

customer segregated cash account shall receive same-day funds credited to such account simultaneously with the delivery or transfer of securities from the customer segregated custodial account.

(ii) With respect to transactions under paragraph (a)(3)(ii) of this section, the transfer of securities to the customer segregated custodial account shall be made simultaneously with the transfer of securities from the customer segregated custodial account. In no event shall securities held in the customer segregated custodial account be released prior to the transfer of securities to that account. Any transfer of securities to the customer segregated custodial account shall not be recognized as accomplished until the securities are actually received by the custodian of the customer segregated custodial account. Upon unwinding of the transaction, the customer segregated custodial account shall receive the securities simultaneously with the delivery or transfer of securities from the customer segregated custodial account.

(iii) With respect to transactions under paragraph (a)(3)(iii) of this section, the transfer of money to the customer segregated cash account shall be made simultaneously with the transfer of securities from the customer segregated custodial account. In no event shall securities held in the customer segregated custodial account be released prior to the transfer of money to the customer segregated cash account. Any transfer of money to the customer segregated cash account shall not be recognized as accomplished until the money is actually received by the custodian of the customer segregated cash account. Upon unwinding of the transaction, the customer segregated custodial account shall receive the securities simultaneously with the disbursement of money from the customer segregated cash account.

(7) The futures commission merchant maintains all books and records with respect to the transactions in accordance with §§ 1.25, 1.27, 1.31, and 1.36 and the applicable rules and regulations of the Securities and Exchange Commission.

(8) An actual transfer of securities by book entry is made consistent with Federal or State commercial law, as applicable. At all times, securities transferred to the customer segregated account are reflected as "customer property."

(9) For purposes of §§ 1.25, 1.26, 1.27, 1.28 and 1.29, securities transferred to the customer segregated account are considered to be customer funds until

the customer money or securities for which they were exchanged are transferred back to the customer segregated account. In the event of the bankruptcy of the futures commission merchant, any securities exchanged for customer funds and held in the customer segregated account may be immediately transferred.

(10) In the event the futures commission merchant is unable to return to the customer any customer-deposited securities exchanged pursuant to paragraphs (a)(3)(ii) or (a)(3)(iii) of this section, the futures commission merchant shall act promptly to ensure that such inability does not result in any direct or indirect cost or expense to the customer.

(f) *Deposit of firm-owned securities into segregation.* A futures commission merchant shall not be prohibited from directly depositing unencumbered securities of the type specified in this section, which it owns for its own account, into a segregated safekeeping account or from transferring any such securities from a segregated account to its own account, up to the extent of its residual financial interest in customers' segregated funds; provided, however, that such investments, transfers of securities, and disposition of proceeds from the sale or maturity of such securities are recorded in the record of investments required to be maintained by § 1.27. All such securities may be segregated in safekeeping only with a bank, trust company, derivatives clearing organization, or other registered futures commission merchant. Furthermore, for purposes of §§ 1.25, 1.26, 1.27, 1.28 and 1.29, investments permitted by § 1.25 that are owned by the futures commission merchant and deposited into such a segregated account shall be considered customer funds until such investments are withdrawn from segregation.

■ 3. Section 1.27 is amended as follows:

■ A. By inserting the word "derivatives" before the term "clearing organization" in paragraphs (a) and (b);

■ B. By inserting the phrase "or current market value of securities" after the phrase "The amount of money" in paragraph (a)(3);

■ C. By inserting the phrase "or current market value of securities" after the phrase "the amount of money" in paragraph (a)(6);

■ D. By deleting "and" at the end of paragraph (a)(6);

■ E. By changing the period to a semi-colon at the end of paragraph (a)(7) and inserting "and" at the end of that paragraph; and

■ F. By adding paragraph (a)(8) to read as follows:

#### § 1.27 Record of investments.

(a) \* \* \*

(8) Daily valuation for each instrument and readily available documentation supporting the daily valuation for each instrument. Such supporting documentation must be sufficient to enable auditors to verify the valuations and the accuracy of any information from external sources used in those valuations.

\* \* \* \* \*

Issued in Washington, DC on May 11, 2005, by the Commission.

**Catherine D. Daniels,**

*Assistant Secretary of the Commission.*

[FR Doc. 05-9794 Filed 5-16-05; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 284

[Docket No. RM96-1-026]

#### Standards for Business Practices of Interstate Natural Gas Pipelines

Issued May 9, 2005.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission is amending its regulations governing standards for conducting business practices with interstate natural gas pipelines. The Commission is incorporating by reference the most recent version of the standards, Version 1.7, promulgated December 31, 2003, by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB); the standards ratified by NAESB on June 25, 2004 to implement Order No. 2004; the standards ratified by NAESB on May 3, 2005 to implement Order No. 2004-A; and the standards implementing gas quality reporting requirements ratified by NAESB on October 20, 2004. These standards can be obtained from NAESB at 1301 Fannin, Suite 2350, Houston, TX 77002, 713-356-0060, <http://www.naesb.org>.

**EFFECTIVE DATES:** The rule will become effective June 16, 2005. Pipelines are required to comply with this rule by making a compliance filing on or before July 1, 2005 with an effective date of September 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Marvin Rosenberg, Office of Markets, Tariffs, and Rates, Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426; 202-502-8292.

Kay Morice, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426; 202-502-6507.

Jamie Chabinsky, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426; 202-502-6040.

#### SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, Joseph T. Kelliher, and Suede G. Kelly; ORDER NO. 654

1. The Federal Energy Regulatory Commission (Commission) is amending § 284.12 of its open access regulations governing standards for conducting business practices and electronic communications with interstate natural gas pipelines.<sup>1</sup> The Commission is incorporating by reference the most recent version, Version 1.7, of the consensus standards promulgated by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB). The Commission is also incorporating by reference the standards ratified by NAESB on June 25, 2004 to implement Order No. 2004,<sup>2</sup> the standards ratified by NAESB on May 3, 2005 to implement Order No. 2004-A, and the standards to implement gas quality reporting requirements ratified by NAESB on October 20, 2004, in Recommendation R03035A, which NAESB intends to include in its next version of standards (Version 1.8). This rule is intended to benefit the public by adopting the most recent and up-to-date standards governing business practices and electronic communication.

#### I. Background

2. Since 1996, in the Order No. 587 series,<sup>3</sup> the Commission has adopted

<sup>1</sup> 18 CFR 284.12 (2004).

<sup>2</sup> Order No. 2004, 68 FR 69134 (Dec. 11, 2003), III FERC Stats. & Regs. Regulations Preambles ¶ 31,155 (Nov. 25, 2003); Order No. 2004-A, 69 FR 23562 (Apr. 29, 2004), III FERC Stats. & Regs. Regulations Preambles ¶ 31,161 (Apr. 16, 2004); Order No. 2004-B, 69 FR 48371 (Aug. 10, 2004) III FERC Stats. & Regs. Regulations and Preambles ¶ 31,166 (Aug. 2, 2004), Order No. 2004-C, 70 FR 284 (Jan. 4, 2005), III FERC Stats. & Regs. Regulations Preambles ¶ 31,172 (Dec. 21, 2004); Order No. 2004-D, FERC Stats. & Regs. Regulations Preambles ¶ 61,320 (Mar. 23, 2005).

<sup>3</sup> Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (July 26, 1996), FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,038 (July 17, 1996), Order No. 587-B, 62 FR 5521 (Feb. 6, 1997), FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,046 (Jan. 30, 1997), Order No. 587-C, 62 FR 10684 (Mar. 10, 1997),

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. NAESB is an accredited standards organization under the auspices of the American National Standards Institute (ANSI).

3. On April 14, 2004 NAESB filed with the Commission a report informing the Commission that the WGQ had adopted a new version of its standards, Version 1.7. NAESB reports that Version 1.7 includes standards for partial day recalls which were requested in Order No. 587-N. The Commission previously incorporated these standards by reference in Order No. 587-R.<sup>4</sup> Version 1.7 also contains ten standards regarding creditworthiness<sup>5</sup> which the Commission proposed to adopt in a Notice of Proposed Rulemaking (NOPR) in Docket No. RM04-4-000.<sup>6</sup> Version

FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,050 (Mar. 4, 1997), Order No. 587-G, 63 FR 20072 (Apr. 23, 1998), FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,062 (Apr. 16, 1998), Order No. 587-H, 63 FR 39509 (July 23, 1998), FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,063 (July 15, 1998); Order No. 587-I, 63 FR 53565 (Oct. 6, 1998), FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,067 (Sept. 29, 1998), Order No. 587-K, 64 FR 17276 (Apr. 9, 1999), FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,072 (Apr. 2, 1999); Order No. 587-M, 65 FR 77285 (Dec. 11, 2000), FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,114 (Dec. 11, 2000); Order No. 587-N, 67 FR 11906 (Mar. 18, 2002), III FERC Stats. & Regs. Regulations Preambles ¶ 31,125 (Mar. 11, 2002), Order No. 587-O, 67 FR 30788 (May 8, 2002), III FERC Stats. & Regs. Regulations Preambles ¶ 31,129 (May 1, 2002); Order No. 587-R, 68 FR 13813 (Mar. 21, 2003), III FERC Stats. & Regs. Regulations Preambles ¶ 31,141 (Mar. 12, 2003).

<sup>4</sup> Order No. 587-R, 68 FR 13813 (Mar. 21, 2003), III FERC Stats. & Regs. Regulations Preambles & 31,141 (Mar. 12, 2003).

<sup>5</sup> The credit-related standards in Version 1.7, which we are incorporating by reference, are designated as Standards 0.3.3 through 0.3.10, 5.3.59 and 5.3.60. They include procedures for the following practices: requesting additional information for credit evaluation; acknowledging and responding to requests and receipt of information; notice regarding creditworthiness and notice regarding contract termination due to credit-related issues; forms of communication; reevaluation of determinations that a Service Requester is not creditworthy; and awarding capacity release offers only after a service requester has been determined to meet the creditworthiness requirements applicable to all services.

<sup>6</sup> Creditworthiness Standards for Interstate Natural Gas Pipeline, Notice of Proposed Rulemaking (NOPR), 69 FR 8587 (Feb. 25, 2004), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,573 (Feb. 12, 2004).

1.7 contains revisions that more accurately reflect the workings of the market including the definition of transaction types, charge types, Service Codes, and Reduction Reason Codes. Other revisions update standards that contained outmoded references, make the naming conventions more uniform, and permit use of proprietary entity codes when D-U-N-S® numbers are not available. In addition, the Version 1.7 standards update the treatment of allocations as well as requests for information on scheduled quantities, allocations, and shipper imbalances.

4. On August 6, 2004, NAESB filed with the Commission a report informing the Commission that on June 25, 2004 the WGQ membership ratified a package of modifications to the Version 1.7 standards to implement Order No. 2004 (2004 Annual Plan Item 2 FERC Order 2004). These standards modify the Informational Posting requirements for pipeline web sites to reflect the information required to be posted pursuant to Order No. 2004 and will be included as part of the WGQ's Version 1.8 standards.

5. On October 1, 2004, NAESB filed a report with the Commission informing the Commission that errata to Version 1.7 of the NAESB WGQ standards were adopted by the Executive Committee on August 26, 2004 and, following a member comment period, the errata would be applied to Version 1.7 on October 15, 2004. The errata contain minor corrections which remove the table of code values for Bidder Affiliate from Standard 5.4.13 and correct the Transaction Status Code data element in the Code Values Dictionary of Standard 1.4.2.

6. On November 1, 2004, NAESB filed a report with the Commission informing the Commission that on October 20, 2004 the WGQ membership ratified standards to implement gas quality reporting requirements (Recommendation R03035A).<sup>7</sup> These standards require a pipeline to provide a link on its Informational Posting Web Site to its gas quality tariff provisions, or a simple reference guide to such information. In addition, a pipeline is required to provide on its Informational Postings Web site, in a downloadable format, daily average gas quality information for prior day(s) to the extent available for locations(s) that are

<sup>7</sup> The standards ratified October 20, 2004 modified Standard 4.3.23 and added Principle 4.1.p1 and Standards 4.3.s1, 4.3.s2, 4.3.s3, and 4.3.s4. On March 18, 2005, NAESB filed a report informing the Commission that the added Principle and Standards have been assigned the following permanent numbers: Principle 4.1.40 and Standards 4.3.89, 4.3.90, 4.3.91, and 4.3.92, respectively.

representative of mainline gas flow for the most recent three-month period.

7. On December 21, 2004, the Commission issued a NOPR<sup>8</sup> that proposed to adopt Version 1.7 of the consensus standards, the standards ratified by NAESB on June 24, 2004 to implement Order No. 2004 and the standards to implement gas quality reporting requirements ratified by NAESB in Recommendation R03035A.<sup>9</sup> Five comments and one reply comment were filed.<sup>10</sup> The comments generally support adoption of the standards, although some comments raise issues regarding the gas quality standards, creditworthiness standards, and implementation date.

8. On April 12, 2005, NAESB notified the Commission that the Executive Committee adopted errata to be applied to Version 1.7 on April 1, 2005. The errata correct certain errors in the validation codes in the Code Values Dictionary of NAESB WGQ Standards 1.4.2 (Nomination Quick Response) and 1.4.7 (Confirmation Quick Response).<sup>11</sup>

9. On April 22, 2005 NAESB notified the Commission that a modification to Standard 4.3.23 was approved by the NAESB WGQ Executive Committee on April 4, 2005 and distributed for WGQ member ratification, with ballots due on May 3, 2005. The modification to the standard specifies a location for posting voluntary consent to information disclosure by non affiliated customers as required by § 358 of the Commission's regulations.<sup>12</sup>

## II. Discussion

10. The Commission is incorporating by reference Version 1.7 of the NAESB consensus standards; the standards to implement Order No. 2004 ratified by NAESB on June 25, 2004 (2004 Annual

Plan Item 2 FERC Order 2004); the standards to implement Order No. 2004—A ratified by NAESB on May 3, 2005 (2005 Annual Plan Item 8 FERC Order 2004); and the standards governing gas quality reporting ratified by NAESB on October 20, 2004 (Recommendation R03035A).<sup>13</sup> Pipelines will be required to implement the standards by September 1, 2005, which is the first day of the month following 90 days after the issuance of this rule.<sup>14</sup>

11. The adoption of Version 1.7<sup>15</sup> of the NAESB WGQ standards will help continue the process of updating and improving the current standards. In adopting the Version 1.7 standards, the Commission is adopting the new "Additional Standards" implementation guide that contains standards generally applicable to all the business processes. The Additional Standards include standards governing the use of common codes to identify entities in transactions and the creditworthiness standards.

12. The Commission is also adopting the NAESB standards related to gas quality in WGQ Recommendation R03035A. These standards require a pipeline to provide a link on its Informational Posting Web Site to its gas quality tariff provisions, or a simple reference guide to such information. In addition, a pipeline is required to provide on its Informational Postings Web site, in a downloadable format, daily average gas quality information for prior day(s) to the extent available for location(s) that are representative of mainline gas flow for the most recent three-month period. Adoption of these standards will provide greater transparency to shippers with respect to the gas quality requirements of interstate pipelines and available information on gas quality on such pipelines' systems.

13. The NAESB WGQ approved the standards under NAESB's consensus procedures.<sup>16</sup> As the 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 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, 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.<sup>17</sup>

14. The Comments addressing various aspects of the standards will be addressed below.

### A. Implementation Date

15. INGAA requests that the Commission implement the standards on the first day of the month following 180 days after issuance of a final rule. INGAA maintains that a transition to the new standards and the business requirements supported by those standards will be coordinated most effectively and seamlessly with the existing accounting, billing and nomination processes if such a transition is implemented at the beginning of a month. INGAA also states that delaying the required implementation date to 180 days after issuance of the final rule will allow time for interstate pipelines to make necessary changes in systems and procedures to implement the posting of gas quality criteria and data.

16. The Commission agrees that requiring implementation on the first of the month allows for a more effective transition, and will therefore grant INGAA's request. However, we will not grant the requested 180-day delay in implementation. The pipelines have been on notice of the consensus standards since the standards were ratified and adopted. Also, the request relates principally to the gas quality standards, and thus does not justify a 180-day delay for implementing all the standards. We recognize that individual pipelines may have more difficulty in

Committee with support from at least two members from each of the five industry segments—interstate pipelines, local distribution companies, gas producers, end-users, and services (including marketers and computer service providers). For final approval, 67 percent of the WGQ's general membership must ratify the standards.

<sup>17</sup> Pub. L. 104-113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

<sup>8</sup> Standards for Business Practices of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 70 FR 319 (Jan. 4, 2005), FERC Stats. & Regs. Proposed Regulations ¶ 32,578 (Dec. 21, 2004).

<sup>9</sup> Section 284.12(a)(2) also is revised to reflect NAESB's current address.

<sup>10</sup> Those filing comments are: American Gas Association (AGA); BP America Production Company and BP Energy Company (jointly "BP"); Florida Power and Light Company (FPL); the Interstate Natural Gas Association of America (INGAA); Tennessee Valley Authority (TVA); and Total Peaking Services, LLC (Total Peaking). On March 14, 2005, INGAA filed reply comments.

<sup>11</sup> Additionally, the errata correct the definition of Monthly Allocation in 2.2.4 in the NAESB WGQ Standards Book 1 of 2. The correct definition was originally adopted prior to publication of Version 1.7, but during publication of Version 1.7 the definition was captured incorrectly. However, the definition is correct in the NAESB WGQ Flowing Gas Related Standards book.

<sup>12</sup> 18 CFR 358 (2004). NAESB states that it made the modification in response to paragraph 10 of the NOPR in this proceeding.

<sup>13</sup> Pursuant to the regulations regarding incorporation by reference, copies of Version 1.7 are available from NAESB. 5 U.S.C. 552(a)(1); 1 CFR 51 (2001).

<sup>14</sup> The Commission is also revising § 284.12(a)(2) to reflect NAESB new address.

<sup>15</sup> In Version 1.7 the NAESB WGQ made the following changes to its standards, including the creditworthiness standards. It revised Standards 1.3.32, 2.3.21, 4.3.1, 4.3.2, 5.3.2, 5.3.7, 5.3.41, and 5.3.42, and Datasets 1.4.1 through 1.4.7, 2.4.1 through 2.4.16, 3.4.1 through 3.4.4, and 5.4.1 through 5.4.22. It added Principles 1.1.22, 2.1.6, 5.1.2, 5.1.3, and 5.1.4, Definitions 2.2.4, 2.2.5 and 5.2.3, and Standards 0.3.2, 0.3.3 through 0.3.10, 2.3.51 through 2.3.64, and 5.3.44 through 5.3.60. It deleted Principles 1.1.6, 1.1.8, 1.1.19, and 4.1.14, and Standards 1.3.78, 2.3.24, 2.3.36 through 2.3.39, and 5.3.6.

<sup>16</sup> This process first requires a super-majority vote of 17 out of 25 members of the WGQ's Executive

implementing some of the standards, and the Commission has in the past been willing to grant extensions of time for implementation when pipelines have justified such requests. Accordingly, the Commission is requiring implementation on the first of the month, following 90 days after issuance of this final rule.

### B. Gas Quality Standards

#### 1. Tariff Provisions Regarding Gas Quality Standards

17. The gas quality standards ratified by NAESB include Standard 4.3.89 (formerly 4.3.s1), which states a pipeline should provide, on its Web site, a link to the natural gas quality tariff provisions or, where no tariff exists in the general terms and conditions, a simple reference guide to such information. FPL maintains that merely providing a link to the existing tariff provision will not necessarily provide clarity for end users or operational personnel unless the Commission encourages development of more clearly written and presented tariff language. FPL states that additional progress towards gas quality measurement standardization should be made. Specifically, FPL states that the absence of a consistent definition of the chemical characteristics of natural gas can cause problems for end users. FPL also states that standardized assumptions upon which chemical characteristics or physical properties are determined are needed.<sup>18</sup> AGA requests that the Commission confirm the reporting standard does not relieve pipelines of their responsibility to ensure adherence to the gas quality specifications in their tariffs.

18. These requests go beyond the scope of this rule, which addresses only the posting requirements for standards. Issues as to the clarity and substance of tariff provisions should be addressed in individual pipeline proceedings in which these issues are raised. The Commission has recognized that the issue of how to measure gas quality is of importance to the industry and has established a Natural Gas Interchangeability proceeding in Docket No. PL04-3-000 to address these substantive issues.<sup>19</sup> The issues raised

<sup>18</sup> FPL states that the Environmental Protection Agency defines standard conditions as 68 degrees Fahrenheit at 1 atmosphere of pressure, but pipelines generally define and measure the volume of gas transported at 60 degrees Fahrenheit and an absolute pressure of 14.73 pounds per square inch absolute, and variances exist from this measure.

<sup>19</sup> The Commission held a technical conference on these issues on February 18, 2004, and on March 2, 2005 issued a request for comment on two papers filed by the Natural Gas Council: *White Paper on*

by FPL and AGA are more appropriately considered in that proceeding.

#### 2. Information Posting

19. Standard 4.3.90 (formerly 4.3.s2) states that pipelines should provide information "to the extent available, for location(s) that are representative of mainline gas flow." BP states that this standard does not specify the data to be included in the operational posting, and the Commission's requirements in Natural<sup>20</sup> are appropriate and should be incorporated into this rule. BP contends that the Natural standards include the requirement that the pipeline must post on its Internet Web site every receipt point dewpoint value it calculates, along with the method by which the dewpoint was calculated, and every blended dewpoint and blended BTU value it calculates for a line segment of its system. In Natural, the Commission required that the information must be posted within 24 hours of completion of the calculations.

20. The Commission is incorporating the standards as developed by the WGQ. These standards represent a consensus of the industry as to the minimum posting requirements for information on gas quality that are applicable to all pipelines. In individual pipeline cases, such as in Natural, the Commission may have specified additional information be posted.<sup>21</sup> Pipelines that are required to comply with such requirements must continue to do so, and the WGQ standards accommodate such postings. However, whether such requirements developed in individual cases should be extended to the entire industry is beyond the scope of this proceeding. Such issues can be raised in the proceeding in Docket No. PL04-3-000 that the Commission has instituted. Regarding BP's concern with the timeliness of posting, we expect that pipelines will promptly post their information.

*Liquid Hydrocarbon Drop Out in Natural Gas Infrastructure and White Paper on Natural Gas Interchangeability and Non-Combustion End Use.* On April 13, 2005, the Commission issued a notice of a technical conference to be held May 17, 2005, to consider further comments on the NGC reports and recommendations for Commission action on natural gas quality and liquefied natural gas interchangeability issues.

<sup>20</sup> Natural Gas Pipeline Co., 102 FERC ¶ 61,234, order on reh'g, 104 FERC ¶ 61,322 (2003) (Natural).

<sup>21</sup> The procedures developed in Natural were the result of problems Natural experienced during the winter of 2000-2001 when gas prices were so high that liquefiable hydrocarbons had a greater value to shippers as constituents of the gas stream than as extracted liquids. Shippers ceased their common practice of extracting the liquefiable hydrocarbons before tendering the gas to Natural, and this caused the closing of two gas processing plants that normally would tender processed residue gas.

21. Additionally, BP states that pipelines should not be able to avoid compliance with the data posting requirements by claiming that the data are not available at a specific location, and that the rule should provide that all pipelines must develop the means, to the extent they do not already have equipment in place, to measure gas quality at key points. TVA states that consumers should have access to documented information on the quality of the product being received, and that information should include measurements against a well-defined, documented formula and be publicly posted. INGAA states such a requirement would involve pipelines installing additional gas quality equipment, thus imposing on pipelines and their ratepayers millions of dollars of investment for new equipment. INGAA maintains the installation of additional equipment at each receipt point would add little or no value in improving safety and/or efficiency of pipeline operations.

22. These standards involve only the posting of information obtained by the pipeline and require only that the pipeline post information it already has obtained. Issues relating to the development of additional information or other substantive questions are beyond the scope of this proceeding and should be addressed in individual cases or in the Commission's generic proceeding on gas quality.

23. AGA states that, in adopting the NAESB gas quality standards, the Commission should include direction to the pipelines that in implementing the standards they should consult with their customers to determine which points are "representative of mainline gas flow" on its system. AGA states that the pipelines should provide meaningful indication of gas quality at all major delivery points. The Commission agrees that the pipelines should post information relevant to their shippers and consult with shippers in determining the information posted.

#### 3. Exemption

24. Total Peaking proposes an exemption from the gas quality posting requirements for natural gas companies that do not physically deliver natural gas into the facilities of an interstate pipeline. Total Peaking states it is a liquid natural gas storage company subject to Natural Gas Act jurisdiction and is required to have a tariff on file with the Commission. It states that the purpose of gas quality reporting cannot be served by imposing additional gas quality and measurement and reporting obligations on entities such as Total

Peaking, which do not physically deliver natural gas into the facilities of an interstate pipeline.

25. We decline to grant a generic waiver of the standards as proposed by Total Peaking. The standards are intended to provide information regarding the quality of a particular pipeline or storage facility's system. Even though Total Peaking may not deliver gas to an interstate pipeline, the gas quality information may be useful to its customers. Although we decline to grant the generic exemption Total Peaking requests, entities such as Total Peaking may request a waiver of the requirements in their individual compliance filings where justified.

### C. Creditworthiness

26. In the NOPR, we proposed to incorporate by reference the creditworthiness standards adopted by NAESB that had previously been noticed in the creditworthiness rulemaking in Docket No. RM04-4-000.<sup>22</sup> In the NOPR in this proceeding, the Commission stated it would address the comments filed on these standards before the issuance of a final rule adopting these standards.<sup>23</sup>

27. The ten WGQ standards on creditworthiness provide procedural rules by which pipelines should deal with their customers with respect to credit issues, such as providing shippers with the reasons a pipeline is requesting credit information, procedures for communications between pipelines and customers, and the timeline for providing responses to requests for credit reevaluation.

28. Commenters in Docket No. RM04-4-000 generally support, or do not oppose, the consensus standards on creditworthiness. Many shippers urge the Commission to adopt the ten creditworthiness consensus standards.<sup>24</sup> Several pipelines also support the incorporation of the ten NAESB standards into the Commission's regulations.<sup>25</sup> Commenters, however, raise several issues which will be discussed below.

<sup>22</sup> Creditworthiness Standards for Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 69 FR 8587 (Feb. 25, 2004), FERC Stats. & Regs. Regulations Preambles ¶ 32,573 (Feb. 12, 2004).

<sup>23</sup> We are addressing the comments filed in Docket No. RM04-4-000 regarding creditworthiness here.

<sup>24</sup> See, e.g., Northwest Industrial Gas Users at 7; Process Gas Consumers Group, *et al.* at 9-13; Calpine Corporation at 18; Encana Marketing (USA) Inc. at 4, 9-10.

<sup>25</sup> National Fuel at 2; Vector at 2-3; Williston Basin at 3; INGAA at 42.

### 1. Notice to Releasing Shippers

29. Standard 5.3.60 provides that a pipeline should provide the original releasing shipper with Internet E-mail notification "reasonably proximate in time" of the following events: (1) Notice to the replacement shipper regarding the replacement shipper's past due, deficiency, or default status pursuant to the pipeline's tariff; (2) notice to the replacement shipper regarding the replacement shipper's suspension of service notice; (3) notice to the replacement shipper regarding the replacement shipper's contract termination notice due to default or credit-related issues; and (4) notice to the replacement shipper that the replacement shipper(s) is no longer creditworthy and has not provided credit alternative(s) pursuant to the pipeline's tariff.

30. Several commenters point out that in creditworthiness orders, the Commission required pipelines to provide simultaneous notice to a releasing shipper and a replacement shipper upon determining that a replacement shipper is not creditworthy.<sup>26</sup> Commenters argue that the standard of "simultaneous notice" is preferable to the standard of "reasonably proximate in time" in Standard 5.3.60 (formerly 5.3.zF) given the importance of timely notice of credit-related events, since notice need only be sent to a small list of parties (the original releasing shipper(s)), since simultaneity is unambiguous, and since releasing shippers could be liable for unpaid reservation charges if a replacement shipper defaults.<sup>27</sup> If the Commission retains the "reasonably proximate" standard, Peoples requests a limitation in the rule clarifying that no more than one business day constitutes "reasonably proximate."<sup>28</sup> Moreover, Peoples requests clarification that given the time sensitivity associated with credit related information, the requirement is not that the releasing shipper receive the notice that the pipeline sent to the replacement shipper, but only that the releasing shipper receive notice that such a notice was sent.<sup>29</sup>

31. Alliance, however, contends that requiring the pipeline to provide the releasing shipper with notice regarding the replacement shipper's financial

<sup>26</sup> See, e.g., *Tennessee Gas Pipeline Co.*, 102 FERC ¶ 61,075 at P 78 (2003); *Northern Natural Gas Co.*, 103 FERC ¶ 61,276 at P 43 (2003).

<sup>27</sup> AGA at 10-11, Dominion at 6-7, Peoples at 6-8.

<sup>28</sup> Peoples at 6-7.

<sup>29</sup> See Peoples at 8 (suggesting revised regulatory language).

performance could expose the pipeline to claims of liability, particularly where the replacement shipper has not defaulted on its contractual obligations, but is merely past due or deficient, or in situations where the replacement shipper has not authorized the release of confidential information to third parties.<sup>30</sup> Alliance argues that, if the releasing shipper wants to require the replacement shipper to provide the releasing shipper with notice of any changes in its financial performance, the releasing shipper should make such a requirement a condition of the release. Alliance contends that the pipeline should not be required to keep the releasing shipper apprised of the replacement shipper's performance.

32. The Commission will adopt the standard as proposed by the WEQ since this standard reflects the consensus of the industry. Providing simultaneous notice is not necessary, as long as the notice to the releasing shipper is provided promptly, such as on the same day as the notice to the replacement shipper.

33. Nor does the Commission see a need to revise Standard 5.3.60 to respond to the comments filed by Peoples and Alliance. The standard does not require the pipeline to provide an identical notice to the releasing shipper, only that the releasing shipper should receive notice that one of the events has occurred. With respect to Alliance's concerns, we find that it is a reasonable default provision for the pipeline to notify the releasing shipper of conditions that may affect the replacement shipper's ability to perform under its release. Such information is relevant, for example, to the releasing shipper's decision whether to recall capacity. Further, replacement shippers that object to this condition can seek to obtain agreement from the releasing shipper that the releasing shipper will not receive such a notice. Alliance has not shown that liability will attach to the pipeline in such a case.

34. Alliance suggests that such notice only be provided when the releasing shipper includes the provision in the terms and conditions of the release. However, given the comments by releasing shippers on the proposed standard and in many of the creditworthiness cases, it appears that, in the majority of cases, the releasing shipper will insist on such a provision in a release, and, therefore, we find the inclusion of this standard reasonable as the default provision. However, we clarify that if the releasing and replacement shippers agree that such

<sup>30</sup> Alliance at 15-17.

notice not be provided, that agreement can be included in the terms and conditions of the release, in which case the pipeline will not provide the notice.

2. Publishing the Standards in the Regulations

35. NiSource contends the Commission should restate the ten consensus standards in the regulations since the standards are a critically important component of this rulemaking. NiSource states that restating the standards in the regulations will facilitate the interpretation and implementation of the rules.

36. As the Commission has explained in previous orders, the Freedom of Information Act and implementing regulations establish that the proper method of adopting private sector standards is to incorporate those standards by reference into the agency's regulations.<sup>31</sup> Because these standards are copyrighted, reproducing them in the regulations is not appropriate.<sup>32</sup> However, the standards are available on compact disc from NAESB at the reasonable price of \$100.<sup>33</sup>

D. 2004 Standards

37. As the Commission stated in the NOPR, the NAESB standards with respect to the Order No. 2004 affiliate standards establish uniform posting requirements for the Commission requirements. However, the NAESB standards were developed prior to the issuance of Order No. 2004-A, and revised Standard 4.3.23 did not specify a location for posting voluntary consent to information disclosure by non

affiliated customers as required by § 358 of the Commission's regulations.<sup>34</sup> The Commission noted that electric utilities and pipelines have been posting this information as a separate category from other non-discrimination requirements, and that posting this information as a separate category represents a better practice, since it will make it easier for the Commission as well as other parties to find and access this information. The Commission stated that it expects pipelines and electric utilities to post this information as a separate category.

38. On May 3, 2005, the NAESB membership ratified a revision to Standard 4.3.23 to provide for a separate category for posting voluntary consent information consistent with the Commission's policy, and the Commission will incorporate this modification into its regulations.

Notice of Use of Voluntary Consensus Standards

39. Office of Management and Budget Circular A-119 (§ 11) (February, 10, 1998) provides that when a Federal agency issues or revises a regulation containing a standard, the agency should publish a statement in the final rule stating whether the adopted standard is a voluntary consensus standard or a government-unique standard. In this rulemaking, the Commission is incorporating by reference voluntary consensus standards developed by the WGQ.

Information Collection Statement

40. The Office of Management and Budget's (OMB) regulations in 5 CFR 1320.11 (2005) require that it approve

certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this 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.

41. The final rule will affect the following existing data collections: FERC-545 "Gas Pipeline Rates: Rate Change (Non-Formal)" (OMB Control No. 1902-0154) and FERC-549C "Standards for Business Practices of Interstate Natural Gas Pipelines" (OMB Control No. 1902-0174). The following burden estimates are related only to this rule and include the costs of complying with Version 1.7 of the WGQ's consensus standard as modified by the standards ratified by the WGQ on June 25, 2004, to implement Order No. 2004 and the standards to implement gas quality reporting requirements ratified by the WGQ on October 20, 2004, in Recommendation R03035A. The burden estimates for the FERC-545 data collection are related to the tariff filings required to implement these standards. The burden estimates for the FERC-549C data collection are related to implementing the latest version of the business practice standards and related data sets. The costs for both of these data collections are primarily related to start-up and will not be on-going costs.

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total annual hours
FERC-545 .....	93	1	38	3,534
FERC-549C .....	93	1	2,614	243,102

The total annual hours for collection is 246,636 hours.

	FERC-549C	FERC-545
Annualized Capital/Startup Costs .....	\$12,691,327	\$184,495
Annualized Costs (Operations & Maintenance) .....	0	0
Total Annualized Costs .....	12,691,327	184,495

<sup>31</sup> Standards for Business Practices of Interstate Natural Gas Pipeline, 95 FERC ¶ 61,127, at 61,400-01 (2001); Standards for Business Practices of Interstate Natural Gas Pipelines, 77 FERC ¶ 61,061, at 61,232-33 (1996).

<sup>32</sup> 5 U.S.C. 553 (a)(1) (2000); 1 CFR 51.7(4) (2005). See 28 U.S.C. 1498 (2000) (government liability for patent and copyright infringement).

<sup>33</sup> NAESB Home Page, <http://www.naesb.org/pdf/ordrform.pdf>.

<sup>34</sup> 18 CFR 358 (2004).

The cost per respondent is \$138,450 (rounded off).

42. The Commission sought comments to comply with these requirements. Comments were received from six entities. No comments addressed the reporting burden imposed by these requirements. The substantive issues raised by the commenters are addressed in this preamble.

43. The Commission's regulations adopted in this rule are necessary to further the process begun in Order No. 587 of creating a more efficient and integrated pipeline grid by standardizing the business practices and electronic communication of interstate pipelines. Adoption of these regulations will update the Commission's regulations relating to business practices and communication protocols to conform to the latest version, Version 1.7, of the WGQ's consensus standards and the standards to implement Order No. 2004 and gas quality reporting requirements.

44. 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. The information required in this final rule will help the Commission carry out its responsibilities under the Natural Gas Act and conforms to the Commission's plan for efficient information collection, communication, and management within the natural gas industry.

45. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Chief Information Officer, CI-1, (202) 502-8415, or [michael.miller@ferc.gov](mailto:michael.miller@ferc.gov)] or the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Federal Energy Regulatory Commission, 725 17th Street, NW., Washington, DC 20503. The Desk Officer can also be reached at (202) 395-7856, or fax: (202) 395-7285.

#### *Environmental Analysis*

46. 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.<sup>35</sup> The Commission has categorically excluded certain actions

from these requirements as not having a significant effect on the human environment.<sup>36</sup> 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 that requires no construction of facilities.<sup>37</sup>

#### *Regulatory Flexibility Act Certification*

47. The Regulatory Flexibility Act of 1980 (RFA)<sup>38</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The regulations adopted here impose requirements only on interstate pipelines, the majority of which are not small business, and, these requirements are, in fact, designed to benefit all customers, including small business. Accordingly, pursuant to § 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.

#### *Document Availability*

48. 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.

49. From FERC's Home Page on the Internet, this information is available in eLibrary. The full text of this document is available in 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.

50. User assistance is available for eLibrary and the FERC's Web site during normal business hours. For assistance contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676 or for TTY, contact (202) 502-8659.

#### *Implementation Dates And Procedures*

51. Pipelines are required to file tariff sheets to reflect the changed standards

on or before July 1, 2005, with an effective date of September 1, 2005. Pipelines incorporating the Version 1.7 standards into their tariffs must include the standard number and Version 1.7. Pipelines incorporating by reference the gas quality standards must refer to the standard number (e.g. 4.3.89) and the Recommendation number in which the standard is adopted (R03035A). Pipelines incorporating the standards adopted by NAESB to implement Order No. 2004 must refer to the standard as 2004 Annual Plan Item 2 FERC Order 2004 and 2005 Annual Plan Item 8 (May 3, 2005) (Affiliate Order standards).

#### *Effective Date*

52. These regulations are effective June 16, 2005. 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.

**Magalie R. Salas,**  
*Secretary.*

■ In consideration of the foregoing, the Commission amends part 284, 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 as follows:

■ a. In paragraph (a)(2), the reference to "1100 Louisiana, Suite 3625" is revised to read "1301 Fannin, Suite 2350".

■ b. Paragraphs (a)(1)(i) through (v) are revised and a new paragraph (a)(1)(vi) is added to read as follows:

#### **§ 284.12 Standards for pipeline business operations and communications.**

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

(i) Additional Standards (General Standards and Creditworthiness Standards) (Version 1.7, December 31, 2003);

<sup>35</sup> 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).

<sup>36</sup> 18 CFR 380.4 (2004).

<sup>37</sup> See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27) (2004).

<sup>38</sup> 5 U.S.C. 601-612 (2000).

(ii) Nominations Related Standards (Version 1.7, December 31, 2003, including errata, October 15, 2004 and April 1, 2005);

(iii) Flowing Gas Related Standards (Version 1.7, December 31, 2003);

(iv) Invoicing Related Standards (Version 1.7, December 31, 2003);

(v) Electronic Delivery Mechanism Related Standards (Version 1.7, December 31, 2003) with the exception of Standard 4.3.4, and including the standards contained in 2004 Annual Plan Item 2 (June 25, 2004) (Order No. 2004 standards) and the standard contained in 2005 Annual Plan Item 8 (May 3, 2005) (Affiliate Order standards), and the standards contained in Recommendation R03035A (October 20, 2004) (gas quality reporting); and

(vi) Capacity Release Related Standards (Version 1.7, December 31, 2003, including errata, October 15, 2004).

\* \* \* \* \*

[FR Doc. 05-9803 Filed 5-16-05; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9198]

RIN 1545-AY42

#### Guidance Under Section 355(e); Recognition of Gain on Certain Distributions of Stock or Securities in Connection With an Acquisition; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final regulations and removal of temporary regulations.

**SUMMARY:** This document corrects final regulations and removal of temporary regulations (TD 9198), that were published in the **Federal Register** on Tuesday, April 19, 2005 (70 FR 20279) that relate to the recognition of gain on certain distributions of stock or securities of a controlled corporation in connection with an acquisition.

**DATES:** This correction is effective April 19, 2005.

**FOR FURTHER INFORMATION CONTACT:** Amber R. Cook, (202) 622-7530 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations and removal of temporary regulations (TD 9198), which

is the subject of this correction are under section 355(e) of the Internal Revenue Code.

#### Need for Correction

As published, the final regulations and removal of temporary regulations (TD 9198) contain errors that may prove to be misleading and are in need of clarification.

#### Correction of Publication

Accordingly, the publication of the final regulations and removal of temporary regulations (TD 9198), which was the subject of FR. Doc. 05-7811, is corrected as follows:

1. On page 20280, column 2, in the preamble, under the paragraph heading "New Safe Harbor for Acquisitions Before a Pro Rata Distribution", line 9, the language "discussions regarding the acquisition" is corrected to read "discussions with the acquirer regarding a distribution".

2. On page 20280, column 2, in the preamble, under the paragraph heading "New Safe Harbor for Acquisitions Before a Pro Rata Distribution", lines 15 and 16, the language "prior to discussions regarding the acquisition and that the acquisition was" is corrected to read "prior to discussions regarding a distribution and that the acquisition was".

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedures and Administration).*

[FR Doc. 05-9615 Filed 5-16-05; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 31

[TD 9196]

RIN 1545-BE21

#### Withholding Exemptions: Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting Amendment.

**SUMMARY:** This document corrects final and temporary regulations (TD 9196) that were published in the **Federal Register** on Thursday, April 14, 2005 (70 FR 19694). The document contains regulations providing guidance under section 3402(f) of the Internal Revenue Code (Code) for employers and employees relating to the Form W-4, "Employee's Withholding Allowance Certificate."

**DATES:** This document is effective on April 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** Margaret A. Owens, (202) 622-0047 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final and temporary regulations (TD 9196) that are the subject of these corrections are under section 3402 of the Internal Revenue Code.

#### Need for Correction

As published, TD 9196 contains errors that may prove to be misleading and are in need of clarification.

#### List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation.

#### Correction of Publication

■ Accordingly, 26 CFR part 31 is corrected by making the following correcting amendment:

#### PART 31—EMPLOYMENT TAXES

■ **Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

#### § 31.3402(f)(2)-1T [Corrected]

■ 1. Section 31.3402(f)(2)-1T(g)(4), the second sentence is amended by removing the date "April 14, 2008." and adding "April 11, 2008." in its place.

#### § 31.3402(f)(5)-1T [Corrected]

■ 2. Section 31.3402(f)(5)-1T(a)(2), the second sentence is amended by removing the date "April 14, 2008." and adding "April 11, 2008." in its place.

**Cynthia Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

[FR Doc. 05-9610 Filed 5-16-05; 8:45 am]

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