

Tullahoma, TN, Tullahoma Regional Arpt/
Wm Northern Field, SDF RWY 18, Amdt
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Tullahoma, TN, Tullahoma Regional Arpt/
Wm Northern Field, VOR RWY 6, Orig
Tullahoma, TN, Tullahoma Regional Arpt/
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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 Suede 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 1992,¹ the
Commission issued Order No. 561,² 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,³ 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.⁴

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.⁵ 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 1992.⁶
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.⁷

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

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.⁸ Review of this order was sought by
the Shippers, and on April 9, 2004, the
Court affirmed the Commission.⁹

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 review¹⁰
under section 3507(d) of the Paperwork
Reduction Act of 1995,¹¹ 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.¹² However, the
Commission has categorically excluded
certain actions from this requirement as
not having a significant effect on the
human environment.¹³ The clarifying
and corrective nature of the change here
promulgated qualifies for such an
exclusion.¹⁴

Regulatory Flexibility Act Certification

8. The Regulatory Flexibility Act of
1980 (RFA)¹⁵ 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.

¹ 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.

² 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).

³ 49 U.S.C. app. 1 (1988).

⁴ Order No. 561, ¶ 30,985 at 30,952.

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

⁶ 93 FERC ¶ 61,266 (2000).

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

⁸ 102 FERC ¶ 61,195 (2003).

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

¹⁰ 5 CFR 1320.11.

¹¹ 44 U.S.C. 3507(d).

¹² 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).

¹³ 18 CFR 380.4.

¹⁴ 18 CFR 380.4(a)(2)(ii).

¹⁵ 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, 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 1996.¹⁶ The Commission will submit the Final Rule to both Houses of Congress and the General Accounting Office.¹⁷

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.

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.

¹⁶ See 5 U.S.C. 804(2)(2000).

¹⁷ See 5 U.S.C. 801(a)(1)(A)(2000).