

786; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

#### PART 745—[AMENDED]

- 7. The authority citation for 15 CFR part 745 is revised to read as follows:

**Authority:** 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

#### PART 754—[AMENDED]

- 8. The authority citation for 15 CFR part 754 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 30 U.S.C. 185(s), 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

#### PART 774—[AMENDED]

- 9. The authority citation for 15 CFR part 774 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

Dated: December 18, 2009.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. E9-30481 Filed 12-23-09; 8:45 am]

**BILLING CODE 3510-33-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 40

**[Docket No. RM09-8-000; Order No. 730]**

#### Revised Mandatory Reliability Standards for Interchange Scheduling and Coordination

Issued December 17, 2009.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission hereby approves the North American Electric Reliability Corporation's revision of

three Commission-approved Reliability Standards, designated INT-005-3, Interchange Authority Distributes Arranged Interchange; INT-006-3, Response to Interchange Authority; and INT-008-3, Interchange Authority Distributes Status.

**DATES: Effective Date:** The Final Rule will become effective January 25, 2010.

**FOR FURTHER INFORMATION CONTACT:**  
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Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502-8744.

#### SUPPLEMENTARY INFORMATION:

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

#### Order No. 730

#### Final Rule

*Issued December 17, 2009*

1. Pursuant to section 215 of the Federal Power Act (FPA), the Commission hereby approves three revised Interchange Scheduling and Coordination (INT) Reliability Standards developed by the North American Electric Reliability Corporation (NERC): INT-005-3, Interchange Authority Distributes Arranged Interchange; INT-006-3, Response to Interchange Authority; and INT-008-3, Interchange Authority Distribution of Information.<sup>1</sup> The approved changes provide consistency in responding to interchange requests by clarifying timing requirements for all affected entities, and facilitate the reliable operation of the Bulk-Power System by providing Western Electricity Coordinating Council (WECC) entities sufficient time to assess and respond to requests for interchange service.

#### I. Background

##### A. EPAct 2005 and Mandatory Reliability Standards

2. Section 215 of the FPA requires a Commission-certified Electric

Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Section 215(d)(2) of the FPA states that the Commission may approve, by rule or order, a proposed Reliability Standard if it determines that the Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.<sup>2</sup> If the Commission disapproves of the proposed Standard in whole or in part, it must remand the proposed Standard to the ERO for further consideration.<sup>3</sup> Section 215(d)(5) grants the Commission authority, upon its own motion or upon complaint, to order the ERO to submit to the Commission a proposed Reliability Standard or a modification to a Reliability Standard that addresses a specific matter if the Commission considers such a modified Reliability Standard appropriate to carry out section 215. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.<sup>4</sup>

3. Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO<sup>5</sup> and, subsequently, certified NERC as the ERO.<sup>6</sup> On April 4, 2006, as modified on August 28, 2006, NERC submitted to the Commission a petition seeking approval of 107 proposed Reliability Standards. On March 16, 2007, the Commission issued a Final Rule, Order No. 693, approving 83 of these 107 Reliability Standards and directing other action related to these Reliability Standards.<sup>7</sup> In addition, pursuant to section 215(d)(5) of the FPA, the Commission directed NERC to develop modifications to 56 of the 83 approved Reliability Standards.<sup>8</sup>

#### B. Order No. 713

4. In response to a February 7, 2007 urgent action request from WECC, NERC developed the version 2 INT Reliability Standards, which were approved by the

<sup>2</sup> 16 U.S.C. 824o(d)(2).

<sup>3</sup> 16 U.S.C. 824o(d)(4).

<sup>4</sup> See 16 U.S.C. 824o(e)(3).

<sup>5</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

<sup>6</sup> *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g & compliance*, 117 FERC ¶ 61,126 (2006), *aff'd Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

<sup>7</sup> *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

<sup>8</sup> 16 U.S.C. 824o(d)(5).

<sup>1</sup> 16 U.S.C. 824o. The Commission is not adding any new or modified text to its regulations.

Commission in Order No. 713.<sup>9</sup> The version 2 changes increased from five to ten minutes the time for entities in the Western Interconnection to assess interchange requests submitted from 30 to 60 minutes before the requested start time.<sup>10</sup> The approved version 2 Reliability Standards responded to a problem that balancing authorities and transmission service providers in WECC were unable to review certain interchange service requests during the then universal five minute assessment time.<sup>11</sup> This inability caused the e-Tag requests to be denied, requiring resubmission and creating both frustration and inefficiencies.<sup>12</sup>

5. NERC's action in response to an urgent action request must be made permanent, through a full vetting in the regular standards-development process. Shortly after receiving the urgent action request, WECC and a joint NERC/NAESB<sup>13</sup> work group submitted a Standards Authorization Request to NERC seeking permanent revisions to the INT Reliability Standards to accommodate the expanded WECC timing requirements. In response, NERC developed the permanent revisions embodied in the version 2 INT Reliability Standards, along with new glossary terms, discussed more fully below.<sup>14</sup>

#### C. NERC Filing

6. On February 5, 2009, NERC filed a petition for Commission approval of the

<sup>9</sup> Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards, Order No. 713, 124 FERC ¶ 61,071, at P 58–67 (2008).

<sup>10</sup> Interchange service refers to requests for energy transfers that cross balancing authority boundaries. See NERC Glossary of Terms Used in Reliability Standards (as revised) (glossary), *Interchange* (2009). The glossary was originally filed with NERC's April 4, 2006 Request for Approval of Reliability Standards in Docket No. RM06–16–000 and was affirmed in Order No. 693, FERC Stats. and Regs. ¶ 31,242. The glossary is appended to the Reliability Standards and is available on the NERC Web site, <http://www.nerc.com>.

<sup>11</sup> It was originally anticipated that different practices in the Western Interconnection would be reflected in a regional difference. However the regional difference was withdrawn, making WECC entities subject to the same practices in effect for the Eastern Interconnection. See NERC, Compliance Filing, RM08–16–000 (Jun. 14, 2007) (responding to Commission directive in Order No. 693, FERC Stats. and Regs. ¶ 31,242 at P 825, and withdrawing request for approval of regional difference for the Western Interconnection).

<sup>12</sup> Order No. 713, 124 FERC ¶ 61,071 at P 63.

<sup>13</sup> North American Energy Standards Board.

<sup>14</sup> As with Reliability Standards, the Commission also reviews and approves revisions to the NERC glossary pursuant to FPA section 215(d)(2). Further, the Commission may direct a modification to address a specific matter identified by the Commission pursuant to section 215(d)(5). See, e.g., Order No. 693, FERC Stats. and Regs. ¶ 31,242 at P 1893–98.

version 3 INT Reliability Standards, INT–005–3; INT–006–3; and INT–008–3.<sup>15</sup> Reliability Standard INT–005–3 applies to interchange authorities and is intended to “ensure that the implementation of Interchange between Source and Sink Balancing Authorities is distributed by an Interchange Authority such that Interchange information is available for reliability assessments.”<sup>16</sup> Reliability Standard INT–006–3 applies to balancing authorities and transmission service providers and is intended to “ensure that each Arranged Interchange is checked for reliability before it is implemented.”<sup>17</sup> Reliability Standard INT–008–3 applies to interchange authorities and is intended to “ensure that the implementation of Interchange between Source and Sink Balancing Authorities is coordinated by an Interchange Authority.”<sup>18</sup> Thus, INT–008–3 contains requirements establishing an interchange authority's responsibilities to oversee and coordinate the interchange of electricity from one balancing authority to another.

7. The revised INT Reliability Standards incorporate separate timing tables for the Western Interconnection and the Eastern Interconnections, which includes Electric Reliability Council of Texas (ERCOT) and Hydro-Quebec. Consistent with Order No. 713, these tables affirm and clarify the increase in the reliability assessment times for WECC from five minutes to ten minutes for requests submitted less than 60 minutes and no less than 15 minutes prior to ramp start time. The tables specify Western Interconnection response times and clarify that balancing authorities and transmission service providers may submit on-time e-Tags<sup>19</sup> up to 20 minutes prior to the operating hour. NERC also makes minor textual modifications to clarify that all entities subject to the INT Reliability Standards must respond to “on-time” requests, as well as to all requests for

<sup>15</sup> The revised INT Reliability Standards are provided in the petition and are available on the Commission's elibrary document retrieval system in Docket No. RM09–8–000 and also on NERC's Web site, <http://www.nerc.com>.

<sup>16</sup> INT–005–3, Purpose Statement.

<sup>17</sup> INT–006–3, Purpose Statement.

<sup>18</sup> INT–008–3, Purpose Statement.

<sup>19</sup> Electronic Tagging, or e-Tag, is a request to implement a new interchange transaction as a physical energy flow, i.e., an RFI. The e-Tag documents the requested physical interchange transaction and identifies participants. E-Tags include expected flows, and the information provided may be used in mitigating constraints, when needed. See NERC's Joint Interchange Scheduling Work Group, Electronic Tagging Functional Specification Version 1.8.0 (Nov. 7, 2007); see also Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 795.

emergency and reliability adjustment interchange service.<sup>20</sup> NERC revises the version 3 tables to accommodate regions in which a response to arranged interchange is required, and clarifies INT–006–3, Measure M1 to correspond more closely to Requirement R1.

8. Revised Requirement R1 of INT–006–003 clarifies that balancing authorities and transmission service providers in all interconnections must respond to “on-time” requests for interchange service, as well as to each request for Emergency and Reliability Adjustment interchange services. To implement these requirements, NERC proposes three related definitions for its glossary: “After the Fact,” “Emergency Request for Interchange (RFI),” and “Reliability Adjustment RFI,” and specifies appropriate responses for “Late,” “On-time” and “After the Fact” requests for service referenced in the timing tables:

*After the Fact:* A time classification assigned to a Request for Interchange (RFI) when the submittal time is greater than one hour after the start time of the RFI.

*Emergency Request for Interchange:* RFI to be initiated [for] Emergency or Energy Emergency conditions.

*Reliability Adjustment RFI:* Request to modify an Implemented Interchange Schedule for reliability purposes.

9. NERC states that the version 3 INT Reliability Standards (INT–005–3, INT–006–3, and INT–008–3) ensure the safe and reliable operation of the Bulk-Power System. According to NERC, the Reliability Standards improve Bulk-Power System reliability by providing WECC entities sufficient time to assess and respond to requests for interchange service. In addition, establishing a separate timing table for WECC clarifies the timing requirements for the Western Interconnection. The timing requirements for the Eastern Interconnections (including ERCOT and Hydro-Quebec) are also modified by adopting the on-time, late, and after-the-fact classifications and proposing appropriate responses under the Reliability Standards. NERC reports that the new terms incorporated in the timing tables are consistent with existing industry e-Tag specifications, which are used to request and arrange interchange service, and use of these terms will ensure uniform treatment for all entities subject to the INT Reliability Standards.

10. Consistent with the NERC Rules, a NERC-assembled ballot body, consisting of industry stakeholders, developed the revisions using the NERC Reliability Standards Development

<sup>20</sup> INT–006–003, Requirement R1.

Procedure.<sup>21</sup> The NERC Board of Trustees (Board) approved the revisions.<sup>22</sup> NERC requests that the revised INT Reliability Standards be effective on the first day of the quarter, three months after regulatory approval is granted.<sup>23</sup>

#### D. Notice of Proposed Rulemaking (NOPR) and Comment

11. On June 18, 2009, the Commission issued a NOPR seeking comment on its proposal to approve NERC's revisions to Reliability Standards INT-005-3, INT-006-3 and INT-008-3.<sup>24</sup>

12. No participant filed comments opposing the Commission's proposal to approve NERC's revised INT Reliability Standards. In fact, Ameren Services Co. filed the sole comment, requesting clarification that a NOPR reference to "transmission operators" was not intended to modify the Reliability Standard requirements, which apply to transmission service providers. The reference is corrected to refer to "transmission service providers" in the discussion in this order.

## II. Discussion

13. Pursuant to section 215(d) of the FPA, the Commission approves Reliability Standards INT-005-3, INT-006-3 and INT-008-3 and the related glossary terms as mandatory and enforceable. The revised INT Reliability Standards facilitate the reliable operation of the Bulk-Power System by providing WECC entities sufficient time to assess and respond to requests for interchange service before the underlying e-Tags for these requests expire, and by clarifying timing requirements for all affected entities.

14. These version 3 INT Reliability Standards finalize and improve upon the version 2 changes approved in Order No. 713. The Commission agrees that separating the WECC- and Eastern-Interconnection/ERCOT requirements in the timing tables adds clarity for entities operating in the WECC system. In addition, retaining the slightly modified versions of the prior timing tables for the Eastern Interconnection and ERCOT helps to ensure consistency in responding to interchange requests in those areas.

<sup>21</sup> See NERC's Rules of Procedures, Appendix 3A.

<sup>22</sup> NERC petition at 3.

<sup>23</sup> The petition makes no modification to the violation risk factors or violation severity levels for the revised INT Reliability Standards. Therefore, the currently effective violation risk factors and violation severity levels will continue to apply.

<sup>24</sup> Electric Reliability Organization Revised Mandatory Reliability Standards for Interchange Scheduling and Coordination, Notice of Proposed Rulemaking, 74 FR 30027 (Jun. 24, 2009), FERC Stats. & Regs. ¶ 32,643 (2009) (NOPR).

15. Accordingly, the Commission finds that the ERO's revisions are just, reasonable, not unduly discriminatory or preferential, and in the public interest. Therefore, the Commission approves the revised INT Reliability Standards as mandatory and enforceable, effective as requested.<sup>25</sup> While we are accepting the revised INT Reliability Standards, the Commission will discuss below specific issues, in particular the changes to Reliability Standard INT-006-3 to highlight the effect on reliability.

#### Specific Issues

16. INT-006-3, Requirement R1 requires communication between balancing authorities, transmission service providers, and an interchange authority regarding when to respond to a request for interchange service:

*Requirement R1:* Prior to the expiration of the reliability assessment period defined in the timing requirements tables in this standard, Column B, the Balancing Authority and the Transmission Service Provider shall respond to each On-time Request for Interchange (RFI), and to each Emergency RFI and Reliability Adjustment RFI from an Interchange Authority to transition an Arranged Interchange to a Confirmed Interchange.

17. Balancing authorities and transmission service providers must review proposed interchange transactions to ensure that transmission service is available and system limits are not violated and must inform the interchange authority whether a request may be confirmed.<sup>26</sup> Reliability coordinators and transmission service providers must review composite energy interchange transaction information to ensure that their systems can accommodate the energy, generation is available based on start-up characteristics, and the scheduling path is available on both local and adjacent systems.

18. NERC's proposal incorporates one important change from the version 2 requirements. The prior revision, reflected in version 2, requires responsible entities to "respond to a request from an Interchange Authority to transition an Arranged Interchange to a Confirmed Interchange." This language suggests that a response is required for requests within the designated time periods. In version 3,

<sup>25</sup> The petition makes no modification to the violation risk factors or violation severity levels for the revised INT Reliability Standards. Therefore, the currently effective violation risk factors and violation severity levels will continue to apply.

<sup>26</sup> See INT-005-3, Requirement R1; INT-006-3, Requirement R1 (Response to Interchange Authority).

Requirement R1 is clarified, directing the applicable entity to respond to "on-time" requests for interchange service within a given time period, and also to all Emergency and Reliability Adjustment requests for interchange service.<sup>27</sup> Entities are required to respond to each of these latter two requests regardless of the timelines identified in the timing tables, with paperwork to follow later. Time classifications and deadlines apply to both initial arranged interchange submittals and any subsequent modifications to the arranged interchange.

19. The Commission finds the clarification to INT-006-3, Requirement R1 acceptable. Responsible entities are still required to respond to all on-time requests for interchange service, as well as all requests for Emergency interchange service and Reliability Adjustment interchange service.

20. In Order No. 713, the Commission approved version 2 of the INT Reliability Standards, noting that NERC's compliance with the Order No. 693 directive to modify Reliability Standard INT-006-1 is ongoing.<sup>28</sup> While we accept the current changes, in light of NERC's efforts to modify the Reliability Standards, we remind NERC to ensure the Commission's outstanding directives are addressed in future changes to the INT Reliability Standards.

21. Consistent with the NOPR, the Commission finds the revisions to the three revised INT Reliability Standards, INT-005-3, INT-006-3 and INT-008-3, and the associated glossary terms reasonable in providing consistent and clear rules for responding to interchange service requests. The Commission accepts the revised INT Reliability Standards as mandatory and enforceable and the related glossary terms, as discussed.

## III. Information Collection Statement

22. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.<sup>29</sup> The information contained here is also subject to review under section 3507(d) of the Paperwork Reduction Act of 1995.<sup>30</sup>

23. As stated above, the Commission previously approved, in Order No. 693, each of the Reliability Standards that are

<sup>27</sup> See INT-006-3, Measure M1.

<sup>28</sup> Order No. 713, 124 FERC ¶ 61,071 at P 67 (citing Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 866).

<sup>29</sup> 5 CFR 1320.11.

<sup>30</sup> 44 U.S.C. 3507(d).

the subject of the current rulemaking. This Final Rule approves revisions to three previously approved Reliability Standards (as revised) developed by NERC as the ERO. The approved revisions relate to existing Reliability Standards and do not substantially change the requirements or reporting obligations established by these standards; therefore, they do not add to or otherwise increase entities' current reporting burden. Thus, the Final Rule does not materially and adversely affect the burden estimates relating to the currently effective version of the Reliability Standards presented in Order No. 693.

24. Reliability Standards INT-005-3, INT-006-3, and INT-008-3 that are the subject of the approved revisions were approved in Order No. 693, and the related information collection requirements were reviewed and approved, accordingly.<sup>31</sup> The approved revisions do not modify or otherwise affect the collection of information already in place. With respect to the INT Reliability Standards, the revisions are mainly concerned with the timing of responses to requests for service rather than the required documentation.<sup>32</sup> Under the existing requirements, affected entities were required to respond to all requests for service covered by the INT Reliability Standards, while the approved revisions clarify that entities need not respond to late requests for service (with exceptions for services needed for emergency or reliability purposes). As we noted above, the revisions continue to be consistent with existing industry e-Tag specifications used to request and arrange interchange service and will ensure uniform treatment for all entities subject to the INT Reliability Standards. The revised provisions apply to processing requests for service in the next hour, typically for economy energy exchanges, and should not result in a noticeable change in the e-Tagging practices for power sales or in the fulfillment of exchanges or ability to attain cost savings. In fact, the revisions should facilitate cost saving by affirming that utilities must respond to all emergency or reliability exchange services requests, providing parties submitting late requests with an opportunity to correct their error.

<sup>31</sup> See Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1901–07.

<sup>32</sup> The OMB control number used in this analysis was issued in Docket No. RM06-16-000, Order No. 693, FERC Stats. and Regs. ¶ 31,242 at P 1907 and incorporated to support the information collection statement in Order No. 713, 124 FERC ¶ 61,071 at P 69.

25. Finally, the revisions do not establish any significant reporting obligations. The Commission does not consider this a significant burden. We did not receive any comments on our determination in the NOPR with respect to the reporting burden. We will submit this Final Rule to OMB for informational purposes.

*Title:* FERC-725A, Electric Reliability Organization Revised Mandatory Reliability Standards for Interchange Scheduling and Coordination.

*Action:* Final Rule.

*OMB Control No.:* 1902-0244.

*Respondents:* Businesses or other for-profit institutions; not-for-profit institutions.

*Frequency of Responses:* On Occasion.

*Necessity of the Information:* This Final Rule approves revisions of three Commission-approved Reliability Standards. The Final Rule finds that the revisions promote reliable operation of the Bulk-Power System; are just, reasonable, not unduly discriminatory or preferential; and in the public interest.

26. 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 Executive Director, Phone: (202) 502-8415, fax: (202) 273-0873, e-mail: [michael.miller@ferc.gov](mailto:michael.miller@ferc.gov)].

27. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the contact listed above and to the Office of Information and Regulatory Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone (202) 395-4638, fax: (202) 395-7285, e-mail: [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov)].

#### IV. Environmental Analysis

28. 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>33</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective,

or procedural or that do not substantially change the effect of the regulations being amended.<sup>34</sup> The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

#### V. Regulatory Flexibility Act Analysis

29. The Regulatory Flexibility Act of 1980 (RFA)<sup>35</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's Office of Size Standards develops the numerical definition of a small business.<sup>36</sup> For electric utilities, a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours. The RFA is not implicated by this Final Rule because the revisions discussed herein will not have a significant economic impact on a substantial number of small entities.

30. In Order No. 693, the Commission adopted policies to minimize the burden on small entities, including approving the ERO compliance registry process to identify those entities responsible for complying with mandatory and enforceable Reliability Standards. The ERO registers only those distribution providers or load serving entities that have a peak load of 25 MW or greater and are directly connected to the bulk electric system or are designated as a responsible entity as part of a required under-frequency load shedding program or a required under-voltage load shedding program. Similarly, for generators, the ERO registers only individual units of 20 MVA or greater that are directly connected to the bulk electric system, generating plants with an aggregate rating of 75 MVA or greater, any blackstart unit material to a restoration plan, or any generator that is material to the reliability of the Bulk-Power System. Further, the ERO will not register an entity that meets the above criteria if it has transferred responsibility for compliance with mandatory Reliability Standards to a joint action agency or other organization. The Commission

<sup>33</sup> Regulations Implementing National Environmental Policy Act of 1969, Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

<sup>34</sup> 18 CFR 380.4(a)(2)(ii).

<sup>35</sup> 5 U.S.C. 601-12.

<sup>36</sup> See 13 CFR 121.201.

estimated that the Reliability Standards approved in Order No. 693 would apply to approximately 682 small entities (excluding entities in Alaska and Hawaii), but also pointed out that the ERO's Compliance Registry Criteria allow for a joint action agency, generation and transmission (G&T) cooperative or similar organization to accept compliance responsibility on behalf of its members. Once these organizations register with the ERO, the number of small entities registered with the ERO will diminish and, thus, significantly reduce the impact on small entities.<sup>37</sup>

31. Finally, as noted above, this Final Rule addresses revisions of the INT Reliability Standards, which were already approved in Order No. 693, and, therefore, do not create an additional regulatory impact on small entities.

## VI. Document Availability

32. 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://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.

33. From the Commission'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.

34. User assistance is available for eLibrary and the Commission'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](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at [public.reference@ferc.gov](mailto:public.reference@ferc.gov).

## VII. Effective Date and Congressional Notification

35. These regulations are effective January 25, 2010. The Commission has determined, with the concurrence of the Administrator of the Office of

<sup>37</sup> To be included in the compliance registry, the ERO determines whether a specific small entity has a material impact on the Bulk-Power System. If these small entities should have such an impact then their compliance is justifiable as necessary for Bulk-Power System reliability.

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 40

Electric power, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E9-30587 Filed 12-23-09; 8:45 am]

**BILLING CODE 6717-01-P**

## SUPPLEMENTARY INFORMATION:

### I. Background

On November 25, 2008, Customs and Border Protection (CBP) published an interim final rule entitled "Importer Security Filing and Additional Carrier Requirements" in the **Federal Register** (73 FR 71730). Pursuant to that interim final rule, an Importer Security Filing (ISF) must be submitted for cargo arriving within the limits of a port in the United States by vessel prior to arrival of the cargo. Generally, with certain exceptions, the ISF must be filed no later than 24 hours before the cargo to which the information relates is laden aboard a vessel at a foreign port. The rule was effective on January 26, 2009. On July 14, 2009, CBP published a correction to the interim final rule in the **Federal Register** (74 FR 33920) that amended the regulations by providing the time frame for transmitting an ISF for shipments intended to be transported in-bond for immediate exportation or for transportation and exportation. The document also corrected two CBP Responses to comments in the preamble text to align them with the regulatory text.

### II. Clarification of the ISF Bond Terms

Under the rule, all ISF Importers must possess a bond as security for the ISF requirement. Specifically, 19 CFR 149.5(b) provides that the ISF Importer must possess a basic importation and entry bond containing all the provisions of 19 CFR 113.62, a basic custodial bond containing all the provisions of 19 CFR 113.63, an international carrier bond containing all the provisions of 19 CFR 113.64, a foreign trade zone operator bond containing all the provisions of 19 CFR 113.73, or an importer security filing bond as provided in Appendix D of part 113 of 19 CFR. In light of this bond requirement, CBP amended 19 CFR 113.62, 113.63, 113.64, and 113.73, to provide that the principal agrees to comply with ISF requirements and in the event of a breach of the bond, agrees to pay liquidated damages in the amount of \$5,000 per violation. CBP also amended Part 113 by adding Appendix D, titled "Appendix D to Part 113—Importer Security Filing Bond", which lists the terms of the ISF bond. However, the liquidated damages language contained in the Appendix D ISF bond does not expressly provide for the payment of liquidated damages in the amount of \$5,000 per violation. Instead, the Appendix D ISF bond contains broad language that requires ISF Importers to pay any amount prescribed by law or regulation upon demand by CBP for a violation of 19

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### 19 CFR Part 149

[Docket Number USCBP-2007-0077]

RIN 1651-AA70

### Importer Security Filing and Additional Carrier Requirements; Correction

**AGENCY:** Customs and Border Protection, Department of Homeland Security.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains correcting amendments to the interim final rule entitled "Importer Security Filing and Additional Carrier Requirements" published in the **Federal Register** on November 25, 2008. The interim final rule, which requires the submission of an Importer Security Filing (ISF) for cargo arriving in the United States by vessel and a bond to secure compliance with the ISF requirement, inadvertently omitted the liability amounts for breach of the importer security filing bond and neglected to make provision for using the importer security filing bond to secure a single ISF transaction. This document clarifies the bond terms applicable to the importer security filing bond as set forth in an Appendix to the Customs and Border Protection bond regulations by adding the liability amounts for a breach of the bond and by adding a paragraph to cover a single transaction.

**DATES:** This amendment is effective on December 24, 2009. The compliance dates for the regulations are set forth in 19 CFR 4.7(c)(d), 4.7(d)(f), and 149.2(g).

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