

## SUBCHAPTER I—OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

### PART 280—GENERAL PROVISIONS APPLICABLE TO SUBCHAPTER I

AUTHORITY: Natural Gas Policy Act of 1978, Pub. L. 95-621; 92 Stat. 3350, 15 U.S.C. 3301-3432; Outer Continental Shelf Lands Act Amendment of 1978, Pub. L. 95-372, 43 U.S.C. 1862.

#### § 280.101 Definitions.

(a) *NGPA definitions.* Terms defined in the NGPA shall have the same meaning for purposes of this subchapter as they have under the NGPA, unless further defined in this subpart.

(b) *Other definitions.* For purposes of this subchapter:

(1) *NGPA* means the Natural Gas Policy Act of 1978.

(2) *OCS* means the Outer Continental Shelf as defined in section 2(35) of the NGPA.

[44 FR 12409, Mar. 7, 1979, as amended by Order 92, 45 FR 49252, July 24, 1980]

### PART 281—NATURAL GAS CURTAILMENT UNDER THE NATURAL GAS POLICY ACT OF 1978

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APPENDIX A TO PART 281—COMPARISON OF SELECTED FUEL PRICE DATA, FPC FORM NO. 423 VERSUS MONTHLY ENERGY REVIEW, 1976—JANUARY 1980

AUTHORITY: 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 2601-2645; 42 U.S.C. 7101-7352.

SOURCE: Order 10-B, 44 FR 13470, Mar. 12, 1979, unless otherwise noted.

#### Subpart A [Reserved]

#### Subpart B—Permanent Curtailment Rule

#### § 281.201 Purpose.

The purpose of this subpart is to implement section 401 of the NGPA in order to provide that effective November 1, 1979, the curtailment plans of interstate pipelines protect, to the maximum extent practicable, deliveries of natural gas for essential agricultural uses and for high-priority uses in accordance with the provisions of this subpart.

[44 FR 26862, May 8, 1979]

#### § 281.202 Applicability.

This subpart applies to the following interstate pipe lines:

Alabama-Tennessee Pipeline Company.  
Algonquin Gas Transmission Company.  
Arkansas Louisiana Natural Gas Company.  
Cities Service Gas Company.  
Colorado Interstate Gas Company.  
Columbia Gas Transmission Corporation.  
Consolidated Gas Supply Corporation.  
East Tennessee Natural Gas Company.  
Eastern Shore Natural Gas Company.  
El Paso Natural Gas Company.  
Florida Gas Transmission Company.  
Great Lakes Gas Transmission Company.  
Inter-City Minnesota Pipelines, Ltd., Inc.  
Kansas-Nebraska Natural Gas Company, Inc.  
Lawrenceburg Gas Transmission Company.  
Michigan-Wisconsin Pipeline Company.  
Mid-Louisiana Gas Company.  
Midwestern Gas Transmission Company.  
Mississippi River Transmission Company.  
Montana Dakota Utilities Company.  
National Fuel Gas Supply Company.  
North Penn Gas Company.

Northern Natural Gas Company.  
 Northwest Pipeline Corporation.  
 Panhandle Eastern Pipeline Company.  
 South Georgia Natural Gas Company.  
 Southern Natural Gas Company.  
 Southwest Gas Corporation.  
 Tennessee Gas Pipeline Company, a Division  
 of Tenneco, Inc.  
 Tennessee Natural Gas Lines.  
 Texas Eastern Transmission Corporation.  
 Texas Gas Transmission Corporation.  
 The Inland Gas Company.  
 Transwestern Pipeline Company.  
 Trunkline Gas Company.  
 United Gas Pipe Line Company.  
 Western Gas Interstate Company.

[44 FR 26862, May 8, 1979, as amended at 44  
 FR 48184, Aug. 17, 1979]

**§ 281.203 Definitions and cross references.**

(a) *Definitions.* For purposes of this subpart:

(1) *Direct sale customer* means an essential agricultural user of high priority use which purchases natural gas directly from an interstate pipeline and consumes such natural gas for a high-priority use or an essential agricultural use.

(2) *Essential agricultural use* means any use of natural gas which is certified by the Secretary of Agriculture as an "essential agricultural use" under section 401(c) of the NGPA, as identified in 7 CFR part 2900, *et seq.*

(3) *Essential agricultural user* means a person who uses natural gas for an essential agricultural use.

(4) *High-priority use* means any use of natural gas which qualifies the user as a high-priority user.

(5) *High-priority user* means any person who uses natural gas:

- (i) In a residence;
- (ii) In a small commercial establishment;
- (iii) In a school or a hospital; or
- (iv) For police protection, for fire protection, in a sanitation facility or a correctional facility.

(6) *End-use curtailment plan* means a provision in the tariff of an interstate pipeline that requires that under circumstances of supply shortage natural gas deliveries will be curtailed based at least in part upon factors which consider the end-use of the natural gas.

(7) *Indirect sale customer* of an interstate pipeline means an essential agricultural end-user served by a local dis-

tribution company which is served directly by the interstate pipeline.

(8) *Residence* means a dwelling using natural gas predominantly for residential purposes such as space heating, air conditioning, hot water heating, cooking, clothes drying, and other residential uses and includes apartment buildings and other multi-unit buildings.

(9) *Small commercial establishment* means any establishment (including institutions and local, state and Federal Government agencies) engaged primarily in the sale of goods or services where natural gas is used:

(i) In amounts of less than 50 Mcf on a peak day; and

(ii) For purposes other than those involving manufacturing or electric power generation.

(10) *Hospital* means a facility, the primary function of which is delivering medical care to patients who remain at the facility including nursing and convalescent homes. Outpatient clinics or doctors' offices are not included in this definition.

(11) *School* means a facility, the primary function of which is to deliver instruction to regularly enrolled students in attendance at such facility. Facilities used for both educational and noneducational activities are not included under this definition unless the latter activities are merely incidental to the delivery of instruction.

(12) *Local distribution company* means a local distribution company served directly by an interstate pipeline.

(13) *Rolling base period* means a time period in which entitlements of the customers of an interstate pipeline are established pursuant to the pipeline's currently effective curtailment plan and which is periodically updated to reflect recent gas requirements of such customers.

(14) *Entitlements* of a direct sale customer or a local distribution company customer with respect to a particular interstate pipeline means the amount of natural gas that customer is permitted to receive under the interstate pipeline's currently effective curtailment plan.

(15) *Interstate pipeline purchaser* means an interstate pipeline which received deliveries of natural gas from another interstate pipeline.

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(16) *Alternative fuel* means alternative fuel as it is defined in Subpart C of this part.

(b) *Cross references.* (1) Essential agricultural requirements are calculated in accordance with § 281.208.

(2) *Index of entitlements* is that index of entitlements prepared in accordance in § 281.204(b).

[44 FR 26862, May 8, 1979, as amended by Order 29–C, 44 FR 61344, Oct. 25, 1979; Order 55–B, 45 FR 54739, July 18, 1980]

### § 281.204 Tariff filing requirements.

(a) *General rule.* Each interstate pipeline listed in § 281.202 shall file tariff sheets or sections, in accordance with § 154.4 of this chapter, including an index of entitlements, which provides that if the interstate pipeline is in curtailment, natural gas will be delivered in accordance with the provisions of this subpart. If the interstate pipeline has curtailment provisions in its currently effective tariff, the tariff sheets or sections shall amend the existing curtailment provisions. If the interstate pipeline has no curtailment plan in its currently effective tariff, when it files tariff sheets or sections to amend its currently effective tariff to include a curtailment plan such curtailment plan shall comply with the requirements of this subpart. The tariff sheets or sections shall be filed no later than October 1, 1979, with a proposed effective date of November 1, 1979. The Data Verification Committee report prepared in accordance with § 281.213 shall be filed with the tariff sheets or sections.

(b) *Index of entitlements.* (1) The index of entitlements for an interstate pipeline shall identify the natural gas entitlements in priority of service categories 1 and 2 (established in accordance with § 281.205(a)) for each direct sale customer, each local distribution company customer and each interstate pipeline purchaser on a daily, monthly, seasonal or other periodic basis used in the currently effective curtailment plan.

(2) *Periodic update.* Each interstate pipeline shall update its index of entitlements annually to reflect changes in Priority 2 entitlements. The new index of requirements shall be filed on Sep-

tember 15 of each year with a proposed effective date of November 1, except that if the interstate pipeline uses a rolling base period in its currently effective curtailment plan it shall file its new index of entitlements on the date upon which other end-uses of the customers of the interstate pipeline are updated in accordance with the currently effective tariff.

(3) *Alternative fuel determination.* The index of entitlements shall not include the volumes of natural gas for which volumes the essential agricultural user has the ability to use an alternative fuel, as determined under Subpart C of this part. Each interstate pipeline shall amend its index of entitlements pursuant to paragraph (b)(2) of this section to remove from the priority 2 entitlements and place in an appropriate priority of service category any such volumes or natural gas included in any index of entitlements that is effective on or after October 31, 1979.

(c) *Other tariff provisions.* (1) Every tariff filed under this subpart shall contain provisions that will require the interstate pipeline:

(i) To provide for deliveries of sufficient volumes of natural gas to respond to emergency situations (including environmental emergencies) during periods of curtailment where additional supplies are required to forestall irreparable injury to life or to property; and

(ii) To provide for deliveries of sufficient volumes of natural gas to provide for minimum plant protection when the plant is shut down.

(2) *Volumetric delivery requirements.* Notwithstanding any other provisions of this subpart, an interstate pipeline which is delivering natural gas in accordance with this subpart shall not be required to deliver to any customer volumes of natural gas on a daily, monthly, seasonal or other periodic basis which exceed the volumes of natural gas that the interstate pipeline may deliver to such customer without causing the interstate pipeline to violate any daily, monthly, seasonal or other periodic volumetric limitations

established in the contract between the interstate pipeline and such customer.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 U.S.C. 551 *et seq.*)

[44 FR 26862, May 8, 1979, as amended at 44 FR 45923, Aug. 6, 1979; 44 FR 62490, Oct. 31, 1979; Order 55-B, 45 FR 54739, July 18, 1980; Order 145, 46 FR 27913, May 22, 1981; Order 714, 73 FR 57535, Oct. 3, 2008]

#### § 281.205 General rules.

(a) *Priority of service categories*—(1) *Priority 1.* Each interstate pipeline shall establish a new high-priority use category of service designated priority one (1) which shall include all the high-priority entitlements calculated in accordance with § 281.206 and those storage injection volumes calculated in accordance with paragraph (c)(2) of this section.

(2) *Priority 2.* Each interstate pipeline shall establish a new priority of service category designated priority two (2) which shall include all the essential agricultural use requirements calculated in accordance with § 281.207 and those storage injection volumes calculated in accordance with paragraph (c)(2) of this section.

(3) *Other priority of service categories.* Each interstate pipeline may retain the priority of service categories in its currently effective tariff, but such categories shall be placed at priorities below the new priorities 1 and 2. Each interstate pipeline shall reduce the entitlements in all other existing categories of service to the extent such entitlements have been placed into the new priority of service categories 1 or 2.

(b) *Method of curtailment.* All deliveries to all customers of the interstate pipeline for all volumes of natural gas not included in priorities 1 and 2 shall be fully curtailed by the interstate pipeline before priorities 1 and 2 entitlements are curtailed. Deliveries for priority 2 entitlements shall be fully curtailed by the interstate pipelines (in accordance with the currently effective curtailment plan) before priority 1 entitlements are curtailed by the interstate pipelines. Nothing in this paragraph is intended to alter the operation

of any “small customer” or “small distributor” exemption or waiver (as defined in an interstate pipeline’s currently effective curtailment plan).

(c) *Storage*—(1) *General rule.* Interstate pipelines shall classify customer storage injection volumes in the same manner as that used in the currently effective curtailment plan.

(2) *Storage sprinkling.* Interstate pipelines which classify customer storage injection volumes on the basis of the actual end-use of the natural gas shall recalculate storage injection volumes placed in each priority of service category based upon the index of entitlements to be filed on September 15.

(3) *Other treatment of storage.* Except as provided in paragraph (c)(2) of this section, no interstate pipeline shall recalculate or reclassify any customer storage injection volumes, and no customer storage injection volumes shall be included as priority 1 or 2 entitlements.

[44 FR 26862, May 8, 1979, as amended by Order 29-C, 44 FR 61344, Oct. 25, 1979; Order 145, 46 FR 27913, May 22, 1981]

#### § 281.206 Priority 1 reclassification.

(a) *Definitions.* For purposes of this section “high-priority entitlements” means, with respect to a particular interstate pipeline.

(1) In the case of a direct sale customer, the volume of natural gas such direct sale customer is entitled to receive for high-priority uses (as defined in § 281.203) under the currently effective curtailment plan of the interstate pipeline;

(2) In the case of a local distribution company, the volume of natural gas which such local distribution company is entitled to receive on account of the high-priority uses (as defined in § 281.203) of its high-priority user customers under the currently effective curtailment plan of the interstate pipeline;

(3) In the case of an interstate pipeline purchaser the volume of natural gas such interstate pipeline purchaser is entitled to receive from an interstate pipeline supplier for the high-priority entitlements of its direct sale customers, local distribution company customers and interstate pipeline customers.

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(b) *Direct sale customer and local distribution company customers.* (1)(i) Subject to paragraph (b)(2) of this section, and §281.211 each direct sale customer may request each of its direct interstate pipeline suppliers to reclassify its high-priority entitlements in its currently effective curtailment plan as priority 1 entitlements.

(ii) Subject to paragraph (b)(2) of this section, and §281.211 each local distribution company must request each of its direct interstate pipeline suppliers to reclassify its high priority entitlements in its currently effective curtailment plan as priority 1 entitlements.

(2) The direct sale customer or local distribution company customer shall designate the entitlements in each priority of service category in the currently effective curtailment plan for which priority 1 reclassification is requested. It shall request that those entitlements for which priority 1 reclassification is requested be excluded from the category of service in which they are included in the currently effective plan.

(3) Subject to §281.210, the interstate pipeline shall reclassify all such high-priority entitlements as priority 1 entitlements and shall reduce by an equal amount the entitlements in such other priority of service categories as designated by the direct sale customer or local distribution company customer, (in accordance with paragraph (b)(2) of this section).

(c) *Interstate pipeline.* (1) Subject to paragraph (b)(2) of this section, and §281.211 an interstate pipeline purchaser may request each of its direct interstate pipeline suppliers to reclassify its high-priority entitlements in its currently effective curtailment plan (equal to the attributed priority 1 entitlements calculated in accordance with §281.209) as priority 1 entitlements in the currently effective curtailment plan of the interstate pipeline supplier.

(2) The interstate pipeline purchaser shall designate the entitlements in each priority of service category in the currently effective curtailment plan for which priority 1 reclassification is requested. It shall request that those entitlements for which priority 1 classification is requested be excluded from

the category of service in which they are included in the currently effective plan.

(3) Subject to §281.210, the interstate pipeline supplier shall reclassify all such high-priority entitlements as priority 1 entitlements and shall reduce the high-priority entitlements in other priority of service categories as designated by the interstate pipeline customer, (in accordance with paragraph (c)(2) of this section).

[44 FR 26862, May 8, 1979]

**§ 281.207 Priority 2 classification.**

(a) *Direct sale customer.* (1) Subject to paragraph (a)(2) of this section, and §281.211 a direct sale customer may request each of its direct interstate pipeline suppliers to classify its essential agricultural requirements (calculated in accordance with §281.208) as priority 2 entitlements.

(2) The essential agricultural user shall designate the entitlements in each priority of service category in the currently effective curtailment plan which reflect the essential agricultural requirements. It shall request that entitlements which are reflected in priority of service categories in the currently effective curtailment plan are removed from such priority of service categories.

(3) Subject to §281.210, the interstate pipeline shall classify all such essential agricultural requirements as priority 2 entitlements and reduce the entitlements in such other priority of service categories as designated by the direct sale customer, (in accordance with paragraph (b)(2) of this section).

(b) *Indirect sale customer.* Subject to §281.211 an indirect sale customer which is an essential agricultural user may ask each of its local distribution company direct suppliers to request each interstate pipeline supplier to classify the indirect essential agricultural requirements as priority 2 entitlements.

(c) *Local distribution companies.* (1) The local distribution company shall attribute (in accordance with §281.209) the indirect essential agricultural requirements for which reclassification is sought under paragraph (b) of this section to its direct interstate pipeline suppliers. Subject to paragraph (b)(2) of

this section, and §281.211 the local distribution company shall request each of its direct interstate pipeline suppliers to classify the attributed indirect essential agricultural requirements as priority 2 entitlements.

(2) The local distribution company shall designate the entitlements in each priority of service in the currently effective curtailment plan which reflect the attributed indirect essential agricultural requirements. It shall request that those entitlements which are reflected in each category in the currently effective curtailment plan are removed from such priority of service category.

(3) Subject to §281.210, the interstate pipeline shall classify all such attributed indirect essential agricultural requirements as priority 2 entitlements and shall reduce the entitlements of the local distribution company in such other priority of service categories as designated by the local distribution company, (in accordance with paragraph (b)(2) of this section).

(d) *Interstate pipeline.* (1) Subject to paragraph (d)(2) of this section, and §281.211 an interstate pipeline purchaser may request each of its direct interstate pipeline suppliers to classify the attributed priority 2 entitlements (calculated under §281.209) as priority 2 entitlements in the currently effective curtailment plan of the interstate pipeline supplier.

(2) The interstate pipeline purchaser shall designate the entitlements in each priority of service category in the currently effective curtailment plan of the interstate pipeline supplier which reflects the attributed priority 2 entitlements and request that those entitlements which are reflected in such priority of service categories in the currently effective curtailment plan are removed from such priority of service category.

(3) Subject to §281.210, the interstate pipeline supplier shall classify the attributed priority 2 entitlements as priority 2 entitlements and shall reduce the entitlements of the interstate pipeline purchaser in such other priority of service categories as designated by the interstate pipeline purchaser, (in ac-

cordance with paragraph (d)(2) of this section).

[44 FR 26862, May 8, 1979]

**§ 281.208 Calculation of essential agricultural requirements and attributable priority 2 entitlements.**

(a) *Scope.* This section sets forth the method by which:

(1) An essential agricultural user calculates total essential agricultural requirements, direct essential agricultural requirements, and indirect essential agricultural requirements;

(2) A local distribution company calculates attributable indirect essential agricultural requirements for its essential agricultural user customers; and

(3) An interstate pipeline purchaser calculates its attributable priority 2 entitlements.

(b) *Calculation by an essential agricultural user—(1) Total essential agricultural requirements—(i) General Rule.* (A) The essential agricultural requirements of an essential agricultural user are those volumes (expressed in daily, monthly, seasonal or other appropriate periodic volumes) designated by the Secretary of Agriculture and calculated in accordance with 7 CFR 2900.4; less

(B) Alternative fuel volumes (determined under §281.304).

(ii) *Definitions.* Current requirements as used in 7 CFR part 2900 means the lesser of

(A) The energy consumption from the most recent 12 month period for which actual data is available, with necessary adjustments; or

(B) The maximum volume of natural gas for which the essential agricultural user has installed capability to use for essential agricultural uses.

(2) *Attribution of total essential agricultural requirement and indirect essential agricultural requirements.* (i) The essential agricultural user shall attribute its total essential agricultural requirements among all its sources of supply of natural gas in accordance with §281.209.

(ii) The direct essential agricultural requirement with respect to a particular interstate pipeline supplier is that part of the total essential agricultural requirements attributed under

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§ 281.209 to the direct interstate pipeline supplier. The indirect essential agricultural requirement with respect to a particular local distribution company supplier is that part of the total essential agricultural requirements attributed under § 281.209 to a direct local distribution company supplier.

(c) *Calculation by local distribution companies.* (1) A local distribution company shall attribute under § 281.209 the indirect essential agricultural requirements of each of its essential agricultural user customers (calculated under paragraph (b)(2) of this section) among all the interstate pipelines which are direct suppliers of the local distribution company.

(2) That part of the indirect essential agricultural requirements which the local distribution company attributes to a particular interstate pipeline supplier is the attributed indirect essential agricultural requirements attributed to that interstate pipeline.

(d) *Interstate pipelines.* (1) An interstate pipeline purchaser may attribute under § 281.209 the priority 2 entitlements it includes in its index of entitlements among its direct interstate pipeline suppliers.

(2) The attributable priority 2 entitlements attributed to a particular interstate pipeline supplier is that part of the priority 2 entitlements of the interstate pipeline purchaser which it attributes to a particular interstate pipeline supplier.

[44 FR 26862, May 8, 1979, as amended at 44 FR 62490, Oct. 31, 1979]

### § 281.209 Attribution.

(a) *Applicability.* (1) This section sets forth the rules for attributing total essential agricultural requirements by an essential agricultural user, indirect essential agricultural requirements of an essential agricultural user by its local distribution company supplier and priority 1 and 2 entitlements by an interstate pipeline purchaser.

(2) This section does not apply to an essential agricultural user or local distribution company which receives all its natural gas supplies from a single source, or an interstate pipeline purchaser which does not receive natural gas from any other interstate pipeline.

(b) *Natural gas supplies included for purposes of attribution.* (1) For purposes of attribution in accordance with this section, natural gas from all direct sources, including but not limited to pipeline production, production by independent producers, production by affiliates, SNG facilities and natural gas purchased from local distribution companies, and interstate pipelines shall be included.

(2)(i) An essential agricultural user, which attributes under paragraph (d) a portion of the volumes which are its total essential agricultural requirements to a direct source of natural gas other than a direct supplier may not seek classification to priority 2 under § 281.207 for such portion of its total essential agricultural requirements.

(ii) A local distribution company which attributes under paragraph (e) a portion of the volumes which are its indirect essential agricultural requirements to a direct source of natural gas other than a direct supplier may not seek classification to priority 2 under § 281.207 for such portion of its indirect essential agricultural requirements.

(iii) An interstate pipeline purchaser which attributes under paragraph (f) a portion of the volumes of its priority 1 or 2 entitlements to a direct source of natural gas other than a direct supplier may not seek reclassification to priority 1 or classification to priority 2, respectively, for such portion of its priority 1 and 2 entitlements.

(c) *Definitions.* For purposes of this section:

(1) *Direct supplier* means, with respect to an essential agricultural user, an interstate pipeline or local distribution company which directly supplies such essential agricultural user, with respect to a local distribution company, an interstate pipeline which directly supplies such local distribution company and, with respect to an interstate pipeline purchaser, and interstate pipeline which directly supplies the interstate pipeline purchaser.

(2) *Base period* of a direct supplier means the fixed historical period in which entitlements of the customer of the direct supplier were established for purposes of the currently effective curtailment plan of such direct supplier.

(3) *Annual quantity entitlements* with respect to a particular direct supplier means the total entitlements an essential agricultural user, local distribution company or interstate pipeline is entitled to purchase from that direct supplier in a calendar year under the currently effective curtailment plan.

(d) *Essential agricultural user.* (1) An essential agricultural user shall calculate its attributable essential agricultural requirements attributable to a particular direct supplier by multiplying its total essential agricultural requirements by the Annual Quantity Entitlements from such direct supplier and dividing the product (numerator) by the sum of all Annual Quantity Entitlements and all volumes received from sources not providing an Annual Quantity Entitlement to such user (denominator).

(2) If an essential agricultural user does not have annual quantity entitlements only with respect to one of its direct suppliers, the attributable essential agricultural requirements attributable to such direct supplier shall be that part of the total essential agricultural requirements not attributed under paragraph (d)(1) of this section.

(3) If an essential agricultural user does not have Annual Quantity Entitlements with respect to more than one of its direct suppliers, the attributable essential agricultural requirements attributable to a particular direct supplier shall be calculated by multiplying its total essential agricultural requirements by the total volume of natural gas received from such supplier in 1972 and dividing the product (numerator) by the total supplies of natural gas received from all sources in 1972 (denominator).

(e) *Local distribution company.* A local distribution company shall calculate its attributable indirect essential agricultural requirements among its direct suppliers in the same manner as it attributed its supplies to its direct suppliers for purposes of establishing entitlements in the currently effective curtailment plans of such direct supplier.

(f) *Interstate pipelines.* An interstate pipeline shall attribute Priority 1 and 2 entitlements respectively among its direct pipeline suppliers in the same manner as it attributed its supplies to

its direct pipeline suppliers for purposes of establishing entitlements in the currently effective curtailment plans of such direct suppliers.

[44 FR 26862, May 8, 1979, as amended by Order 29-C, 44 FR 61344, Oct. 25, 1979]

#### § 281.210 Conflicting data.

(a) *Interstate pipelines.* Notwithstanding any other provision of this subpart, if the records of an interstate pipeline contain information which directly conflicts with a request for reclassification of priority 1 entitlements under § 281.206, or classification of priority 2 entitlements under § 281.207, the interstate pipeline may not include such volumes in priority 1 or 2 of its index of entitlements.

(b) *Local distribution companies.* Notwithstanding the provisions of § 281.207(c), if the records of a local distribution company contain information which directly conflicts with a request from an essential agricultural user to have the local distribution company to seek classification of volumes in priority 2, the local distribution company may not seek classification for such volumes.

[44 FR 26862, May 8, 1979]

#### § 281.211 Filing and documentation.

(a) *Priority 1—(1) Direct sales customers and local distribution companies.* (i) Each request of a direct sale customer and local distribution company customer for reclassification of high-priority entitlements (as defined in § 281.206) to priority 1 entitlements shall be made in writing no later than July 31, 1979, and shall be accompanied by the data described in paragraph (a)(1)(ii) of this section.

(ii)(A) A table indicating high-priority entitlements (as defined in § 281.206) and the end-use of the natural gas in each priority of service category in the currently effective curtailment plan for which priority 1 reclassification is requested.

(B) A copy of the end-use data used to establish the high-priority requirements and designated end-use of the natural gas.

(2) *Interstate pipelines.* (i) Each interstate pipeline purchaser which reclassifies high-priority requirements of its

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customers as priority 1 entitlements may request that its high-priority requirements in the currently effective curtailment plan of its interstate pipeline suppliers (equal to the attributable priority 1 entitlements) be reclassified as priority 1 entitlements. Such requests shall be made in writing no later than August 31, 1979 and shall be accompanied by the data described in paragraph (a)(2)(ii) of this section.

(ii)(A) A table indicating high-priority entitlements (as defined in § 281.206) and end-use of the natural gas in each priority of service category in the currently effective curtailment plan of the interstate pipeline supplier for which priority 1 reclassification is requested.

(B) A copy of the end-use data used to establish the high-priority requirements and designated end-use of the natural gas.

(C) A table indicating the volumes and priority of service categories for which each of direct sale customers and local distribution company customers sought reclassification to priority 1.

(b) *Priority 2*—(1) *Essential agricultural users.* (i) Each request for classification of essential agricultural requirements as priority 2 entitlements shall be made in writing to the local distribution company supplier or the direct interstate pipeline supplier, as appropriate, no later than June 15 of each year, and shall set forth all calculations made in accordance with this subpart.

(ii) The request shall be accompanied by a statement that;

(A) Indicates the intended end-use(s) and volume(s) of the natural gas for which priority 2 entitlements are requested.

(B) Indicates the SIC Code activities of the essential agricultural user which qualifies it as an essential agricultural user in accordance with 7 CFR 2900.3.

(C) Includes the data and calculations used to determine essential agricultural requirements under 7 CFR 2900.4.

(D) Includes with respect to any essential agricultural user to which Subpart C applies the data and calculations necessary to determine alternative fuel volumes under § 281.304.

(iii) The statement under paragraph (b)(1)(ii) shall be signed by a responsible official of the essential agricultural user. Such official shall swear or affirm that the statements are true to the best of his information, knowledge and belief.

(2) *Local distribution companies.* Each request for classification of essential agricultural requirements as priority 2 requirements shall be made in writing to the direct interstate pipeline supplier no later than June 30 of each year, and shall set forth all calculations made in accordance with this subpart and all copies of all requests received from its essential agricultural uses under paragraph (b)(1) of this section.

(3) *Interstate pipelines.* Each request of an interstate pipeline purchaser for classification of attributable priority 2 entitlements as priority 2 entitlements shall be made in writing to the direct interstate pipeline supplier no later than July 15 of each year, and shall set forth all calculations made in accordance with this subpart and shall include copies of all requests of essential agricultural users and local distribution companies under paragraphs (b)(1) and (2) of this section.

(4) *Subsequent request.* (i) For 1979, changes in priority 2 entitlements for essential agricultural use establishments that have the ability to use an alternative fuel shall be filed under Subpart C of this part.

(ii) For years subsequent to 1979, the data required by this paragraph must be filed only to the extent that there has been a change in essential agricultural requirements.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 U.S.C. 551 *et seq.*)

[44 FR 26862, May 8, 1979, as amended at 44 FR 45923, Aug. 6, 1979; 44 FR 62490, Oct. 31, 1979; Order 55-B, 45 FR 54740, July 18, 1980; Order 145, 46 FR 27913, May 22, 1981]

§ 281.212 **Draft tariff and index of entitlements.**

(a) Each interstate pipeline shall prepare draft tariff sheets or sections and a draft index of entitlements in accordance with this subpart.

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(b) The draft tariff sheets or sections and index of entitlements shall be served on all customers of the interstate pipeline no later than August 1 of each year.

(c) Copies of all documents received by the interstate pipeline under § 281.210, the draft tariff sheets or sections and the draft index of entitlements shall be served on the Data Verification Committee no later than August 1 of each year.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 U.S.C. 551 *et seq.*)

[44 FR 26862, May 8, 1979, as amended at 44 FR 45923, Aug. 6, 1979; Order 145, 46 FR 27913, May 22, 1981; Order 714, 73 FR 57535, Oct. 3, 2008]

### § 281.213 Data Verification Committee.

(a) Each interstate pipeline shall establish a Data Verification Committee no later than August 1, 1979. It shall include, at a minimum, a representative of the interstate pipeline, Commission staff, a large and small local distribution company, and an essential agricultural user. The appropriate state and local regulatory bodies, and a representative of the United States Department of Agriculture may, at their option, be members.

(b) The Data Verification Committee shall review all calculations behind the draft tariff sheets or sections and the proposed index of entitlements. The Data Verification Committee may request, and the interstate pipeline shall immediately supply, any information requested by the Data Verification Committee.

(c) Any interested person may file a written protest concerning the index of entitlements. Such protests shall be filed with the Data Verification Committee no later than August 15 of each year.

(d) The Data Verification Committee shall review the draft tariff sheets or sections and index of entitlements and shall review the underlying data for uniformity in preparation.

(e) The Data Verification Committee shall prepare a report concerning the proposed index of requirements and the draft tariff sheets or sections for the

interstate pipeline. It shall, at a minimum, specify all arithmetic errors and contain an evaluation of all protests. It may contain a proposed settlement of contested draft tariff sheets or sections. The report shall be submitted to the interstate pipeline no later than September 1 of each year.

(Natural Gas Act, 15 U.S.C. 717-717w; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267; Administrative Procedure Act, 5 U.S.C. 551 *et seq.*)

[44 FR 26862, May 8, 1979, as amended at 44 FR 45923, Aug. 6, 1979; Order 29-C, 44 FR 61345, Oct. 25, 1979; Order 145, 46 FR 27913, May 22, 1981; Order 714, 73 FR 57535, Oct. 3, 2008]

### § 281.214 Notice, complaint and remedy.

(a) *Complaint.* Any interested person may file a complaint concerning an alleged violation of this subpart under § 385.206 of this chapter.

(b) *Remedy.* If the Commission determines that a violation of this subpart has occurred, it shall take whatever action it deems appropriate in the circumstances. Such action may include payback, in kind or in dollars, by the person benefitting from the violation.

[44 FR 26862, May 8, 1979, as amended at 44 FR 61345, Oct. 25, 1979; Order 225, 47 FR 19058, May 3, 1982]

### § 281.215 Additional relief.

If an interstate pipeline rejects (under § 281.210 or otherwise) a request for reclassification under § 281.206 or classification under § 281.207 or if a local distribution company does not request (for any reason including the provisions of § 281.210) classification under § 281.206 on behalf of its high priority uses or reclassification on behalf of its essential agricultural users, the person aggrieved by such action may file a request for relief from curtailment under § 385.206 of this chapter. The request shall contain the information required in § 2.78(b) of the Commission Regulations.

[44 FR 26862, May 8, 1979, as amended by Order 225, 47 FR 19058, May 3, 1982]

### Subpart C—Alternative Fuel Determination

AUTHORITY: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267.

SOURCE: Order 55, 44 FR 62490, Oct. 31, 1979, unless otherwise noted.

#### § 281.301 Purpose.

The purpose of this subpart is to determine the economic practicability and reasonable availability of alternative fuels, as prescribed in section 401(b) of the Natural Gas Policy Act of 1978 for use by essential agricultural use establishments that seek priority 2 entitlements for natural gas.

#### § 281.302 Applicability.

This subpart applies to—

(a) Any essential agricultural use establishment for which an essential agricultural user:

(1) Has requested that natural gas be classified as priority 2 entitlements by an interstate pipeline under § 281.207; and

(2) Which has requested from any direct supplier priority 2 entitlements in excess of 300 Mcf per day; and

(b) Any essential agricultural use establishment with a new boiler, other than a diesel engine or turbine designed to use distillate fuels as the only alternative to natural gas, that:

(1) Has a capacity in excess of 300 Mcf of natural gas per day; and

(2) Is put into service for the first time after August 29, 1979.

#### § 281.303 Definitions.

For purposes of this subpart—

(a) *Ability to use* a particular alternative fuel means that an essential agricultural use establishment had, on August 29, 1979, or thereafter acquired the installed physical capability to use the alternative fuel and has used that alternative fuel, in any amount, at any time after 1973, for an essential agricultural use.

(b) *Alternative fuel* means coal or residual fuel oil.

(c) *Boiler* means any fuel burning device that is used for generating steam or electricity or producing hot water

for space heating or manufacturing processes.

(d) *Capacity* means the volumes of natural gas used if the boiler is operated at nameplate rated capacity for a continuous 16-hour period.

(e) *Coal* means lignite or any rank of bituminous coal or anthracite coal.

(f) *Direct supplier* means, with respect to an essential agricultural use establishment, an interstate pipeline or local distribution company which directly supplies such essential agricultural use establishment; with respect to a local distribution company, an interstate pipeline which directly supplies such local distribution company; and, with respect to an interstate pipeline purchaser, an interstate pipeline which directly supplies the interstate pipeline purchaser.

(g) *Distillate fuel* means Nos. 1 and 2 heating oils, diesel fuel, and No. 4 fuel oil, as defined in the standard specification for fuel oils published by the American Society for Testing and Materials, ASTM, D396 and D975.

(h) *Essential agricultural requirements* means volumes of natural gas certified by the Secretary of Agriculture and calculated in accordance with 7 CFR 2900.4 and § 281.208(b) of this part.

(i) *Essential agricultural use* means any use of natural gas, as defined in § 281.203(a)(2) of this chapter and 7 CFR 2900.3.

(j) *Essential agricultural user* means an essential agricultural user as defined in § 281.203(b)(3).

(k) *Essential agricultural use establishment* is used as defined in 7 CFR 2900.2.

(l) *Local distribution company* means a local distribution company served directly by an interstate pipeline.

(m) *Priority 2 entitlements* means the essential agricultural requirements of an essential agricultural use establishment which requirements are classified by an interstate pipeline as priority 2 in its curtailment plan under Subpart B.

(n) *Residual fuel oil* means Nos. 5 and 6 oil, Bunker C, and Navy Special as defined in the standard specification for fuel oils published by the American Society for Testing and Materials, ASTM, D396.

[44 FR 62490, Oct. 31, 1979, as amended by Order 55–B, 45 FR 54740, July 18, 1980]

**§ 281.304 Computation of alternative fuel volume.**

(a) *General rule.* For purposes of § 281.208(b)(1)(i)(B), and § 281.305:

(1) Alternative fuel volume of an essential agricultural user is equal to the sum of the alternative fuel volumes for each agricultural use establishment for which such user has requested from any direct supplier priority 2 entitlements in excess of 300 Mcf.

(2) Alternative fuel volume for an agricultural use establishment is that portion of such establishment's natural gas requirements for which such establishment has requested priority 2 curtailment and for which the establishment had on August 29, 1979, or thereafter, the ability to use alternative fuel.

(b) *New boilers.* For purposes of § 281.208(b)(1)(i)(B) and § 281.305: any new boiler of an essential agricultural use

establishment shall be deemed to have alternative fuel volumes, if the boiler:

(1) Has a capacity in excess of 300 Mcf of natural gas per day;

(2) Is put into service for the first time after August 29, 1979; and

(3) Is not a diesel engine or turbine designed to use distillate fuels as the only substitute for natural gas.

[44 FR 62490, Oct. 31, 1979, as amended by Order 55-B, 45 FR 54740, July 18, 1980]

**§ 281.305 General rule.**

Any essential agricultural user subject to this subpart that has requested from any direct supplier priority 2 classification for volumes for any essential agricultural use establishment shall reduce its essential agricultural requirements calculated under § 281.208 to reflect the exclusion of volumes of natural gas for which its essential agricultural establishment has alternative fuel volumes under § 281.304.

APPENDIX A<sup>1</sup> TO PART 281—COMPARISON OF SELECTED FUEL PRICE DATA, FPC FORM NO. 423 VERSUS MONTHLY ENERGY REVIEW, 1976—JANUARY 1980

Type of fuel	FPC form No. 423 price data <sup>1</sup>					Monthly energy review price data <sup>2</sup>				
	1976	1977	1978	1979	January 1980	1976	1977	1978	1979	January 1980
Cents per MMBtu										
Fuel Oil:										
No. 2 .....	235.1	264.3	271.9	402.1	564.4	226.4	257.3	268.2	403.1	537.2
Low Sulfur No. 6 .....	207.1	229.1	225.1	320.2	453.3	193.6	221.3	216.8	322.4	466.5
High Sulfur No. 6 .....	168.7	199.9	186.7	264.7	361.4	165.9	195.2	186.1	261.5	349.6
All No. 6 .....	195.9	220.4	212.3	299.7	423.5	182.8	210.4	202.7	297.0	417.7
Coal: All Grades .....	84.8	94.7	111.6	122.4	128.7	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )
Natural Gas .....	103.4	130.0	143.8	175.4	194.8	97.2	131.9	154.1	201.8	237.3
Actual price difference (fuel oil and coal versus natural gas)										
Fuel Oil:										
No. 2 .....	131.7	134.3	128.1	226.7	369.6	129.2	125.4	114.1	201.3	299.9
Low Sulfur No. 6 .....	103.7	99.1	81.3	144.8	258.5	96.4	89.4	62.7	120.6	229.2
High Sulfur No. 6 .....	65.3	69.1	42.9	89.3	166.6	68.7	66.3	32.0	59.7	112.3
All No. 6 .....	92.5	90.4	68.5	124.3	228.7	85.6	78.5	48.6	95.2	180.4
Coal: All Grades .....	(18.6)	(35.3)	(32.2)	(53.0)	(66.1)	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )
Price difference ratio <sup>4</sup> (fuel oil and coal versus natural gas)—ratio										
Fuel Oil:										
No. 2 .....	1.274	1.033	.891	1.292	1.897	1.329	.951	.740	.998	1.264
Low Sulfur No. 6 .....	1.003	.762	.565	.826	1.327	.992	.678	.407	.598	.966
High Sulfur No. 6 .....	.632	.538	.298	.509	.855	.707	.480	.208	.296	.473
All No. 6 .....	.895	.695	.476	.709	1.174	.881	.595	.315	.472	.760
Coal: All Grades .....	(.180)	(.272)	(.224)	(.302)	(.339)	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )

<sup>1</sup> As reported in DOE/EIA Energy Data Report entitled *Cost and Quality of Fuels for Electric Utility Plants* (Annual summary data 1976-1979) and Monthly Report for January 1980). Note: All prices are delivered prices to steam electric plants. Prices paid for No. 6 fuel oil include prices paid for minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude.

<sup>2</sup> Fuel oil prices are reported on FEA Form P302-M-1, "Petroleum Industry Monthly Report for Product Prices." Natural Gas Prices are those paid by industrial customers of major interstate pipeline companies as reported on FPC Form No. 11, "Natural Gas Pipeline Company Monthly Statement."

<sup>3</sup> The price data for coal is the same as shown under FPC Form No. 423 price data.

<sup>4</sup> Mathematically the price difference ratio is  $P_2 - P_1 / P_1$ ; Where  $P_2$  = the price of fuel oil or coal and  $P_1$  = the price of natural gas. The ratio indicates the percent difference between natural gas and alternate fuel prices. For example in January 1980 electric utilities reported that in that month they paid 1.897 times more (189.7 percent) for No. 2 fuel oil than they paid for natural gas. As determined in Docket No. RM79-40 NOPR issued June 3, 1980, corrected for clerical/typographical error.

[Order 55-B, 45 FR 54740, Aug. 18, 1980]

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

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