



De Novo Review of Civil Penalties under the Natural Gas Act

S. 1216 clarifies that those accused of possible violations by the Federal Energy Regulatory Commission have the right to *de novo* review at the district court level.

Background

In the Energy Policy Act of 2005, additional authorities were given to the Federal Energy Regulatory Commission (FERC) to police market trading and manipulation under both the Natural Gas Act and the Federal Power Act, including a defendant's rights to a *de novo* review at the district court level. Unfortunately, during the conference process, the Natural Gas Act provisions on *de novo* review were inadvertently excluded.

Key Provisions

- Clarifies that a civil penalty assessed by FERC pursuant to section 22 of the Natural Gas Act, like a civil penalty assessed by the Commission pursuant to section 316A of the Federal Power Act, is subject to *de novo* review in the United States district courts, rather than review under the substantial evidence standard in the U.S. Courts of Appeals.