursuant to these sections of the NGA, the Commission serves as the lead Federal agency for satisfying compliance with the National Environmental Policy Act (NEPA).[7]

3. Moreover, section 16 of the NGA authorizes the Commission to prescribe and issue rules and regulations that define technical terms and prescribe the form or forms of all applications and reports to be filed before the Commission, and the information which they must contain.[8]

B. The Commission's LNG and NEPA Regulations

4. The Commission's regulations implementing its statutory authority, codified in 18 CFR parts 153, 157, and 380, direct prospective applicants[9] and applicants to provide information necessary for the Commission to process their applications.[10] Part 153 of the Commission's regulations pertains to applications for authorization to site, construct, or operate facilities used to export or import natural gas under section 3 of the NGA. These applications must include exhibits that are consistent with § 153.8(a). In particular, paragraph (a)(5) requires a report containing detailed engineering and design information be included in an application's Exhibit E and references the Commission's *Guidance Manual for Environmental Report Preparation.*[11] In addition, paragraph (a)(6) requires a report on earthquake hazards and engineering be included in an application's Exhibit E–1[12] and paragraph (a)(7) requires that an application include an Exhibit F, an environmental report that complies with §§ 380.3 and 380.12 of the Commission's regulations.[13]

5. Similarly, in part 157 of the Commission's regulations, which pertains to applications for certificates of public convenience and necessity for the construction and operation of facilities to provide interstate natural gas transportation service under section 7 of the NGA, § 157.14(a) sets forth the exhibits that must accompany an NGA section 7 application. Paragraph (a)(7) requires the applicant to file an Exhibit F–1, an environmental report that complies with §§ 380.3 and 380.12 of the Commission's regulations.[14]

6. Section 380.3 establishes the information that an applicant must file, including information identified in § 380.12 and appendix A to part 380.[15] Section 380.12 identifies the content requirements for each of the environmental reports outlined in the 13 individual resource reports.[16] Specifically, § 380.12(h)(5) requires a report, in Resource Report 6 (Geological Resources), on earthquake hazards and engineering that conforms to NBSIR 84–2833 if the applicant proposes to construct and operate LNG facilities located in zones 2, 3, or 4 of the UBC map, or where there is potential for surface faulting or liquefaction.[17]

7. Further, pursuant to § 380.12(o), applicants must also prepare a report, Resource Report 13, that contains engineering and design material for the proposed LNG facility.[18] The information provided in Resource Report 13 is used to evaluate the information provided in Resource Report 11, which addresses the potential hazard to the public from failure of LNG facility components resulting from accidents and natural catastrophes, including seismic events, the effects of these events on reliability, and the procedures and design features that have been used to reduce potential failures. Section 380.12(o)(14) requires an applicant to identify how it will comply with the applicable U.S. Department of Transportation (DOT) regulations,[19] including its siting requirements, the National Fire Protection Association (NFPA) 59A LNG Standards and, if applicable, U.S. Coast Guard's regulations[20] pertaining to vapor dispersion calculations from LNG spills over water.[21] As with Resource

(cross-referenced at 62 FERC ¶ 61,249) (before withdrawing the final rule, the Commission attempted to update and codify the Commission's practice of processing environmental data in part 380 by formalizing the use of resource reports); *Applications for Authorization to Construct, Operate, or Modify Facilities Used for the Exp. or Imp. of Nat. Gas,* Order No. 595, FERC Stats. & Regs. ¶ 31,054 (1997) (cross-referenced at 79 FERC ¶ 61,245) (codifying the Commission's practice of requiring engineering-related information and seismic information in NBSIR 84–2833); *Revision of Existing Reguls. Governing the Filing of Applications for the Constr. & Operation of Facilities to Provide Serv. or to Abandon or Serv. Under Section 7 of the Nat. Gas Act,* Order No. 603, FERC Stats. & Regs. ¶ 31,073 (1999) (cross-referenced at 87 FERC ¶ 61,125) (codifying the Commission's practice of allowing applicants to prepare environmental reports in the form of resource reports).

[3] *Notice of Availability of the Final Guidance Manual for Env'l Preparation,* 82 FR 12088 (Feb. 28, 2017). The 2017 Guidance is available at *https://cms.ferc.gov/media/guidance-manual-volume-2pdf.*

[4] 15 U.S.C. 717b(e)(1).

[5] *Id.* 717b(a). The 1977 Department of Energy (DOE) Organization Act (42 U.S.C. 7151(b)) placed all section 3 jurisdiction under DOE. The Secretary of Energy subsequently delegated authority to the Commission to ''[a]pprove or disapprove the construction and operation of particular facilities, the site at which such facilities shall be located, and with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports.'' DOE Delegation Order No. S1–DEL–FERC–2006, section 1.21A (May 16, 2006).

[6] 15 U.S.C. 717f(c).

[7] 42 U.S.C. 4321 *et seq;* 15 U.S.C. 717n(b)(1).

[8] 15 U.S.C. 717*o.*

[9] Applicants seeking authorization to construct LNG terminals are required to comply with the Commission's pre-filing process prior to filing an application with the Commission. *Id.* 717b–1(a); 18 CFR 157.21.

[10] *See* 18 CFR 153.8(a)(5) and (6) and (a)(7)(i), 157.14(a)(7), 157.21, 380.3, 380.12.

[11] *Id.* § 153.8(a)(5).

[12] *Id.* § 153.8(a)(6).

[13] *Id.* § 153.8(a)(7)(i). *See also id.* § 157.21 (requiring prospective applicants of LNG import or export facilities to prepare an application that contains the environmental information prescribed in part 380).

[14] *Id.* § 157.14(a)(7).

[15] *Id.* § 380.3(c)(2). Section 380.3(b) also requires applicants to provide all necessary or relevant information to the Commission and conduct studies that the Commission staff has considered necessary or relevant to determine the impact of the proposal on the environment. *Id.* § 380.3(b)(1) and (2).

[16] *Id.* § 380.12.

[17] *Id.* § 380.12(h)(5).

[18] *Id.* § 380.12(o).

[19] 49 CFR part 193.

[20] 33 CFR part 127.

[21] 18 CFR 380.12(o)(14).

Report 6, applicants must provide seismic information specified in NBSIR 84–2833 for LNG facilities that would be located in zone 2, 3, or 4 of the UBC map when preparing Resource Report 13.[22]

8. Appendix A to part 380 summarizes the minimum filing requirements for these resource reports.[23] Failure to comply with these minimum filing requirements can result in rejection of the application.[24]

C. Outdated Technical Standards and Legacy Reference in Regulations

9. As described above, both Resource Reports 6 and 13 require information based on the UBC map and NBSIR 84–2833. The UBC map groups the country into seismic risk classifications and formalizes construction standards based on those classifications. The last version of the UBC was published in 1997 [25] and was subsequently replaced by the International Code Council's (ICC) International Building Code (IBC), first published in 2000.[26] The IBC incorporates the U.S. Geological Survey's Seismic Risk Map of Ground Motions for the United States, seismic design categories in the Structural Engineering Institute (SEI) of the American Society of Civil Engineers (ASCE) 7, *Minimum Design Loads and Associated Criteria for Buildings and Other Structures* (ASCE 7),[27] and NEHRP's *Recommended Seismic Provisions for New Buildings and Other Structures.*[28]

10. Published in 1984, NBSIR 84–2833 was intended to provide guidance for applicants requesting Commission authorization to construct LNG facilities on how to investigate a site to obtain geologic and seismic data for the Commission's seismic review of proposed LNG facilities.[29] It also standardized the format for reporting this data to the Commission.[30] In light of multiple revisions to DOT's minimum safety standards and NFPA 59A since 1984, NBSIR 84–2833 no longer serves as the most appropriate guidance to help applicants prepare resource reports for the Commission's review.

11. On January 23, 2007, the Commission issued a draft document, *Seismic Design Guidelines and Data Submittal Requirements for LNG Facilities,* to address the confusion caused by these two outdated standards by updating and replacing the information in NBSIR 84–2833.[31] The Commission, however, never finalized those guidelines.

12. On February 22, 2017, as part of a larger effort to update its environmental reporting guidance, the Commission issued the 2017 Guidance, recommending specific engineering-design information, the level of detail, and formatting that should be included in applications to help Commission staff evaluate and address a proposed project's potential safety and reliability impacts.[32] The 2017 Guidance updated and clarified the level of detail and format of the information needed for the Commission's evaluation of hazards associated with proposed LNG facilities, including information regarding how accidents or natural catastrophes, including seismic events, would affect a proposed project's safety and reliability and whether the project's engineering design ensures adequate reliability and safety.[33] For example, the guidance identified the types of natural hazards that should be analyzed, the natural hazard design investigations and design forces that should be referenced, the types of structures, systems, and components that should be described, and the types of diagrams and maps that should be included. The 2017 Guidance also recommended that applicants design certain LNG structures, systems, and components to be consistent with the seismic requirements of the 2005 version of ASCE 7 to demonstrate that their proposed projects would not have a significant impact on public safety.[34] The 2017 Guidance recommended other evaluation and design measures for other natural hazards based on the regulatory requirements in § 380.12, DOT's regulations in 49 CFR part 193, and other best practices.[35]

D. Governmental Accountability Office's Report

13. On August 6, 2020, the U.S. Government Accountability Office (GAO) issued a report recommending that the Commission update part 153 of its regulations because they incorporate the outdated technical standard NBSIR 84–2833 and UBC.[36] The GAO noted that the Commission issued the 2017 Guidance and the draft 2007 Guidelines to address applicants' confusion, but, because guidance documents are not binding, it recommended that the Commission review its regulations for outdated technical standards and update them accordingly so as to avoid confusing the public about current regulatory requirements.[37]

E. Notice of Proposed Rulemaking

14. On November 17, 2022, the Commission issued a notice of proposed rulemaking (NOPR) proposing to revise the Commission's regulations as described in this final rule.[38] The Center for LNG (CLNG) and American Petroleum Institute (API) (together, commenters) filed a timely joint comment.[39] As discussed below, the Commission considered the comment in preparing the final rule.

II. Discussion

15. The current rulemaking clarifies and updates the informational requirements in the Commission's

[22] *Id.* § 380.12(o)(15).

[23] *Id.* part 380, appendix A.

[24] *Id.* §§ 153.21, 157.8. Commission practice is to issue data requests seeking to obtain missing information before an application is rejected.

[25] International Conference of Building Officials, Dwelling Construction Under the Uniform Building Code (1997 ed.).

[26] The IBC was most recently revised in 2021 and various editions are in use or have been adopted by states, territories, and municipalities. *See* International Code Council, International Codes, *https://codes.iccsafe.org/codes/i-codes;* International Code Council, International Building Code Adoption Map, *https://www.iccsafe.org/wp-content/uploads/Code_Adoption_Maps.pdf* (published Oct. 19, 2000); *see also* Rossberg, J., Leon, R.T., Evolution of Codes in the USA, *https://www.nehrp.gov/pdf/UJNR_2013_Rossberg_Manuscript.pdf* (detailing the historical changes to structural design codes in the United States).

[27] American Society of Civil Engineers, *Release of ASCE/SEI 7–22 Brings Important Changes to Structural Loading Standard,* Building Safety Journal, International Code Council (Dec. 9, 2021), *https://www.iccsafe.org/building-safety-journal/bsj-technical/release-of-asce-sei-7-22-brings-important-changes-to-structural-loading-standard.*

Additionally, we note that the National Earthquake Hazards Reduction Program (NEHRP), a Congressionally mandated, multi-agency partnership, is actively engaged in revisions to ASCE 7 and the IBC. NEHRP's *Recommended Seismic Provisions for New Buildings and Other Structures* often serves as the basis for changes to ASCE 7 and the IBC.

[28] The Commission has previously noted the importance of referencing the IBC and ASCE 7 because engineers must be knowledgeable of both the IBC and ASCE 7 to qualify as an engineer of record under state professional engineering requirements. *See* Background Section of the 2017 Guidance.

[29] National Bureau of Standards, NBSIR 84–2833: Data Requirements for the Seismic Review of LNG Facilities 1 (June 1984), *https://nvlpubs.nist.gov/nistpubs/Legacy/IR/nbsir84-2833.pdf.*

[30] *Id.*

[31] *Seismic Design Guidelines & Data Submittal Requirements for LNG Facilities* at ii (Jan. 23, 2007).

[32] *See* 2017 Guidance at 1–1—1–2.

[33] *See* Background Section of the 2017 Guidance.

[34] *Id.*

[35] *Id.* and 13–94 (listing certain good engineering practices).

[36] *See* U.S. Gov't Accountability Office, Natural Gas Exports: Updated Guidance and Regulations Could Improve Facility Permitting Processes 28 and Appendix II (Aug. 2020) (GAO Report), *https://www.gao.gov/products/gao-20-619.*

[37] *Id.* at 28–29, n.47.

[38] *Updating Reguls. for Engineering and Design Materials for Liquefied Nat. Gas Facilities Related to Potential Impacts Caused by Nat. Hazards,* 87 FR 72906 (Nov. 28, 2022), 181 FERC ¶ 61,142 (2022).

[39] CLNG and API Jan. 27, 2023 Comment.

regulations by codifying the current practice for processing NGA section 3 and 7 applications. As a brief overview of the Commission's practice, once an applicant files an application, Commission staff reviews it to ensure that it contains all the information required by the regulations. If the application is deficient, Commission staff issues requests for information to supplement the application. Once the application is complete, Commission staff then discloses to the public and the Commissioners in the NEPA document staff's analysis of the proposal's environmental, engineering, and safety effects. The environmental document includes Commission staff's recommendations related to the construction and operation of the project,[40] including measures to mitigate adverse effects.[41] If the Commission approves the application, the Commission's oversight of the project continues through final design, construction, commissioning, and operation of the project to ensure that the project has complied with the terms and conditions [42] of the Commission's authorization order.[43]

16. As the Commission has previously explained, applications that follow the same format result in a more expeditious Commission review and processing of applications.[44] When an application lacks the information necessary for the Commission to review a proposal's potential impacts on the environment, public safety, or reliability, the Commission's review is delayed until the Commission obtains the missing information.[45] The Commission has previously taken steps to clarify its regulations to reduce applicants' uncertainty when outdated Commission regulations were contributing to applicants' confusion about the Commission's practice or informational requirements.[46] The purpose of codifying an existing practice is ''to provide better guidance to the regulated industry on what the Commission needs for its environmental analysis'' and ''when the information should be provided.'' [47] As a result of this rulemaking, the Commission will be able to more ''quickly process applications in a way that protects the environment and ensures the procedural requirements of NEPA are met,'' [48] as well as ensure the proposed LNG facilities will be constructed and operated in a safe and reliable manner.

A. This Rulemaking Complies With the National Technology Transfer and Advancement Act of 1995

17. The commenters recommend that the Commission identify and use appropriate voluntary consensus standards in lieu of codifying the practices outlined in the Commission's 2017 Guidance but do not identify or recommend any specific standard that would be appropriate.[49]

18. Section 12(d) of the NTTAA [50] requires all Federal agencies and departments to use technical standards that are developed or adopted by voluntary consensus standard bodies [51] to carry out policy objectives or activities determined by the agencies and departments unless using such a standard is inconsistent with applicable law or otherwise impractical.[52] The use of a voluntary consensus standard would be impractical, for example, if it would not be effective at meeting an agency's regulatory or program needs.[53] Moreover, there may be instances where a suitable voluntary consensus standard does not exist.[54] In either instance, an agency is permitted to use another standard other than a voluntary consensus standard.[55]

19. The final rule does not adopt voluntary consensus standards related to natural hazard evaluation and design criteria for LNG structures, systems, and components because adopting such standards would be impractical. The Commission's evaluation and analysis of LNG applications, which propose technically diverse types of facilities, must consider the unique locations that the LNG facilities will be sited, constructed, and operated. Over 2,500 standards exist that could be applicable to an LNG structure, system, or component.[56] No one standard would apply to every application that the Commission reviews. Likewise, no individual application would be subject to every standard. To ensure that all types of proposals are covered by a standard would require that the Commission codify every potential consensus standard that could apply in its various LNG proceedings. Such an effort would be infeasible and would confuse applicants about which standards the Commission expects them to apply to their proposal.

20. Moreover, although some standards set criteria for the siting, design, construction, operation, and maintenance of LNG facilities, they often do not sufficiently detail the engineering information needed in an application to allow the Commission to

[40] Commission staff relies on performance and risk-based principles as part of its review to craft conditions related to the construction and operation of the proposed LNG facility.

[41] *See, e.g.,* Final EIS for Texas LNG Project (CP16–116) (issued Mar. 15, 2019); Final EIS for Rio Grande LNG Project (CP16–455) (issued Apr. 26, 2019).

[42] *See* 15 U.S.C. 717b(a), 717b(e)(3)(A), 717f(e) (authorizing the Commission to include terms and conditions to our authorization orders).

[43] *See* 15 U.S.C. 717b(a) (authorizing the Commission to issue supplemental orders as the Commission may find necessary or appropriate).

[44] *See Revision of the Commission's Reguls. Under the Nat. Gas Act,* FERC Stats. & Regs. ¶ 32,535, at 33,524 (1998) (cross-referenced at 84 FERC ¶ 61,345) (Order No. 603 NOPR). Although Order No. 603 focused on NGA section 7 applications, the order changed the informational requirements for environmental reports in part 153 so that they comport with the requirements in part 157. *Id.* at 33,527–28.

[45] *See id.* at 33,525 (stating ''[a]n incomplete filing necessitates time consuming staff data requests. However, the more complete the environmental information is at the time of filing, the more expeditiously the Commission can process the application.''). *See also* 18 CFR 153.21(b) (rejection of applications filed under part 153); 18 CFR 157.8 (rejection of applications filed under part 157).

[46] *See* Order No. 603 NOPR, FERC Stats. & Regs. ¶ 32,535 at 33,525 (explaining that ''conducting the environmental review is the most time consuming part of the certificate process. The Commission believes this is the result of several factors. First, too often pipelines are filing minimal information with the intention of filing the missing information at some later date . . . Further, applicants may be unsure of what is needed because many of the Commission's environmental regulations dealing with pipeline projects are either outdated, found in several parts of the CFR, or, in the case of the environmental report, as stated, replaced in current practice by a preferred format that does not appear anywhere in the regulations.'').

[47] *Id.*

[48] *Id.*

[49] *See* CLNG and API Jan. 27, 2023 Comment at 2.

[50] Public Law 104–113, 12(d), 110 Stat. 775 (1996).

[51] A voluntary consensus standard body is a type of association, organization, or technical society that plans, develops, establishes, or coordinates voluntary consensus standards using a voluntary consensus standards development process that includes following attributes or elements: openness, balance, due process, appeals process, and consensus. Revised OMB Circular A–119, 2(e).

[52] 15 U.S.C. 272 note. OMB further establishes factors for agencies to consider when deciding to use a standard, including the nature of the agency's statutory mandate and the consistency of the standard with that mandate; the level of protection the standard provides or is expected to provide for public health, welfare, safety, and the environment; and the clarity and detail of the standard's language. Revised OMB Circular A–119 at 17–18.

[53] Revised OMB Circular A–119 at 4, 19–20. OMB further includes in the definition of impractical circumstances in which the use of a voluntary consensus standard would be infeasible, inadequate, ineffectual, or inefficient, or less useful than the use of another standard. *Id.* at 20.

[54] *Id.* at 20.

[55] *See* 15 U.S.C. 272 note; Revised OMB Circular A–119 at 20. When an agency uses a government-unique standard in lieu of a voluntary consensus standard, it must submit a report explaining its reason to OMB through NIST. We intend to submit the report for this rulemaking to NIST before December 31, as directed by OMB.

[56] For example, approximately 50 recent LNG applications filed with the Commission reference approximately 2,500 individual applicable codes and standards. On average, an application references nearly 400 codes and standards. On the margins, applications have ranged from less than 10 to more than 1,000 proposed codes and standards.

fully assess the reliability and safety of the LNG facilities. As a result, the lack of detail has led to applicants applying these standards inconsistently.[57]

21. The Commission's practice, informed by the 2017 Guidance, has been to clarify that, when applicants prepare Resource Report 13, they should provide certain specific information regarding the engineering of the proposed LNG facilities. This information includes identifying applicable Federal regulations, proposed codes and standards, as well as additional information on the proposed siting, design, construction, and operation. By having the applicants identify all Federal regulations, codes, and standards that apply to their project-specific and site-specific proposal, the Commission is then able to evaluate applications for LNG facilities on a case-by-case basis, determine and evaluate the Federal regulations, codes, and standards that apply (including any voluntary consensus standards that are adopted into those regulations). Based on the information, the Commission could more effectively coordinate with other Federal agencies with jurisdiction over the proposal, evaluate whether the identified regulations, codes, and standards contain informational gaps, and recommend modifications or conditions that should be included in the Commission's authorization based on the proposed LNG facilities and layers of protection [58] that would reduce the risk of adverse effects to the public and the environment and reliability.[59]

22. For these reasons, we elect to codify the Commission's practice of obtaining information necessary for it to fulfill its regulatory mission in lieu of using a voluntary consensus standard, as permitted by the NTTAA.

B. Final Rule Further Clarifies Certain Terms

23. The commenters request clarification about the following terms undefined in the NOPR: (i) ''structures, systems, and components;'' (ii) ''associated safety related structures, systems, and components;'' (iii) ''applicable codes and standards;'' and (iv) ''generally accepted codes, standards, and specifications.'' [60] To prevent confusion, they recommend that the final rule define these terms and identify which codes and standards should be incorporated by reference into the Commission's regulations.[61]

24. We find no need to codify a definition for these terms but provide additional clarification below. When interpreting commonly used terms, such as ''structures, systems, and components'' and ''generally accepted,'' applicants should exercise the professional standard of care that is expected of engineers.[62] ''Structures, systems, and components'' is a common engineering term used in connection with engineering design of complex systems, including LNG facilities.[63] In general, structures provide structural support of loads. Examples include free-standing LNG storage tanks, free-standing equipment, pipe racks, buildings, and dikes, including their foundations. Systems are generally a collection of components that together perform a function. Examples include tank systems, transfer systems, firewater systems, electrical systems, and instrument and control systems. Components are equipment, or parts of equipment, that constitute pieces of larger systems. Examples include pumps, valves, and piping. The Commission's 2017 Guidance also clarifies certain structures, systems, and components.[64]

25. Structures, systems, and components that are ''associated'' with safety depend on context, such as the structure, system, or component's purpose and the characteristics of the surrounding area. Generally, a structure, system, or component that is ''associated'' with safety would be one that provides a layer of protection that the LNG operator relies on to prevent or reduce the likelihood of failure of a particular structure, system, or component, or limit, mitigate, or reduce the consequences of a failure. An example of system associated with safety is a firewater system because it is used to prevent failure of structures, systems, or components within the overall LNG plant, when exposed to a potential fire (*e.g.,* pipe rack failure, pressure vessel burst, boiling liquid expanding vapor explosion). Other examples include security systems, such as emergency lighting, including the emergency backup power generators and fuel supply, that reduce the likelihood of an intentional act that could result in failure of structures, systems, or components; and dikes that are used to contain spills from an LNG storage tank to limit the pool spread and reduce the consequences from subsequent dispersion of flammable vapors and fire impacts.[65] As noted

[57] NFPA 59A (2001 edition), for example, requires geotechnical investigations and testing to address subsurface behavior caused by loads induced by LNG structures, systems, and components. The standard, however, does not detail the parameters of the geotechnical investigations and testing. Specifically, it does not identify the locations and types of subsurface investigations that should be performed, including the number, location, spacing, cross-sections, and depths of in-situ tests or the number and types of laboratory tests performed. Investigations, in-situ tests, and laboratory tests are dictated by site of the LNG facility and are necessary to describe the subsurface conditions used to determine the design of the foundations.

ASCE 7–22 (2022 edition) is another example. ASCE 7–22 provides general requirements for buildings, other structures, and their nonstructural components that are subject to building code requirements, but how the ASCE 7–22 requirements apply to industrial facilities, such as LNG facilities, are less clear. For example, it does not define or consider the loads of equipment used during construction and operation and their effect on structures, systems, and components at industrial facilities (such as the dynamic loading from movement of construction equipment over below ground structures, systems, and components (*e.g.,* buried pipelines or piping)).

[58] Layers of protection is a method to analyze the effectiveness of independent parts of a system's design to protect or mitigate the harms caused by an event. Layers of protection typically include a facility design that prevents hazardous events, control systems, safety instrumented prevention systems, physical protection systems, site security measures for controlling access to the plant, and onsite and offsite emergency response.

[59] *See* section 11.4 of 2017 Guidance.

[60] CLNG and API Jan 27, 2023 Comment at 2.

[61] *Id.*

[62] *See, e.g.,* 18 CFR 12.5 (the Commission expects a hydropower licensee or applicant to ''use sound and prudent engineering practices in any action relating to the design, construction, operation, maintenance, use, repair, or modification of a water power project or project works''). The Commission's expectations are consistent with the expectations of other Federal agencies. *See, e.g.,* 49 CFR 193.2605 (DOT requires ''[e]ach operator [. . .] determine and perform, consistent with generally accepted engineering practice''); 29 CFR 1910.119(d)(3)(ii) (the Occupational Safety and Health Administration requires ''inspection and testing procedures [. . .] follow recognized and generally accepted good engineering practices''); 40 CFR 68.48(b) (the Environmental Protection Agency requires owners or operators of certain facilities that use and distribute hazardous chemicals ''to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices'').

[63] We recognize that Federal agencies that share the responsibility of regulating LNG facilities may have different codified definitions for structures, systems, or components, determined by their own regulatory needs and statutory authorities. *See, e.g.,* 49 CFR 193.2007 (DOT defines ''component'' as ''any part, or system of parts functioning as a unit, including, but not limited to, piping, processing equipment, containers, control devices, impounding systems, lighting, security devices, fire control equipment, and communication equipment, whose integrity or reliability is necessary to maintain safety in controlling, processing, or containing a hazardous fluid''). Once the final rule becomes effective, new § 380.12(o)(14) will require prospective applicants and applicants to identify the regulations applicable to their proposal and explain how their proposal complies with them.

[64] *See, e.g.,* section 13.3.1 of the 2017 Guidance (Earthquake design conditions) and Att. 4 of the 2017 Guidance (Sample Categorization of LNG structures, Components, and Systems).

[65] The list of examples here is not intended to be exhaustive or capture the full scope of structures, systems, or components associated with safety. There may also be less critical systems that are associated with safety, such as instrument air

Continued

earlier, when interpreting terms, applicants should exercise the professional standard of care that is expected of engineers.

26. With regard to ''applicable'' codes and standards, the applicability of the code or standard is informed by the context of the sentence and paragraph. For instance, new § 380.12(o)(15)(i)(B) requires Resource Report 13 to include ''[t]he design classification for each structure, system, and component in accordance with all applicable federal, state, and local requirements and applicable codes and standards.'' The ''applicable'' codes and standards, in this context, refers to codes and standards that have requirements for design classification of structures, systems, and components. The applicable Federal regulations may also inform the applicability of codes and standards.

27. It is worth noting that the final rule does not make the Commission's 2017 Guidance obsolete. Even after the final rule becomes effective, prospective applicants and applicants are still advised to refer to guidance to understand the Commission's expectations for informational and formatting requirements under our regulations. If the Commission finds that certain terms continue to confuse applicants, which in turn may delay the Commission's review of their applications, the Commission will issue guidance to provide further assistance.

C. Final Rule Has No Retroactive Effect

28. The commenters seek clarity that the requirements in the final rule will not be retroactively applied to existing jurisdictional LNG facilities.[66] They are concerned that existing operators who file an application or request Commission approval to modify operations, expand, or add equipment to their LNG facilities would be required to upgrade or retrofit the existing facility to comply with the new requirements.[67] To help avoid confusion, they recommend that we amend parts 153, 157, and 380 by adding a new applicability section that states the new requirements do not apply to existing LNG facilities authorized before the effective date of the final rule.[68]

29. We decline to adopt commenters' recommendation because § 380.12(o) already specifies the applicability of the content and formatting requirements for Resource Report 13. It plainly states that the ''report is required for *construction of new* [LNG] facilities, or the recommissioning of existing LNG facilities.'' [69] Therefore, the requirements in new § 380.12(o)(14) would apply only to applicants who file an application to construct new LNG facilities or recommission existing LNG facilities once the final rule is effective.[70] Adding a new applicability section would be redundant and unnecessary.

D. Regulatory Burden Analysis Is Sufficient

30. The commenters recommend that the final rule compare the regulatory burden of final rule with the existing regulatory burden. They identify one new requirement that they assert could introduce a new burden. The NOPR proposes in new § 380.12(o)(15)(iii)(A)(*22*) that applicants are required to describe the proposed LNG facility's seismic monitoring system, which includes a minimum of one triaxial ground motion recorder installed to register the free-field ground motion and additional triaxial ground motion recorders on each LNG tank system foundation, LNG tank roof, and associated safety related structures, systems, and components. They argue that the term ''associated safety related structure, systems, and components'' is vague and that it is unclear how many ground motion recorders would be required. The commenters add that applicable codes and standards, such as American Concrete Institute Code 376–11, *Code Requirements for Design and Construction of Concrete Structures for Containment of Refrigerated Liquefied Gases,*[71] do not require accelerometers for LNG tanks with Safe Shutdown Earthquake (SSE) peak ground accelerations less than 0.1 gravity. If the final rule requires accelerometers for such LNG tanks and associated systems, structures, and components, it would constitute a new regulatory burden, which the commenters oppose.[72]

31. We do not anticipate that compliance with this rule will alter current practice. With respect to new § 380.12(o)(15)(iii)(A)(*22*), contrary to the commenters' argument, the new regulation does not require that LNG facilities have a certain number of seismic monitoring systems or accelerometers. The new requirement, which implements the seismic monitoring system recommendations in the 2017 Guidance, requires only that Resource Report 13 *describe* how the proposed seismic monitoring system would be designed in accordance with all applicable Federal requirements and applicable codes and standards. Nevertheless, the final rule replaces ''a minimum of one'' with ''any'' in new § 380.12(o)(15)(iii)(A)(*22*) to avoid unnecessary confusion about whether the final rule establishes a specific number of triaxial ground motion recorders. In terms of where the seismic monitoring equipment are required to be located, the new section does not require anything other than a description of what the applicant proposes, which should follow the requirements under Federal requirements and applicable codes and standards. If the Commission determines that the specifics of the proposal require additional seismic monitors to ensure safety and reliability, the order authorizing the application would include such a condition.

32. The commenters contend that the final rule will eliminate the flexibility that is purportedly in the 2017 Guidance, which allows applicants to exercise alternative approaches to prepare seismic information.[73] They quote NBSIR 84–2833 for support: ''However, if an applicant believes that the particular seismology and geology of a site indicate that some of the information identified in this report need not be provided, that information should be identified in the application, and supporting rationale or data to justify clearly such departures should be presented.'' [74]

33. The commenters are mistaken. The flexibilities in the 2017 Guidance are preserved by its codification in this rulemaking. The final rule does not enumerate specific Federal regulations or codes or standards that applicants must apply to the safe and reliable design, construction, operation, and maintenance of jurisdictional LNG facilities. Instead, consistent with the 2017 Guidance and the Commission's practice, the final rule instructs applicants to identify all applicable

systems that are used to control pneumatic (air) operated valves that can fail even when they are set in a safe position because of loss of instrument air, and valves and associated electrical cabling that are fire-rated to prevent spurious maloperation. The 2017 Guidance provides more examples. *See* 2017 Guidance, Attachment 4.

[66] CLNG and API Jan 27, 2023 Comment at 3.

[67] *Id.*

[68] *Id.* at 3.

[69] 18 CFR 380.12(o) (emphasis added).

[70] With respect to applications that are still pending Commission approval when the final rule becomes effective, to the extent that these applications are not already consistent with the final rule, the Commission will not require these applicants to amend their applications to comport with the new requirements in this final rule.

[71] The code provides minimum design and construction requirements for reinforced concrete and prestressed structures for the storage and containment of refrigerated liquefied gases.

[72] *Id.* at 3–4.

[73] CLNG and API Jan. 27, 2023 Comment at 4.

[74] *Id.* at 4 (quoting NBSIR 84–2833 at 1).

Federal regulations, including codes and standards when preparing their application, and to explain how their proposal would comply with these regulations and requirements.[75] To the extent that applicants currently identify information that is not necessary in a geotechnical report based on the seismology and geology of the proposed site, applicants are free to continue to identify the unnecessary information and provide an explanation or rationale for their decision. The Commission would review the information that is provided in Resource Report 13 and coordinate with other Federal agencies with jurisdiction over the proposed LNG facility to ensure that there is sufficient information to assist in the public safety and reliability review of the proposals. Further, if the Commission finds the application contains insufficient information based on applicable regulations, codes and standards, or is unable to demonstrate that their proposed facilities would be sited, designed, constructed, and operated safely and reliably, the Commission may issue data requests for further information or clarification.

E. Section-by-Section Discussion of Changes to Parts 153 and 380

34. Section 153.2 defines terms used in part 153 and paragraph (b) defines the NBSIR as National Bureau of Standards Information Report. Because NBSIR is outdated and the National Bureau of Standards has been renamed the National Institute of Standards and Technology, the final rule deletes existing § 153.2(b).

35. Section 153.8 identifies the exhibits required to accompany an application filed under section 3 of the NGA. Existing paragraph (a)(6) references outdated NBSIR 84–2833 and the UBC map related to preparing a report on earthquake hazards and engineering materials. The final rule deletes this paragraph and codifies in its place the relevant recommendations from the Commission's 2017 Guidance in new § 380.12(o)(15).[76] Since paragraph 4 of the section entitled ''Resource Report 6—Geological Resources in Appendix A to Part 380—Minimum Filing Requirements for Environmental Reports Under the NGA'' references the now-removed § 153.8(a)(6), the final rule also removes this paragraph.

36. Part 380 of the Commission's regulations implement NEPA. For the same reason as deleting existing § 153.8(a)(6), the final rule deletes paragraph (h)(5) of 380.12 about preparing Resource Report 6. The final rule also removes paragraph (o)(15) and replaces it with recommendations from the 2017 Guidance. Specifically, new § 380.12(o)(15)(i) requires applicants to provide general site-specific engineering information used in the geotechnical and structural design of all structures, systems, and components. This information would address occupancy and risk categorization, clarify an applicant's interpretation of risk and reliability tolerances, ensure an application discusses how the project design would withstand load combinations, and ensure that an applicant's selection of risk categorizations and associated mean recurrence intervals to withstand natural hazards adequately address public safety impacts.

37. Similarly, new § 380.12(o)(15)(ii) requires applicants to provide geotechnical information needed to address the subsurface behavior from loads induced by structures, systems, and components for LNG projects. This section addresses the scope of investigations needed to identify safety concerns and mitigative measures and replaces the scope of information that was previously required by the outdated standards.

38. Finally, new § 380.12(o)(15)(iii) requires applicants to provide information related to the facility's ability to withstand certain natural hazards, such as seismic events, floods, and hurricanes, and aligns with Commission staff's current guidance to applicants, as well as those adopted in certain Federal regulations (including the Commission's existing § 380.12(m), and applicable codes and standards such as NFPA 59A, ASCE 7, and the IBC).

39. Although not proposed in the NOPR, the final rule also revises existing § 380.12(o)(12), which currently requires only that Resource Report 13 identify codes and standards related to siting of a proposed LNG plant and marine terminal, if applicable. Because the Commission's authority is to ensure public safety and reliability of proposed LNG facilities not only during siting of the facilities but also during construction and operations of those facilities, the final rule revises existing § 380.12(o)(12) so that Resource Report 13 would now include identification of codes and standards for the design, construction, testing, monitoring, operation, and maintenance of the LNG facility in addition to identification of codes and standards for siting.[77]

40. With respect to § 380.12(o)(14), it currently requires applicants to identify how they would comply with an unspecified edition of NFPA 59A, part 193 of the DOT's regulations, and part 127 of the Coast Guard's regulations. Not all LNG facilities under the Commission's jurisdiction, however, are required to meet the design criteria specified in NFPA 59A, DOT's regulations, or Coast Guard regulations. Instead, they may be subject to other Federal regulations, such as the Environmental Protection Agency's regulations pertaining to its chemical accidental prevention program (40 CFR part 68) or the Occupational Safety and Health Administration's regulations regarding the safe management of highly hazardous chemicals (29 CFR 1910.119). To prevent confusion about the informational requirements that the Commission applies to its review of applications for the construction and operation of LNG facilities, the final rule modifies § 380.12(o)(14) by requiring applicants to identify all Federal regulations and requirements that apply to the siting, design, construction, testing, monitoring, operation, and maintenance of the proposed project and demonstrate how the proposed project will, at a minimum, comply with all applicable Federal requirements and applicable codes and standards.

[75] *See, e.g.,* 18 CFR 380.12(o)(14) (to be codified). The identify-and-explain approach is commonplace in the Commission's existing LNG regulations, such as 18 CFR 380.12(o)(13) (''Provide a list of all permits or approvals from local, state, Federal, or Native American groups or Indian agencies required prior to and during construction of the plant, and the status of each, including the date filed, the date issued, and any known obstacles to approval. Include a description of data records required for submission to such agencies and transcripts of any public hearings by such agencies. Also provide copies of any correspondence relating to the actions by all, or any, of these agencies regarding all required approvals.''); *Id.* § 50.5(e)(6) (requiring a similar list with regard to applicants seeking to initiate a pre-filing proceeding site new transmission facilities); *Id.* § 5.6(a) (mandating a similar requirement with regard to pre-application documents for certain hydropower projects).

[76] *Id.* § 153.8(a)(7) contains an errant ''(i)'' designation, which this final rule removes.

[77] This revision to § 380.12(o)(12) is consistent with the stated purpose of the NOPR, which is to update the information requirements related to filing an application to site, construct, expand, or operate an LNG terminal under section 3 of the NGA or construct or operate an LNG facility under section 7 of the NGA. *See* NOPR, 181 FERC ¶ 61,142 at P 1 & Summary. The NOPR discussed the need to clarify the use of standards related to our oversight of jurisdictional activities beyond the design of LNG facilities. *See, e.g., id.* PP 1, 2–6, 12, 19. It reasonably follows that applicants should identify all standards and codes that apply to the LNG components, not only those that relate to design, in order for the Commission to ensure that the LNG facilities, once approved, are constructed and operated in accordance with the Commission-approved designs.

III. Regulatory Requirements

A. Information Collection Statement

41. The information collection requirements contained in this final rule are subject to review by the OMB under the Paperwork Reduction Act of 1995.[78] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[79] Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

42. This final rule removes references to a legacy agency and two outdated technical standards for seismic hazard evaluations and seismic design criteria for LNG facilities and codifies certain existing practices concerning natural hazard evaluations and design for LNG facilities contained in the Commission's 2017 Guidance. The final rule modifies certain reporting and recordkeeping requirements included in FERC–537 (OMB Control No. 1902–0060), FERC–539 (OMB Control No. 1902–0062), and FERC–577 (OMB Control No. 1902–0128).[80]

43. Interested persons may obtain information on the reporting requirements by contacting Ellen Brown, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 by email (*DataClearance@ferc.gov*) or phone (202) 502–8663.

44. *Title:* FERC–537 (Gas Pipeline Certificates: Construction, Acquisition, and Abandonment).

Action: Revisions of information collection FERC–537.

OMB Control No.: 1902–0060.

Respondents: Natural gas companies.

Frequency of Information Collection: Ongoing.

Abstract: The final rule requires prospective applicants and applicants to provide engineering and design materials related to natural hazards to comport with the Commission's current practice of processing section 7 applications related to LNG facilities.

Necessity of Information: The revisions are intended to update the currency of the Commission's regulations and reduce confusion related the preparation and filing of applications to site, design, construct, operate, or modify LNG facilities used in interstate commerce. The revised regulations affect only entities that file applications with the Commission for jurisdictional LNG facilities and do not increase or decrease the recently approved burden on respondents since the final rule codifies the Commission's existing practices.[81]

45. *Title:* FERC–539 (Gas Pipeline Certificate: Import/Export of LNG).

Action: Revisions of information collection FERC–539.

OMB Control No.: 1902–0062.

Respondents: Natural gas companies seeking to import and/or export LNG.

Frequency of Information Collection: Ongoing.

Abstract: The final rule requires prospective applicants and applicants to provide engineering and design materials related to natural hazards to comport with the Commission's current practice of processing section 3 applications related to LNG facilities.

Necessity of Information: The revisions are intended to update the currency of the Commission's regulations and reduce confusion related the preparation and filing of applications to site, design, construct, operate, or modify facilities for the import or export of LNG. The revised regulations affect only entities that file applications with the Commission for LNG facilities.

46. The estimated burdens for FERC–539, because of the final rule in RM22–8–000, are as follows:

Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours & average cost[82] per response ($)	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1) = (6)
6	2	12	15 hours; $1,305	180 hours; $15,660	$2,610

47. *Title:* FERC–577 (LNG Facilities: Environmental Review and Compliance).

Action: Revisions of information collection FERC–577.

OMB Control No.: 1902–0128.

Respondents: Natural gas companies seeking authorization to site, design, construct, operate, or modify LNG facilities.

Frequency of Information: Ongoing.

Abstract: The final rule requires prospective applicants and applicants, filing an application pursuant to sections 3 or 7 of the NGA, to provide engineering and design materials related to natural hazards to comport with the Commission's current practice of processing environmental reports filed pursuant to part 380 of the Commission's regulations.

Necessity of Information: The revisions are intended to update the currency of the Commission's regulations and reduce confusion related the preparation and filing of applications to site, design, construct, operate, or modify LNG facilities. To facilitate the Commission's review of these applications, applicants are required to also file resource reports detailing engineering and design materials to assist the Commission's understanding of the LNG facility's impact on the environment, safety, security, and reliability. The revised regulations affect only entities that file applications with the Commission for LNG facilities.

48. The estimated burdens for FERC–577, because of the final rule in RM22–8–000, are as follows:

[78] 44 U.S.C. 3507(d).

[79] 5 CFR 1320.11.

[80] In the proposed rule, the Commission used FERC–539A & FERC–577A as temporary placeholder designations for the purposes of this rulemaking. The permanent designations (*i.e.,* FERC–539 and FERC–577) were pending renewal at OMB, and no more than one information collection may be pending at OMB at one time. At present, FERC–539 and FERC–577 are available so the final rule references these OMB control numbers.

[81] *See* Order No. 603 NOPR, FERC Stats. & Regs. ¶ 32,535 at 33,526 (in a similar rulemaking in which the Commission codified existing practice for reviewing environmental reports, the Commission noted ''that the proposed changes to the environmental regulations discussed above do not change the filing requirements burden on the pipeline. They simply codify existing standard practice to help expedite the environmental review process.'').

[82] The Commission staff estimates that industry is similarly situated in terms of hourly cost (for wages plus benefits). Based on the Commission's FY (Fiscal Year) 2021 average cost (for wages plus benefits), $87.00/hour is used.

Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours & average cost per response ($) (rounded)	Total annual burden hours & total annual cost ($) (rounded)	Cost per respondent ($) (rounded)
(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1) = (6)
6	16	96	193.52 hours; $17,610.32	18,578 hours; $1,690,591	$281,765

The Commission has reviewed the proposed revisions and has determined that they are necessary. These requirements conform to the Commission's need to ensure public safety, secure jurisdictional infrastructure, and enhance efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements for FERC–537, FERC–539, and FERC–577.

B. Environmental Analysis

49. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant effect on the human environment.[83] Excluded from this requirement are rules that are clarifying, corrective, or procedural, or that do not substantially change the effect of legislation or the regulations being amended.[84] This final rule revises the filing requirements for new or recommissioned existing LNG facilities by deleting references to a legacy agency and two outdated technical standards. Because this rule is corrective, aligns the Commission's regulations with the Commission's current practice, and does not substantially change the effect of the regulations being amended, preparation of an Environmental Assessment or Environmental Impact Statement is not required.

C. Regulatory Flexibility Act Certification

50. The Regulatory Flexibility Act of 1980 (RFA) [85] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a rule and minimize any significant economic impact on a substantial number of small entities.[86] In lieu of preparing a regulatory flexibility analysis, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities.[87]

51. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[88] SBA regulations designate natural gas pipelines (*i.e.,* NAICS 4865210) as small entities if they do not exceed the size standard of $36.5 million.[89] For the past five years, one company not affiliated with larger companies had annual revenues in combination with its affiliates of $36.5 million or less and therefore could be considered a small entity under the RFA. This represents about five percent of the total potential respondents that may have a significant burden imposed on them.

52. As noted earlier, the final rule will affect only entities filing new applications to site, construct, operate, or expand an LNG facility pursuant to sections 3 or 7 of the NGA once the final rule becomes effective. As a result of removing outdated terms and aligning the Commission's regulatory text with current environmental information practices, the final rule will reduce confusion about the Commission's requirements, which would necessitate the issuance of fewer data requests to obtain a complete application that better reflects safe design, construction, maintenance, and operation of proposed LNG facilities.

53. Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that this final rule would not have a significant economic impact on a substantial number of small entities.

D. Document Availability

54. 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 the Commission's Home Page (*https://www.ferc.gov*).

55. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

56. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects

18 CFR Part 153

Exports, Imports, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 380

Environmental impact statements, Reporting and recordkeeping requirements.

By direction of the Commission. Commissioner Danly is concurring with a separate statement attached.

Issued: October 23, 2023.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission amends parts 153 and 380, chapter I, title 18, Code of Federal Regulations, as follows.

PART 153—APPLICATIONS FOR AUTHORIZATION TO CONSTRUCT, OPERATE, OR MODIFY FACILITIES USED FOR THE EXPORT OR IMPORT OF NATURAL GAS

■ 1. The authority citation for part 153 is revised to read as follows:

Authority: 15 U.S.C. 717b, 717o; E.O. 10485, 3 CFR, 1949–1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136; DOE Delegation Order No. S1–DEL–FERC–2006 (May 16, 2006).

§ 153.2 [Amended]

■ 2. Amend § 153.2 by:

■ a. Removing paragraph (b); and

[83] *Reguls. Implementing the Nat'l Env'l Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[84] 18 CFR 380.4(a)(2)(ii).

[85] 5 U.S.C. 601–612.

[86] *Id.* 603(c).

[87] *Id.* 605(b).

[88] 13 CFR 121.101.

[89] *Id.*

■ b. Redesignating paragraphs (c) through (f) as paragraphs (b) through (e), respectively.

§ 153.8 [Amended]

■ 3. Amend § 153.8 by:
■ a. Removing paragraph (a)(6);
■ b. Redesignating paragraphs (a)(7) through (9) as paragraphs (a)(6) through (8), respectively; and
■ c. In newly redesignated paragraph (a)(6):
■ i. Removing the designation ''(i)''; and
■ ii. Removing ''§ 380.3 and § 380.12'' and adding ''§§ 380.3 and 380.12'' in its place.

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

■ 4. The authority citation for part 380 continues to read as follows:

Authority: 42 U.S.C. 4321–4370h, 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

■ 5. Amend § 380.12 by:
■ a. Removing paragraph (h)(5);
■ b. Redesignating paragraph (h)(6) as paragraph (h)(5); and
■ c. Revising paragraphs (o)(12), (14), (15).

The revisions read as follows:

§ 380.12 Environmental reports for Natural Gas Act applications.

* * * * *

(o) * * *

(12) Identify all codes and standards under which the plant (and marine terminal, if applicable) will be sited, designed, constructed, tested, monitored, operated, and maintained, and any special considerations or safety provisions that were applied to the design of plant components.

* * * * *

(14) Identify all Federal, state, and local regulations and requirements that apply to the siting, design, construction, testing, monitoring, operation, and maintenance of the proposed project and explain how the proposed project will comply with the applicable Federal regulations, including codes and standards incorporated by reference into Federal regulations.

(15) Provide information to demonstrate that the proposed facilities will be sited, designed, constructed, and operated to maintain reliability and will not significantly impact public safety given geotechnical conditions and the occurrence of a natural hazard identified in paragraphs (o)(15)(i) through (iii) of this section. Site information must provide geotechnical studies and natural hazard studies based on the site location, which must provide impacts and magnitude of historical events and projected impacts and magnitude of events based on projected prescriptive/deterministic events and projected probabilistic events corresponding to mean recurrence intervals. Design information must provide the basis of design supported by site information, including design parameters and criteria and preliminary resultant design loads used in the geotechnical and structural design of LNG facilities. Construction and operation information must also include discussion of quality assurance and quality control plans, monitoring programs, and action programs developed in preparation of and response to geotechnical and natural hazards. All information provided must, at a minimum, demonstrate compliance with all applicable Federal requirements and applicable codes and standards, and identify any applicable state and local requirements for the siting, design, construction, testing, monitoring, operation, and maintenance used to safeguard against significant impacts caused by geotechnical conditions and natural hazards.

(i) *General information.* Provide site information that includes:

(A) A description of all structures, systems, and components, including, at a minimum, the layout of all proposed above ground and below ground structures, systems, and components including temporary access roads used during construction and permanent roads used during operation.

(B) The design classification for each structure, system, and component in accordance with, at a minimum, all applicable Federal requirements and applicable codes and standards.

(C) The derivation and values for risk category and mean recurrence intervals that are, at a minimum, in accordance with all applicable Federal requirements and applicable codes and standards.

(D) A description of all load combinations for each design classification for all structures, systems, and components that are, at a minimum, in accordance with design methods and all applicable Federal requirements and applicable codes and standards.

(E) A description of all preliminary dead loads that are, at a minimum, in accordance with all applicable Federal requirements and applicable codes and standards, and include, at a minimum, weight of materials of construction of structures, systems, and components; weight of any hydrostatic test fluid service within structures, systems, and components during commissioning; weight of fluid services within structures, systems, and components during startup, normal operation, abnormal operation, and shutdown; and soil and hydrostatic pressure loads and potential uplift of below ground structures, systems, and components.

(F) A description of all preliminary live loads that are, at a minimum, in accordance with all applicable Federal requirements and applicable codes and standards, and include, at a minimum, dynamic loads from movement during transportation of structures, systems, and components; induced loads from construction equipment atop of below ground structures, systems, and components; uniform and concentrated loads from construction and operation personnel and equipment on structures, systems, and components; and crane loads for structures, systems, and components.

(G) A description of all preliminary loads induced from natural hazards for all structures, systems, and components that are, at a minimum, in accordance with all applicable Federal requirements and applicable codes and standards as described in paragraph (o)(15)(iii) of this section.

(H) A description of all mitigation measures to protect against natural hazards (like earthquakes) including, at a minimum, a discussion of the proposed site elevation and design of any storm walls or barriers relative to information described in paragraphs (o)(15)(ii) and (iii) of this section.

(I) A description of a natural hazard preparedness and action program, which includes facilitating timely decisions concerning the present or future state of the LNG facility that address, at a minimum, the natural hazards described in paragraph (o)(15)(iii) of this section.

(ii) *Geotechnical information.* Provide a geotechnical investigation that includes:

(A) A summary of the site investigation that lists the applicant's exploratory program for the site and the types of subsurface investigations performed and planned to be performed for the site.

(B) A list and description of all in situ tests performed, standards used for tests, and their results including all standard penetration tests, cone penetration tests (static and dynamic), test pits, trenches, borings, rock coring, soil sampling, plate load tests, and in situ shear strength tests.

(C) A plot plan that identifies the number, location, spacing, cross-sections, and depths of each in situ test.

(D) A description of completed surveys, standards used for surveys, and the results of surveys that were conducted to obtain continuous lateral and depth information for the

evaluation of subsurface conditions including all seismic refraction and reflection surveys.

(E) A description of the applicant's laboratory testing program that includes the treatment of samples, the preparation of the soil specimen for testing, the techniques to detect sample disturbance, and the laboratory testing specifications.

(F) A list and description of all laboratory tests performed, standards used for tests, and their results, including results from all soil classification tests, index tests, strength and compressibility tests, permeability tests, and soil corrosivity tests.

(G) A description of proposed mitigation measures for soil improvement or other mitigation that would remediate low bearing strength, poor consolidation, poor permeability, high corrosivity, or other geotechnical issues discovered during in situ or laboratory tests.

(H) A discussion of subsurface conditions and profiles based on the results of the subsurface exploration and field test conducted at the site. Subsurface profiles must identify groundwater conditions and the physicochemical properties of the groundwater, soil/rock layers and parameters, and various soil strata in various cross-section drawings spanning across the site including the LNG storage tank areas.

(I) A description of soil conditions that indicate compressible or expansive soils, corrosive soils, collapsible soils, erodible soils, liquefaction-susceptible soils, frost-heave susceptible soils, frozen soils, sanitary landfill, or contaminated soils.

(J) An analysis of actual or potential hazards (*e.g.,* landslides, subsidence, uplift, capable faults, or collapse resulting from natural features such as tectonic depressions and cavernous or karst terrains) to the site.

(K) A discussion of the relationship between the regional and local geology and the site location.

(L) An evaluation and discussion of surface displacement caused by faulting or seismically induced lateral spreading or lateral flow, regional subsidence, local subsidence, and heave.

(M) Drawings of existing and proposed site elevation contours.

(N) A slope-stability analysis, including slope stabilization methods, sloping topography for the site, recommendations for slope stability, static and seismic stability, and factor of safety.

(O) Recommendations for site improvement to increase bearing capacity, reduce the potential of liquefaction and lateral spreading, and mitigate poor or unusual soil conditions.

(P) Recommendations for site improvement to mitigate soil contaminants and shoreline erosion control.

(Q) An evaluation and discussion of the expected total settlement over the design life of the facilities that considers soil conditions, regional subsidence, and local subsidence.

(R) Recommendations for shallow foundations, including, at a minimum, ultimate bearing capacity, factor of safety, allowable bearing capacity, total and differential settlement criteria, liquefaction settlements, settlement monitoring, and lateral resistance.

(S) Recommendations for deep foundations, including, at a minimum, acceptable foundation type, bearing capacity, total pile capacities, axial capacity, lateral capacity, group effects, down-drag, factor of safety, settlement of single pile and pile groups, lateral movement of pile groups, pile installation, pile cap, indicator piles and pile load test programs, static axial pile load test, lateral load test, and dynamic pile load test.

(T) A summary of information needed to establish broad design parameters and conclusions used to determine the proposed layout and design of buildings, structures, and support facilities.

(U) A description of the implementation of the geotechnical monitoring system for the site and structures, including inclinometer, extensometers, piezometer, tiltmeter, settlement monuments or cells, pressure and load cells, and crack monitoring devices.

(iii) *Natural hazard information.* Provide studies, basis of design, and plans for all natural hazards, including, at a minimum, each natural hazard in paragraphs (o)(15)(iii)(A) through (G) of this section:

(A) *Seismic information.* Provide a discussion of seismic design and hazards analysis that includes:

(*1*) The seismic design basis and criteria that are, at a minimum, in accordance with all applicable Federal requirements, and applicable codes, standards, and specifications used as basis of design.

(*2*) A description of seismic setting and seismic hazard investigation.

(*3*) A description of seismological characteristics of the geographical region within 100 miles of the site.

(*4*) A description of capable faults, including any part of a fault within five miles of the site, the fault characteristics in the site vicinity, the methods and techniques used for fault analysis and investigations, and the potential effect of fault displacement on structures, systems, and components.

(*5*) Derivation of the site class describing the soil conditions and supportive geotechnical studies that are, at a minimum, in accordance with all applicable Federal requirements and applicable codes and standards.

(*6*) Criteria used to determine potential soil liquefaction, subsidence, fault rupture, seismic slope stability, and lateral spreading.

(*7*) A historical ground motion analysis, including a description of past seismic events of Modified Mercalli Intensity greater than IV or magnitude greater than 3.0 within 100 miles of the site, including date of seismic events, magnitude of seismic events, distance from site to epicenter of seismic events, depth of seismic events, and resultant ground motions recorded or estimated at site location.

(*8*) A site-specific ground motion analysis based on ground motions projected from the U.S. Geological Survey national seismic maps and any deterministic seismic hazard analyses (DSHA) and probabilistic seismic hazard analyses (PSHA).

(*9*) Derivation of all ground motions used for the Operating Basis Earthquake (OBE), Safe Shutdown Earthquake (SSE), site-specific design earthquake (DE), site-specific peak ground motion (PGA), and aftershock level earthquake (ALE) that are, at a minimum, in accordance with all applicable Federal requirements and applicable codes and standards.

(*10*) A list of OBE, SSE, and ALE site-specific ground motion spectral values for 0.5%, 1%, 2%, 5%, 7%, 10%, 15%, and 20% damping during all periods range.

(*11*) The DE seismic coefficients and seismic design parameters, including the spectral response acceleration and five percent damped design spectral response acceleration parameters at a short-period, at a period of one second, and at other periods; short-period site coefficient and long-period site coefficient; importance factor; component importance factor; fundamental period of the structure; long-period transition period; and response modification coefficient that are, at a minimum, in accordance with all applicable Federal requirements and applicable codes and standards.

(*12*) A description of site-specific response spectrum analysis method, time history analysis method, or equivalent static load analysis.

(*13*) A seismic analysis for soil-structure interaction that is, at a

minimum, in accordance with all applicable Federal requirements and applicable codes and standards, and includes, at a minimum, a discussion of the modeling methods and the factors considered in the modeling methods, including the extent of embedment, the layering of the soil/rock strata, and the boundary of soil-structure model.

(*14*) A comparison of seismic responses used for each design classification for all structures, systems, and components.

(*15*) A list of seismic hazard curves of spectral accelerations for all periods for the site.

(*16*) Vertical response spectra for seismic design and ratio to horizontal response spectra.

(*17*) Natural frequencies and responses for each LNG tank system and associated safety systems and associated structures, systems, and components.

(*18*) A description of procedures used for structural analyses, including consideration of incorporating the stiffness, mass, and damping characteristics of the structural systems into the analytical models.

(*19*) A description of determination of seismic overturning moments and sliding forces for each LNG tank system and associated safety related structures, systems, and components, including consideration of the three components of input motion and the simultaneous action of vertical and horizontal seismic forces.

(*20*) A description of design procedure for seismically isolated structures, systems, and components.

(*21*) A description of seismic design basis and criteria for the LNG storage tank(s) and foundation(s). The seismic design basis and criteria must include the flexibility of the tank shell(s) and its influence on the natural frequencies of the tank(s), liquid level, effects of liquid motion or pressure changes; minimum design freeboard; sloshing and impulsive loads; seismic coefficients; importance factor(s); reduction factor(s); slosh height(s); sloshing periods of LNG storage tank(s); global stability of the tank(s) in terms of the potential for overturning and sliding; differential displacement between the tank(s) and the first support; and a total settlement monitoring program for the tank foundation(s).

(*22*) A description of seismic monitoring system in accordance with, at a minimum, all applicable Federal requirements and applicable codes and standards, including any triaxial ground motion recorder installed to register the free-field ground motion and additional triaxial ground motion recorders on each LNG tank system foundation, LNG tank roof, and associated safety related structures, systems, and components. The proposed seismic monitoring must include the installation locations on a plot plan; description of the triaxial strong motion recorders or other seismic instrumentation; the proposed alarm set points, and operating procedures (including emergency operating procedures) for control room operators in response to such alarms/data obtained from seismic instrumentation; and maintenance procedures.

(*23*) A cross reference to potential for earthquake generated tsunamis and seiches provided in paragraph (o)(15)(iii)(B) of this section, earthquake generated floods in paragraph (o)(15)(iii)(C) of this section, earthquake generated landslides in paragraph (o)(15)(iii)(G) of this section, and earthquake generated releases and fires in paragraph (m) of this section.

(B) *Tsunami and seiche information.* Provide a discussion of tsunami and seiche design and hazards that includes:

(*1*) The tsunami and seismic design basis and criteria with a description of the applicable requirements and guidelines, and generally accepted codes, standards, and specifications used as basis of design.

(*2*) The seiche design inundation and run-up elevations and corresponding return periods for all structures, systems, and components.

(*3*) The maximum considered tsunami (MCT) inundation and run-up elevation for the site, including the maximum considered earthquake (MCE) level ground motions at the site if the MCE is the triggering source of the MCT.

(*4*) A comparison of design loads of seiche water inundation elevations with inundation elevation corresponding to return periods of MCE and MCT for all structures, systems, and components.

(*5*) The Tsunami Risk Category for the site and a description of potential tsunami generation by seismic sources, and the prevention and mitigation plan for potential tsunami and seiche hazards.

(*6*) A cross reference to potential tsunami and seiche generated floods in paragraph (o)(15)(iii)(C) of this section, tsunami and seiche generated landslides in paragraph (o)(15)(iii)(G) of this section, and tsunami and seiche generated releases and fires in paragraph (m) of this section.

(C) *Flood information.* Provide a discussion of flood design criteria and hazards that includes:

(*1*) The floods design basis and criteria with references to applicable requirements and guidelines, and generally accepted codes, standards, and specifications used as basis of design.

(*2*) A description of flooding potential in the region surrounding the site due to one or more natural causes such as storm surge, tides, wind generated waves, meteorological tsunamis or seiches, extreme precipitation, or other natural hazard events that have a common cause.

(*3*) A comparison of flood design loads corresponding to return periods of 10,000-year, 5,000-year, 1,000-year, 500-year, and 100-year for all structures, systems, and components.

(*4*) A discussion of final designed site elevations and storm surge walls or floodwalls for the site that includes tsunami considerations, flood design considerations, site total settlements, sea level rise, subsidence.

(D) *Hurricane information.* Provide a discussion of hurricanes and other meteorological events design criteria and hazards that includes:

(*1*) The wind and storm surge design basis and criteria that are, at a minimum, in accordance with all applicable Federal requirements, and applicable codes, standards, and specifications used as basis of design.

(*2*) A comparison of design wind loads for both sustained and three-second gusts and storm surge elevations, including consideration for still water, wind/wave run-up effects, and crest elevations, with hurricanes and other meteorological events at the site location corresponding to return periods of 10,000-year, 5,000-year, 1,000-year, 500-year, and 100-year for all structures, systems, and components.

(*3*) A discussion of historic hurricane frequencies and hurricane categories equivalent on the Saffir-Simpson Hurricane Wind Scale at the site and associated wind speeds and storm surge.

(*4*) The design regional subsidence that includes a discussion of the elevation change used to account for regional subsidence for the design life of the facilities at the site.

(E) *Tornado information.* Provide a discussion of tornado design criteria and hazards that includes:

(*1*) The tornadoes design basis and criteria that are, at a minimum, in accordance with all applicable Federal requirements, and applicable codes, standards, and specifications used as basis of design.

(*2*) A comparison of tornado design loads corresponding to return periods of 10,000-year, 5,000-year, 1,000-year, 500-year, and 100-year for all structures, systems, and components.

(*3*) A discussion of historic tornado frequencies and tornado categories as classified on the Enhanced Fujita (EF)

Scale at the site and associated wind speeds.

(*4*) A discussion of tornado loads determination and design procedure.

(*5*) A comparison of impact between wind loads and tornado loads for the site.

(F) *Rain, ice, snow, and related precipitation information.* Provide a discussion of rain, ice, snow, and related precipitation design criteria and hazards that includes:

(*1*) The rain, ice, and snow design basis and criteria that are, at a minimum, in accordance with all applicable Federal requirements, and applicable codes, standards, and specifications used as basis of design.

(*2*) The identification of stormwater flows, outfalls, and stormwater management systems for all surfaces, including spill containment system with sump pumps or other water removal systems.

(*3*) The comparison of rain, ice, and snow design loads with rainfall rates, snow loads, and ice loads corresponding to return periods of 10,000-year, 5,000-year, 1,000-year, 500-year, and 100-year for all structures, systems, and components.

(*4*) A discussion of historic ice and blizzard events and frequencies and other ice and snow events at the site and associated loads.

(G) *Landslides, wildfires, volcanic activity, and geomagnetism information.* Provide a discussion of landslides, wildfires, volcanic activity, and geomagnetism design criteria and hazards that includes:

(*1*) The landslides, wildfires, volcanic activity, and geomagnetism design basis and criteria that are, at a minimum, in accordance with all applicable Federal requirements, and applicable codes, standards, and specifications used as basis of design.

(*2*) A discussion of historic landslide, wildfire, volcano activity, and geomagnetic disturbance risks and intensities at the site.

(*3*) A description of capable volcanoes, volcanic characteristics of the region, and a discussion of potentially hazardous volcanic phenomena considerations.

■ 6. Amend appendix A to part 380 in the section entitled ''Resource Report 6—Geological Resources'' by:

■ a. Removing paragraph 4;

■ b. Redesignating paragraph 5 as paragraph 4; and

■ c. Revising newly redesignated paragraph 4.

The revision reads as follows:

Appendix A to Part 380—Minimum Filing Requirements for Environmental Reports Under the Natural Gas Act

* * * * *

Resource Report 6—Geological Resources

* * * * *

4. For underground storage facilities, how drilling activity by others within or adjacent to the facilities would be monitored, and how old wells would be located and monitored within the facility boundaries. (§ 380.12(h)(5))

* * * * *

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix A—Commissioner Danly's Statement

United States of America Federal Energy Regulatory Commission

Updating Regulations for Engineering and Design Materials for Liquefied Natural Gas Facilities Related to Potential Impacts Caused by Natural Hazards

Docket No. RM22–8–000

(Issued October 23, 2023)

DANLY, Commissioner, *concurring:*

1. I agree that several changes to the Commission's regulations will be helpful to ensure that the Commission has adequate information to examine the design, engineering and safety of liquefied natural gas (LNG) facilities when authorizing the siting of such facilities under the Commission's jurisdiction. I write separately to express two misgivings about the final rule.[90]

2. *First,* in their joint comments on the proposed rule, the Center for LNG and the American Petroleum Institute (API) identified potential sources of confusion throughout the proposed rule regarding the requirements that project sponsors identify and comply with all ''applicable codes and standards.'' [91] The final rule does not sufficiently address these well-articulated concerns.

3. *Second,* language in the final rule suggests that the Commission has perpetual jurisdiction over LNG facilities [92] under Natural Gas Act sections 3 and 7.[93] I continue to harbor misgivings that the Commission may not, in fact, have ongoing jurisdiction to oversee the safety of LNG facilities once permitted.[94]

For these reasons, I respectfully concur.

James P. Danly,

Commissioner.

[FR Doc. 2023–23791 Filed 10–27–23; 8:45 am]

BILLING CODE 6717–01–P

[90] *See Updating Reguls. for Eng'rg & Design Materials for Liquefied Nat. Gas Facilities Related to Potential Impacts Caused by Nat. Hazards,* 185 FERC ¶ 61,050 (2023) (Final Rule).

[91] *See* Center for LNG & API January 27, 2023 Comments at 2.

[92] *See* Final Rule, 185 FERC ¶ 61,050 at P 39 (''Because the Commission's authority is to ensure public safety and reliability of proposed LNG facilities not only during siting of the facilities but also during construction and operations of those facilities, the final rule revises existing § 380.12(o)(12) so that Resource Report 13 would now include identification of codes and standards for the design, construction, testing, monitoring, operation, and maintenance of the LNG facility in addition to identification of codes and standards for siting.'') (footnote omitted); *see also id.* P 15 (''The current rulemaking clarifies and updates the informational requirements in the Commission's regulations by codifying the current practice for processing NGA section 3 and [section] 7 applications. . . . The environmental document includes Commission staff's recommendations related to the construction and operation of the project, including measures to mitigate adverse effects. If the Commission approves the application, the Commission's oversight of the project continues through final design, construction, commissioning, and operation of the project to ensure that the project has complied with the terms and conditions of the Commission's authorization order.'') (citing 15 U.S.C. 717b(a), 717b(e)(3)(A), 717f(e) (authorizing the Commission to include terms and conditions to our authorization orders)) (internal citations omitted) (footnotes omitted).

[93] 15 U.S.C. 717b, 717f.

[94] *See EcoEléctrica, L.P.,* 184 FERC ¶ 61,114 (2023) (Danly, Comm'r, concurring at P 3); *EcoEléctrica, L.P.,* 180 FERC ¶ 61,054 (2022) (Danly, Comm'r, concurring at P 3); *EcoEléctrica, L.P.,* 179 FERC ¶ 61,038 (2022) (Danly, Comm'r, concurring); *EcoEléctrica, L.P.,* 177 FERC ¶ 61,164 (2021) (Danly, Comm'r, concurring); *EcoEléctrica, L.P.,* 176 FERC ¶ 61,192 (2021) (Danly, Comm'r, concurring).

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

RIN 0596–AD58

Long-Term Financial Assurance for Mining

AGENCY: Forest Service, Agriculture.

ACTION: Interim final rule; request for public comment.

SUMMARY: The Forest Service is amending its locatable minerals rules to provide mine operators with a broader array of options for securing financial assurance for funding reclamation work. Locatable mineral operations on National Forest System lands must be conducted to minimize adverse environmental impacts on National Forest surface resources, which often includes reclamation at the conclusion of operations. Current regulations provide that the Forest Service may require the operator to furnish a ''bond'' to fund reclamation work. However, the financial assurance mechanisms are limited to surety bonds, cash, and negotiable securities. This rule will expand those options. It does not change requirements for surface resource and environmental protection. Rather, it provides additional options for obtaining the financial assurance