

**§ 385.1508**

**18 CFR Ch. I (4–1–07 Edition)**

stated in the Commission's notice will be deemed admitted.

(b) Any election to have the procedures of Rule 1509 apply may not be revoked after the 30-day election period in paragraph (a) of this section, without the consent of the Commission.

**§ 385.1508 Commission administrative procedures (Rule 1508).**

(a) If the respondent is not entitled to an election pursuant to Rule 1506(b)(3)(ii) or does not timely elect to have the procedures of Rule 1509 apply, the Commission will commence a proceeding in accordance with the provisions of subpart E of this chapter.

(b) The Commission's Rules of Practice and Procedure in part 385 of this chapter will apply, as appropriate, to any evidentiary proceeding to assess a civil penalty.

(c) An assessment order under this section shall include the administrative law judge's findings and the basis for such assessment.

**§ 385.1509 District court procedures (Rule 1509).**

(a) After receipt of the notification of election to apply the provisions of this section pursuant to Rule 1507, the Commission will promptly assess the penalty it deems appropriate, in accordance with Rule 1505.

(b) If the civil penalty is not paid within 60 calendar days after the assessment order is issued under paragraph (a) of this section, the General Counsel, unless otherwise directed by the Commission, will institute an action in the appropriate United States District Court for an order affirming the assessment of the civil penalty.

**§ 385.1510 Modification of civil penalty (Rule 1510).**

(a) The Commission may compromise, modify, or remit, with or without conditions, any civil penalty (with leave of court if necessary).

(b) In exercising its authority under paragraph (a) of this section, the Commission may consider the nature and seriousness of the violation, and the efforts of the licensee, exemptee, permittee, or one who should possess appropriate authority but does not, to

remedy the violation in a timely manner.

(c) The Commission's authority to compromise, modify or remit a civil penalty may be exercised at any time prior to a final decision by the United States Court of Appeals if Rule 1508 procedures are utilized, or prior to a final decision by the United States District Court if Rule 1509 procedures are utilized.

**§ 385.1511 Collection of civil penalties (Rule 1511).**

If any person fails to pay a civil penalty assessment, the Commission will seek to recover the amount of the penalty plus interest in any appropriate District Court of the United States. Interest will begin to accrue on the date the Commission issues a final order under Rule 1508 or the date on which the appropriate District Court enters final judgment in favor of the Commission under Rule 1509.

[Order 502, 53 FR 32039, Aug. 23, 1988]

**Subpart P—Civil Monetary Penalty Inflation Adjustment**

SOURCE: Order 891, 67 FR 52412, Aug. 12, 2002, unless otherwise noted.

**§ 385.1601 Scope and purpose (Rule 1601).**

The purpose of this subpart is to make inflation adjustments to the civil monetary penalties provided by law within the jurisdiction of the Commission. These penalties shall be subject to review and adjustment as necessary at least every four years in accordance with the Federal Civil Penalties Inflation Act of 1990, as amended.

**§ 385.1602 Civil penalties, as adjusted (Rule 1602).**

The civil monetary penalties provided by law within the jurisdiction of the Commission are:

(a) 15 U.S.C. 3414(b)(6)(A)(1), Natural Gas Policy Act: from \$5,000 to \$5,500.

(b) 16 U.S.C. 823b(c), Federal Power Act: from \$10,000 to \$11,000.

(c) 16 U.S.C. 825n(a), Federal Power Act: from \$1,000 to \$1,100.

(d) 16 U.S.C. 825(o)–1(b), Federal Power Act: from \$10,000 to \$11,000.

## Subparts Q–R [Reserved]

## Subpart S—Miscellaneous

**§ 385.1901 Interpretations and interpretative rules under the NGPA (Rule 1901).**

(a) *Purpose and applicability*—(1) *Purpose*. The purpose of this section is to provide procedures by which:

(i) A person may seek a written interpretation from the General Counsel construing a provision of the NGPA, or clarifying a rule issued by the Commission under the NGPA; and

(ii) The Commission may publish an interpretative rule that will have general applicability and effect.

(2) *Applicability*. (i) This section applies to requests under section 502(c) of the NGPA for interpretations of the NGPA or of rules or of orders, having the applicability and effect of a rule as defined in 5 U.S.C. 551(4), issued under the NGPA. It does not apply to orders issued under sections 301, 302, and 303 of the NGPA.

(ii) This section applies to requests for interpretations to prospective, existing or completed facts, acts, or transactions. Interpretations based on hypothetical facts, acts, or transactions will not be considered.

(b) *Definitions*. For the purpose of this section, the following definitions apply.

(1) *Direct participant* means any person or legal entity who is, or plans to be an actual party in the act, transaction, or circumstance presented, and who has an immediate or direct financial interest in the act, transaction, or circumstance.

(2) *Interpretation* means a written statement of the General Counsel which applies a particular rule to a particular set of facts, acts, circumstances or transactions. In the discretion of General Counsel, the interpretation may contain a detailed factual and legal analysis, a summary of the facts or the law, or both, or it may be a conclusory statement.

(3) *Interpretative rule* means an official interpretative statement of general applicability issued by the Commission and published in the FEDERAL REGISTER that applies the NGPA or rules issued thereunder to a specific set

of facts, acts, circumstances and transactions.

(4) *NGPA* means the Natural Gas Policy Act of 1978.

(5) *Request* means a request for an interpretation.

(6) *Rule* means a rule or an order having the effect of a rule as defined in 5 U.S.C. 551(4).

(c) *Persons who may request an interpretation*—(1) Any person who is or will be a direct participant in an act, transaction, or circumstance affected by the NGPA or a rule issued by the Commission under the NGPA may file with the Office of the General Counsel a request for an interpretation.

(2) Requests for interpretations must be addressed to the Office of the General Counsel as follows:

Federal Energy Regulatory Commission, Interpretations Section, Office of the General Counsel, Suite 8000, 825 North Capitol Street, NE., Washington, D.C. 20426.

(3) Requests for interpretation under this paragraph need not be filed with the Secretary.

(d) *Content of request*—(1) *Facts*. A request for interpretation must contain a full and complete statement of the relevant and material facts pertaining to the act, transaction, or circumstance that is the subject of the request for interpretation. When the request pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be included in the request.

(2) *Statement of the question*. The request must clearly designate the section of the statute, regulation, rule, or part thereof which the person making the request seeks to have interpreted and must set forth clearly and concisely the question for which an interpretation is sought. The request may also set forth a proposed answer to the question.

(3) *Analysis*. If the request proposes a particular answer:

(i) The request must set forth a legal analysis in support of the proposed answer and cite relevant authorities in support thereof.

(ii) The request must set forth the legal and business consequences which will flow from the proposed answer.