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Acting Manager, Small Airplane Directorate,
Aircraft Certification Service.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 38

[Docket No. RM05-5-003; Order No. 676-B]

Standards for Business Practices and Communication Protocols for Public Utilities

Issued April 19, 2007.

AGENCY: Federal Energy Regulatory
Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations under the Federal Power Act to incorporate by reference revisions to the Coordinate Interchange business practice standards (WEQ-004) adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) on June 22, 2006. These standards identify the processes and communications necessary to coordinate energy transfers that cross boundaries between entities responsible for balancing load and generation.

Incorporating these revised standards by reference into the Commission's regulations will ensure that the Coordinate Interchange business practice standards incorporated by reference in the Commission's regulations are compatible with the North American Electric Reliability Council's Interchange Scheduling and Coordination Reliability Standards that the Commission approved as mandatory and enforceable Reliability Standards in Order No. 693.

DATES: This Final Rule will become effective May 30, 2007. The incorporation of the standard is approved by the Director of the Federal Register on May 30, 2007. Implementation of the standards is required the later of the date on which the NERC standards become mandatory or the effective date of this rule.

FOR FURTHER INFORMATION CONTACT:

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Gary D. Cohen (legal issues), Office of
the General Counsel, Federal Energy
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Street, NE., Washington, DC 20426,
(202) 502-8321.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T.
Kelliher, Chairman; Suedeen G. Kelly,
Marc Spitzer, Philip D. Moeller, and
Jon Wellingshoff.

1. The Federal Energy Regulatory Commission (Commission) is amending its regulations under the Federal Power Act (FPA) ¹ to incorporate by reference revisions to the Coordinate Interchange business practice standards (WEQ-004) adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) on June 22, 2006. These standards identify the processes and communications necessary to coordinate energy transfers that cross boundaries between entities responsible for balancing load and generation.

I. Background

2. NAESB is a non-profit standards development organization established in January 2002 that serves as an industry forum for the development and promotion of business practice standards that promote an efficient marketplace for wholesale and retail natural gas and electricity. Since 1995, NAESB and its predecessor, the Gas Industry Standards Board, have been accredited members of the American National Standards Institute (ANSI), complying with ANSI's requirements that its standards reflect a consensus of the affected industries.

3. NAESB's standards include business practices that streamline the transactional processes of the natural gas and electric industries, as well as communication protocols and related standards designed to improve the efficiency of communication within each industry. NAESB supports all four quadrants of the gas and electric industries—wholesale gas, wholesale electric, retail gas, and retail electric. All participants in the gas and electric industries are eligible to join NAESB and participate in standards development.

4. NAESB's procedures are designed to ensure that all industry members can have input into the development of a standard, whether or not they are members of NAESB, and each standard NAESB adopts is supported by a consensus of the relevant industry segments.

5. The Coordinate Interchange business practice standards (WEQ-004) facilitate the transfer of electric energy between entities responsible for balancing load and generation (Balancing Authorities). The term "Interchange" in this context refers to energy transfers across boundaries between Balancing Authorities. The Coordinate Interchange business practice standards identify the processes needed to facilitate interchange transactions, and specify the arrangements and data to be communicated to the entity responsible for authorizing implementation of interchange transactions (Interchange Authority).

6. The revised Coordinate Interchange business practice standards (WEQ-004) being adopted in this Final Rule replace the earlier version of these standards previously incorporated by reference in the Commission's regulations in Order No. 676.² The standards that the Commission incorporated by reference into regulations in Order No. 676 were designed to be consistent with the Version 0 reliability standards of the North American Electric Reliability Council (NERC) dealing with Coordinate Interchange.

7. In April, August, and November 2006, NERC filed proposed reliability standards for Commission approval under section 215 of the FPA, including Version 1 and Version 2 standards governing Interchange Scheduling and Coordination (INT Reliability Standards).

8. On June 22, 2006, the WEQ membership ratified revised Coordinate Interchange standards to keep the WEQ's Coordinate Interchange business practices consistent with the applicable NERC INT Reliability Standards. On November 16, 2006, NAESB filed its revised Coordinate Interchange standards with the Commission.

9. On February 20, 2007, the Commission issued a notice of proposed rulemaking to assure that the Commission's business practice standards and reliability standards on Coordinate Interchange would continue

² *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676, 71 FR 26199 (May 4, 2006), FERC Stats. & Regs., Regulations Preambles ¶ 31,216 (Apr. 25, 2006), *reh'g denied*, Order No. 676-A, 116 FERC ¶ 61,255 (2006).

¹ 16 U.S.C. 791a, *et seq.*

to be consistent.³ The Coordinate Interchange NOPR proposed that the Commission incorporate by reference the revised Coordinate Interchange business practice standards (WEQ-004) adopted by the WEQ on June 22, 2006.

10. In addition, the Coordinate Interchange NOPR noted that NAESB's standards correspond to NERC's Version 1 INT Reliability Standards, and invited comment on whether NERC's Version 2 INT Reliability Standards necessitate any additional business practice standards beyond those discussed in the NOPR.

11. The WEQ revised its Coordinate Interchange business practice standards for three main reasons: (1) To incorporate business practice standards that had previously been included by NERC in its proposed reliability standards; (2) to modify the definitions and standards to better integrate with NERC's corresponding reliability standards; and (3) to eliminate an appendix and update standards to reflect current operating conditions in the Eastern and Western Interconnections, and within the Electric Reliability Council of Texas (ERCOT).

12. On March 16, 2007, the Commission approved NERC's INT Reliability Standards as mandatory and enforceable reliability standards in Order No. 693.⁴

13. On March 28, 2007, the New York Independent System Operator, Inc. (NYISO) filed comments in response to the Coordinate Interchange NOPR expressing its general support for NAESB's revisions to the WEQ-004 Standard and stating that it has no objection to incorporating the revised standards into the NYISO's Open Access Transmission Tariff (OATT) and Market Administration and Control Area Services Tariff (Services Tariff). NYISO requests, however, that the Final Rule not upset any existing waivers of the WEQ-004 Standard the Commission has already granted to entities. NYISO's comments were the only comments filed in response to the Coordinate Interchange NOPR.

II. Discussion

14. In this Final Rule, the Commission is amending its regulations under the FPA to incorporate by reference

³ *Standards for Business Practices and Communication Protocols for Public Utilities*, Notice of Proposed Rulemaking, 72 FR 8318 (Feb. 27, 2007), FERC Stats. & Regs. ¶ 32,612 (Feb. 20, 2007) (Coordinate Interchange NOPR).

⁴ *Mandatory Reliability Standards for the Bulk Power System*, Order No. 693, Final Rule, 72 FR 16416 (April 4, 2007), FERC Stats. & Regs. ¶ 31,242 at P 795 through P 887 (Mar. 16, 2007).

revisions to the Coordinate Interchange business practice standards (WEQ-004) adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) on June 22, 2006.⁵ These standards update the business practice standards used by the electric industry so that they will dovetail with the reliability standards the Commission has approved. Adoption of these revised business practice standards ensures that public utilities comply with a consistent set of standards. To ensure such coordination, public utilities will be required to comply with these standards on the later of the date on which the NERC standards become mandatory or the effective date of this rule. We are pleased with the cooperation and coordination between NAESB and NERC. We appreciate the efforts that these organizations and the industry have made together to ensure that reliability standards and business practice standards work harmoniously.

15. In its revised reliability standards, NERC deleted certain business practice requirements with the expectation that NAESB would include these business practices in its business practice standards.⁶

16. The revised Coordinate Interchange business practice standards the WEQ adopted to replace the deleted NERC standards include:

- WEQ Standards 004-1 and 004-3.1 replace NERC INT-001-0 Requirement R1.1. The revised WEQ standards address how requests for Interchange should be made and who is responsible for submitting such requests.

- WEQ Standards 004-3, 004-5, 004-8.1, and 004-8.2 replace NERC's INT-001-0 Requirement R3. These standards establish the timing requirements for submitting requests for Interchange. The WEQ's timing table (Appendix D referenced in WEQ Standard 004-8.1) has been revised to better match up with the timing table in NERC's INT-005-1.

- WEQ Standard 004-5 replaces NERC's INT-001-0 Requirement R4. This standard addresses the data that should be included in a request for

⁵ The specific standards developed by the WEQ that we are incorporating by reference in this Final Rule are as follows: Coordinate Interchange (WEQ-004, June 22, 2006) including Purpose, Applicability, and Standards 004-0 through 004-17.2, and 004-A through 004-D.

⁶ The deleted NERC standards include Requirements R1.1, R3, R4, and R5 of INT-001-0, which relate to the timing and content of e-tags, and Requirement R1.1.3 of INT-003-0, which addresses ramp starting time and duration. See *Mandatory Reliability Standards for the Bulk Power System*, Notice of Proposed Rulemaking, 71 FR 64,770 (Nov. 3, 2006), FERC Stats. & Regs. ¶ 32,608 at 32,913 & note 3 (2006).

Interchange and who is responsible for ensuring that these data are included in the request for Interchange.

- WEQ Standard 004-12 replaces NERC's INT-001-0 Requirement R5. This standard requires that parties involved in an Interchange must have personnel and facilities on site and immediately available to receive notification of changes to the Interchange.

- WEQ Standards 004-17, 004-17.1, and 004-17.2 replace NERC's INT-003-0 Requirement R1.1.3. These standards establish the default ramp rates that apply to an Interchange unless otherwise agreed to by the parties involved.

17. The WEQ also modified the Coordinate Interchange definitions and business practice standards to better coordinate with NERC's INT Reliability Standards. This follows the Commission's directive in Order No. 676 that, "[i]n future versions of the standards, NAESB should use the NERC definitions relating to reliability."⁷ The modifications include:

- New and revised definitions, such as changing "Reliability Authority" to "Reliability Coordinator".

- Changes to definitions resulting from WEQ's efforts to match the language used in NERC's "Glossary of Terms Used in Reliability Standards" (Glossary) where appropriate. For example, the WEQ added a definition for "Arranged Interchange" using the same language as NERC.

- Changes to definitions, such as the "Request for Interchange" definition, where the words are not identical, but are compatible with NERC's, facilitating coordination with the NERC INT Reliability Standards but reflecting the different responsibilities of the two organizations.

- Changes to definitions, where NERC does not have a corresponding definition in its Glossary, but the WEQ modified its definitions, such as the "Approval Entity" definition, to reflect the definition changes previously discussed.

- Changes to delete definitions no longer needed in the Coordinate Interchange business practice standards or that had been replaced by other definitions. Deleted definitions include: "Checkout Process"; "Interchange Transaction"; "Interchange Transaction Tag"; "Interconnection"; "Market Operator"; "Scheduling Agent"; and "Transmission Service Provider".

- Changes to the Coordinate Interchange business practice standards made to better coordinate with NERC's

⁷ Order No. 676 at P 40.

INT Reliability Standards. The standards were modified to: (1) incorporate the revised definitions; (2) provide greater detail, as in WEQ Standard 004-3; (3) add new standards to clarify and better coordinate with NERC, such as in WEQ Standard 004-2.2; and (4) delete standards that are no longer appropriate, such as WEQ Standard 004-1.2.

18. The Coordinate Interchange business practices standards were also modified to reflect the current business practices of the Eastern and Western Interconnections and ERCOT. Language previously included in Appendix A was moved to Coordinate Interchange business practice standards 004-3, 004-3.1, and 004-8.2.

19. NYISO requests that the Commission not overturn any existing waivers of the WEQ-004 Standard that the Commission previously granted to entities. NYISO states that, in an order issued on November 16, 2006, the Commission granted it waivers of certain NAESB business practice standards, including certain portions of the WEQ-004 Standard.⁸ NYISO points to the waiver it received of WEQ-004-8.1 and Appendices A, B and D, to the extent these components of the WEQ-004 Standard govern physical transmission capacity reservations. In requesting that waiver, the NYISO explained that such standards would not be applicable in the locational-based marginal price (LBMP) market it operates. NYISO also maintains that entities should not have to reapply for waivers they have already obtained.

20. As we stated in Order No. 676, when parties seek regional or generic variations of the standards, they should raise their concerns in the WEQ standard development process:

Now that the WEQ is developing these standards, we prefer that initially all regional and other generic requests for variances, such as to accommodate different business models, be raised during the WEQ standards development process, and we encourage participation by all interested persons in that process. * * * By first submitting the request to the WEQ during development of the standard, the request may be resolved during the WEQ process. Even if the request is not resolved by the WEQ, the process will help create a record should the requester seek a variance or waiver when the standard is presented to the Commission.⁹

21. We are very pleased that since the issuance of Order No. 676, parties have sought to raise their regional differences at NAESB, and this effort has resulted in consideration of these issues in the

revised Coordinate Interchange Standards that we are adopting in this Final Rule.¹⁰ For example, the WEQ-004 Coordinate Interchange standards have been significantly revised, incorporating regional business practices for the Eastern, Western and ERCOT regions. NAESB also has voted to add a voting segment for ISOs/RTOs so these organizations can have any variance or other issues related to their business model addressed through the NAESB process. Having the industry determine such variances is preferable to having these issues raised in individual waiver requests with the Commission.

22. Because the Coordinate Interchange standards for which parties have previously been granted waivers have been revised as discussed above, we find that it will be necessary for all entities who have received waiver of any of the Coordinate Interchange standards to file to request a waiver of the revised standard. While we recognize the burden of having parties reapply for waivers, we cannot rule on individual waiver requests in a generic rulemaking proceeding and cannot determine without a specific waiver request whether any of the changes made by NAESB to the coordinate interchange standards have resolved any of the issues that gave rise to our grant of a waiver of the prior standard. As we stated in Order No. 676, utilities will not be required to comply with any standard for which they request waiver until we act on the waiver request.¹¹ However, small entities that have obtained waiver of the Order No. 676 standards because they meet the criteria for small public utility waivers provided in Order No. 676 need not apply for a waiver of the revised Coordinate Interchange standards, because their waivers were predicated on their status as small entities, which has not changed.¹²

23. Parties seeking waivers of the requirements of this Order must file a request on or before the implementation date for this rule, specifying the exact provisions of the standards for which the waiver is sought, and including a full statement of the reasons the applicant believes such a waiver would be appropriate. The request should cover only the Coordinate Interchange business practice standards; waivers of other business practice standards remain unaffected by this Order.

III. Implementation Dates and Procedures

24. Utilities are required to implement the Coordinate Interchange standards that we are incorporating by reference in this Final Rule by the later of the date when the Reliability Standards that the Commission approved in Order No. 693 become mandatory or the effective date of this rule.

25. To reduce the burden on filers, as we did in Order No. 676, although public utilities must fully comply with the requirements of this Final Rule as soon as it becomes effective, we are not requiring public utilities immediately to file revised open access transmission tariffs (OATTs) incorporating these changes. When NAESB files the next version of the WEQ's electric standards, if the Commission decides to incorporate the new version of the WEQ's electric standards in its regulations, public utilities will at that time be required to file revised OATTs including these standards.

IV. Notice of Use of Voluntary Consensus Standards

26. Office of Management and Budget (OMB) Circular A-119 (section 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 WEQ.

V. Information Collection Statement

27. OMB's 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 assigns 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 this collection of information unless the collection of information displays a valid OMB control number.

28. This Final Rule will affect will affect the following existing data collection: Standards for Business Practices and Communication Protocols for Public Utilities (FERC-717)

29. The following burden estimate is based on the projected costs for the industry to implement revisions to the WEQ's Coordinate Interchange standards (WEQ-004). The following

⁸ New York Independent System Operator, Inc., 117 FERC ¶ 61,197 (2006).

⁹ Order No. 676 at P 78.

¹⁰ See, *supra*, discussion in P 18.

¹¹ Order No. 676 at P 102.

¹² Order No. 676 at P 85-87.

burden estimates cover compliance with this rule:

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total number of hours
FERC-717	220	1	8	1760
Totals				1760

Total Annual Hours for Collection (Reporting and Recordkeeping, (if appropriate)) = 1760.

Information Collection Costs: The Commission projects the average annualized cost for all respondents to be the following:¹³

	FERC-717
Annualized Capital/Startup Costs	\$264,000
Annualized Costs (Operations & Maintenance)	N/A
Total Annualized Costs	264,000

30. The Commission sought comments on the burden of complying with the requirements imposed by these requirements. No comments addressed the reporting burden were filed.

31. The Commission's regulations adopted in this rule are necessary to establish a more efficient and integrated wholesale electric power grid. Requiring such information ensures both a common means of communication and common business practices that provide entities engaged in the wholesale transmission of electric power with timely information and uniform business procedures across multiple transmission providers. These requirements conform to the Commission's goal for efficient information collection, communication, and management within the electric power 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.

32. OMB regulations¹⁴ require it to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this Final Rule to OMB.

¹³ The total annualized costs for the information collection is \$264,000. This number is reached by multiplying the total hours to prepare responses (1760 hours) by an hourly wage estimate of \$150 (a composite estimate that includes legal, technical and support staff rates, \$90+\$35+\$25). \$264,000 = \$150 x 1760.

¹⁴ 5 CFR 1320.11.

These information collections are mandatory requirements.

Title: Standards for Business Practices and Communication Protocols for Public Utilities (FERC-717) (*formerly* Open Access Same Time Information System).

Action: Proposed collection.

OMB Control No.: 1902-0173.

Respondents: Business or other for profit, (Public Utilities—Not applicable to small businesses.).

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

Necessity of the Information: This rule will upgrade the Commission's business practice and communication protocols (methods by which computers coordinate their communications) governing Coordinate Interchange transactions to complement the NERC INT Reliability Standards approved by the Commission in Order No. 693. The implementation of these standards and regulations is necessary to increase the efficiency of the wholesale electric power grid. The standards being adopted define procedures for market participants to request the implementation of Interchange Transactions or agreements to transfer energy from a seller to a buyer that crosses one or more Balancing Authority boundaries.

33. The information collection requirements of this Final Rule are based on the transition from transactions being made under the Commission's existing business practice standards governing Coordinate Interchange transactions to conducting such transactions under the revised Coordinate Interchange standards (WEQ-004) adopted in this rule. The implementation of these data requirements will help the Commission carry out its responsibilities under the FPA. The Commission will use the data in rate proceedings to review rate and tariff changes by public utilities, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

34. Interested persons may obtain information on the reporting requirements by contacting: Federal

Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, 888 First Street, NE., Washington, DC 20426, Tel: (202) 502-8415 / Fax: (202) 273-0873, E-mail: michael.miller@ferc.gov.

or by contacting: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Energy Regulatory Commission. (Re: OMB Control Nos. 1902-0096 & 1902-0173) , Tel: (202) 395-4650, E-mail: omb_submissions@omb.eop.gov.

VI. Environmental Analysis

35. 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.¹⁵ As the Commission stated in the Interchange NOPR, the Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in this categorical exclusion are rules that are clarifying, corrective, or procedural, or that do not substantially change the effect of the regulations being amended.¹⁶ The categorical exclusion also includes information gathering, analysis, and dissemination.¹⁷ The requirements imposed by this Final Rule 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 electric power that requires no construction of facilities.¹⁸ As a result, neither an environmental impact statement nor an environmental assessment is required.

¹⁵ *Regulations Implementing the National Environmental Policy Act*, Order No. 486, 52 FR 47897, FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶ 30.783 (1987).

¹⁶ 18 CFR 380.4(a)(2)(ii).

¹⁷ 18 CFR 380.4(a)(5).

¹⁸ See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

VII. Regulatory Flexibility Act Certification

36. The Regulatory Flexibility Act of 1980 (RFA)¹⁹ generally requires a description and analysis of any final rule that will have significant economic impact on a substantial number of small entities. The rule adopted here imposes requirements only on public utilities, which are not small businesses, and these requirements are, in fact, designed to benefit all customers, including small businesses.

37. The Commission has followed the provisions of both the RFA and the Paperwork Reduction Act on potential impact on small businesses and other small entities. Specifically, the RFA directs agencies to consider four regulatory alternatives to be considered in a rulemaking to lessen the impact on small entities: tiering or establishment of different compliance or reporting requirements for small entities, classification, consolidation, clarification or simplification of compliance and reporting requirements, performance rather than design standards, and exemptions. As the Commission originally stated in Order No. 889, the OASIS regulations now known as "Standards for Business Practices and Communication Protocols for Public Utilities" apply only to public utilities that own, operate, or control transmission facilities subject to the Commission's jurisdiction, and should a small entity be subject to the Commission's jurisdiction, it may file for waiver of these regulations.²⁰ The Commission is not modifying its prior determinations on this issue in this Final Rule.

38. The procedures the Commission is following in this Final Rule are in keeping with exemption provisions of the RFA. Accordingly, pursuant to section 605(b) of the RFA,²¹ the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

VIII. Document Availability

39. 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 the Commission's Home Page ([http://](http://www.ferc.gov)

www.ferc.gov) and in the Commission'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.

40. From the Commission's Home Page on the Internet, this information is available in the eLibrary. The full text of this document is available in the eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type "RM05-5" in the docket number field.

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

IX. Effective Date and Congressional Notification

42. This Final Rule will become effective May 30, 2007. The Commission has determined with the concurrence of the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, that this rule is not a major rule within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.²²

List of Subjects

18 CFR Part 38

Conflict of interests, Electric power plants, Electric utilities, Incorporation by reference, Reporting and recordkeeping requirements.

By the Commission.

Philis J. Posey,

Deputy Secretary.

■ In consideration of the foregoing, the Commission amends Chapter I, Title 18, part 38 of the *Code of Federal Regulations*, as follows:

PART 38—BUSINESS PRACTICE STANDARDS AND COMMUNICATION PROTOCOLS FOR PUBLIC UTILITIES

■ 1. The authority citation for part 38 continues to read as follows:

Authority: 16 U.S.C. 791-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352.

■ 2. In § 38.2, paragraph (a)(4) is revised to read as follows:

§ 38.2 Incorporation by reference of North American Energy Standards Board Wholesale Electric Quadrant standards.

(a) * * *

(4) Coordinate Interchange (WEQ-004, June 22, 2006);

* * * * *

[FR Doc. E7-7892 Filed 4-27-07; 8:45 am]

BILLING CODE 6717-01-P

RAILROAD RETIREMENT BOARD

20 CFR Part 220

RIN 3220-AB50

Determining Disability

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Board amends its regulations to index the amount of earnings used to determine if an individual is engaged in substantial gainful activity (SGA) to any increase in the Social Security national average wage index, to increase from \$200 to \$530 the minimum amount of monthly earnings to count during a trial work period and then index that amount to the Social Security national average wage index.

DATES: These rules are effective on April 30, 2007.

ADDRESSES: Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092.

FOR FURTHER INFORMATION CONTACT:

Marguerite P. Dadabo, Assistant General Counsel, Office of General Counsel, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092, (312) 751-4945, TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION: The Railroad Retirement Act provides for disability annuities for employees, widow(er)s, and children of deceased railroad employees who are unable to engage in any regular employment because of a physical or mental impairment. Regular employment is defined by reference to the definition of substantial gainful activity under the Social Security Act. Sections 220.141 and 220.142 of the Board's regulations reflect this definition and define "substantial gainful activity" (SGA) as work activity that involves doing significant physical or mental activities for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not profit is realized. Section 220.143 sets forth earnings levels at which the Board considers a person to be engaged in SGA regardless of the severity of his or her impairment. The amount of average monthly earnings that ordinarily demonstrates SGA was increased effective July 1, 1999, when the Board

¹⁹ 5 U.S.C. 601-612.

²⁰ Small entities that qualified for a waiver from the requirements of Order Nos. 888 and 889 may apply for a waiver of the requirement to comply with the standards incorporated by reference in the regulations we are adopting in this Final Rule.

²¹ 5 U.S.C. 605(b).

²² See 5 U.S.C. 804(2).