Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The offshore airspace area designation listed in this document would be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic Airspace Management, in areas outside U.S. domestic airspace, is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the document is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 2003 Offshore Airspace Areas

* * * * *

Atlantic High [Revised]

That airspace extending upward from 18,000 feet MSL to and including FL 600 within the area bounded on the east from north to south by the Moncton FIR, New York Oceanic CTA/FIR, and the San Juan Oceanic CTA/FIR; to the point where the San Juan Oceanic CTA/FIR boundary turns southwest at lat. 21°08′00″N., long. 67°45′00″ W., thence from that point southeast via a straight line to intersect a 100-mile radius of the Fernando Luis Ribas Dominicci Airport at lat. 19°47′28″ N., long. 67°09′37″ W., thence counter-clockwise via a 100-mile radius of the Fernando Luis Ribas Dominicci Airport to lat. 18°53′05″ N., long. 67°47′43″ W., thence from that point northwest via a straight line to intersect the point where the Santo Domingo FIR turns northwest at lat. 19°39′00″ N., long. 69°09′00″ W., thence from that point the area is bounded on the south from east to west by the Santo Domingo FIR, Port-Au-Prince CTA/FIR, and the Havana CTA/FIR; bounded on the west from south to north by the Houston Oceanic CTA/FIR, southern boundary of the Jacksonville Air Route Traffic Control Center and a line 12 miles offshore and parallel to the U.S. shoreline.

* * * * *

Issued in Washington, DC, on November 6, 1997.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–30215 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–007; Order No. 587–F]

Standards for Business Practices of Interstate Natural Gas Pipelines

November 12, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking (NOPR).

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations governing standards for conducting business practices and electronic communication with interstate natural gas pipelines by incorporating by reference the most recent version of standards promulgated by the Gas Industry Standards Board (GISB). The Commission also is proposing to adopt regulations, not developed by GISB, governing intra-day nominations, operational balancing agreements (OBAs), netting and trading of imbalances, standardization of communications over the public Internet, and notices of operational flow orders. In addition, the Commission is providing policy guidance on other issues related to business practices of interstate natural gas pipelines to assist GISB in developing implementation standards that could be adopted by the Commission in future regulations. These business practices standards supplement standards adopted by the Commission in Order Nos. 587, 587–B, and 587–C.

DATES: Comments are due December 18, 1997.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC, 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–2294

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–1283

Kay Morice, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–0507

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 2A, 888 First Street, N.E., Washington D.C. 20426. The complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, also provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user. CIPS can be accessed over the Internet by pointing your browser to the URL address: http://www.ferc.fed.us. Select the link to CIPS. The full text of this document can be viewed, and saved, in ASCII format and an entire day's documents can be downloaded in WordPerfect 6.1 format by searching the miscellaneous file for the last seven days. CIPS also may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS user assistance is available at 202–208–2474.

Notice of Proposed Rulemaking and Statement of Policy; Order No. 587–F

November 12, 1997.

The Federal Energy Regulatory Commission (Commission) is proposing to amend § 284.10 of its regulations governing standards for conducting business practices and electronic communication with interstate natural gas pipelines by incorporating by reference the most recent version of standards promulgated by the Gas Industry Standards Board (GISB). The Commission also is proposing to adopt regulations, not developed by GISB, in new § 284.10(b)(2) of its regulations. These regulations would govern intra-day nominations, operational balancing agreements (OBAs), netting and trading of imbalances, standardization of communications over the public Internet, and notices of operational flow orders. In addition, the Commission is providing policy guidance on other issues to eliminate disputes within GISB over these issues and thereby assist GISB in developing implementation standards in these areas.

I. Background

A. Prior Commission Action

In Order Nos. 587, 587–B, and 587–C [1] the Commission began the process of standardizing the business practices and communication methodologies of interstate pipelines to create a more integrated and efficient pipeline grid. The Commission incorporated by reference consensus standards developed by GISB,[2] covering certain industry business practices—Nominations, Flowing Gas, Invoicing, and Capacity Release—as well as standards and electronic datasets that detailed the data requirements needed to conduct these business transactions electronically. The Commission also adopted standards providing that these business transactions would be conducted over the Internet as well as standards requiring the posting of additional information on Internet Web pages.

During the process of adopting these standards, there were areas that had been left unresolved which are relevant to the Commission's proposed actions in this Notice of Proposed Rulemaking (NOPR). First, in Order No. 587–C, the Commission declined to adopt standards in four areas—intra-day nominations, operational balancing agreements, netting of imbalances, and downloading documents from pipeline Internet Web sites—and requested that GISB and the industry propose clarifications or revisions to the standards by September 1, 1997. In addition, in Order No. 587–E, the Commission noted that GISB had committed itself to completing the standardization of all functions and information now provided on pipeline Electronic Bulletin Boards (EBBs) and requested a report, by September 1, 1997, on the extent of GISB's progress and the contemplated completion date. [3]

Second, in its November 13, 1996 NOPR, [4] the Commission identified several disputed standards where four industry segments supported the standards, but the pipeline segment prevented a consensus from being reached.[5] To review these issues, the Commission staff held a technical conference on December 12 and 13, 1996, and comments on the conference were filed on February 21, 1997.[6]

B. GISB's September 2, 1997 Filing

On September 2, 1997, GISB filed with the Commission revisions to its standards (Version 1.2), a report on the issues raised by the Commission in Order No. 587–C regarding intra-day nominations, the unclear OBA and imbalance standards, and the standard covering formats for file downloads, and a report on the progress of its title transfer tracking task force.

Version 1.2 replaces Versions 1.0 and 1.1. Version 1.2 contains several new and revised business practices standards, covering exchange of volume audit statements, statements of account, changes to Internet protocols, formats for posting information on pipeline web sites, and the confirmation and validation process for pre-arranged capacity release transactions.[7] The Version 1.2 standards also contain both

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[1] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996), Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,046 (Jan. 30, 1997), Order No. 587–C, 62 FR 10684 (Mar. 10, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,050 (Mar. 4, 1997).

[2] GISB is a private, consensus standards developer composed of members from all segments of the natural gas industry.

[3] GISB Electronic Delivery Mechanism Related Standards 4.3.6 states that ''within a reasonable amount of time, all EBB information, functions and transactions should be achieved via one mode of communications.''

[4] *See* Standards For Business Practices Of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking and Staff Technical Conference, 61 FR 58790 (Nov. 19, 1996), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,521 (Nov. 13, 1996). The disputed issues involve pooling, title transfer tracking, ranking of gas packages, predetermined allocations, intra-day nominations, operational flow orders, fuel sales, and imbalance trading.

[5] For a standard to issue, it must be approved by 17 out of the 25 members of the GISB Executive Committee with at least two affirmative votes from each of the five segments.

[6] Appendix A lists those filing comment on the conference. Appendix B lists the disputed standards.

[7] Flowing Gas Related Standard 2.1.4, Invoicing Related Standard 3.3.21, Electronic Delivery Mechanism Standards 4.3.1 and 4.3.16, and Capacity Release Related Standard 5.3.30.

new and revised standards applicable to the datasets used for electronically conducting business transactions relating to nominations, flowing gas, invoices and capacity release data.[8] Finally, the Version 1.2 standards include GISB's interpretations of standards.[9]

GISB reports that it established a task force to evaluate the intra-day nomination process, but the task force has not yet completed standards to better synchronize this process across pipelines. GISB states that the completion of the intra-day nomination process was delayed because the members of the task force came to the realization that, in order to make the intra-day process work efficiently, a fundamental review of the entire confirmation process was necessary. GISB concludes that the task force remains cautiously optimistic that it will successfully report a recommendation out of the task force to the Executive Committee before the end of 1997.

GISB reports that it has not completed the clarification of the OBA and imbalance standards as requested by the Commission in Order No. 587-C. GISB states that the standards are pending before its Business Practices subcommittee, which intends to review them when its normal rotation deals with contract and flowing gas issues. GISB anticipates consideration of these issues before the end of 1997.

On electronic communication issues, GISB explained that it has approved Electronic Delivery Mechanism Standard 4.3.16 which provides that files can be downloaded from pipeline web sites in two formats: hyper-text mark-up language (HTML) or rich-text-format (RTF). However, GISB did not file a progress report on its efforts to complete the process of standardizing information currently provided on pipeline EBBs, as requested in Order No. 587–E.

GISB included a report by its title transfer tracking task force on its progress. The task force has not yet completed its work, and GISB comments that this is ''one of the most challenging and time consuming issues facing the industry.''

Comments on the topics addressed by GISB's report were filed by Natural Gas Clearinghouse (NGC), Koch Gateway Pipeline Company (Koch), and TransCapacity Limited Partnership (TransCapacity). NGC contends that GISB is stymied and that the time has come for the Commission to resolve the issues which the Commission set for consideration in Order No. 587–C. NGC further states that the title transfer tracking task force has not addressed the underlying issue of whether the pipeline should perform this service, and argues that this is an issue the Commission must resolve. TransCapacity suggests the GISB process be given more time, within defined limits, to resolve these issues.

Koch, on the other hand, contends the Commission should resist further standardization, because standardization will impede the pipelines' ability to provide creative or dynamic new services. Koch is particularly concerned that further standardization of intra-day nominations along the lines being considered by GISB's task force could result in depriving shippers on its pipeline of service options they value. Koch also is concerned about the possibility that the Commission will replace pipelines' proprietary EBBs with a requirement for standardized communication modalities.

II. Discussion

The Commission proposes to incorporate by reference the Version 1.2 standards passed by GISB to substitute for the Version 1.0 and 1.1 standards currently incorporated in the regulations. In the Commission's earlier orders, the Commission adopted standards only when all segments of the industry concurred that the standard was needed to improve efficiency. However, the Commission has recognized that policy disputes between the segments may prevent the development of standards that are necessary to the development of an integrated pipeline grid.[10]

After having reviewed the transcript of the December 12–13, 1996 technical conference, the February 21, 1997 comments submitted on the technical conference, and the GISB report, the Commission has concluded that it needs to resolve policy disputes so that GISB can focus its efforts on resolving the technical details of implementation. On some issues, the Commission is proposing new regulations when uniform standards appear necessary to increase the overall efficiency of the pipeline grid or when the standard reflects a fundamental service right to which similarly situated shippers should be entitled on all pipelines. On other issues, the Commission is providing policy guidance in this NOPR so that GISB and the industry can develop the most efficient standards to implement those policy choices.

Specifically, the Commission is proposing to incorporate the Version 1.2 standards in section 284.10(b)(1)(i) and is further proposing in section 284.10(b)(2) to adopt additional regulations that would: require pipelines to give firm intra-day nominations priority over already nominated and scheduled interruptible transportation;[11] require pipelines to enter into operational balancing agreements at all pipeline to pipeline interconnects;[12] require pipelines to permit shippers to offset imbalances accruing on their different contracts with a pipeline and trade imbalances when such imbalances have similar operational impact on the pipeline's systems;[13] require pipelines to post all information and conduct all business transactions using the public Internet and internet protocols by June 1, 1999;[14] require pipelines to adhere to specific standards in posting information on pipeline web sites and in maintaining electronic records;[15] and require pipelines to provide shippers with notice of operational flow orders by posting the notices on the pipelines' Internet web sites as well as by notifying shippers through Internet E-Mail or through notification to the shipper's Internet (URL) address.[16] The Commission is proposing that pipelines comply with these regulations within 60 days of the issuance of final rule, with the exception, as noted above, of section 284.10(b)(2)(iii)(A) (requiring pipelines to conduct business using the Internet), for which compliance would be expected by June 1, 1999.

The Commission is providing policy guidance in the following areas: the extent of notice interruptible shippers should be given of rescheduled capacity allocations, as well as the pipelines' responsibilities to support title transfer tracking, to permit gas package ranking across contracts, and to support the use of third-parties to provide reimbursement for compressor fuel.

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[8] The new standards are Nominations Related Standard 1.4.6 and Flowing Gas Related Standard 2.4.6. The revised standards are Nominations Related Standards 1.4.1 through 1.4.5, Flowing Gas Related Standards 2.4.1 through 2.4.5, Invoicing Related Standards, 3.4.1 through 3.4.3, Capacity Release Related Standards 5.4.1. through 5.4.4, 5.4.6 through 5.4.13, and 5.4.15, through 5.4.17.

[9] Interpretations of Standards 7.3.1 through 7.3.18.

[10] Order No. 587, 61 FR at 39060, III FERC Stats. & Regs. Regulations Preambles, at 30,065; Order No. 587-C, 62 FR at 10686, III FERC Stats. & Regs. Regulations Preambles ¶ 31,050, at 30,583.

[11] Proposed regulation 284.10(b)(2)(i).

[12] Proposed regulation 284.10(b)(2)(ii)(A).

[13] Proposed regulation 284.10(b)(2)(ii)(B).

[14] Proposed regulation 284.10(b)(2)(iii)(A).

[15] Proposed regulation 284.10(b)(2)(iii) (B) through (D).

[16] Proposed regulation 284.10(b)(2)(iii)(E).

With respect to other issues in dispute, pipeline tracking of multi-tiered allocations, provision of paper pools, and penalty calculations, the Commission does not find that a sufficient case has been made to justify its intervention at this time.

With the Commission's resolution of the fundamental policy issues, GISB should be able to formulate the standards necessary for implementing the policies addressed in this NOPR. Although GISB had anticipated being able to complete standards in some areas by the end of calendar 1997, the Commission recognizes that it may need additional time to consider these standards in the light of the Commission's policy guidance given here. The Commission finds that a March 31, 1998 deadline should provide sufficient time, and the Commission, therefore, solicits the submission of final standards from GISB and others in the industry by that date.

In stepping-in to resolve the disputed issues, the Commission is in no way seeking to derogate GISB's role or its accomplishments. GISB's ability to develop a consensus on the large number of standards it has adopted is a signal achievement and testament to the industry's ability to work together to solve mutual problems. However, it would ignore reality to assume that all factions will be able to agree on every issue, particularly when those issues involve regulatory policy issues. By resolving these issues, the Commission is not seeking to replace GISB, but rather to work together with GISB and the industry to develop policies and standards necessary to increase the efficiency of the pipeline grid.[17] Indeed, the resolution of these policy questions may permit GISB to focus its resources on developing the necessary standards to implement these policies in the most efficient manner possible.

The Commission's proposed standards and its policy guidance in all these areas are discussed below.

A. Proposed Adoption of the Version 1.2 Standards

Version 1.2 of the standards principally revises the data elements used to conduct business transactions with the pipelines. The Commission recognizes the difficulty, on the first shot, of developing a comprehensive set of data elements that will accommodate business transactions across all pipelines. Inevitably, experience with the Version 1.1 standards would reveal areas where refinements and improvements were needed. Adoption of the Version 1.2 revisions, therefore, should improve the standards so that they better accommodate pipeline business practices. In addition to incorporating the standards by reference, the Commission also is proposing to incorporate the GISB interpretations. While the interpretations will not necessarily be determinative in the event of a dispute, they, like the GISB principles adopted previously, will help to provide reliable guides as to the industry's understanding of the standards should disputes or complaints arise.

The Commission appreciates that the Version 1.1 standards have been implemented unevenly across the pipeline grid. Some pipelines have received waivers which permit them to use non-standardized data elements, while they sought changes or revisions from GISB.[18] Other pipelines have implemented the Version 1.2 standards early.[19] When implementation is not uniform, burdens are created for shippers who have to have several different sets of data elements to match the differing requirements of the different pipelines. The Commission, therefore, requests comments on whether in the interests of providing certainty, it should decline to extend its waivers of the dataset compliance any further and require all pipelines to follow the Version 1.2 standards even if certain issues are still unresolved.

A related question is how quickly to issue revisions to the standards. There clearly is going to be a need to revise these standards. Indeed, in this NOPR, the Commission has requested the submission of additional data elements for certain transactions. On the other hand, if the standards are modified too frequently, shippers incur time and expense in having to reprogram their computers to meet the new changes. Thus, the Commission requests comment on whether it should grant a hiatus of a year or more before the Commission adopts any subsequent revision of the datasets so that shippers will be able to implement them without a risk that they subsequently will have to remap their computers. A possible alternative to be considered in the comments is whether additions to the datasets could be permitted, so long as these additions do not affect the ability of shippers to use the Version 1.2 standards. One of the advantages of EDI is that it does permit the addition of data elements without affecting the ability of shippers to use an earlier version. Under this approach, shippers that want to avail themselves of the new features could do so, while other shippers could still use the Version 1.2 datasets.

B. Proposed Regulations and Policy Guidance on Intra-day Nomination Issues

1. The Issues

Under the GISB standards,[20] the initial nomination for the next day of gas flow (which starts at 9 a.m.) must be transmitted to the pipeline by 11:45 a.m. central clock time (CCT).[21] This nomination is confirmed by 4:30 p.m. CCT. An intra-day nomination is any nomination sent after the initial nomination deadline.[22] An intra-day nomination may be made either on the day prior to gas flow (after 11:30 a.m.) or on the day of gas flow.[23] Intra-day nominations are for a daily quantity; changes in hourly gas flows are determined by the interconnecting parties.[24]

The current standards require a pipeline to permit one intra-day nomination four hours prior to gas flow.[25] In Order No. 587–C, the Commission pointed out that pipelines chose to implement this standard in divergent ways. Some pipelines process intra-day nominations using a ''rolling'' system permitting the shipper to choose the time at which it submits the intra-day nomination, while others chose a ''batch process'' in which the pipeline sets a specified time for processing intra-day nominations and all intra-day nominations submitted before that time are accumulated and processed together. The batch process also differs from pipeline to pipeline, with pipelines choosing different batch times. In addition, on some pipelines intra-day nominations for firm service ''bump'' or interrupt scheduled or flowing interruptible gas, while on others they

[17] *See* Michael E. Porter & Class van der Linde, Green and Competitive: Ending the Stalemate, Harvard Business Review 120, 124, 127 (Sept/Oct 1995); Malcolm Gladwell, Just Ask For It, The New Yorker, 45 (April 7, 1997) (governmental regulation is sometimes needed to motivate industries to adopt policies that enhance competition and foster greater efficiency, but government needs to focus on outcomes and should work with industry in setting relevant standards).

[18] *See* Texas Eastern Transmission Corporation, 79 FERC ¶ 61,223 (1997).

[19] Tennessee Gas Pipeline Company, 80 FERC ¶ 61,311 (1997).

[20] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.1 and 1.3.2.

[21] Central clock time is central time taking into account changes for daylight savings time.

[22] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.2.4.

[23] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.2.7.

[24] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.9.

[25] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.10.

do not. The Commission commented that this plethora of approaches prevented shippers from coordinating their intra-day nominations across multiple pipelines, and requested that GISB provide recommendations by September 1, 1997 on standards to provide the necessary coordination.

According to GISB's September 2, 1997 filing, the task force it assembled to consider this issue has not completed its work, because its members came to the realization that, in order to make the intra-day nomination process work efficiently, a fundamental review of the entire confirmation process was necessary. GISB included with its filing the current test model its task force has developed to deal with this issue.

Under this model, pipelines would establish three times during which shippers could synchronize their intra-day nominations across multiple pipelines. The synchronization times are 6 p.m. (to take effect on the next gas day) and 10 a.m. and 5 p.m. to take effect on the same gas day.

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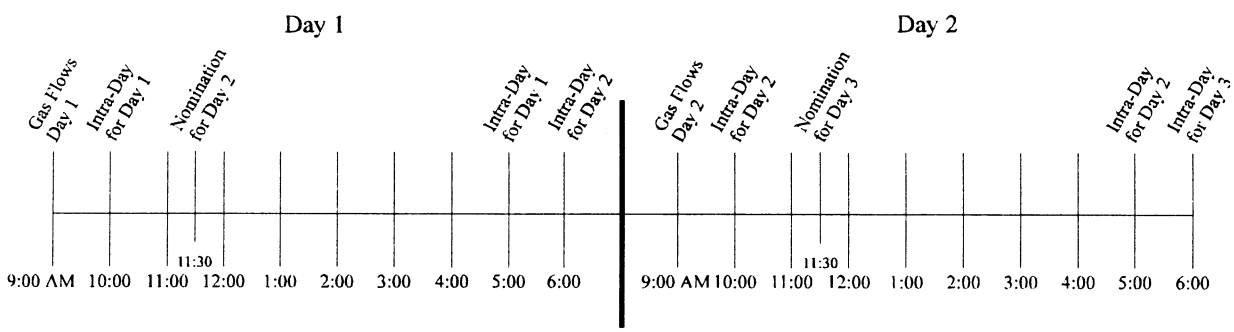
The GISBTask Force's Model Intra-day Nomination Timeline



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In the report, the task force summarizes the outstanding policy disputes that it has been unable to resolve. First, the task force did not address the ''bumping'' issue—whether firm intra-day nominations can interrupt or displace scheduled interruptible service. The timeline proposed by the task force attempts to accommodate both bumping and non-bumping pipelines.

Second, the task force is unclear as to the amount of notice and opportunity to reschedule which Commission policy accords to interruptible shippers. For instance, under the test model, an intra-day nomination submitted at 6 p.m. on the day before gas flow will not take effect until 5 p.m. on the day of gas flow if it bumps an interruptible shipper. If the intra-day nomination does not bump, it will take effect at 9 a.m., rather than 5 p.m. The time line also provides that the last intra-day opportunity of the day, at 5 p.m., does not bump.

The report states that some on the task force contend that bumping an interruptible shipper's scheduled gas is unfair unless the shipper has the opportunity to reschedule. Firm shippers, on the other hand, contend that since they pay reservation charges, they are entitled to scheduling priority and, therefore, their intra-day nomination should take effect at 9 a.m. even if the firm intra-day nomination bumps scheduled interruptible service.

Third, the task force states that some believe that the synchronized time line can coexist with those pipelines that use a rolling intra-day process, because shippers can choose whether to submit their nominations at the synchronized times. Others, however, are concerned that if a bump occurs, the coexistence of the two methods seems to unravel.[26] They maintain that, if the Commission requires that firm intra-day nominations bump scheduled interruptible service, pipelines may have to switch from the rolling to the batching process, which would be a degradation of service to shippers.

In addition, there was one disputed standard (Standard No. 77A) dealing with intra-day nominations. This standard would have required pipelines to permit intra-day nominations at all nominatable receipt and delivery points.[27]

2. Commission Resolution of the Issues

The Commission agrees that having three synchronization times, as proposed by the task force, would be a significant improvement on the current system. As GISB itself has recognized, however, the adoption of these nomination timelines is only an interim step, with the ultimate goal being the development of a continuous and contiguous scheduling system.[28]

The Commission will resolve the policy disputes highlighted by the GISB task force to enable GISB to focus on the implementation details of the standards, such as ensuring that the intra-day confirmation procedures are in place so that nominations will be accepted when capacity is available. GISB and others in the industry should submit an intra-day timeline and scheduling standards in accordance with these policies by March 31, 1998.

a. Priorities of Firm and Interruptible Intra-day Nominations

(1) Commission's Policy on Service Priority

The Commission's policy since Order No. 636 has been that firm shippers, who pay reservation charges, are entitled to service superior to that of interruptible shippers. Interruptible shippers, by definition, take the risk that their service will be interrupted if firm shippers choose to use their capacity.

In Order No. 636, the Commission did not require pipelines to provide intra-day nomination opportunities, but some pipelines did so, and the Commission permitted those pipelines to include provisions in their tariffs under which scheduled interruptible nominations would not be bumped by firm intra-day

[26] In its September 2, 1997 comments, Koch, which states it uses a rolling process without bumping, contends that if an interconnected pipeline supports bumping and uses the batch process, a bump on that pipeline can wreak havoc on Koch's system since a bump will ripple down and disrupt flow.

[27] *See* Appendix B.

[28] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.1.2.

nominations. However, as intra-day nominations became more prevalent, the Commission's policy was to apply its general scheduling priorities to intra-day nominations. Thus, the Commission found that firm intra-day nominations should be entitled to bump scheduled interruptible service.[29] The Commission, however, concluded that interruptible shippers should receive notice of their rescheduled quantities and an opportunity to renominate.[30] The Commission also determined that bumped interruptible shippers should not be subject to penalties directly related to the bump on the day on which the bump takes place.[31]

When Order No. 587 required all pipelines to implement intra-day nominations, the Commission determined that those pipelines filing to institute intra-day nominations on their systems had to follow the general policy and permit firm intra-day nominations to bump scheduled interruptible service upon reasonable notice.[32] On those pipelines with no-bump provisions that existed prior to Order No. 587, the Commission permitted the no-bump provisions to stand, because the pipeline filings were strictly compliance filings, and the Order No. 587 standards did not address the priority issue for intra-day nominations.[33]

(2) Proposed Regulation Giving Firm Intra-Day Nominations Priority Over Scheduled Interruptible Service

The Commission is proposing to require that the remaining no-bump pipelines follow its general policy that firm intra-day nominations should have scheduling priority over scheduled interruptible service. This regulation would ensure that all firm shippers will receive the same rights on all pipelines.

INGAA and Koch[34] contend that the Commission should not seek to standardize this element of intra-day service. They maintain that the diversity in approach is the product of individual pipeline settlements and customer preferences which should not be upset.

Not only would a continuation of a bifurcated intra-day nomination system deprive firm shippers on some pipelines with the legitimate priority rights to which they are entitled, a bifurcated system also appears to be at odds with the goal of creating an integrated pipeline grid. A firm shipper nominating gas across multiple pipelines needs to be able to coordinate its intra-day nominations. Under the present system, if even one pipeline in its nomination chain has a no-bump rule, the shipper may be unable to have its entire chain of intra-day nominations confirmed. Thus, a single approach to bumping appears necessary to integrate the pipeline grid.

The Commission, however, does agree with the GISB task force that, if a firm shipper has had a reasonable opportunity to reschedule its gas, a pipeline may provide a final intra-day nomination opportunity where scheduled interruptible service will be protected from bumping. Under the GISB task force's model, firm intra-day nominations submitted at the third intra-day opportunity at 5 p.m. on the day of gas flow would not bump previously scheduled interruptible service. Eliminating bumping at this stage would provide a final opportunity for all shippers to renominate supply and provide stability.

The Commission, therefore, is proposing to require pipelines to give nominations by firm shippers scheduling priority over nominated and scheduled volumes for interruptible service. The pipelines also would have to provide interruptible shippers with notice that their volumes will be reduced.[35] Pipelines would be required to file to implement this provision within 60 days from the date of a final rule in this proceeding. Pipelines would be expected to implement this regulation based on their current intra-day schedule until such time as GISB completes, and/or the Commission adopts, a revised intra-day schedule. In accordance with the previous discussion, those pipelines that permit at least three intra-day nomination opportunities each gas day may file a request to permit scheduled interruptible service to have a scheduling priority higher than a firm intra-day nomination submitted at the final intra-day nomination opportunity of the gas day. Pipelines filing to comply with this provision also need to consider whether bumped interruptible shippers should be exempt from certain penalties.

(3) Policy Regarding Notice to Interruptible Shippers

The next question raised by the GISB task force report is over the extent of notice, and the opportunity to renominate, to which an interruptible shipper should be entitled if a firm intra-day nomination bumps interruptible service. For instance, under the task force's model, a firm intra-day nomination may be submitted at 6 p.m. on the day before gas flow. If that nomination does not bump interruptible service, it would become effective at 9 a.m. on the day of gas flow. If it bumped interruptible service, one segment of the task force wants the nomination to become effective at 5 p.m. on the day of gas flow in order to permit the interruptible shipper to attempt to reschedule gas at the 10 a.m. intra-day nomination. Under this approach, the firm shipper would have 16 hours of gas flow (5 p.m. until 9 a.m. the next day) while the interruptible shipper would have 8 hours of flow (9 a.m. until 5 p.m.) under the initial nomination before the bump occurs. Another segment contends that firm shippers, paying reservation charges, should have the right to commence gas flow at 9 a.m. regardless of whether it would bump interruptible shippers.

As described above, the Commission's policy is that firm shippers have scheduling priority over interruptible shippers. Thus, in the situation posited by the GISB task force, firm shippers should have the right to submit an intra-day nomination on the day prior to gas flow and have that nomination become effective at the start of the gas day, rather than eight hours later. While interruptible shippers are entitled to notice that their scheduled volumes will be reduced, they are not necessarily entitled to an opportunity to reschedule prior to their volumes being reduced if such a renomination would interfere with the ability of a firm shipper to have

[29] *See* Tennessee Gas Pipeline Company, 73 FERC ¶ 61,158, at 61,456 (1995).

[30] *Id*.

[31] *Id*. (daily variance charge waived, but only for the day on which the bump takes place).

[32] *See* El Paso Natural Gas Company, 77 FERC ¶ 61,176 (1996); Alabama-Tennessee Natural Gas Company, 79 FERC ¶ 61,117 (1997); Algonquin Gas Transmission Company, 78 FERC ¶ 61,281 (1997); ANR Pipeline Company, 78 FERC ¶ 61,142 (1997); Arkansas-Western Pipeline Company, 78 FERC ¶ 61,250 (1997); Canyon Creek Compression Company, 78 FERC ¶ 61,003 (1997); CNG Transmission Corporation, 78FERC ¶ 61,131 (1997); Great Lakes Gas Transmission Limited Partnership, 79 FERC ¶ 61,194 (1997); Iroquois Gas Transmission System, L.P., 79 FERC ¶ 61,196 (1997); K N Interstate Gas Transmission Company, 79 FERC ¶ 61,208 (1997); Mojave Pipeline Company, 78 FERC ¶ 61,153 (1997); National Fuel Gas Supply Corporation, 78 FERC ¶ 61,332 (1997); NorAm Gas Transmission Company, 79 FERC ¶ 61,069 (1997); Overthrust Pipeline Company, 78 FERC ¶ 61,285 (1997); Questar Pipeline Company, 78 FERC ¶ 61,305 (1997); Southern Natural Gas Company, 78 FERC ¶ 61,125 (1997); Texas Gas Transmission Corporation, 79 FERC ¶ 61,175 (1997); Trailblazer Pipeline Company, 77 FERC–– ¶ 61,328 (1996); Viking Gas Transmission Company, 78 FERC ¶ 61,243 (1997); Young Gas Storage Company, Ltd., 79 FERC ¶ 61,030 (1997).

[33] *See* Transwestern Pipeline Company, 78 FERC ¶ 61,146 (1997); Florida Gas Transmission Company, 78 FERC ¶ 61,177 (1996).

[34] Comments of the Interstate Natural Gas Association of America, at 33 (February 21, 1997); Koch Gateway Pipeline Company, at 11 (February 21, 1997). *See also* Comments of Enron Interstate Pipelines, at 12 (February 21, 1997) (setting intra-day schedules is not appropriate for a standard-setting forum).

[35] Proposed regulation 284.10(b)(2)(i).

its nomination become effective at the earliest possible time after confirmation.

In the situation posed by the GISB task force, the interruptible shippers are provided with at least 11 hours notice prior to the start of gas flow for the next day.[36] Thus, even if bumped, they would not be required to reduce flowing volumes. Second, the interruptible shippers would still have the opportunity at 10 a.m. to reschedule its entire quantity of gas for the day, subject to available capacity.

Moreover, interruptible shippers that wish to avoid the risk of being bumped can enter into short-term capacity release transactions to obtain firm service. Once scheduled, firm nominations to secondary points have the same priority as service to primary points so that a shipper obtaining released capacity could not be bumped even by a firm intra-day nomination to a primary point.[37]

The Commission has considered whether, in the situation posited, pipelines should be required to provide bumped interruptible shippers with a further opportunity to reschedule their gas prior to the 9 a.m. start of the gas day. However, given the 11 hour advance notice, and the interruptible shippers' ability to reschedule gas at 10 a.m., the Commission does not think that pipelines need to provide interruptible shippers with an overnight opportunity to reschedule their gas prior to the start of the gas day. Pipelines wishing to provide more certainty for interruptible shippers, however, may provide such a later right if they choose.

According to the task force report, some parties contend that allowing a firm intra-day nomination, which bumps scheduled interruptible service, to take effect at 9 a.m. does not provide an adequate incentive for firm shippers to submit timely and reasonably reliable nominations at 11:30 a.m. These parties contend that firm shippers may delay their nomination, because they can always rely upon their intra-day right to make a nomination change effective at the start of gas flow. The Commission does not find this hypothetical concern sufficient to deny firm shippers the right to renominate their supplies to take into account changes in weather or other circumstances. First, firm shippers do not appear to have an obvious incentive to purposefully delay their initial nominations or to submit nominations not based on their best assessment of their needs, at the time, for the next day.[38] Second, firm shippers still run a risk if they delay their nominations, because a firm shipper's nomination to a primary point will not bump already scheduled secondary firm service to that point. Thus, a firm shipper that delays its nomination risks losing its ability to acquire gas at its primary point.

b. Guidance Regarding the Effect of an Intra-Day Schedule on Pipelines Using Rolling or Continuous Processing of Intra-Day Nominations

Some members of the GISB task force and some of the comments have raised the question of whether the move to batch processing of intra-day nominations at certain specific times may result in a degradation of service on pipelines that currently process intra-day nominations on a rolling or continuous basis. Koch, for instance, maintains that, if bumping is permitted according to the GISB task force's model, it would be forced to reconsider whether to move to a batch process.[39]

As the GISB task force points out, the identification of synchronization times is not necessarily inconsistent with a rolling or continuous process. Shippers that want to avail themselves of synchronization can time their nominations identically on all pipelines. However, if a pipeline and its customers find that the synchronization times along with the requirement that firm intra-day nominations can bump scheduled interruptible service creates too much disruption on a rolling or continuous system, the pipeline may move to conform to the standardized schedule. The efficiency gained by the entire industry in being able to coordinate nominations across the pipeline grid outweighs any potential diminution of service on the pipeline using a continuous intra-day nomination process. Indeed, it is not clear how valuable the continuous process is on a single pipeline, since even if a shipper on that pipeline is permitted an intra-day change, the shipper will not know whether similar coordinating changes will be permitted on interconnecting pipelines.

c. Submission of Intra-Day Nominations at All Nomination Points

Disputed Standard No. 77A would require pipelines to allow intra-day nominations at all nominatable receipt and delivery points. The Commission's policy is that those intra-day nominations required by the Commission must be made available to all regular open access services, apply to each contract between the shipper and the pipeline, and permit the shipper to request changes at all receipt and delivery points.[40] Pipelines, however, may impose restrictions on intra-day nomination opportunities that go beyond those required by the Commission.[41] Thus, the Commission will clarify that the three intra-day opportunities under the GISB task force's model would be available at all points where nominations are permitted.

C. Proposed Regulations Concerning Operational Balancing Agreements and netting and Trading of Imbalances

1. Background

In Order No. 587-C, the Commission did not adopt two GISB flowing gas standards relating to operational balancing agreements (OBAs) (Standard 2.3.29) and netting of imbalances across contracts (Standard 2.3.30), because the pipelines' obligations under the standards were not clearly defined. GISB Standard 2.3.29 states:

> At a minimum, transportation service providers should enter into Operational Balancing Agreements at all pipeline-to-pipeline (interstate and intrastate) interconnects, where economically and operationally feasible.

GISB Standard 2.3.30 states:

> All transportation service providers should allow service requesters (in this instance, service requester excludes agents) to net similarly situated imbalances on and across contracts with the service requester. In this context, ''similarly situated imbalances'' includes contracts with the substantially similar financial and operational implications to the transportation service provider.

The Commission found that standards requiring OBAs and netting of

[36] Under the test model, scheduled quantities for the 6 p.m. intra-day nomination would be no later than 10 p.m., for gas that does not begin to flow until 9 a.m. the next morning. *Compare* Tennessee Gas Pipeline Company, 73 FERC ¶ 61,158, at 61,456 (1995) (four hours notice).

[37] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636–B, 57 FR 57,911 (December 8, 1992), 61 FERC ¶ 61,272, at 62,013.

[38] Indeed, under the current standards firm shippers have an incentive to overnominate at the 11:30 deadline, because they can always reduce their nomination through the intra-day nomination process, but may not be able to increase it.

[39] Comments of Koch Gateway Pipeline Company, at 3–4 (Sept. 2, 1997).

[40] *See* Tennessee Gas Pipeline Company, 78 FERC ¶ 61,007, at 61,019–20 (1997); Canyon Creek Compression Company, 78 FERC ¶ 61,003 (1997) (cannot restrict intra-day nominations to telemetered points); Trailblazer Pipeline Company, 77 FERC ¶ 61,328 (1996) (cannot restrict intra-day nominations to telemetered points). Standard 1.3.11 states that intra-day nominations can be used to request changes to receipt points or delivery points. 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.11.

[41] *See* Tennessee, note 40, *supra* (permitting intra-day nominations beyond the minimum required under certain rate schedules).

imbalances were important, but that the use of the terms ''economically and operationally feasible'' and ''similarly situated financial and operational implications'' did not define precisely enough the pipelines obligations under the standards. Rather than attempting to deal with the meaning of these terms in individual pipeline compliance filings, the Commission gave GISB until September 1, 1997 to clarify the standards.

According to the GISB report, it initially sent the standards to the interpretations subcommittee which determined that interpretation would not be sufficient and that new standards would have to be developed. The standards were then referred to the business practices subcommittee that, according to GISB, will not review these issues until its normal rotation deals with contract and flowing gas issues, perhaps by the end of 1997.

2. Proposed Regulations

The Commission has reviewed these standards in light of Commission priorities and policies and has determined that the Commission needs to propose its own standards in these areas. In certain respects, the Commission's proposals go beyond the standards being considered by GISB.

a. OBAs

An OBA is a contract between two parties that specifies the procedures that will be used to manage operating variances at an interconnect.[42] The OBA specifies how imbalances [43] or differences in hourly flow rates will be handled by the two parties. An OBA increases the efficiency of the grid, because a shipper, which has properly nominated and had its gas confirmed, will not be held responsible for imbalances, resulting from the transfer of gas between the pipelines. Accordingly, the Commission is proposing to require interstate pipelines to enter into OBAs at all interconnecting points with other interstate and intrastate pipelines.[44] These agreements must be maintained by the pipelines and provided upon request to the Commission and any other requesting party. If two interstate pipelines are unable to negotiate an acceptable agreement, they can file a request for the Commission to resolve the disputed terms. If a pipeline finds itself unable to enter into an OBA with an entity not regulated by the Commission, it can file for a waiver of this requirement setting out any operational or other issues that have prevented an agreement from being consummated.

b. Netting and Trading Imbalances

Netting of imbalances refers to the ability of shippers to offset a positive imbalance on one contract with a negative imbalance on another contract. While GISB standard 2.3.30 would permit some netting of imbalances by shippers across contracts, it would not permit shippers' agents to net imbalances. As discussed above, the standard also was unclear as to which contacts could be offset against each other. In addition to this standard, one of the disputed standards before the Commission is whether to permit shippers to trade imbalances amongst themselves.[45]

The Commission is proposing to require pipelines to permit shippers and their agents to both offset imbalances accruing on different contracts held by the shippers and to trade imbalances with other shippers when the imbalances have similar operational impact on the pipeline.[46] Permitting shippers to offset and trade imbalances in the same operational area allows shippers to avoid imbalance charges without jeopardizing system reliability. If one shipper, for instance, incurs an overrun and another shipper an underrun of the same amount, the pipeline is physically in balance between those shippers. Moreover, permitting shippers to trade imbalances with each other may improve system reliability because a shipper may be willing, for a fee, to put gas on a system or take gas off in order to offset imbalances incurred by other shippers.[47] Since all shippers would be permitted to trade imbalances under this proposal, there would be no reason why shippers' agents should not be able to trade imbalances among the contracts they manage.

The regulation permits offsets and imbalance trades when the imbalances have similar operational impact on the pipeline operations. The GISB standard (2.3.30) also included similar financial implications to the pipelines. The Commission cannot discern how pipelines' legitimate financial interests are implicated, since the offsets and trades involve only physical imbalances and the penalties associated with those imbalances, not charges for transportation service.

Under this requirement, the pipelines would be required to provide shippers with timely notice of their imbalances and sufficient time to permit shippers to execute trades. To facilitate trading, pipelines should post a shipper's imbalances if the shipper requests. The pipelines would then have to accept and process trades provided to them by the shippers or shippers' agents, including third-party firms that would conduct imbalance trading for shippers. Pipelines further would be expected to designate in their compliance filings the largest possible areas on their systems in which imbalances have similar operational effects and explain, in detail, why imbalances crossing these areas are not sufficiently similar in operational effect.

Pipelines would not be required to establish a computerized system on which trading would take place. Pipelines, however, are free to establish such a system and to assess a separate fee for using that system. If a pipeline does establish its own trading system, it must provide equal and non-discriminatory access for shippers trading their own imbalances or those using third-party services.

D. Proposed Regulations for Electronic Communication

1. Background

For many years, pipelines have communicated with their customers using direct dial up connections to pipeline Electronic Bulletin Boards (EBBs). Each pipeline EBB is a proprietary system, with unique software, log-on, and other procedures. The uniqueness of each pipeline's EBB raises costs to shippers across multiple pipelines, since redundant computers and communication software may have to be maintained and staff must be trained in the idiosyncracies of each pipeline's system. Beginning in 1993, the Commission has sought to create greater standardization in communication so that shippers could reap the efficiencies of using one standardized method to transact business with all pipelines.

The standards developed by GISB so far, however, do not standardize all the information pipelines are currently providing electronically. Pipelines are continuing to post information and conduct many transactions on their proprietary EBBs. For instance, GISB has not developed standards for communicating offers to release capacity and bids for capacity over the

[42] 18 CFR 284.10(b)(1)(ii), Flowing Gas Related Standards 2.2.1.

[43] An imbalance is a discrepancy between the quantity of gas a shipper tenders to the pipeline at a receipt point and the amount of gas the shipper takes at a delivery point.

[44] Proposed regulation 284.10(b)(2)(ii)(A).

[45] Appendix B, Disputed Standard No. 85A.

[46] Proposed regulation 284.10(b)(2)(ii)(B).

[47] The fee most likely would not exceed the imbalance penalty or other costs that the out-of-balance shipper would incur if the imbalance was not offset.

Internet and has not provided standards to enable shippers to download the Index of Customers in the format specified by the Commission.

2. Proposed Regulations

a. Proposed Requirement That Pipelines Provide all Information on the Internet Using Internet Tools

The Commission remains committed to standardizing all communications with the pipelines. For shippers to be able to use the interstate natural gas grid efficiently, they need to be able to transact business across multiple pipelines without having to incur the added costs and delay attendant to having to train personnel to use the pipelines' proprietary EBBs. While the current standards cover some of the more important transactions with the pipelines, they still do not remove the necessity for shippers to deal with pipeline EBBs.

In Standard 4.3.6, GISB had stated that ''all EBB information, functions and transactions should be achieved via one mode of communications.'' [48] In Order No. 587–E, the Commission requested a report from GISB by September 1, 1997 on its progress in completing the standardization of communications, but GISB did not file the requested report. In its comments, Koch contends the Commission should not mandate the exclusive use of Internet technologies, because shippers on single pipelines may prefer to use the existing EBBs and it may be difficult or costly for them to convert to using the Internet technologies. Koch points out that third-party service providers can assist those shippers wanting to conduct business with the pipelines in a standardized manner.[49]

To prevent such disputes from slowing the standardization of communications further, the Commission is proposing to require pipelines to provide all electronic information and conduct all electronic transactions with their customers over the public Internet using only internet protocols and procedures. Pipelines will be expected to comply with this regulation by June 1, 1999.[50]

GISB has considered the security issues affecting the use of the public Internet and concluded that security concerns can be adequately addressed through commercially available software and techniques.[51] However, pipelines also would be required to provide third party, private communication networks with equal, but not preferential, access to the same information and transactions for a reasonable connection fee.[52] Shippers with concerns about the Internet could pay to use these private networks.[53]

This timetable should give the pipelines sufficient time to develop the needed infrastructure and also gives GISB and the rest of the industry the opportunity to further standardize the provision of this information. With the policy question resolved by the Commission, GISB can focus exclusively on developing the needed standards without debate over the extent of the pipelines' responsibilities. By March 31, 1998, the Commission requests a report from GISB and the industry on their progress in developing needed standards and whether the Commission needs to establish procedures to assist in standards development. Regardless of whether standards are developed, however, pipelines should begin preparing to make the transition to the public Internet. Even without standards, the ability to conduct transactions using one communication method without the need for different log-on and access procedures and different software for each pipeline will increase efficiency. Standards can still be developed after implementation of the system.

The Commission disagrees with Koch that there is no harm to the retention of dual systems. Maintenance of dual systems not only drains resources and talent from developing an efficient standardized system, it creates an understandable competitive incentive for pipelines to favor their proprietary systems over the standardized system. Overall efficiency will be enhanced if rather than working independently to develop their own systems, the pipelines work together with the industry to develop an efficient, user-friendly, standardized system that all shippers can use. Indeed, as Koch points out, shippers that do not want to invest in developing their own internal communication system can turn to the competitive market for third-party services to obtain whatever services they require.

b. Proposed Regulations Regarding Presentation of Information on Pipeline Web Sites

In Order No. 587–C, the Commission adopted GISB standard 4.3.6 requiring pipelines to post information for viewing in HTML format on pipeline Internet web sites. The Commission, however, did not adopt GISB standard 4.3.5, stating that in addition to posting the information for viewing on a web site, the information should be downloadable in a GISB specified electronic structure, because GISB had not developed the electronic structure. In Version 1.2 of its standards, GISB has included standard 4.3.16 which gives the pipelines the choice of providing downloadable files either in hyper-text mark-up language (HTML) or rich-text-format (RTF). The Commission is proposing to adopt the previously rejected standard 4.3.5 and new standard 4.3.16.

The Commission, however, is concerned that merely specifying the document format for downloading does not go far enough. There are no standards regarding the use of passwords for obtaining access to the public information on the web site or the methods by which information will be posted and downloaded from the web site. For instance, the standards do not require that the information be searchable on line. A pipeline, therefore, conceivably could post each tariff page as an individual HTML document without giving users the opportunity to search the entire tariff online for individual words or phrases. Therefore, the Commission is proposing a regulation that would require pipelines to adhere to standards regarding accessibility to public information, searching and copying of documentation, and downloading capability.[54] The Commission also requests comments on other possible standards to improve users' ability to access and use this information.

There is a further issue regarding the comparability of information between various sources. Pipelines currently provide the names of shippers in the capacity release information posted on their EBBs. However, in the current datasets for downloading capacity release information, shippers are identified only by their assigned Dun & Bradstreet numbers and there is no

[48] 18 CFR 284.10(b)(1)(iv), Electronic Delivery Mechanism Related Standards 4.3.6.

[49] *See* comments of Koch Gateway Pipeline Company, at 4–7 (September 2, 1997) (arguing EBBs should not be eliminated).

[50] Proposed regulation 284.10(b)(2)(iii)(A).

[51] *See* Order No. 587, 61 FR at 39065, III FERC Stats. & Regs. Regulations Preambles at 30,074 (report of GISB's Future Technology Task Force); 18 CFR 284.10(b)(1)(iv), Electronic Delivery Mechanism Related Standards 4.3.15.

[52] Altra Energy Technologies, L.L.C. refers to these private networks using internet protocols as extranets.

[53] The Commission has adopted similar requirements for the electronic OASIS system in the electric industry. Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 31,035, at 31,618–19 (Apr. 24, 1996).

[54] Proposed regulation 284.10(b)(2)(iii)(B).

available cross-reference table. The use of a numeric designation for shipper name is valuable only if it is accompanied by a means for users of the information to translate the numeric designation into the company name, so the user can determine who is receiving capacity.[55] The easiest solution for this problem would be for the pipelines to provide a cross-reference table between the Dun & Bradstreet numbers and the names of releasing and replacement shippers consummating capacity release transactions on their systems. If, for any reason, pipelines are unable to provide a cross-reference table using DUNS numbers, the industry should either develop their own numeric designations for shippers or include shipper names in the capacity release datasets.

In addition, pipelines need to ensure that the content of any information that is provided on multiple formats (on EBBs, pipeline web sites, or through EDI formatted files) must be the same regardless of the format. For instance, the operationally available capacity information available from EBBs, pipeline web sites, and EDI downloads should have the same content. Moreover, when the Commission has specified a download format for EBB information, the same format should be used for downloads from pipeline web sites. For example, the Commission has specified a download format for the Index of Customers and that format should also be available from the pipelines' web site.[56]

The Commission, therefore, is proposing a regulation requiring that the content of all information provided electronically must be the same regardless of the electronic form used to display the data. It also is proposing that, if a pipeline uses numerical designations to represent information, such as shipper names, a cross-reference between the numeric designation and the represented information must be available to users, at a cost no higher than what is necessary to cover reasonable shipping and handling.[57]

The generic standards proposed here should not be the end of the process. GISB's future technology task force recognizes that as additional categories of information are posted on web sites, separate standards may need to be developed for each category of information. GISB also reports that, at the instance of its Board of Directors, it has established a ''Look and Feel'' team to develop a consistent and uniform presentation of information on the Internet. The Commission urges GISB to continue to work on these standards, and looks forward to seeing the resulting proposals.

As an additional matter, the Commission is proposing to modify the data retention requirements related to transactions and information provided over the Internet. GISB Standard 4.3.4 provides that transactional data should be maintained for at least 24 months for audit purposes, but states further that this requirement should not otherwise modify statutory, regulatory, or contractual record retention requirements. GISB did not pass a standard for retention of information displayed on Internet web pages. The Commission regulations currently require pipelines to maintain electronic data on EBBs for three years and make that information available to users in electronic form at a reasonable fee.[58] However, the Commission is concerned that three years may not be a sufficient retention period for the Commission to adequately monitor industry practices. Accordingly, the Commission is proposing to replace Standard 4.3.4, with a requirement that pipelines maintain electronic information displayed or transmitted using the Internet for five years and make that information available in electronic form for a reasonable fee.[59] This regulation would require public disclosure only of archived information originally displayed publicly. Access to archived confidential business information would be provided only to the customer involved in the transaction, the Commission, or as part of discovery procedures.[60]

c. Proposed Requirement for Notification of OFOs and Critical Notices Using Internet Posting Along With E-Mail or Notice to URL Addresses

A standard that has been in dispute concerns the method by which pipelines communicate operational flow orders (OFOs) and other critical notices to shippers.[61] OFOs are orders by a pipeline requiring shippers to take certain actions to alleviate emergency operational conditions on the pipeline's system. The four segments, other than the pipelines, supported a standard to require pipelines to notify affected parties of OFOs and critical notices according to the medium chosen by the shipper, 24 hour phone, fax, or pager. The pipelines, on the other hand, support only electronic notification using a general posting on their EBB or Internet web sites.

The pipelines contend requiring individual notice, particularly for system-wide OFOs or critical notices is far too burdensome and may be unfair.[62] Given the pipelines' limited resources to provide individual notice, some shippers will receive notice far earlier than others. Moreover, the pipelines maintain that if a shipper fails to receive a telephone or fax transmission, the pipelines have no electronic record that it was sent. The shippers maintain that purely electronic posting on an EBB is insufficient actual notice, particularly for notices issued after normal business hours. In addition, at the conference and in comments,[63] some parties suggested that posting on the pipeline's web site be supplemented by the use of Internet E-mail or notification to a shipper's Internet web address as alternatives for providing telephonic or fax notice to shippers.

The Commission concludes this last approach has the most merit. Internet E-mail and notification to a shipper's Internet address provides the shipper with direct notice without the need to monitor the pipeline's Internet site. Such notice can be automated by the pipeline so sending the message should not create the burdens of individual telephonic or fax notification. Automated notice also permits simultaneous notice to all shippers, thereby eliminating any potential for discrimination as to when a shipper receives notification. Moreover, if a

[55] The user would have to accumulate its own database of numbers and then attempt to obtain the names from Dun & Bradstreet, at a cost.

[56] The Commission recognizes, however, that while the pipeline web sites must contain the same information as that posted on an EBB or in the EDI datasets, the downloads from the web site should not be in EDI format.

[57] Proposed regulation 284.10(b)(2)(iii)(C). This is the same principle that applies to the acquisition of the cross-reference table between the common transaction point codes and the pipelines' individual nomenclature for referring to those points. Standards For Electronic Bulletin Boards Required Under Part 284 Of The Commission's Regulations, Order No. 563–A, 59 FR 23624 (May 9, 1994), III FERC Stats. & Regs. Regulations Preambles ¶ 30,994, at 31,044–45 (May 2, 1994).

[58] 18 CFR 284.10(a)(2); Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), III FERC Stats. & Regs. Regulations Preambles ¶ 30,950, at 30,549 (Aug. 3, 1992).

[59] Proposed regulation 284.10(b)(2)(iii)(D).

[60] 18 CFR Part 385, Subpart D.

[61] Appendix B, Disputed Standard No. 23.

[62] For example, one pipeline representative stated that even calling in all available personnel, about 24 people, it took them six hours to contact all affected parties. Transcript of December 13, 1996 technical conference at 37.

[63] Comments of American Gas Association, at 11 (February 21, 1997); Brooklyn Union Gas Company, at 1 (February 21, 1997).

shipper receives notice through Internet E-Mail or to a web address, the shipper can, if it wants, obtain telephonic or pager notice by purchasing commercially available software packages and services that permit Internet notification to trigger a phone or a pager.[64] Thus, the Commission is proposing to require pipelines to post OFOs and critical notices on their Internet web sites and to provide individual notice to shippers, at the shipper's option, either through Internet E-mail or by a direct notice to a shipper's Internet address.[65]

At the conference, there also was discussion about the difference between requiring telephone or fax notice for system-wide or large-scale OFO situations and attempting to reach a small number of shippers by whatever means is necessary in localized and critical situations.[66] The Commission continues to expect that for extremely critical OFOs limited to only a few shippers, the pipelines will continue to make every effort to ensure that the affected shippers are informed.

E. Policies Regarding Title Transfer Tracking

1. Background

Title transfer tracking refers to the accounting for transfers of title to gas at a nomination point when no transportation is involved. Under the Commission's policy, shippers must have title to gas in order to transport the gas on a pipeline. Pipelines, therefore, have always had to perform some title transfer tracking to ensure that shippers have title to gas. For example, if shipper A on an upstream pipeline transports gas to an interconnect with a downstream pipeline and transfers the gas to shipper B on the downstream pipeline, the pipelines would have to match those transactions as part of the process of confirming the nominations.

However, with unbundling and the development of a more fluid gas market, transactions at nomination points are increasing to a much greater extent. Thus, at an interconnect point, there may be multiple transfers of title before the gas is nominated on the downstream pipeline.[67] In order for pipelines to confirm the gas nominated on the upstream and downstream pipelines, there is a need to convey information about which shipper(s) are delivering the gas to the shipper on the downstream pipeline.

GISB established a title transfer tracking task force to evaluate these issues and attempt to develop standards for how title transfer tracking would be conducted, with a report due by September of 1997. In its September 2, 1997 filing, GISB included an interim report by its title transfer tracking task force summarizing its progress. According to the report, the task force has distilled 13 initially proposed methods for handling title transfers to five, which it is still considering. It also has identified 13 remaining issues relating to title transfer tracking, such as how title transfers are related to invoicing, pre-determined allocations (PDAs), and multi-tiered allocations, whether title transfers can have imbalances, and how title transfers fit in with intra-day scheduling.

NGC in its September 2, 1997 comments states that while the title transfer tracking task force is evaluating and defining the process, the task force is not addressing the underlying issue of whether the pipelines should be required to perform the service. NGC claims the extent of the pipelines' responsibility to perform title transfer tracking is an intractable policy dispute that only the Commission can resolve.

In reviewing the comments filed on this issue, it is evident that there is a split between the segments on whether the pipelines should be responsible for performing title transfer tracking service. The pipelines contend that tracking title exchanges, when no physical transportation is occurring, is unrelated to transportation service.[68] They maintain that they should not be responsible for performing an accounting service for marketers and others that are seeking to arbitrage in the volatile gas market. If the Commission were to require them to perform title transfer tracking, the pipelines maintain that they should be able to collect a separate charge for the service, rather than having it included in their general transportation rates. LDCs similarly contend that shippers using title transfer services should be required to pay a separate charge.[69] Charging a separate fee, they maintain, is consistent with the GISB principle that the users of title transfer services should bear the cost of the service.[70]

Marketers and others[71] contend that title transfer tracking is related to the confirmation process and that pipelines are in the best position to perform this service because they already process nominations and confirmations electronically. The marketers further contend that if the pipelines do not perform title transfer tracking, the pipelines may seek to require shippers to disclose the string (''daisy chain'') of title transfers, so that interconnecting pipelines can confirm the nomination. Disclosure of the daisy chain, marketers assert, is anticompetitive because marketers would have to disclose to the ultimate purchaser the marketer's raison d'etre—the source of the marketer's reasonably priced gas.[72] They allege that the purchaser could appropriate this information for its own benefit in succeeding months by eliminating the marketer and buying gas directly from the source.

2. Pipeline Obligations With Respect to Title Transfer Tracking

To assist GISB, the Commission will resolve this policy dispute regarding the pipelines' responsibilities to perform title transfer tracking. Pipelines must continue to ensure that shippers on their systems have title to the gas they intend to ship. To perform this function, the Commission sees no reason to require pipelines to establish a computerized title transfer tracking service to account for the purchase and sale of gas between shippers independent of transportation. It is the shipper's responsibility to furnish the transporter with the information needed to establish title to gas and its right to nominate that gas on the pipeline. GISB should continue its efforts to develop standards defining the minimum information needed for nominations and confirmations.

While the Commission is not proposing that the pipelines be required to perform title transfer tracking, the Commission recognizes that some shippers have a need for this service. Pipelines, therefore, may perform title transfer tracking service and may assess a reasonable, independent fee for the service.[73] Charging a separate fee for

[64] *See* National Fuel Gas Supply Corporation, 80 FERC ¶ 61,403 (1997) (finding Internet notification sufficient and noting customers' ability to use such notifications to trigger pagers).

[65] Proposed regulation 284.10(b)(2)(iii)(E).

[66] Transcript of December 13, 1996 technical conference, at 17, 34–36.

[67] Enron Interstate Pipelines refers to these transactions as ''title transfer only'' transactions to differentiate them from transactions involving title exchange and transportation.

[68] *See* Comments of NorAm Gas Transmission Company and Mississippi River Transmission Company, at 4 (February 21, 1997).

[69] Comments of American Gas Association, at 16 (February 21, 1997).

[70] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.1.11.

[71] Comments of Natural Gas Clearinghouse, at 14 (February 24, 1997); Energy Managers Association, at 9 (February 21, 1997).

[72] Transcript of December 12, 1997 technical conference, at 104.

[73] *See* Trunkline Gas Company, 75 FERC ¶ 61,003 (1996) (approving a separate flat charge for tracking

Continued

such service will help to ensure that shippers will use the service only to the point at which the shippers value the service more than the price charged.

Further, shippers should have the opportunity to develop their own competitive systems for tracking title and have the pipeline recognize those title transfers in determining whether a shipper has title to the gas it seeks to transport. Title transfer services already are beginning to be offered both by pipelines and by storage and hub operators and, if the demand exists, such services should increase.[74] Enron Interstate Pipelines contend that third-parties in the competitive market can provide title transfer tracking services, although Enron recognizes that pipelines may need to perform a coordinating role by accepting confirmations from these third-parties.[75]

The Commission agrees with Enron that pipelines must accept title transfer confirmations from point operators and third-party service providers, acting as agents for shippers, on a non-discriminatory basis.[76] Requiring pipelines to accept such confirmations from third-parties is consistent with the Commission's policy in Order No. 636 that pipelines need not create market centers, but must not take actions which will inhibit the development of such centers.[77] The development of third-party title transfer tracking services also will place competitive pressure on pipelines that choose to offer a title transfer tracking service and thus help to ensure the pipelines' rates are reasonable.

With the clarification of the pipelines' role in title transfer tracking, the Commission expects that GISB should be able to develop the business practices and electronic communication standards relating to the confirmation process for title transfers. The Commission will provide GISB until March 31, 1998 to submit such standards. Other members of the industry also may propose standards at that time as well.

service) *But cf.*, Williams Natural Gas Company, 79 FERC ¶ 61096 (1997) (rejecting a volumetric, per Dth, fee for title transfer service).

[74] *See* Moss Bluff Hub Partners, L.P., 80 FERC ¶ 61,181, at 61,475 (1997); Trunkline Gas Company, 75 FERC ¶ 61,003 (1996).

[75] Comments of Enron Interstate Pipelines, at 18 (February 21, 1997).

[76] Title transfer tracking is part of the confirmation process, because it involves the confirmation that gas nominated by a shipper will be injected into the pipeline's system. It is no different than a confirmation provided by a producer or point operator, who, in fact, may be offering a title transfer tracking service of its own.

[77] 18 CFR 284.8(b)(4), 284.9(b)(4) (1997).

F. Commission Policies Regarding the Disputed Issues Remaining From the December 12–13, 1996 Technical Conference

During the standardization process, disputes developed in a number of areas in which the GISB membership was unable to reach consensus. A number of standards were supported by four segments of the industry, but were not passed by GISB due principally to the opposition of the pipeline segment.[78] The pipelines contended that these standards are not warranted or that they represented an attempt by the other members of the industry to shift costs onto the pipelines, as the only regulated entities.[79] In the November 13, 1996 NOPR,[80] the Commission announced that in order to exercise its oversight role, Commission staff would hold a technical conference on December 12–13, 1996 to consider these issues. The technical conference was to provide further information on those disputed standards so that the Commission could determine whether these standards were of sufficient importance to the maintenance of an integrated pipeline grid that the pipelines should be required to abide by them. Comments on the technical conference were filed on February 21, 1997.

Three of the disputed standards were discussed earlier;[81] the remainder will be discussed below.

1. Ranking Across Contracts (Disputed Standard No. 28B)

Disputed Standard No. 28B states that pipelines should permit rankings across contracts for the same service requester and location, when not in conflict with tariff-based rules. Gas package ranking refers to the ability of shippers to designate the amount of gas that will be allocated to particular markets or customers in the event the shipper's full nomination is not accepted. The standards adopted by the Commission already require pipelines to honor shipper ''rankings when making reductions during the scheduling process when this does not conflict with tariff-based rules.''[82] For example, if a shipper nominates 1,000 MMBtus under one contract, it can specify how that 1,000 will be divided if the full 1,000 MMBtus is not confirmed. The disputed standard would specifically extend the pipelines' obligation to support ranking across contracts.

Shippers contend this standard is needed to give them the flexibility to manage their own gas supplies.[83] They point out that shippers may be shipping under a variety of contracts, including their own firm and interruptible contracts as well as capacity release contracts which have their own specific terms and conditions. They further note that a capacity release contract may contain a take-or-pay clause in which a shipper is required to pay a certain rate whether it moves gas or not. To maximize their use of transportation, shippers contend they should be able to determine how their transportation is allocated among their contracts.

The pipelines are not unified in their position on this standard. Columbia Gas/Columbia Gulf support allowing shippers to use rankings across contracts.[84] Enron Interstate Pipelines, however, is concerned about how such a provision would impact pipelines' tariff provisions establishing scheduling priority.[85] They ask, for instance, whether a shipper would be able to rank an interruptible contract as having a higher priority than a firm contract.

The Commission's general policy is to allow shippers to manage their gas supplies and contracts in ways that are the most favorable to them as long as such management does not affect the operational integrity of the pipeline. The pipelines, therefore, should provide shippers with the ability to rank gas supplies across their contracts so long as the ranking does not adversely affect the operational integrity of the system. There are two potential scenarios identified by the comments: problems with the shipper's gas supply resulting in a reduction in a shipper's nomination; and transportation constraints resulting in the reduction.

If the reduction is related to a loss of supply, the Commission sees no reason why shippers should not be able to specify the contract under which the gas should flow. Such a determination is

[78] *See* Appendix B.

[79] *See* comments of Interstate Natural Gas Association of America, at 13–18 (February 21, 1997).

[80] *See* Standards For Business Practices of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 61 FR 58790 (Nov. 19, 1996), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,521 (Nov. 13, 1996).

[81] Disputed Standard No. 77A relating to intra-day nominations, Disputed Standard 85A relating to imbalance trading, and Disputed Standard No. 23 relating to notice of OFO's. *See* text accompanying notes 40, 46, and 61, *supra.*

[82] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.23.

[83] Comments of Natural Gas Clearinghouse, at 23 (February 24, 1997); Energy Managers Association, at 15 (February 21, 1997).

[84] Comments of Columbia Gas Transmission Corporation and Columbia Gulf Gas Transmission Corporation, at 4 (February 21, 1997).

[85] Comments of Enron Interstate Pipelines, at 19 (February 21, 1997).

unrelated to any transportation issues on the pipeline, since there have been no cuts in transportation.

Even when the reduction is a result of transportation problems, allowing the shipper to rank its contracts does not appear to interfere with pipeline scheduling priorities. Suppose a shipper has nominated 100 MMBtus each on three contracts, firm primary, capacity release secondary, and interruptible, from the same receipt to the same delivery point, but the pipeline can schedule only the firm primary contract. Under normal priority rules, the shipper could receive only the 100 MMBtus of transportation represented by the firm primary contract. However, permitting the shipper to choose how to assign those 100 MMBtus among its contracts does not upset the transportation priority rules. The shipper still would receive only the 100 MMBtus represented by its firm primary contract even if it allocated gas to its secondary capacity release contract. If the shipper had nominated no primary firm transportation in this example, it would receive no transportation.

Since the business practices standards already require the pipelines to honor shipper rankings, no new standards are necessary. GISB and the industry should work on dataset changes, if necessary, to permit cross-contract ranking. Such standards should be filed by March 31, 1998 along with the title transfer tracking standards.

2. Multi-Tiered Allocations (Disputed Standard No. 29)

Disputed Standard No. 28 would require pipelines to permit all owners of gas to submit a pre-determined allocation. A pre-determined allocation is a set of instructions by owners of gas as to how gas should be allocated among amongst them when the actual volumes do not match with the scheduled volumes. A pre-determined allocation is not necessary if the pipeline has an OBA in effect at a transfer point.[86] The standards currently require pipelines to accept one tier of allocations from the upstream or downstream custody transfer party.[87] The standard data elements accommodate multi-tiered allocations, but pipelines are not required to accept or support such allocations.[88] The dispute is whether pipelines should be required to support multi-tiered allocations from all owners of gas, including the wellhead operator and each producer owner.

Those supporting multi-tiered allocations contend that they fit well with title transfers occurring at the wellhead.[89] The pipelines generally maintain that multi-tiered allocations are merely another aspect of title transfer tracking and contend that they should not be required to perform such accounting for transactions not occurring on their systems.[90]

The current regulations give those parties connecting with a pipeline the right to determine how gas is to be allocated at the interconnection with the pipeline system. The Commission fails to see why this right needs to be extended so that pipelines become responsible for maintaining the accounting records for allocations occurring at the well-head or at interconnections not affecting the pipeline. The request for pipelines to accept multi-tiered allocations appears to be just another aspect of the request for the pipelines to track all title transfers, and, as discussed above, the Commission does not view title transfer tracking as the responsibility of the pipelines. The GISB task force has recognized that accounting for multi-tiered allocations is another aspect of title transfer tracking,[91] and GISB should continue to work on standards that will allow such allocations to be performed by third-parties.

3. *Paper Pooling (Disputed Standard Nos. 38A, 38B, 40B)*

The disputed standards would require pipelines to establish so-called ''paper pools'' in zones, segments, or rate areas where shippers can deliver gas without an additional transportation charge. The disputed standards also would require allocation of imbalances to the pooler or the pooling agreement.

Pooling refers to the aggregation of gas from multiple physical or logical points to a single physical or logical point.[92] The current standards require that shippers be able to both deliver gas from receipt points into at least one pool and receive quantities at a delivery point from at least one pool.[93]

Those supporting paper pooling contend that aggregation of gas supplies is necessary for the gas market to work efficiently, although they do not explain why paper pooling is absolutely necessary to achieve this efficiency.[94] The further contend that pooling is necessary to permit pool to pool transfers. The pipelines maintain that the requests for additional pooling standards are another aspect of the request that pipelines provide title transfer tracking services.[95]

The existing standards recognize the benefits of pooling and the pipelines are required to provide at least one pool for both receipt and deliveries of gas. Those advocating paper pooling standards have not provided a sufficient rationale for these standards at this time. Some pipelines currently offer paper pools, while others offer physical pooling in which shippers may have to pay a transportation charge to move gas into the pool. When a pool exists in a rate zone, the charge for shipment in that zone must be incurred either for shipment to the pool or shipment out of the pool. The marketers and producers advocating paper pooling do not provide sufficient justification for imposing the transportation charge on the outbound transportation in all situations. Moreover, to some extent, the argument for paper pooling is connected to title transfer tracking, because those proposing the use of paper pools want to use pool to pool transfers as a way of transferring title. But, as discussed above, the Commission is not requiring pipelines to offer title transfer tracking service, so there is little reason to require all pipelines to permit paper pooling at this time.

4. *Fuel Reimbursement Standards (Disputed Standard Nos. 44, 49A, 50A, 51A, 54B, 55, 56B, 57B, 58, 59B, 60–65, 66B, 67, 95A*)

The current standards have simplified and made more uniform the process of providing in-kind fuel reimbursement for compressor fuel.[96] These standards provide, in part, that pipelines must adhere to a standard method for calculating fuel, provide fuel reimbursement percentages at the beginning of the month, not reject nominations for fuel due to differences of less than 5 Dth, and provide a fuel

[86] 18 CFR 284.10(b)(1)(ii), Flowing Gas Related Standards 2.2.3.

[87] 18 CFR 284.10(b)(1)(ii), Flowing Gas Related Standards 2.3.19.

[88] 18 CFR 284.10(b)(1)(ii), Flowing Gas Related Standards 2.3.25.

[89] Comments of Natural Gas Clearinghouse, Docket No. RM96–1–000, filed October 1, 1996, at 14.

[90] Comments of Enron Interstate Pipelines, at 18 (February 21, 1997); Interstate Natural Gas Association of America, at 33 (February 21, 1997).

[91] GISB September 2, 1997 filing at Appendix A, part 4.

[92] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.2.3.

[93] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.17 and 1.3.18.

[94] *See* comments of Natural Gas Clearinghouse, at 11 (February 24, 1997); Energy Managers Association, at 10–13 (February 21, 1997).

[95] Comments of Enron Interstate Pipelines, at 18 (February 21, 1997); Interstate Natural Gas Association of America, at 33 (February 21, 1997).

[96] In-kind fuel reimbursement refers to a requirement that a customer nominate and put into the system extra gas to compensate the pipeline for the gas used by its compressors.

matrix for receipt and delivery point combinations.[97]

The disputed standards would further standardize in-kind fuel reimbursement by requiring that pipelines make fuel rate changes prospectively only, that pipelines can change fuel rates only on six month intervals, and that pipelines will have to true-up fuel rates to actuals periodically and on a prospective basis. The disputed standards also cover a number of alternatives to in-kind fuel reimbursement, such as fuel cash-out, negotiated sales, and cost of service. At the December 12–13, 1996 technical conference, it was not clear whether shippers wanted to mandate that pipelines provide an alternative to in-kind fuel reimbursement or whether they simply wanted standards for these alternatives so that if pipelines choose to offer an alternative, the shippers would not be faced with different implementation methods.[98] Some marketers, such as NGC, also want to ensure that they are able to compete with pipelines in providing fuel service.

Pipelines oppose additional standardization of fuel reimbursement.[99] The pipelines maintain that they should not be required to reenter the merchant function to buy gas in order to provide an alternative to in-kind fuel reimbursement. Such a requirement, they assert, reverses the unbundling mandate of Order No. 636. They further contend that alternatives to in-kind fuel reimbursement are not yet in widespread use and that standardization of a new service will prevent innovation and creativity in the early stages of development.

In the Commission's view, the case for including these additional fuel reimbursement standards has not been made at this time. With respect to in-kind fuel reimbursement, there appears to be no need to limit pipelines to two fuel reimbursement changes per year, as the disputed standard would provide. Pipelines may have a need to file for further changes, and can file to implement such changes when necessary under section 4 of the Natural Gas Act. The current standard requiring pipelines to provide fuel reimbursement percentages at the beginning of the month provides sufficient notice for shippers to obtain the correct fuel percentages and update their computers for all pipelines on a set schedule.

The Commission also agrees with the pipelines that standardizing alternatives to in-kind fuel reimbursement is premature at this point, since such alternatives are not in widespread use. Nor is it clear why creating standards for cash out mechanisms is more important for fuel reimbursement than for the other areas, such as penalties, in which cash outs also are employed. It may be worthwhile for the Commission to reexamine standardization of cashout mechanisms as part of a more comprehensive examination of penalty structures, but that is beyond the scope of this proceeding.

The Commission, however, finds that pipelines, whether or not they provide fuel service, should permit shippers that do not want to calculate fuel to contract with third-party agents to provide the required fuel at the necessary points. The pipelines must accept fuel nominations from these third-party providers. For those pipelines that do provide fuel service, they must allow third-parties to provide fuel on a non-discriminatory basis.

5. *Penalty Determination (Disputed Standard No. 88A*)

Disputed Standard No. 88A would provide that imbalance penalties would be based on the lesser of operationally provided data or actual data. There is some dispute over the meaning of the standard. While the standard seems to contemplate that imbalance penalties would be calculated based on the lower of the two figures, Natural Gas Clearinghouse contended at the technical conference that the standard only applied to the determination of the penalty category, not to the volumes against which the penalty would be applied.[100] For instance, under Natural Gas Clearinghouse's reading of the standard, if the reported imbalance put the shipper in the 10% penalty category, the shipper would pay the penalty associated with that category on the actual imbalance amount, even if the actual imbalance would have placed the shipper in a higher penalty category.

Pipelines contend cash-outs for imbalances need to be dealt with on a case specific basis. Enron Interstate Pipelines, for instance, argues that the standard is too broad and fails to recognize that in many cases, the shipper or point operator, and not the pipeline, is the party with better access to the data. It maintains, for instance, that pipelines and shippers may agree in settlements to forgo the expense of installing electronic flow measurement devices, which would limit the accuracy of the pipeline's operational measurements.

As a general principle, the Commission's policy is to determine the penalty category by the data provided to the shipper, particularly when the pipeline is doing the measurement.[101] A shipper should be responsible only for penalty category it reasonably could have anticipated based on the information provided by the pipeline. The cash out price, however, should be based on the actual imbalance incurred.[102]

The Commission does not find that a generic standard is necessary on this issue. There appears no compelling reason to insist on uniformity across all pipelines on this issue. As the pipelines point, there may be some circumstances in which the policy is not reasonable and those issues are best handled on a case-by-case basis.

III. Information Collection Statement

The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The following burden estimates include the costs of complying with GISB's Version 1.2 standards and the Commission's proposed regulations regarding intra-day nominations, the use of OBAs at pipeline interconnects, the trading of imbalances, and communications using the Internet. The proposed requirements regarding communication over the Internet build upon the computer infrastructure pipelines have already created to comply with Order No. 587. The burden estimates are primarily related to start-up and will not be on-going costs except for the recordkeeping requirement.

[97] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.16, 13.3.28 through 1.3.30.

[98] *See* transcript of December 13, 1996 technical conference at 58.

[99] *See* Comments of Columbia Gas/Columbia Gulf, at 7 (February 21, 1997); INGAA, at 27 (February 21, 1997); Enron Interstate Pipelines, at 25 (February 21, 1997); Koch, at 17 (February 21, 1997); Viking, at 4 (February 21, 1997); Williston Basin, at 5 (February 21, 1997).

[100] Transcript of December 12, 1996 technical conference at 243.

[101] *See* Algonquin Gas Transmission Company, 63 FERC ¶ 61,188, at 62,374 (1993); Texas Eastern Transmission Corporation, 63 FERC ¶ 61,100, at 61,486 (1993); Transcontinental Gas Pipe Line Corporation, 55 FERC ¶ 61,446, at 62,369 (1991).

[102] *See* Texas Eastern, *supra* note 101, *supra.*

ESTIMATED ANNUAL BURDEN

Data collection	No. of respondents	No. of responses per respondent	Hours per response	Total annual hours
FERC–545	93	1	58	5,394
FERC–549C	93	1	4,483	416,919

Total Annual Hours for Collection (Reporting + Recordkeeping, (if appropriate)) = 422,313.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for the total of 93 respondents to be the following:

	FERC–545	FERC–549C	Totals
Annualized Capital/Startup Costs	$284,303	$21,641,327	$21,192,630
Annualized Costs (Operations & Maintenance)	0	333,321	333,321
Total Annualized Costs	284,303	21,974,648	22,258,951

The Office of Management and Budget's (OMB) regulations [103] require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB.

Title: FERC–545, Gas Pipeline Rates: Rate Change (Non-Formal); FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines.

Action: Proposed collections.

OMB Control No: 1902–0154, 1902–0174.

Respondents: Business or other for profit, (Interstate natural gas pipelines; (Not applicable to small business)).

Frequency of Responses: One-time implementation (business procedures, capital/start-up).

Necessity of the information: This rule, if implemented, proposes to revise the requirements contained in 18 CFR 284.10. These requirements would further the process of standardizing business practices and electronic communications with interstate pipelines begun by the Commission in Order No. 587. Through the adoption of the regulations proposed in this NOPR, the Commission is seeking to continue to the process of establishing a more efficient and integrated interstate pipeline grid. By requiring adherence to these regulations on an industry-wide basis, the Commission seeks to reduce variations in pipeline business practices and communication protocols, permitting pipelines and their customers to more efficiently obtain information from and transact business across multiple pipelines.

The information collection requirements of this proposed rule will be reported directly to the industry users. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act to monitor activities of the natural gas industry to ensure its competitiveness and to assure the improved efficiency of industry's operations. The Commission's Office of Pipeline Regulation will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

Internal Review: The Commission has reviewed the requirements pertaining to business practices and electronic communication with natural gas interstate pipelines and made a determination that the proposed revisions are necessary to establish a more efficient and integrated pipeline grid. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 88 First Street, N.E., Washington, D.C. 20426, (Attention: Michael Miller, Division of Information Services, Phone: (202) 208–1415, fax: (202) 273–0873, email:mmiller@ferc.fed.us)

Comments concerning the collection of information(s) and the associated burden estimate(s), should be sent to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285]

IV. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[104] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[105] The actions proposed to be taken here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[106] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA) [107] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The proposed regulations would impose requirements only on interstate pipelines, which are not small businesses, and, these requirements are, in fact, designed to reduce the difficulty

[103] 5 CFR 1320.11.

[104] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶30,783 (1987).

[105] 18 CFR 380.4.

[106] *See* 18 CFR 180.4(a)(2)(ii), 380.4(a)(5), 3804.(a)(27).

[107] 5 U.S.C. 601–612.

of dealing with pipelines by all customers, including small businesses. Accordingly, pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

VI. Comment Procedures

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. An original and 14 copies of comments must be filed with the Commission no later than [insert date 30 days after publication in the **Federal Register**]. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and should refer to Docket No. RM96–1–007. All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington, DC 20426, during regular business hours.

Additionally, comments should be submitted electronically. Commenters are encouraged to file comments using Internet E-Mail. Comments should be submitted through the Internet by E-Mail to comment.rm@ferc.fed.us in the following format: on the subject line, specify Docket No. RM96–1–007; in the body of the E-Mail message, specify the name of the filing entity and the name, telephone number and E-Mail address of a contact person; and attach the comment in WordPerfect'' 6.1 or lower format or in ASCII format as an attachment to the E-Mail message. The Commission will send a reply to the E-Mail to acknowledge receipt. Questions or comments on electronic filing using Internet E-Mail should be directed to Marvin Rosenberg at 202-208–1283, E-Mail address marvin.rosenberg@ferc.fed.us.

Commenters also can submit comments on computer diskette in WordPerfect® 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. RM96–1–007 on the outside of the diskette.

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements; Incorporation by reference.

By direction of the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 284, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C 7101–7532; 43 U.S.C 1331–1356.

2. In section 284.10, paragraph (a)(6) is added and paragraph (b) is revised to read as follows:

§ 284.10 Standards for Pipeline Business Operations and Communications.

(a) * * *

(6) A pipeline's obligation to provide information pursuant to this paragraph will terminate when all relevant information is provided pursuant to paragraph (b)(2)(iii)(A) of this section.

(b) *Business Practices and Electronic Communication Standards.* (1)(i) An interstate pipeline that transports gas under subparts B or G of this part must comply with the following business practice and electronic communication standards promulgated by the Gas Industry Standards Board, which are incorporated herein by reference:

(A) Nominations Related Standards (Version 1.2, July 31, 1997), with the exception of Standard 1.3.32;

(B) Flowing Gas Related Standards (Version 1.2, July 31, 1997), with the exception of Standards 2.3.29 and 2.3.30;

(C) Invoicing Related Standards (Version 1.2, July 31, 1997);

(D) Electronic Delivery Mechanism Related Standards (Version 1.2, July 31, 1997), with the exception of Standard 4.3.4; and

(E) Capacity Release Related Standards (Version 1.2, July 31, 1997).

(ii) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of these standards may be obtained from the Gas Industry Standards Board, 1100 Louisiana, Suite 4925, Houston, TX 77002. Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE., Washington, DC 20426 and at the Office of the Federal Register, 800 North Capitol St. NW., Suite 700, Washington, DC.

(2) An interstate pipeline that transports gas under subparts B or G of this part must comply with the following requirements.

(i) Nominations. A pipeline must accord an intra-day nomination submitted by a firm shipper scheduling priority over nominated and scheduled volumes for interruptible shippers. An interruptible shipper must be provided with notice that its scheduled volumes are to be reduced.

(ii) Flowing Gas. (A) Operational Balancing Agreements. A pipeline must enter into Operational Balancing Agreements at all points of interconnection between its system and the system of another interstate or intrastate pipeline.

(B) Netting and Trading of Imbalances. A pipeline must establish provisions permitting shippers and their agents to offset imbalances accruing on different contracts held by the shipper with the pipeline and to trade imbalances with other shippers where such imbalances have similar operational impact on the pipeline's system.

(iii) Communication Protocols. (A)(*1*) All electronic information provided and electronic transactions conducted by a pipeline must be provided on the public Internet. A pipeline must provide, upon request, private network connections using internet tools, internet directory services, and internet communication protocols and must provide these networks with non-discriminatory access to all electronic information. A pipeline may charge a reasonable fee to recover the costs of providing such an interconnection.

(*2*) A pipeline must implement this requirement no later than June 1, 1999.

(B) A pipeline must comply with the following requirements for documents constituting public information posted on the pipeline web site:

(*1*) The documents must be accessible to the public over the public Internet using commercially available web browsers, without imposition of a password or other access requirement;

(*2*) Users must be able to search an entire document online for selected words and users must be able to copy selected portions of the documents; and

(*3*) Documents on the web site should be directly downloadable without the need for users to first view the documents on the web site.

(C) A pipeline must provide the same content for all information regardless of the electronic format in which it is provided. If a pipeline uses a numeric or other designation to represent information, an electronic cross-reference table between the numeric or other designation and the information represented must be available to users, at a cost not to exceed reasonable shipping and handling.

(D) A pipeline must maintain for a period of five years electronic records of the information displayed and transactions conducted electronically under this section. The pipeline must make this archived information available in electronic form for a reasonable fee.

(E) A pipeline must post operational flow orders, critical periods, and critical notices on their Internet web site and must notify affected parties of such notices in either of the following ways to be chosen by the affected party: Internet E-Mail or direct notification to the parties' Internet URL address.

Note—The following appendices will not appear in the Code of Federal Regulations.

APPENDIX A.—COMMENTS ON DECEMBER 12–13, 1996, TECHNICAL CONFERENCE

Commenter	Abbreviation
Altra Energy Technologies, L.L.C.	Altra.
American Gas Association	AGA.
ANR Pipeline Company and Colorado Interstate Gas Company	ANR/CIG.
Arizona Public Service Company and Salt River Project Agricultural Improvement and Power District	APS/SRP.
The Brooklyn Union Gas Company	Brooklyn Union.
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation	Columbia Gas/Columbia Gulf.
El Paso Natural Gas Company	El Paso.
Energy Managers Association	EMA.
Enron Capital & Trade Resources Corporation	Enron Capital and Trade.
Enron Interstate Pipelines (Northern Natural Gas Company, Transwestern Pipeline Company, Florida Gas Transmission Company, and Black Marlin Pipeline Company).	Enron Interstate Pipelines.
Florida Power & Light Company	FPL.
Interstate Natural Gas Association of America	INGAA.
Koch Gateway Pipeline Company	Koch.
National Fuel Gas Distribution Corporation	National Fuel Distribution.
Natural Gas Clearinghouse	NGC.
Natural Gas Pipeline Company of America	NGPL.
Natural Gas Supply Association	NGSA.
NorAm Gas Transmission Company and Mississippi River Transmission Corporation	NGT/MRT.
Northwest Industrial Gas Users	NWIGU.
NrG Information Services Inc.	NrG.
Pacific Gas and Electric Company	PG&E.
The Peoples Gas Light and Coke Company and North Shore Gas Company	Peoples/North Shore.
Producers Energy Marketing, LLC and Independent Petroleum Association of America	ProEnergy/IPAA.
TransCapacity Limited Partnership	TransCapacity.
Viking Gas Transmission Company	Viking.
Williston Basin Interstate Pipeline Company	Williston.

Appendix B.—Proposed GISB Standards Defeated By One Industry Segment

Operational Flow Orders

Proposed Standard No. 23 Declaration of operational flow orders, critical periods, and/or critical notices should be transmitted to the affected trading parties. Trading parties should keep the transportation service providers apprised of the specific locations for this transmittal. These locations are 24 hour phone, fax, and/or pager. The communication should contain, by reference, specific tariff provision(s) that is (are) applicable to each situation being declared.

Gas Package Rankings

Proposed Standard No. 28B Applicable rankings should be permitted across contracts for the same service requester and location, when not in conflict with tariff-based rules.

Multi-Tiered Allocations

Proposed Standard No. 29 All owners of gas submitting nominations or confirmations should be able to submit a predetermined allocation (PDA). Gas should be allocated based on the PDA submitted by the owner. If a PDA is not submitted, the service provider's default should be used.

Pooling

Proposed Standard No. 38A To the extent operationally compatible with Transportation Service Provider operations and not to their economic detriment, paper pool(s) should be created on each pipeline. Pools should be created so that gas which is already in the zone, segment or rate area (as applicable) where the pool is located can be placed in the pool without transportation.

Proposed Standard No. 38B To the extent operationally compatible with Transportation Service Provider operations and not to their economic detriment, logical pool(s) should be created on each pipeline.

Proposed Standard No. 40B Any differences between a Aggregator's (pooler's) scheduled quantities and allocated quantities at locations for its pool should be allocated to the pooler, or the pooling agreement. Aggregators (poolers) should be responsible for managing the imbalances created by variances with their scheduled quantities.

Fuel Reimbursement

Proposed Standard No. 44 Defining standards for administering the following fuel reimbursement options: in-kind, fuel cash-out, negotiated sales and cost of service does not preclude service providers from offering other options. The choice of fuel reimbursement method(s) is subject to regulatory procedures, where applicable.

Proposed Standard No. 49A For in-kind fuel reimbursement methods, fuel rates can change on six month intervals, on April 1 and October 1.

Proposed Standard No. 50A For in-kind fuel reimbursement and except where pre-September 30, 1996 settlements provide otherwise, fuel rates will have a true-up to actual fuel periodically on a prospective basis.

Proposed Standard No. 51A For in-kind fuel reimbursement methods, fuel rates changes should be made prospectively.

Proposed Standard No. 54B Other than situations where regulatory agencies require cost of service to be the only option provided, the rate for cost of service provided fuel should be stated separately.

Proposed Standard No. 55 For cost of service as the fuel reimbursement method, the rate for cost of service provided fuel should be collected as a variable charge.

Proposed Standard No. 56B No party should be advantaged or disadvantaged in the offering or use of a service by virtue of any costs to provide that service being administered via regulatory proceedings for unassociated services.

Proposed Standard No. 57B Fuel encompasses, but is not limited to, the energy consumed in providing the transportation service (i.e. natural gas, fuel oil, propane, electricity) and lost and unaccounted for gas.

Proposed Standard No. 58 For cash-out as the fuel reimbursement method, Service Requester should notify Service Provider of its election to exercise the cash-out option for fuel one day prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 59B Where cash-out, as a fuel reimbursement method, is offered as an option by a Service Provider, the Service Requester should notify Service Provider of its election to exercise the cash-out option for fuel one day prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 60 Fuel Cash-out options should be exercised for a minimum of one calendar month.

Proposed Standard No. 61 Fuel Cash-out quantities should be determined by multiplying allocated receipts by fuel percentages as stated in the tariff or applicable contract(s).

Proposed Standard No. 62 Fuel Cash-out price should be an established commodity market price (i.e. index or competitive bid) in rate area, zone or segment of the activity, or be based on the same fuel cash-out index used for imbalances.

Proposed Standard No. 63 The fuel cash-out value (fuel quantities times fuel cash-out price) should be separately stated on the invoice for the related activity.

Proposed Standard No. 64 If fuel cash-out price is index-based, the determination of the applicable indices should based on the approved tariff provisions or applicable contract(s).

Proposed Standard No. 65 If fuel cash-out price is other than index-based, the Service Provider should post that price three days prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 66B There should be no cross-subsidization by Service Providers of fuel provision service(s) by transportation service(s) when both fuel provision services and transportation services are provided by the service provider.

Proposed Standard No. 67 Negotiated fuel gas sales are sales of gas by the service provider for the use of the service requester as fuel for its transportation transaction. The price and terms and conditions applicable to the sales transaction should be negotiated between the transportation service provider and the service requester.

Proposed Standard No. 95A If negotiated fuel gas sales are offered, all transportation terms, conditions applicable to fuel sales service should be specified in the transportation service providers tariff, if applicable.

Intraday Nominations

Proposed Standard No. 77A Intraday nominations should be allowed at all nominatable receipt and delivery points and at pooling points.

OBAs and Imbalances

Proposed Standard No. 85A All transportation service providers who have sufficient system storage should allow service requesters (in this instance, service requester excludes agents) to net similarly situated imbalances on and across contracts with the transportation service provider among themselves. In this context, ''similarly situated imbalances'' includes contracts with the substantially similar financial and operational implications to the transportation service provider.

Proposed Standard No. 88A Imbalance penalties should be based on the lesser of the imbalance penalties based on operationally provided measurement/allocated data and actual measurement/allocated data.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 94P–0240]

Food Labeling; Serving Sizes; Reference Amount for Baking Powder, Baking Soda, Pectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the nutrition labeling regulations to change the reference amount customarily consumed per eating occasion for the food category ''baking powder, baking soda, pectin'' from 1 gram (g) to 0.6 g to more accurately reflect the amount of these products that is customarily consumed. The agency is also proposing to include 1/8 teaspoon (tsp) as an additional allowable household measure because it is a common household measure available to consumers. The agency is proposing this action in response to a petition filed by Arm & Hammer.

DATES: Submit written comments by February 2, 1998. See section IV of this document for the proposed effective date of a final rule based on this document. Submit written comments on the collection of information requirements by December 18, 1997.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, ATTN: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Ellen M. Anderson, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5662.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 19, 1990 (55 FR 29517), FDA proposed standard serving sizes for 159 food product categories based on the amount of food commonly consumed per eating occasion by infants, toddlers (children under 4 years of age), and the general population (persons 4 years of age or older). FDA did not suggest any specific serving size for baking soda, baking powder, or pectin at that time.

On November 8, 1990, before FDA issued a final rule on serving sizes, Congress passed the Nutrition Labeling and Education Act of 1990 (hereinafter referred to as ''the 1990 amendments''). Section 2a of the 1990 amendments added section 403(q)(1)(A)(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(q)(1)(A)(i)) to require that virtually all foods under FDA's jurisdiction bear nutrition information that is based on a serving size which reflects the amount of food that is customarily consumed and which is expressed in a common household measure that is appropriate to the food. Section 2(b)(1)(B) of the 1990 amendments also directed FDA to adopt regulations that establish standards for defining serving sizes.

In response to the 1990 amendments, among other actions, FDA issued a reproposal on serving sizes (56 FR 60394, November 27, 1991) and asked for comments on all proposed reference amounts. In response to a notice of public meeting, the agency received suggestions recommending a serving size of ''1 tablespoon'' for baking powder, ''1 teaspoon'' for pectin, and no recommendation for baking soda. No consumption data were provided for any of the three products (Ref. 1)[1]. In the

[1] In this document, the agency is citing relevant material to baking powder, soda, and pectin that originally appeared in Ref. 2 to the reproposal on serving sizes that appeared in the **Federal Register** of November 27, 1991 (56 FR 60394), and Ref. 66 to the final rule on serving sizes that appeared in the **Federal Register** of January 6, 1993 (58 FR 2229 at 2296). (See Docket No. 90N–0165.) For the convenience of the reader the materials are contained in ''Ref. 1'' of this document.