

Tullahoma, TN, Tullahoma Regional Arpt/  
Wm Northern Field, SDF RWY 18, Amdt  
4

Tullahoma, TN, Tullahoma Regional Arpt/  
Wm Northern Field, VOR RWY 6, Orig  
Tullahoma, TN, Tullahoma Regional Arpt/  
Wm Northern Field, VOR RWY 24, Orig  
Tullahoma, TN, Tullahoma Regional Arpt/  
Wm Northern Field, VOR/DME A, Orig,  
CANCELLED

Tullahoma, TN, Tullahoma Regional Arpt/  
Wm Northern Field, VOR/DME OR GPS-  
B, Amdt 3B, CANCELLED

Tullahoma, TN, Tullahoma Regional Arpt/  
Wm Northern Field, VOR/DME RNAV  
OR GPS RWY 36, Amdt 4, CANCELLED

[FR Doc. 04-20060 Filed 9-2-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 342

[Docket No. RM93-11-002; Order No. 650]

#### Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992

Issued August 27, 2004.

**AGENCY:** Federal Energy Regulatory  
Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy  
Regulatory Commission is amending a  
certain regulation following a judicial  
determination that the Commission  
acted properly in establishing the oil  
pipeline rate index.

**EFFECTIVE DATE:** The rule will become  
effective September 3, 2004.

**FOR FURTHER INFORMATION CONTACT:**  
Harris Wood, Office of General Counsel,  
Federal Energy Regulatory Commission,  
888 First Street, NE., Washington, DC  
20426; (202) 502-8224.

#### SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III,  
Chairman; Nora Mead Brownell, Joseph  
T. Kelliher, and Suedeem G. Kelly.  
Revisions to oil pipeline regulations  
pursuant to the Energy Policy Act of  
1992; Docket No. RM93-11-002.

1. The Federal Energy Regulatory  
Commission (Commission) is modifying  
a certain regulation pertaining to oil  
pipeline ratemaking following a judicial  
determination upholding the  
Commission's determination that the  
appropriate index for oil pipeline rate  
changes is the Producer Price Index,  
from and after July 2001.

#### Background and Discussion

2. On October 22, 1993, in response  
to the requirements of Title XVIII of the

Energy Policy Act of 1992,<sup>1</sup> the  
Commission issued Order No. 561,<sup>2</sup> in  
which the Commission  
comprehensively revised the  
Commission's regulation of the oil  
pipeline industry. Among other things,  
Order No. 561 established a price cap  
for oil pipeline rates, to be adjusted  
annually based upon changes in the  
Producer Price Index for Finished  
Goods (published each May by the U.S.  
Department of Labor, Bureau of Labor  
Statistics) minus one percent (PPI-1).  
Order No. 561 recognized that its  
responsibilities under the Interstate  
Commerce Act,<sup>3</sup> to both shippers and  
pipelines, required monitoring of the  
relationship between the change in the  
selected index and the actual cost  
changes experienced by the industry.  
Therefore, the Commission stated that it  
would review the choice of index every  
5 years.<sup>4</sup>

3. On July 27, 2000, the Commission  
issued a notice of inquiry in Docket No.  
RM00-11-000 on its five-year review of  
the oil pricing index.<sup>5</sup> After receiving  
and considering comments of numerous  
parties, the Commission affirmed that  
the PPI-1 index closely approximated  
the actual cost changes in the oil  
pipeline industry as reported in FERC  
Form No. 6, and concluded that this  
index continued to satisfy the mandates  
of the Energy Policy Act of 1992.<sup>6</sup>  
Review of this order was sought by the  
Association of Oil Pipe Lines (AOPL),  
and on March 1, 2002, the U.S. Court of  
Appeals for the D.C. Circuit remanded  
the proceeding to the Commission for  
further review and explanation,  
particularly with respect to the choice of  
PPI-1 as the appropriate index for  
future oil pipeline rate changes.<sup>7</sup>

4. Two separate petitions for  
Commission action on the remand by  
the Court were filed, one by AOPL, and  
the other jointly by Sinclair Oil  
Corporation and Tesoro Refining and  
Marketing Company (Shippers). AOPL  
argued for the use of the PPI, while  
Shippers urged the Commission to  
reaffirm its decision to use PPI-1, as the

<sup>1</sup> 42 U.S.C.A. 7172 note (West Supp. 1993).  
References to the Energy Policy Act are to this note,  
indicating the section number of the statute.

<sup>2</sup> Revisions to Oil Pipeline Regulations Pursuant  
to the Energy Policy Act of 1992, FERC Stats. &  
Regs. (Regs. Preambles, 1991-1996), ¶ 30,985  
(1993); *order on reh'g.*, FERC Stats. & Regs. (Regs.  
Preambles, 1991-1996) ¶ 31,000; *aff'd.*, Association  
of Oil Pipe Lines v. Federal Energy Regulatory  
Commission, 83 F.3d 1424 (D.C. Cir. 1996).

<sup>3</sup> 49 U.S.C. app. 1 (1988).

<sup>4</sup> Order No. 561, ¶ 30,985 at 30,952.

<sup>5</sup> FERC Statutes & Regulations [Notices] ¶ 35,536  
(2000).

<sup>6</sup> 93 FERC ¶ 61,266 (2000).

<sup>7</sup> *Association of Oil Pipe Lines v. FERC*, 281 F.3d  
239 (D.C. Cir. 2002).

appropriate index to measure cost  
changes in the oil pipeline industry. On  
February 24, 2003, the Commission  
issued its order on remand, determining  
after further cost data analysis that the  
appropriate oil pricing index for the  
current five year period should be the  
PPI.<sup>8</sup> Review of this order was sought by  
the Shippers, and on April 9, 2004, the  
Court affirmed the Commission.<sup>9</sup>

5. In view of the Court's finding that  
the Commission had acted properly in  
establishing the PPI as the appropriate  
oil pricing index, the Commission  
amends 18 CFR part 342, section  
342.3(d)(2) by deleting “, and then  
subtracting 0.01” from the end of that  
section.

#### Information Collection Statement

6. There is no need for Office of  
Management and Budget review<sup>10</sup>  
under section 3507(d) of the Paperwork  
Reduction Act of 1995,<sup>11</sup> since this final  
rule does not affect information  
collection and recordkeeping  
requirements.

#### Environmental Analysis

7. 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>12</sup> However, the  
Commission has categorically excluded  
certain actions from this requirement as  
not having a significant effect on the  
human environment.<sup>13</sup> The clarifying  
and corrective nature of the change here  
promulgated qualifies for such an  
exclusion.<sup>14</sup>

#### Regulatory Flexibility Act Certification

8. The Regulatory Flexibility Act of  
1980 (RFA)<sup>15</sup> generally requires a  
description and analysis of final rules  
that will have significant economic  
impact on a substantial number of small  
entities. Inasmuch as the change here  
promulgated reduces the complexity of  
oil pipeline ratemaking, the change will  
have no significant economic impact on  
a substantial number of small entities.

<sup>8</sup> 102 FERC ¶ 61,195 (2003).

<sup>9</sup> *Flying J Inc.*, et al. v. *Federal Energy Regulatory  
Commission*, 363 F. 3d 495 (D.C. Cir. 2004).

<sup>10</sup> 5 CFR 1320.11.

<sup>11</sup> 44 U.S.C. 3507(d).

<sup>12</sup> Order No. 486, Regulations Implementing the  
National Environmental Policy Act, 52 FR 47897  
(Dec. 17, 1987), FERC Stats. & Regs. Preambles  
1986-1990 ¶ 30,783 (1987).

<sup>13</sup> 18 CFR 380.4.

<sup>14</sup> 18 CFR 380.4(a)(2)(ii).

<sup>15</sup> 5 U.S.C. 601-612

Accordingly, no regulatory flexibility analysis is required.

#### Document Availability

9. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's home page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426. The full text of this document is available on the FERC's Home Page at the eLibrary link. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field and follow other directions on the search page.

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

#### Effective Date

11. These regulations are effective immediately, pursuant to 5 U.S.C. 533(b), upon the date of publication in the **Federal Register**. The Commission is issuing this as a final rule without a period for public comment, because under 5 U.S.C. 533(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice or where the agency finds notice and comment unnecessary. Inasmuch as the change promulgated in this proceeding is consistent with a court remand and subsequent affirmance of the Commission's order on remand, and because substantial public comments have already been made on the substance of the change, the Commission finds that further notice and comment are unnecessary. The provisions of 5 U.S.C. 801 regarding Congressional review of Final Rules does not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

#### Congressional Notification

12. The Commission has determined with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the 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.<sup>16</sup> The Commission will submit the Final Rule to both Houses of Congress and the General Accounting Office.<sup>17</sup>

#### List of Subjects in 18 CFR Part 342

Reporting and recordkeeping requirements.

By the Commission.

**Magalie R. Salas**,  
Secretary.

■ In consideration of the foregoing, the Commission amends part 342, chapter I, title 18, Code of Federal Regulations, as follows:

#### SUBCHAPTER P—REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

#### PART 342—OIL PIPELINE RATE METHODOLOGIES AND PROCEDURES

##### § 342.3 [Amended]

■ 1. Part 342, section 342.3(d)(2) is amended by removing the words “, and then subtracting 0.01”.

[FR Doc. 04-20084 Filed 9-2-04; 8:45 am]

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Food and Drug Administration

##### 21 CFR Part 201

[Docket Nos. 1998N-0337, 1996N-0420, 1995N-0259, and 1990P-0201]

RIN 0910-AA79

#### Over-the-Counter Human Drugs; Labeling Requirements; Delay of Implementation Date

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; delay of implementation date of certain provisions.

**SUMMARY:** The Food and Drug Administration (FDA) is providing a delay of the implementation date for certain products subject to its final rule that established standardized format and content requirements for the labeling of over-the-counter (OTC) drug products (drug facts rule). That final rule requires all OTC drug products to comply with new format and labeling requirements within prescribed implementation periods. The agency intends in a future issue of the **Federal Register** to propose an amendment to

the drug facts rule to modify the labeling requirements for OTC sunscreen drug products. This document postpones the implementation date of the drug facts rule as it applies to OTC sunscreen drug products pending the outcome of the future rulemaking.

**DATES:** *Effective:* October 4, 2004. FDA is delaying the May 16, 2005, implementation date for the drug facts rule (21 CFR 201.66) as it applies to OTC sunscreen drug products (21 CFR part 352) until further notice.

*Comment Date:* Submit written or electronic comments by December 2, 2004.

**ADDRESSES:** You may submit comments, identified by Docket Nos. 1998N-0337, 1996N-0420, 1995N-0259, and 1990P-0201 and/or RIN number 0910-AA79, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web site: <http://www.fda.gov/docket/ecomments>. Follow the instructions for submitting comments on the agency Web site.
- E-mail: [fdadockets@oc.fda.gov](mailto:fdadockets@oc.fda.gov).

Include Docket Nos. 1998N-0337, 1996N-0420, 1995N-0259, and 1990P-0201 and/or RIN number 0910-AA79 in the subject line of your e-mail message.

- FAX: 301-827-6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

*Instructions:* All submissions received must include the agency name and docket numbers or regulatory information number (RIN) for this rulemaking. All comments received will be posted without change to <http://www.fda.gov/ohrms/dockets/default.htm>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Comments” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the dockets to read background documents or comments received, go to <http://www.fda.gov/ohrms/dockets/default.htm> and/or the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD-560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-2307.

<sup>16</sup> See 5 U.S.C. 804(2)(2000).

<sup>17</sup> See 5 U.S.C. 801(a)(1)(A)(2000).