

Dated: February 25, 2009.

By the Commission.

Elizabeth M. Murphy,
Secretary.

[FR Doc. E9-4379 Filed 3-2-09; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96-1-029; Order No. 587-T]

Standards for Business Practices for Interstate Natural Gas Pipelines

Issued February 24, 2009.

AGENCY: Federal Energy Regulatory
Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations that establish standards for interstate natural gas pipeline business practices and electronic communications to incorporate by reference into its regulations the most recent version of the standards, Version 1.8, adopted by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB) and to make other minor corrections. This rule upgrades the Commission's current business practice and communication standards to reflect the latest version approved by the NAESB WGQ (i.e., the Version 1.8 Standards), and is necessary to increase the efficiency of the pipeline grid, make pipelines' electronic communications more secure, and is consistent with the mandate that agencies provide for electronic disclosure of information.

DATES: This rule will become effective April 2, 2009. Natural gas pipelines are required to implement these standards on the first day of the month three months after the effective date of this rule and file tariff sheets to reflect the changed standards on the first day of the month one month after the effective date of this rule. The Director of the Federal Register has approved the incorporation by reference of the standards addressed in this Final Rule effective April 2, 2009.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

**Before Commissioners: Jon Wellinghoff,
Acting Chairman; Suedeen G. Kelly,
Marc Spitzer, and Philip D. Moeller**

1. The Federal Energy Regulatory Commission (Commission) is amending § 284.12 of its regulations (which establishes standards for natural gas pipeline business practices and electronic communications)¹ to incorporate by reference the most recent version (Version 1.8) of the standards promulgated by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB). In addition, the Commission is amending § 284.12(b) of its regulations to make minor corrections.

I. Background

2. Since 1996, in the Order No. 587 series,² the Commission has adopted regulations to standardize the business practices and communication methodologies of interstate pipelines in order to create a more integrated and efficient pipeline grid. In this series of orders, the Commission incorporated by reference consensus standards developed by the WGQ (formerly the Gas Industry Standards Board or GISB), a private consensus standards developer composed of members from all segments of the natural gas industry. The WGQ is an accredited standards organization under the auspices of the American National Standards Institute (ANSI).

3. On September 14, 2007, NAESB submitted a report to the Commission stating that it had adopted a new version of its standards, Version 1.8, dated September 30, 2006.³ NAESB reported that the Version 1.8 Standards include a new set of standards for

¹ 18 CFR 284.12.

² *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587, 61 FR 39053 (July 26, 1996), FERC Stats. & Regs., ¶ 31,038 (1996).

³ Some of the standards subsequently were corrected and these minor corrections were applied to the Version 1.8 Capacity Release Related Standards on Dec. 13, 2006.

“Internet Electronic Transport” that is applicable to the retail gas and electric markets as well as the wholesale gas market,⁴ changes to the Electronic Delivery Mechanism (EDM) Related Standards, an additional standard related to reporting on gas quality, and maintenance changes to the Nomination Related Standards and Flowing Gas Related Standards. NAESB also reported that the Version 1.8 standards included several standards already adopted by the Commission, including gas-electric coordination standards to support communications between pipelines and gas-fired generators,⁵ gas quality reporting standards to support reporting of gas quality specifications and reporting of the underlying assumptions and methodologies, and business practice standards to support implementation of Order No. 2004 on Standards of Conduct.⁶

4. On September 18, 2008, the Commission issued a Notice of Proposed Rulemaking (NOPR)⁷ that proposed to incorporate by reference the WGQ's Version 1.8 Standards and to make minor corrections to § 284.12(b) of the Commission's regulations. The sole comment was filed by American Gas Association (AGA), which supported the adoption of Version 1.8 of the standards, but requested modifications to the Commission's relationship with NAESB.

II. Discussion

5. The Commission's NOPR proposal to amend part 284 of its regulations to incorporate by reference Version 1.8 of the NAESB WGQ's consensus standards,⁸ with the two exceptions

⁴ In this Final Rule, the Commission is requiring interstate natural gas pipelines to comply with these standards. We are not making these standards mandatory for retail transactions.

⁵ *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities*, Order No. 698, 72 FR 38757 (July 16, 2007), FERC Stats. & Regs. ¶ 31,251 (2007); *order granting clarification and denying reh'g*, Order No. 698-A, 121 FERC ¶ 61,264 (2007).

⁶ *Standards of Conduct for Transmission Providers*, Order No. 2004, 68 FR 69134 (Dec. 11, 2003), FERC Stats. & Regs., ¶ 31,155 (2003); *order on reh'g*, Order No. 2004-B, 69 FR 23562 (Apr. 29, 2004), FERC Stats. & Regs., ¶ 31,161 (2004); *order on reh'g*, Order No. 2004-B, 69 FR 48371 (Aug. 10, 2004), FERC Stats. & Regs., ¶ 31,166 (2004); *order on reh'g*, Order No. 2004-C, 70 FR 284 (Jan. 4, 2005), FERC Stats. & Regs., ¶ 31,172 (2004); *order on clarification and reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005).

⁷ *Standards for Business Practices for Interstate Natural Gas Pipelines*, Notice of Proposed Rulemaking, 73 FR 55460 (Sep. 18, 2008), FERC Stats. & Regs. ¶ 32,636 (2008).

⁸ In its Version 1.8 Standards, the WGQ made the following changes to its Version 1.7 standards:

It revised Principles 1.1.9, 4.1.2, 4.1.6, and 4.1.7, Definitions 2.2.4, 4.2.1, 4.2.11, 4.2.12, 4.2.13, and 4.2.20, Standards 1.3.54, 1.3.60, 1.3.61, 1.3.63,

noted in the NOPR,⁹ was not opposed by any commenter. Adoption of Version 1.8 will continue the process of updating and improving NAESB's business practice standards for the wholesale gas market. The new Internet Electronic Transport Related Standards will help create a more seamless electronic marketplace by providing consistent electronic protocols across the wholesale gas, as well as the retail gas and retail electric markets. The standards also include a new standard for gas quality reporting (Standard 4.3.93) that will provide the industry with important information about how pipelines determine gas quality. Standard 4.3.93 requires that the pipelines post on their Web sites specific information on how the pipelines determine gas quality, including the industry standard (or other methodology, as applicable) that the pipeline uses for the following: procedures used for obtaining natural gas samples, analytical test method(s), and calculation method(s), in conjunction with any physical constant(s) and underlying assumption(s). The revisions to the Nomination Related Standards and Flowing Gas Related Standards are designed to ensure that these standards reflect current market practices.¹⁰

6. The NAESB WGQ approved the Version 1.8 Standards under NAESB's consensus procedures.¹¹ As the

2.3.21, 2.3.35, 2.3.51, 4.3.1, 4.3.2, 4.3.5, 4.3.16, 4.3.18, 4.3.22, 4.3.23, and 4.3.25, and Datasets 1.4.1 through 1.4.7, 2.4.1 through 2.4.4, 2.4.7, 2.4.8, 3.4.1, 5.4.1 through 5.4.3, 5.4.5, 5.4.7 through 5.4.11, 5.4.13, 5.4.14, 5.4.15, and 5.4.18 through 5.4.22.

It added Principles 0.1.3, 4.1.40, and 10.1.1 through 10.1.9, Definitions 0.2.1, 0.2.2, 0.2.3, and 10.2.1 through 10.2.38, Standards 0.3.11 through 0.3.15, 2.3.65, 4.3.89 through 4.3.93, and 10.3.1 through 10.3.25, and Data Sets 0.4.1, 2.4.17, 2.4.18, and 5.4.23.

It deleted Principles 4.1.9 and 4.1.25, and Standards 4.3.6, 4.3.19, 4.3.21, and 4.3.63.

It deleted the following standards from the EDM Related Standards and moved them to the Internet Electronic Transport Related Standards: Standards 4.3.7 through 4.3.15, 4.3.37, 4.3.64, 4.3.70, 4.3.71, and 4.3.88.

It renamed the EDM Related Standards, which are now entitled the Quadrant Electronic Delivery Mechanism Related Standards.

⁹ As proposed in the NOPR, the Commission is continuing its past practice and is not incorporating by reference Standards 4.3.4 and 10.3.2, because they are inconsistent with the Commission's record retention requirement in 18 CFR 284.12(b)(3)(v).

¹⁰ In addition, the Commission is amending § 284.12(b) to make two minor corrections. First, we correct the reference to the "Gas Industry Standards Board" to refer to the "North American Energy Standards Board Wholesale Gas Quadrant." Second, we correct the reference to the paragraph incorporating the NAESB standards by reference from paragraph (b)(1) to paragraph (a)(1).

¹¹ This process first requires a super-majority vote of 17 out of 25 members of the WGQ's Executive Committee with support from at least two members

Commission found in Order No. 587, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry. Moreover, since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support. In section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTT&AA), Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as means to carry out policy objectives or activities determined by the agencies unless use of such standards would be inconsistent with applicable law or otherwise impractical.¹²

7. One of the Version 1.8 standards, WGQ Standard 4.3.23, provides guidelines for how pipelines post transmission provider Standards of Conduct-related information on their Web sites. However, the Commission issued revised Standards of Conduct requirements in Order No. 717¹³ subsequent to the Version 1.8 standards adopted by NAESB. As a result, some of the data templates in the NAESB WGQ 4.3.23 standard are unnecessary. We will incorporate Standard 4.3.23, because it contains requirements for posting that are applicable under Order No. 717. However, pipelines will not be required to continue to post affiliate information that is no longer required to be maintained under the Commission's regulations as amended by Order No. 717.

8. In addition to comments in support of the proposed rule, AGA requested that the Commission take a more active role in shepherding the development of wholesale gas standards. In brief, AGA is concerned that the standards process takes too long to complete.

9. We appreciate AGA's desire that standard development proceed quickly. We note that NAESB has taken a continuing interest in improving its standards-setting process, and has, for

from each of the five industry segments—Distributors, End Users, Pipelines, Producers, and Services (including marketers and computer service providers). For final approval, 67 percent of the WGQ's general membership voting must ratify the standards.

¹² Public Law 104–113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

¹³ *Standards of Conduct for Transmission Providers*, Order No. 717, 73 FR 63796 (Oct. 27, 2008), FERC Stats. & Regs. ¶ 31,280 (2008), *reh'g pending*.

example, recently adopted policies to allow standards setting decisions to be made more quickly for important efforts.¹⁴

III. Implementation Dates and Procedures

10. Based on past practice, we are adopting an implementation schedule designed to provide natural gas pipelines adequate time to prepare for these changes. Pipelines are required to implement the standards we are incorporating by reference in this Final Rule by the first day of the month three months after the effective date of this Final Rule. In addition, pipelines are required to file tariff sheets to reflect the changed standards on the first day of the month one month after the effective date of this Final Rule to be effective as of the implementation date. Pipelines incorporating the Version 1.8 standards into their tariffs must include the standard number and Version 1.8.

IV. Notice of Use of Voluntary Consensus Standards

11. In section 12(d) of NTT&AA, Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as the means to carry out policy objectives or activities determined by the agencies unless use of such standards would be inconsistent with applicable law or otherwise impractical.¹⁵ NAESB approved the standards under its consensus procedures. Office of Management and Budget Circular A–119 (§ 11) (February 10, 1998) provides that federal agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. On September 18, 2008, the Commission issued a NOPR that proposed to incorporate by reference NAESB's Version 1.8 Standards. The Commission took comments on the NOPR into account in fashioning this Final Rule.

V. Information Collection Statement

12. The Office of Management and Budget's (OMB) regulations in 5 CFR 1320.11 require that it approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of

¹⁴ *NAESB Policy on Efficient Standards Development*, adopted by NAESB Board of Directors, Sep. 25, 2008, <http://www.naesb.org/pdf3/bd092508a2.doc>.

¹⁵ Public Law 104–113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Final Rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

13. This Final Rule upgrades the Commission's current business practice and communication standards to the latest edition approved by the NAESB WGQ (*i.e.*, the Version 1.8 Standards).

14. The implementation of these standards is necessary to increase the efficiency of the pipeline grid, make pipelines' electronic communications more secure, and is consistent with the mandate that agencies provide for

electronic disclosure of information. Requiring such information ensures a common means of communication and ensures common business practices that provide participants engaged in transactions with interstate pipelines with timely information and uniform business procedures across multiple pipelines.

15. The following burden estimates include the costs to implement the WGQ's revised business practice standards and communication protocols for interstate natural gas pipelines. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act of promoting the

efficiency and reliability of the natural gas industry's operations. In addition, the Commission's Office of Energy Market Regulation will use the data for general industry oversight.

16. The Commission sought comments on the Commission's estimate provided in the NOPR of the burden associated with adoption of the NOPR proposals. In response to the NOPR, no comments were filed that addressed the reporting burden imposed by these requirements. Therefore the Commission will use these same estimates in this Final Rule. The substantive issue raised by the sole commenter on the NOPR is addressed in this preamble.

Data collection	No. of respondents	No. of responses per respondent	Hours per response	Total No. of hours
FERC-545 ¹⁶	168	1	10	1,680
FERC-549C ¹⁷	126	1	1,181	148,806

Total Annual Hours for Collection (Reporting and Recordkeeping, (if appropriate)) = 150,486.

17. *Information Collection Costs:* The Commission sought comments on the costs to comply with these

requirements. It has projected the average annualized cost for all respondents to be the following:

	FERC-545	FERC-549C
Annualized Capital/Startup Costs	\$211,680	\$12,743,010
Annualized Costs (Operations & Maintenance)	0	0
Total Annualized Costs	211,680	12,743,010

Total Cost for all Respondents = \$12,954,690.

18. OMB regulations¹⁸ require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this Final Rule to OMB.

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

Action: Information collections.

OMB Control Nos.: 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 Information: The Commission's regulations adopted in this rule are necessary to increase the efficiency of the pipeline grid, make pipelines' electronic communications

more secure, and is consistent with the mandate that agencies provide for electronic disclosure of information.¹⁹ Requiring such information ensures both a common means of communication and common business practices that provide participants engaged in transactions with interstate pipelines with timely information and uniform business procedures across multiple pipelines.

19. The information collection requirements of this Final 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 the industry's operations. The Commission's Office of Energy Market 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.

20. *Internal Review:* The Commission has reviewed the requirements pertaining to business practices and electronic communication with interstate natural gas pipelines and has made a determination that these 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.

21. Interested persons may obtain information on the reporting requirements by contacting the following:
Federal Energy Regulatory Commission,
888 First Street, NE., Washington, DC

¹⁶Data collection FERC-545 covers rate change filings made by natural gas pipelines, including tariff changes. (OMB control No. 1902-0154)

¹⁷Data collection FERC-549C covers Standards for Business Practices of Interstate Natural Gas Pipelines. (OMB Control No. 1902-0174)

¹⁸5 CFR 1320.11.

¹⁹44 U.S.C. 3504 note, Public Law 105-277, 1701, 112 Stat. 2681-749 (1998).

20426; [Attention: Michael Miller, Office of the Executive Director, Phone: (202) 502-8415, fax: (202) 273-0873, e-mail: michael.miller@ferc.gov]; or by contacting:

Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503; [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395-7345, fax: (202) 395-7285].

VI. Environmental Analysis

22. 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.²⁰ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.²¹ The actions adopted 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 and electric power that requires no construction of facilities. Therefore, an environmental assessment is unnecessary and has not been prepared in this Final Rule.

VII. Regulatory Flexibility Act

23. The Regulatory Flexibility Act of 1980 (RFA)²² generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. In drafting a rule an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment.²³

24. The regulations we are adopting in this Final Rule impose requirements only on interstate pipelines, the majority of which are not small businesses. In this regard, we note that, under the industry standards used for the RFA, a natural gas pipeline company qualifies as a "small entity" if it had annual receipts of \$ 6.5 million or less.²⁴ Most companies regulated by

the Commission do not fall within the RFA's definition of a small entity. Approximately 168 entities would be potential respondents subject to data collection FERC-545 reporting requirements; of those, about 126 natural gas companies (including storage) would also be subject to data collection FERC-549C reporting requirements. Nearly all of these entities are large entities. For the year 2007 (the most recent year for which information is available), only four companies not affiliated with larger companies had annual revenues of less than \$ 6.5 million, which is about three percent of the total universe of potential respondents. Moreover, these requirements are designed to benefit all customers, including small businesses. As noted above, adoption of consensus standards helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry. Because of that representation and the fact that industry conducts business under these standards, the Commission's regulations should reflect those standards that have the widest possible support.

25. Accordingly, pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations adopted herein will not have a significant adverse impact on a substantial number of small entities.

VIII. Document Availability

26. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington DC 20426.

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

digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502-6652 (toll-free at 1-866-208-3676) or e-mail at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-Mail the Public Reference Room at public.referenceroom@ferc.gov.

IX. Effective Date and Congressional Notification

28. These regulations are effective April 2, 2009. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 284

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

By the Commission. Commissioner Kelliher is not participating. Commissioner Moeller concurring with a separate statement attached.

Kimberly D. Bose,
Secretary.

■ In consideration of the foregoing, the Commission amends Part 284 of Chapter I, Title 18, *Code of Federal Regulations*, as follows.

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. 7101-7352; 43 U.S.C. 1331-1356.

■ 2. Section 284.12 is amended by revising paragraphs (a)(1)(i) through (vi), adding paragraph (a)(1)(vii), and revising the introductory text of paragraph (b) to read as follows:

§ 284.12 Standards for pipeline business operations and communications.

(a) * * *
(1) * * *

(i) Additional Standards (General Standards, Creditworthiness Standards, and Gas/Electric Operational Communications Standards) (Version 1.8, September 30, 2006);

(ii) Nominations Related Standards (Version 1.8, September 30, 2006);

(iii) Flowing Gas Related Standards (Version 1.8, September 30, 2006);

²⁰ *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

²¹ 18 CFR 380.4.

²² 5 U.S.C. 601-612.

²³ 5 U.S.C. 601-604.

²⁴ 5 U.S.C. 601(3), *citing* section 3 of the Small Business Act, 15 U.S.C. 623. Section 3 of the SBA

defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System defines a small natural gas pipeline company as one that transports natural gas and whose annual receipts (total income plus cost of goods sold) did not exceed \$6.5 million for the previous year.

(iv) Invoicing Related Standards (Version 1.8, September 30, 2006);

(v) Quadrant Electronic Delivery Mechanism Related Standards (Version 1.8, September 30, 2006) with the exception of Standard 4.3.4;

(vi) Capacity Release Related Standards (Version 1.8, September 30, 2006 (with minor corrections applied December 13, 2006); and

(vii) Internet Electronic Transport Related Standards (Version 1.8, September 30, 2006) with the exception of Standard 10.3.2.

* * * * *

(b) *Business practices and electronic communication requirements.* An interstate pipeline that transports gas under subparts B or G of this part must comply with the following requirements. The regulations in this paragraph adopt the abbreviations and definitions contained in the North American Energy Standards Board Wholesale Gas Quadrant standards incorporated by reference in paragraph (a)(1) of this section.

* * * * *

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

United States of America

Federal Energy Regulatory Commission

Docket No. RM96-1-029.

Standards for Business Practices for Interstate Natural Gas Pipelines

(Issued February 24, 2009.)

MOELLER, Commissioner, *concurring*:

The American Gas Association (AGA), in its comments, contends that the NAESB process takes too long to complete. Because of that, AGA urges the Commission to review its procedures and relationship with NAESB with the goal of streamlining the process by which business practices standards are developed, approved and incorporated into the Commission's regulations. In particular, AGA identifies delays that have occurred in NAESB's technical implementation as well as in development and publication of standards.

I recognize that some of the delay may be attributable to the Commission's own processes and priorities; however, AGA has identified areas, such as technical development, in which NAESB can improve its procedures. I appreciate the Wholesale Gas Quadrant's current efforts as referenced in the final rule (as well as the dedication of NAESB staff) to improve its procedures, and I urge NAESB and its volunteers to continue its work to find and identify areas in which its processes can become more efficient and timely.

Philip D. Moeller,
Commissioner.

[FR Doc. E9-4295 Filed 3-2-09; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R04-OAR-2008-0681; FRL-8769-6]

Outer Continental Shelf Air Regulations Consistency Update for North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule—consistency update.

SUMMARY: EPA is finalizing the update of the Outer Continental Shelf (OCS) Air Regulations proposed in the **Federal Register** on November 5, 2008. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by the Clean Air Act ("CAA" or "the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the State of North Carolina has been designated COA. The effect of approving the OCS requirements for the State of North Carolina is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below will be incorporated by reference into the Code of Federal Regulations (CFR) and is listed in the appendix to the OCS air regulations. This action is an annual update of the North Carolina's OCS Air Regulations. These rules include revisions to existing rules that already apply to OCS sources. No comments were received on the November 5, 2008, proposal.

DATES: Effective Date: This rule is effective on April 2, 2009. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of April 2, 2009.

ADDRESSES: EPA has established docket number EPA-R04-OAR-2008-0681 for this action. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Permits Section, Air Planning

Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA

requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Permits Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. EPA Action
- III. Statutory and Executive Order Reviews

I. Background and Purpose

On November 5, 2008, EPA promulgated 40 CFR part 55, which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the states except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) of the Act requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This process is distinct from the State Implementation Plan (SIP) process and