

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ACE-24]

Amendment to Class E Airspace;
Emporia, KSAGENCY: Federal Aviation
Administration, DOT.ACTION: Direct final rule; confirmation of
effective date.SUMMARY: This document confirms the
effective date of a direct final rule which
revises Class E airspace at Emporia, KS.DATES: The direct final rule published at
64 FR 33012 is effective on 0901 UTC,
September 9, 1999.FOR FURTHER INFORMATION CONTACT:
Kathy Randolph, Air Traffic Division,
Airspace Branch, ACE-520C, Federal
Aviation Administration, 601 East 12th
Street, Kansas City, Missouri 64106;
telephone: (816) 426-3408.SUPPLEMENTARY INFORMATION: The FAA
published this direct final rule with a
request for comments in the **Federal
Register** on June 21, 1999 (64 FR 33012).
The FAA uses the direct final
rulemaking procedure for a non-
controversial rule where the FAA
believes that there will be no adverse
public comment. This direct final rule
advised the public that no adverse
comments were anticipated, and that
unless a written adverse comment, or a
written notice of intent to submit such
as adverse comment, were received
within the comment period, the
regulation would become effective on
September 9, 1999. No adverse
comments were received, and thus this
notice confirms that this direct final rule
will become effective on that date.Issued in Kansas City, MO on August 5,
1999.

Thomas G. Klocek,

Acting Manager, Air Traffic Division, Central
Region.

[FR Doc. 99-21036 Filed 8-13-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission18 CFR Parts 3, 341, 342, 346, 357, 362,
385

[Docket No. RM99-1-000; Order No. 606]

Revisions to Oil Pipeline Regulations

Issued August 4, 1999.

AGENCY: Federal Energy Regulatory
Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy
Regulatory Commission (Commission) is
revising its regulations governing oil
pipelines. The regulations to be
modified or deleted are located in 18
CFR Parts 3, 341, 342, 343, 346, 357,
362, and 385. These revisions are
intended to clarify the Commission's
regulations and bring them up to date.EFFECTIVE DATE: The regulations are
effective September 15, 1999.ADDRESSES: Federal Energy Regulatory
Commission, 888 First Street, N.E.,
Washington, D.C. 20426.FOR FURTHER INFORMATION CONTACT:
Travis R. Smith, Office of the General
Counsel, Federal Energy Regulatory
Commission, 888 First Street, N.E.,
Washington, D.C. 20426, (202) 208-
0696.SUPPLEMENTARY INFORMATION: In
addition to publishing the full text of
this document in the **Federal Register**,
the Commission also provides all
interested persons an opportunity to
inspect or copy the contents of this
document during normal business hours
in the Public Reference Room at 888
First Street, N.E., Room 2A,
Washington, D.C. 20426.The Commission Issuance Posting
System (CIPS) provides access to the
texts of formal documents issued by the
Commission from November 14, 1994,
to the present. CIPS can be accessed via
Internet through FERC's Home Page
(<http://www.ferc.fed.us>) using the CIPS
Link or the Energy Information Online
icon. Documents will be available on
CIPS in ASCII and WordPerfect 6.1
format. User assistance is available at
202-208-2474 or by E-mail to
cips.master@ferc.fed.us.This document is also available
through the Commission's Records and
Information Management System
(RIMS), an electronic storage and
retrieval system of documents submitted
to and issued by the Commission after
November 16, 1981. Documents from
November 1995 to the present can be
viewed and printed. RIMS is availablein the Public Reference Room or
remotely via Internet through FERC's
Home Page using the RIMS link or the
Energy Information Online icon. User
assistance is available at 202-208-2222,
or by E-mail to rismaster@ferc.fed.us.Finally, the complete text on diskette
in WordPerfect format may be
purchased from the Commission's copy
contractor, RVJ International, Inc. RVJ
International, Inc. is located in the
Public Reference Room at 888 First
Street, N.E., Washington, D.C. 20426.Before Commissioners: James J. Hoecker,
Chairman; Vicky A. Bailey, William L.
Massey, Linda Breathitt, and Curt Hébert, Jr.

I. Introduction

The Federal Energy Regulatory
Commission (Commission) is revising
its regulations governing oil pipelines at
18 CFR Parts 341, 342, 343, and 346 to
remove various provisions that are
either outdated or in conflict with other
oil pipeline regulations. The goals of
these revisions are to clarify the
Commission's regulations and bring
them up to date. The Commission is
also revising 18 CFR Parts 3, 357, 362,
and 385 to conform to the other changes
adopted here.

II. Background

Jurisdiction over oil pipelines, as it
relates to the establishment of rates or
charges for the transportation of oil by
pipeline or to the establishment of
valuations for pipelines, was transferred
from the Interstate Commerce
Commission (ICC) to the Commission
pursuant to sections 306 and 402 of the
Department of Energy Organization Act
(DOE Act).¹ At the time the DOE Act
transferred jurisdiction over oil pipeline
rates to the Commission, the regulations
governing oil pipelines were located in
the ICC's regulations at Title 49 of the
Code of Federal Regulations (CFR).
Initially, the Commission ordered that
the regulations concerning oil pipelines
remain in effect until modified by the
Commission. In Order No. 119,² the
Commission started transferring some of
the ICC's oil pipeline regulations from
Title 49 of the Code of Federal
Regulations to the Commission's
regulations in Title 18. Parts 357³ and
362⁴ are among some of the
Commission's current regulations that¹ Department of Energy Organization Act, 42
U.S.C. 7155 and 7172(b) (1988).² Regulation of Interstate Oil Pipelines, Order No.
119, 46 FR 9043 (Jan. 28, 1981), FERC Stats. & Regs.
(Regulations Preambles, 1977-1981) ¶ 30,226 (Dec.
19, 1980).³ Part 357 addresses the annual special or
periodic reports that carriers subject to Part I of the
Interstate Commerce Act are required to file.⁴ 18 CFR Part 362 sets forth the various
requirements for valuation.

were adopted from this initial transfer. In Order No. 225,⁵ the Commission adopted the ICC's rules pertaining to paper hearings called the "modified procedure," currently codified at 18 CFR 385.1404 through 385.1414, and to *ex parte* communications, presently located at 18 CFR 385.1415, from 49 CFR Part 1100. Also, pursuant to Order No. 225, the Commission moved all of its Rules of Practice and Procedure from 18 CFR Part 1 to 18 CFR Part 385. Notwithstanding some limited revisions, most of the provisions in 18 CFR Parts 357, 362, and 385 are the same as they were in Title 49.

The Energy Policy Act of 1992 (Act of 1992) required the Commission to promulgate new regulations to provide a simplified and generally applicable ratemaking methodology for oil pipelines, and to streamline its procedures in oil pipeline proceedings.⁶ Pursuant to Congress' directive in the Act of 1992, the Commission issued Order No. 561⁷ and two companion rulemakings, Order Nos. 571⁸ and 572⁹. In Order No. 561, the Commission established a simplified and generally applicable index-methodology for oil pipelines to change their rates and also provided alternatives to this methodology. In Order No. 571, the Commission addressed a cost-of-service rate filing alternative for oil pipelines. In Order No. 572, the Commission addressed market-based rates for oil pipelines. These rulemakings also included new rate filing requirements and procedural reforms to reflect the

new ratemaking methodologies, and streamlined the Commission's internal processes for oil pipelines.

At the time the Commission adopted changes to its ratemaking methodologies and procedural requirements, it intended that its new regulations would supersede existing procedural rules that were in conflict and do away with those that were no longer necessary, such as those describing the modified procedure. The final rules, however, did not take steps to remove these outdated regulations. As a result, the current Commission regulations governing oil pipelines include both recent provisions adopted or modified pursuant to the Act of 1992 and conflicting regulations adopted from the ICC which have been superseded, unutilized, or are inconsistent.

On October 20, 1998, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM99-1-000.¹⁰ The Commission received comments from the Association of Oil Pipelines (AOPL).

III. Public Reporting Burden

The Commission believes that there will be no impact on the public reporting burden from the elimination of outdated and nonessential regulations, and the related modification of other regulations. Because the regulations being removed are outdated, they effectively ceased being a reporting burden years ago. As for the regulations being modified, they are simply clarifying, not augmenting, reporting requirements.

IV. Discussion

A. Part 341

Part 341 relates to the requirements for preparing, filing, and withdrawing oil pipeline tariffs. Section 341.6(3) pertains to the rules for partial adoption by a carrier of another carrier's tariffs. In the NOPR, the Commission proposed to amend this section by removing duplicative language from the provision that now requires a carrier to state the effective date of an adoption notice twice in a tariff supplement required to be filed with the Commission. The Commission did not receive any adverse comments in response to this proposal, so the Commission will implement this modification in its final rule.

Section 341.7 addresses the requirements for concurrences. The Commission proposed to modify this section to specify the information that should be included in letters of transmittal accompanying the filing of a

tariff publication containing a joint carrier. Under the proposed revision, letters of transmittal would be required to include the address, phone number, and contact for each joint carrier listed in the tariff publication. This is information that the Commission, as a routine matter, has required carriers to submit. The Commission concluded that including it as part of the regulations will inform carriers that such information must be included with their filings and make it unnecessary for carriers to supplement their filings later.

AOPL supports the Commission's proposal to include the foregoing information concerning joint carriers in the transmittal letter for a joint tariff. However, AOPL contends that the better place for this requirement is in the Commission's regulations on transmittal letters in section 341.2(c)(1).

The Commission will adopt the proposed modifications and revise section 341.2(c)(1), not section 341.7, as recommended by AOPL. While section 341.2(c)(1) is not a perfect fit, since the modification involves information requirements for transmittal letters concerning joint carriers, and section 341.2(c)(1) pertains to general information requirements for transmittal letters, it appears to be more appropriate to include it there, rather than in the section on concurrences.

B. Part 342

Part 342 pertains to the methods that may be used to establish initial rates, or change existing rates. Section 342.3 discusses rate changes under the indexing methodology. Section 342.3(b)(1) currently provides:

Carriers must specify in their letters of transmittal required in § 341.2(c) of this chapter the rate schedule to be changed, the proposed new rate, the prior rate, and the applicable ceiling level for the movement. No other rate information is required to accompany the proposed rate change.

Under the revisions proposed in the NOPR, this section would require carriers filing for rate changes to include the prior rate ceiling level, in addition to the other information specified, in their letters of transmittal. Including the prior ceiling level will provide necessary information for the calculation of the index ceiling levels.

Section 342.3(b)(2) addresses the information required to be filed by carriers with their initial rate changes. It currently reads as follows:

On March 31, 1995, or concurrently with its first indexed rate change filing made on or after January 1, 1995, whichever first occurs, carriers must file a verified copy of a schedule for calendar years 1993 and 1994 containing the information required by page

⁵Revisions of Rules of Practice and Procedure to Expedite Trial-Type Hearings, Order No. 225, 47 FR 19014 (May 3, 1982), FERC Stats. & Regs. (Regulations Preambles, 1982-1985) ¶ 30,358 (Apr. 28, 1982).

⁶The Energy Policy Act of 1992 (Act of 1992) contemplated two rulemakings—one on ratemaking methodology and another on streamlined procedures—and established separate deadlines for their completion. Energy Policy Act of 1992 Pub. L. No. 102-46, Title XVIII, 1801 to 1804, 106 Stat. 2776, 3010-3011 (codified as 42 U.S.C.A. 7172 note (West Supp. 1995)).

⁷Revisions to Oil Pipeline Regulations pursuant to Energy Policy Act of 1992, Order No. 561, 58 FR 58753 (Nov. 4, 1993), FERC Stats. & Regs. (Regulations Preambles, 1991-1996) ¶ 30,985 (Oct. 22, 1993), *order on rehearing and clarification*, Order No. 561-A, 59 FR 40243 (Aug. 8, 1994) FERC Stats. & Regs. (Regulations Preambles, 1991-1996) ¶ 31,000 (July 28, 1994).

⁸Cost-of-Service Reporting and Filing Requirements for Oil Pipelines, Order No. 571, 59 FR 59137 (Nov. 16, 1994) FERC Stats. & Regs. (Regulations Preambles, 1991-1996) ¶ 31,006 (Oct. 28, 1994), *order on rehearing and clarification*, Order No. 571-A, 60 FR 356 (Jan. 4, 1995) FERC Stats. & Regs. (Regulations Preambles, 1991-1996) ¶ 31,012 (Dec. 28, 1994).

⁹Market-Based Ratemaking for Oil Pipelines, Order No. 572, 59 FR 59148 (Nov. 16, 1994), FERC Stats. & Regs. (Regulations Preambles, 1991-1996) ¶ 31,007 (Oct. 28, 1994), *order denying rehearing*, Order No. 572-A, 69 FERC ¶ 61,412 (Dec. 28, 1994).

¹⁰Revisions to Oil Pipeline Regulations, 63 FR 57081 (Oct. 26, 1998), IV FERC Stats. & Regs. ¶ 32,537 (Oct. 20 1998).

700 of the 1995 edition of FERC Form No. 6. If actual data are not available for calendar year 1994 when the rate change filing is made, the information for calendar year 1994 must be comprised of the most recently available actual data annualized for the year 1994. A schedule containing the information comprised of actual data for calendar year 1994 must be filed not later than March 31, 1995. Thereafter, carriers must file page 700 as a part of their annual Form No. 6 filing.

This section directs carriers to file schedules containing the information required by page 700 of the 1995 edition of FERC Form No. 6. on March 31, 1995, or concomitantly with its first indexed rate change filing made on or after January 1, 1995, whichever occurs first. Because the one-time need for the requirements of this section has passed, the Commission proposed to delete it in its entirety.

Section 342.3(d)(3) states that a carrier must compute its ceiling level each index year without regard to the rates filed pursuant to this section. In *Kaneb Pipeline Operating Partnership, L.P.*,¹¹ and subsequent proceedings, the Commission explained that because there are numerous pipelines that file rates measured in hundredths of a cent, all ceiling level calculations for all pipelines should be rounded¹² to the nearest hundredth of a cent. As this explanation applies to all calculations by all carriers under section 342.3, the NOPR proposed to add this explanation to the regulations to assist carriers in making accurate and complete filings.

AOPL considers the proposed changes to be positive ones for the oil industry. AOPL also suggests including in the regulation an example demonstrating how the rounding works. At the very least, AOPL requests that the Commission include a more detailed explanation of the rounding process.

The Commission will adopt the modification to section 342.3 in the final rule as proposed in the NOPR. The regulations as revised will include a thorough explanation for pipelines to use in calculating their ceiling levels. Adding further material would add unnecessary detail to the regulations. Oil pipelines have been calculating their ceiling levels for a number of years under the current regulations, and have done so successfully. The material added here will address the area where pipelines, for the most part, have miscalculated. No pipelines considered

it necessary to file comments on the proposal, so the revision adopted here should prove satisfactory.

C. Part 343

Part 343 discusses procedural matters related to oil pipeline proceedings under part 342. Section 343.2 describes the requirements for filing interventions, protests, and complaints. The Commission will adopt the NOPR's proposal to correct section 343(c)(4) so that it references paragraphs (c)(1), (2), or (3) within the section, rather than paragraphs (b)(1), (2), or (3) as at present.

D. Part 346

Part 346 sets forth the filing requirements for oil pipelines that seek to establish cost-of-service rates as permitted under Part 342. Section 346.2(c)(7) states in part: "If the presently effective rates are not at the maximum ceiling rate established under §342.4(a) of this chapter, then gross revenues must also be computed and set forth as if the ceiling rates were effective for the 12 month period." The Commission will adopt the proposed revisions to section 346.2(c)(7) to correctly reference section 342.3, which is the section that sets forth the indexing methodology, rather than section 342.4(a), which describes cost-of-service rates.

E. Part 357

Part 357 concerns the annual special or periodic reports that carriers subject to Part I of the Interstate Commerce Act are required to file. Sections 357.3(a), (b), and (c) discuss the filing requirements for FERC Form No. 73. In Order No. 561, the Commission stated that it would be the oil pipeline carriers' responsibility in the future to perform depreciation studies to establish revised depreciation rates for oil pipelines. The specific requirements for such studies were adopted as Part 347 of the Commission's regulations in Order No. 571. Section 347.1(e)(5)(x) provides that a carrier must submit a Service Life Data Form (FERC Form No. 73) if the proposed depreciation rate adjustment is based on the remaining physical life of the properties. The Commission proposed that section 357.3(a) and (b), which address who must file FERC Form No. 73 and when the form must be submitted, be revised to include filings under section 347.1(e)(5)(x). The Commission also proposed to revise section 357.3(c) to update its mailing address. AOPL considers the proposed changes to be an appropriate clarification and the Commission will adopt them.

AOPL has pointed out that section 357.3(b), as proposed in the NOPR, contains a clerical error. The proposed section read as follows:

Service life data is reported to the Commission by an oil pipeline company, as necessary, concurrently with a filing made pursuant to part 347 of this chapter and as directed during a depreciation rate investigation. (emphasis added)

AOPL correctly noted that the word "and" should really be the word "or." Accordingly, for the final rule, the Commission will adopt the proposal and will supplant the word "and" with the word "or."

F. Part 362

Part 362 sets forth the various requirements for valuation. Part 362 came into being as a result of Order No. 119,¹³ which transferred the ICC's valuation section, in addition to several other sections pertaining to oil pipelines, from its regulations located at Title 49 of the Code of Federal Regulations to the Commission's regulations at Title 18. In Opinion No. 154,¹⁴ the Commission intimated that it was considering abandoning the traditional ICC valuation formula; however, the Commission ultimately retained the valuation methodology. To the contrary, in Opinion No. 154-B,¹⁵ the Commission adopted a methodology that is currently used in oil pipeline rate cases. This new methodology is predicated on a trended original cost (TOC) rate base and it does not follow the ICC's historic valuation rate base. Because Opinion No. 154-B rejects the valuation rate base methodology and thus eliminates the need for any valuation of oil pipelines, the filing of valuation reports as now required by Part 362 is no longer necessary. As a result, the Commission proposed to remove Part 362 from its regulations. Order No. 561 removed Parts 360 and 361 pertaining to reporting of data for valuation purposes. The proposal in the NOPR would complete the task of removing unnecessary valuation regulations.

AOPL welcomes removal of the rules on valuation, considering it to be long

¹¹ *Kaneb Pipeline Operating Partnership, L.P.*, 71 FERC ¶ 61,409 (1995).

¹² If the third decimal place number is five or more, the second decimal number should be rounded up; if the third decimal place number is four or less, the second decimal place number should be rounded down. *Kaneb Pipeline*, 71 FERC ¶ 61,409 (1995), at p. 62,617 n.6.

¹³ Regulation of Interstate Oil Pipelines, Order No. 119, 46 FR 9043 (Jan. 28, 1981), FERC Stats. & Regs. (Regulations Preambles, 1977-1981) ¶ 30,226 (Dec. 19, 1980).

¹⁴ *Farmers Union Central Exchange, Inc. v. FERC*, 734 F.2d 1486 (D.C. Cir. 1984), cert. denied sub nom., *Williams Pipeline Company v. Farmers Union Central Exchange, Inc.*, 105 S.Ct. 507 (1984). The Commission's opinion appears at 21 FERC ¶ 61,260 (1982), reh'g denied, 21 FERC ¶ 61,086 (1983).

¹⁵ *Williams Pipeline Company*, 31 FERC ¶ 61,377 (1985).

overdue. The Commission will adopt the proposed changes.

G. Part 385

Part 385 governs the Commission's rules of practice and procedure. Section 385.101(b)(3) excepts ICC rules from Part 385 in cases where regulations in the Commission's Rules of Practice and Procedure are inconsistent with ICC rules that were not replaced by a Commission rule or order. Because the Commission has promulgated and codified its own rules governing oil pipelines, this section has become unnecessary; therefore, the Commission proposed to remove this section from its Rules of Practice and Procedure. Section 385.102(a), which defines "decisional authority," refers to authority or responsibility under "49 CFR Chapter X." As this is a reference to ICC regulations which have been replaced, the Commission proposed the removal of this section.

Section 385.1403 discusses the filing requirements for protests to tariff filings. This section is inconsistent with, and has been superseded by, section 343.3, which was adopted in Order No. 561. Accordingly, the Commission proposed to delete section 385.1403 from the Commission's Rules of Practice and Procedure.

Sections 385.1405 through 385.1414 set out the modified procedure rules for oil pipeline proceedings. These rules provide that the Commission can order a proceeding to be heard under a modified procedure if it appears that substantially all important issues of fact may be resolved by means of written materials without an oral hearing. These rules were adopted from the ICC's procedural regulations, 49 CFR 1100, pursuant to Order No. 225.¹⁶ The regulations concerning the modified procedure have been superseded by, and are in conflict with, procedures and filing requirements in Parts 342, 343, 346, and 347 adopted in Order Nos. 561, 571, and 572. Therefore, the Commission proposed in the NOPR to remove them. The Commission stated it would continue to use paper hearing procedures in individual cases where warranted, but that these procedures are not used frequently enough to warrant continuing to include them in the regulations. Since the Commission proposed to remove the modified procedure rules, the NOPR also proposed to remove section 385.101(b)(4)(I) because it excepts

sections 385.1404 through 1414 from Part 385.

AOPL objects to the removal of the modified procedure provisions. AOPL contends that inclusion of the rules, even if only used occasionally, may be of benefit to parties and the Commission in rapidly resolving a dispute. AOPL claims that although the Commission could still order paper hearings when necessary, the Commission would be less likely to do so without a clearly defined template already in place that sets out the rights and obligations of the parties in conducting such a proceeding. AOPL also argues that a paper hearing could prove beneficial to quickly resolving a complaint proceeding that is clear as to the issue in dispute, but unclear as to an appropriate resolution.

The Commission's modified procedure provisions have become outdated as the result of changes to the Commission's procedural regulations that specify resolution paths to be followed in particular instances. For example, the regulations at section 343.5 provide that the Commission may require parties to enter into good faith negotiations to settle oil pipeline rate matters and specify that the Commission will refer all protested rate filings to a settlement judge for recommended resolution. The Commission also has adopted new complaint procedures designed to encourage and support consensual resolution of complaints and otherwise ensure that complaints are resolved in a timely and fair manner. Thus, AOPL's concerns about there being in place procedures that recognize the rights and obligations of parties in large part have already been addressed. For those few instances where a proceeding may not fit neatly into an established resolution process, the Commission will be able to devise a procedure to ensure resolution of the dispute in a manner that best serves all.¹⁷ Such a procedure could include a paper hearing process through which issues of material fact could be resolved by means of written statements. The Commission therefore considers the modified procedure regulations to be no longer necessary

¹⁷ See, e.g., *Express Pipeline Partnership*, 75 FERC ¶ 61,303 (1996) (holding that the Commission will establish paper hearing procedures to address whether to approve proposed rates and a rate structure as a condition precedent to construction of a new oil pipeline); *Platte Pipe Line Company*, 78 FERC ¶ 61,307 (1997) (holding that the Commission will establish a technical conference to examine issues raised by the pipeline's filing); and *Sinclair Oil Corporation v. Platte Pipe Line Company*, 87 FERC ¶ 61,259 (1999) (holding that the Director of the Commission's Dispute Resolution Service is directed to arrange a process to foster negotiation and agreement).

and will adopt the revisions proposed in the NOPR.

Some of the Commission's regulations include references to the Oil Pipeline Board. Section 385.102, the definitions section, contains Oil Pipeline Board references in paragraphs (a) and (e)(2). Part 3 pertains to organization, operation, information and requests, and it also refers to the Oil Pipeline Board. Section 385.502(a)(3), rules concerning the initiation of a hearing, contains an Oil Pipeline Board reference. Section 385.1902, rules for appealing staff action, also makes reference to the Oil Pipeline Board. Since the Commission abolished the Oil Pipeline Board in Order No. 561, the Commission proposed to remove all references to the Oil Pipeline Board, and adopts that proposal here.

H. AOPL's Suggestions

Finally, in addition to commenting on the revisions proposed in the NOPR, AOPL, on behalf of the oil pipeline industry, requests that the Commission implement two additional modifications in the final rule. First, as a reflection of the current way in which carriers and their shippers conduct business, AOPL suggests that the Commission modify the definition of "posting" or "post" in section 341.0(a)(7), the definitions and applications section, by allowing the placement of a carrier's tariff on the Internet to serve as an alternate means of "posting."

AOPL's final suggestion is for the Commission to delete section 385.208, which pertains to notices of protests to tentative oil pipeline valuations. According to AOPL, the sole purpose of this section was to permit objections to valuations of oil pipeline companies, which are no longer conducted.

The Commission finds that both of AOPL's suggestions are consistent with the goals of this rulemaking and thus will integrate them into the final rule. AOPL's suggestion to allow posting on the Internet as an alternative recognizes the growing availability and use of electronic media as a new way of conducting business. The change also will not impose a requirement or burden on pipelines as it is an alternative and wholly voluntary; thus, the Commission considers it unnecessary to request comment before adopting the change. The Commission will also delete section 385.208. As was stated by AOPL, this section is wholly germane to objections to oil pipeline valuations, which are no longer performed.

V. Environmental Analysis

The Commission is required to prepare an Environmental Assessment

¹⁶ Revisions of Rules of Practice and Procedure to Expedite Trial-Type Hearings, Order No. 225, 47 FR 19014 (May 3, 1982), FERC Stats. & Regs. (Regulations Preambles, 1982-1985) ¶ 30,358 (Apr. 28, 1982).

or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.¹⁸ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.¹⁹ The action proposed here is procedural in nature and therefore falls within the categorical exclusions provided in the Commission's regulations.²⁰ Therefore, neither an Environmental Impact Statement nor an Environmental Assessment is necessary and will not be prepared in this rulemaking.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act²¹ generally requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. The Commission certifies that promulgating this rule does not represent a major federal action having a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required.

VII. Information Collection Statement

Office of Management and Budget (OMB) regulations²² require that OMB approve certain information collection requirements imposed by agency rule. Since this rule does not impose new regulations and has no impact on current information collections, there is no need to obtain OMB approval as to the deletion and modification of these regulations. Nevertheless, the Commission is submitting a copy of the final rule to the OMB for informational purposes.

VIII. Effective Date and Congressional Notification

The regulations are effective September 15, 1999. The Small Business Regulatory Enforcement Fairness Act of 1996 requires agencies to report to Congress on the promulgation of certain final rules prior to their effective dates.²³ That reporting requirement applies to this Final Rule. The Commission has determined, with the

concurrence of the Administrator of the Office of 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

18 CFR Part 3

Organization and functions (Government agencies).

18 CFR Part 341

Maritime carriers, Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 342

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 343

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 346

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 357

Pipelines, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 362

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and record keeping requirements.

By the Commission.

Linwood A. Watson, Jr.,
Acting Secretary.

In consideration of the foregoing, the Commission amends Parts 3, 341, 342, 343, 346, 357, 362, and 385, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 3—[REMOVED AND RESERVED]

1.–2. Part 3 consisting of § 3.4 is removed and reserved.

PART 341—OIL PIPELINE TARIFFS: OIL PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT

3. The authority citation for Part 341 continues to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 1–27.

4. Section 341.0 is amended by revising paragraph (a)(7) to read as follows:

§ 341.0 Definitions; application.

(a) * * *

(7) *Posting or post* means making a copy of a carrier's tariff available during regular business hours for public inspection in a convenient form and place at the carrier's principal office and other offices of the carrier where business is conducted with affected shippers, or placing a copy on the Internet in a form accessible by the public.

* * * * *

5. Section 341.2 is amended by revising paragraph (c)(1) to read as follows:

§ 341.2 Filing requirements.

* * * * *

(c) * * *

(1) *Contents.* Letters of transmittal must describe the filing and explain any changes to the carrier's rates, rules, terms or conditions of service; state if a waiver is being requested, and specify the statute, section, regulation, policy or order requested to be waived; and identify the tariffs or supplement numbers and the proposed effective date of the tariff publication. Carriers must provide to the Commission, in the letter of transmittal accompanying the filing of a tariff publication containing a joint carrier, the address, phone number, and a contact for each joint carrier listed in the tariff publication.

* * * * *

6. Section 341.6 is amended by revising paragraph (d)(3) to read as follows:

§ 341.6 Adoption rule.

* * * * *

(d) * * *

(3) The former owner must immediately file a consecutively numbered supplement to each of its tariffs covered by the adoption notice, reading as follows:

Effective [date of adoption notice] this tariff became the tariff of [legal name of adopting carrier] for transportation movements [identify origin and destination points], as per its adoption notice FERC No. [number].

* * * * *

PART 342—OIL PIPELINE RATE METHODOLOGIES AND PROCEDURES

7. The authority citation for Part 342 continues to read as follows:

Authority: 5 U.S.C. 571–583; 42 U.S.C. 7101–7532; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

8. Section 342.3 is amended by revising paragraph (b) in its entirety, and paragraph (d)(3) to read as follows:

¹⁸ Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. (Regulations Preambles, 1986–1990) ¶ 30,783 (Dec. 10, 1987).

¹⁹ 18 CFR 380.4.

²⁰ 18 CFR 380.4(a)(2)(ii).

²¹ 5 U.S.C. 601–612.

²² 5 CFR Part 1320.

²³ 5 U.S.C. 801 (Supp. III 1997).

§ 342.3 Indexing.

* * * * *

(b) *Information required to be filed with rate changes.* The carrier must comply with Part 341 of this title. Carriers must specify in their letters of transmittal required in § 341.2(c) of this chapter the rate schedule to be changed, the proposed new rate, the prior rate, the prior ceiling level, and the applicable ceiling level for the movement. No other rate information is required to accompany the proposed rate change.

* * * * *

(d) * * *

(3) A carrier must compute the ceiling level each index year without regard to the actual rates filed pursuant to this section. All carriers must round their ceiling levels each index year to the nearest hundredth of a cent.

* * * * *

PART 343—PROCEDURAL RULES APPLICABLE TO OIL PIPELINE PROCEEDINGS

9. The authority citation for Part 343 continues to read as follows:

Authority: 5 U.S.C. 571-583; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

10. Section 343.2 is amended by revising paragraph (c)(4) to read as follows:

§ 343.2 Requirements for filing interventions, protests and complaints.

* * * * *

(c) * * *

(4) A protest or complaint that does not meet the requirements of paragraphs (c)(1), (c)(2), or (c)(3) of this section, whichever is applicable, will be dismissed.

PART 346—OIL PIPELINE COST-OF-SERVICE FILING REQUIREMENTS

11. The authority citation for Part 346 continues to read as follows:

Authority: 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

12. Section 346.2 is amended by revising paragraph (c)(7) to read as follows:

§ 346.2 Material in support of initial rates or change in rates.

* * * * *

(c) * * *

(7) *Statement G—revenues.* This statement must set forth the gross revenues for the actual 12 months of experience as computed under both the presently effective rates and the proposed rates. If the presently effective rates are not at the maximum ceiling

rate established under § 342.3 of this chapter, then gross revenues must also be computed and set forth as if the ceiling rates were effective for the 12 month period.

PART 357—ANNUAL SPECIAL OR PERIODIC REPORTS: CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

13. The authority citation for Part 357 continues to read as follows:

Authority: 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

14. Section 357.3 is revised to read as follows:

§ 357.3 FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis.

(a) *Who must file.* Any oil pipeline company requesting new or changed depreciation rates pursuant to Part 347 of this title if the proposed depreciation rates are based on the remaining physical life of the properties or if directed by the Commission to file service life data during an investigation of its book depreciation rates.

(b) *When to submit.* Service life data is reported to the Commission by an oil pipeline company, as necessary, concurrently with a filing made pursuant to Part 347 of this title or as directed during a depreciation rate investigation.

(c) *What to submit.* The format and data which must be submitted are prescribed in FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis, available for review at the Commission's Public Reference Section, Room 2A, 888 First Street, NE, Washington, D.C. 20426.

SUBCHAPTER 5—[REMOVED AND RESERVED]**PART 362—[REMOVED AND RESERVED]**

14a. Subchapter 5 consisting of part 362, Uniform System of Records and Reports of Property Changes, is removed in its entirety and reserved.

PART 385—RULES OF PRACTICE AND PROCEDURE

15. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

§ 385.101 [Amended]

16. Section 385.101 is amended by removing paragraphs (b)(3) and (b)(4)(i), and redesignating paragraph (b)(4)(ii) as paragraph (b)(4).

17. Section 385.102 is amended by revising paragraphs (a) and (e)(2) to read as follows:

§ 385.102 Definitions (Rule 102).

* * * * *

(a) *Decisional authority* means the Commission or Commission employee that, at the time for decision on a question, has authority or responsibility under this chapter to decide that particular question.

* * * * *

(e) * * *

(2) With respect to any proceeding not set for hearing under subpart E, any employee designated by rule or order to conduct the proceeding.

* * * * *

§ 385.208 [Removed and reserved].

18. Section 385.208 is removed and reserved.

19. Section 385.502 is amended by removing paragraph (a)(3) and revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 385.502 Initiation of hearing (Rule 502).

(a) * * *

(1) Order of the Commission; or

(2) Notice by the Secretary at the direction of the Commission or under delegated authority.

* * * * *

§§ 385.1403 and 385.1405-385.1415 [Removed]**§§ 385.1404 and 385.1415 [Redesignated as §§ 385.1403 and 385.1404]**

20. Sections 385.1403 and 385.1405 through 385.1414 are removed and sections 385.1404 and 385.1415 are redesignated paragraphs 385.1403 and 385.1404.

21. Section 385.1902 is amended by removing paragraph (b), redesignating paragraph (c) as paragraph (b), and revising paragraph (a) to read as follows:

§ 385.1902 Appeals from action of staff (Rule 1902).

(a) Any staff action (other than a decision or ruling of presiding officer, as defined in Rule 102(e)(1), made in a proceeding set for hearing under subpart E of this part) taken pursuant to authority delegated to the staff by the Commission is a final agency action that is subject to a request for rehearing under Rule 713 (request for rehearing).

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