

EFFECTIVE DATE: 0901 UTC, February 2, 1995.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7686.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations reduces the time of designation for Restricted Area R-4207, Upper Lake Huron, MI, from "sunrise to sunset" to "intermittent, sunrise to sunset by NOTAM." This action is the result of a request from the U.S. Air Force to reduce the time of designation of Restricted Area R-4207, Upper Lake Huron, MI. There are no changes to the activities conducted within R-4207. This action will enhance real-time joint utilization of special use airspace and more accurately reflect actual use of the area. Because this action is a minor technical amendment in which the public is not particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Section 73.42 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8B dated March 9, 1994.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action reduces the time of designation of the restricted area. There are no changes to the boundaries, altitudes or activities conducted within the restricted area. Accordingly, this action is not subject to environmental assessments and procedures as set forth in FAA Order 1050.1D, "Policies and

Procedures for Considering Environmental Impacts."

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510, 1522; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.42 [Amended]

2. Section 73.42 is amended as follows:

R-4207, Upper Lake Huron, MI [Amended]

By removing "Time of designation. Sunrise to sunset" and substituting the following:
"Time of designation. Intermittent, sunrise to sunset by NOTAM."

Issued in Washington, DC, on November 4, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94-28283 Filed 11-15-94; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 772, 773, 774, and 776

[Docket No. 940976-4276]

RIN 0694-AB04

Revisions to the Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR), to make certain editorial clarifications and corrections and, in some cases, insert material inadvertently omitted from earlier regulatory amendments.

EFFECTIVE DATE: This rule is effective November 16, 1994.

FOR FURTHER INFORMATION CONTACT: Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Telephone: (202) 482-0074.

SUPPLEMENTARY INFORMATION:

Specifically, this rule makes the following corrections and clarifications:

(1) Revises § 770.11 by clarifying how applicants obtain status information on export license applications;

(2) Revises § 770.13 by amending the introductory text.

(3) Revises § 772.4 by removing the phrase "or GTE" and amending how to apply for a validated license.

(4) Revises § 772.11 by amending the regulatory citing.

(5) Revises Supplement No. 1 to Part 772 by adding the phrase "AND END-USER(S)".

(6) Revises § 773.9(l) by adding "Argentina, Hungary, Finland, and Sweden" to the list of countries eligible for permissive reexport under the Special Chemical License.

(7) Revises § 774.2 by adding the parenthetical phrase "(except supercomputers)".

(8) Revises § 776.12 by removing the requirement for submission of Form BXA-6031P with applications for use of U.S.-origin parts and components in foreign goods.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005, 0694-0010, and 0694-0013.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective

date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Parts 772, 773, 774, and 776

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 770, 772, 773, 774, and 776 of the Export Administration Regulations (15 CFR Parts 730-799) are amended as follows:

1. The authority citations for 15 CFR Parts 770, 772, and 774 are revised to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93-153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(i)(e), Pub. L. 94-258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95-372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99-64, 99 Stat. 156 (46 U.S.C. 466c); Pub. L. 102-484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O. 12918 of May 26, 1994 (59 FR 28205, May 31, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); and E.O. 12930 (59 FR 50475 of October 3, 1994).

2. The authority citation for 15 CFR Part 773 is revised to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95-

223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended [(extended by Pub. L. 103-10, 107 Stat. 40 and by Pub. L. 103-277, 108 Stat. 1407)]; Pub. L. 102-484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O. 12930 of September 29, 1994 (59 FR 50475, October 3, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); and E.O. 12930 (59 FR 50475 of October 3, 1994).

3. The authority citation for 15 CFR part 776 is revised to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99-64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747 of October 4, 1993); E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994); E.O. 12930 (59 FR 50475 of October 3, 1994).

PART 770—[AMENDED]

4. Section 770.11 is amended by revising the fifth sentence in paragraph (a)(2)(i)(A) and paragraph (a)(2)(i)(B) to read as follows:

§ 770.11 Information to exporters.

(a) * * *

(2) * * *

(i) * * *

(A) * * * The case number entered must use the number "1" to represent the letter "A", the number "2" to represent the letter "B", the number "3" to represent the letter "C", the number "4" to represent the letter "D", the number "8" to represent the letter "H", and the asterisk symbol "*" to represent the hyphen "-" that appears in a case number assigned to an amendment application. * * *

(B) Applicants for individual validated export licenses, amendments, or reexport requests who do not have case numbers or who experience difficulty in using STELA may call the Exporter Counseling Division of the

Bureau of Export Administration on (202) 482-4811 for status information. Calls will be answered Monday through Friday from 8:30 a.m. to 5:00 p.m., Eastern Standard time. Status information on special licenses is not available from STELA, but can be obtained from the Special Licensing and Compliance Division, Bureau of Export Administration, at (202) 482-0062. Requests for status information may be made only by the applicant or applicant's agent. Callers must identify themselves with information contained on the applicant's file copy of the application.

5. Section 770.13 is amended by revising paragraph (a), introductory text, to read as follows:

§ 770.13 Procedures for processing license applications.⁷

(a) *General.* This section implements section 10 of the Export Administration Act of 1979, as amended (the Act), which prescribes procedures for processing export license applications, including time limits for certain stages of the process. Section 770.14 describes shorter processing time frames for export license applications for COCOM participating or cooperating countries, as required by section 10(o) of the Act. As set forth in paragraph (g) of this section, applications subject to nuclear non-proliferation controls are not subject to all the requirements of this section. As used in this section:

PART 772—[AMENDED]

7. Section 772.4 is amended:

(a) By revising paragraph (a)(1)(i); and

(b) By revising the phrase "Humanitarian or GTE Licenses" to read "Humanitarian or G-TEMP Licenses" in paragraph (i)(6), as follows:

§ 772.4 How to apply for a validated license.

(a) * * *

(1) * * *

(i) An application for a validated license must be submitted on Form BXA-622P, Application for Export License. An application that omits essential information, or that is otherwise incomplete, will be returned without action to the applicant. (See § 770.12 for instructions on obtaining forms.)

* * * * *

⁷ See § 772.4(h) of this subchapter for procedures to expedite processing of an export license application in an emergency situation.

§ 772.11 [Amended]

8. Section 772.11 is amended by revising the phrase "\$ 786.7(a)" in paragraph (e)(4) to read "\$ 786.7"; and by revising the phrase "\$ 786.7(b)" in paragraph (e)(5) to read "\$ 786.7".

Supplement No. 1 to Part 772 [Amended]

9. Supplement No. 1 to part 772 is amended by adding the phrase "AND END-USER(S)" directly following the phrase "PROVIDED ACTUAL END-USE(S)" in Item 6.

PART 773—[AMENDED]**§ 773.9 [Amended]**

10. Section 773.9 is amended by revising the phrase "Australia, Austria, Ireland, Japan, New Zealand, and Switzerland" in the notice at the end of paragraph (l) to read "Argentina, Australia, Austria, Finland, Hungary, Ireland, Japan, New Zealand, Sweden, or Switzerland".

PART 774—[AMENDED]**§ 774.2 [Amended]**

11. Section 774.2 is amended by adding a parenthetical phrase "(except supercomputers)" directly following the phrase "Commerce Control List" in paragraph (i)(5).

PART 776—[AMENDED]

12. Section 776.12 is amended by revising paragraph (e)(5) to read as follows:

§ 776.12 Parts, components, and materials incorporated abroad into foreign-made products.

(e) * * *

(5) *Supporting documentation.* The supporting documentation otherwise required for a license application need not be submitted with a parts and components request.

Dated: November 9, 1994.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 94-28201 Filed 11-15-94; 8:45 am]

BILLING CODE 3510-DT-P

SECURITIES AND EXCHANGE COMMISSION**17 CFR Parts 200 and 240**

[Release No. 33-7110; 34-34952; IC-20691; File No. S7-5-93]

RIN 3235-AF85

Securities Transactions Settlement

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; change of effective date.

SUMMARY: On October 6, 1993, the Securities and Exchange Commission ("Commission" or "SEC") adopted Rule 15c6-1 (17 CFR 240.15c6-1) under the Securities Exchange Act of 1934 which establishes, effective June 1, 1995, three business days as the standard settlement time frame for most broker-dealer trades. In order to provide for an orderly conversion to three business day settlement, the effective date of Rule 15c6-1 has been changed.

EFFECTIVE DATE: The regulation published on October 13, 1993, 58 FR 52891, will now be effective on June 7, 1995.

FOR FURTHER INFORMATION CONTACT: Jerry Carpenter, Assistant Director, or Christine Sibille, Senior Counsel, at 202/942-4187, Office of Securities Processing Regulation, Division of Market Regulation ("Division"), 450 Fifth Street, N.W., Mail Stop 5-1, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On October 6, 1993, the Commission adopted Rule 15c6-1¹ which establishes three business days after the trade date ("T+3") instead of five business days ("T+5") as the standard settlement time frame for most broker-dealer securities transactions. As adopted, Rule 15c6-1 was to be effective June 1, 1995.

After discussions with representatives from the securities exchanges, the clearing agencies, the National Association of Securities Dealers, and the Municipal Securities Rulemaking Board, it was determined that implementation should be moved from June 1, 1995, to June 7, 1995, in order to minimize any potential disruption resulting from the conversion to a T+3 settlement environment.

It has been decided that the most efficient method of converting to a T+3 settlement time frame is to have trades executed on Friday, June 2, 1995, settle five business days later; trades on Monday, June 5, and Tuesday, June 6, settle four business days later; and

trades executed on Wednesday, June 7, 1995, the new effective date for Rule 15c6-1, settle three business days later. This process will result in two double settlement days (i.e., days in which trades from two trade dates will settle). Trades from June 2 and June 5 will settle on Friday, June 9, and trades from June 6 and June 7 will settle on Monday, June 12.

By moving the conversion to T+3 settlement from June 1, 1995, to June 7, 1995, the two double settlement days will be split by a weekend. This will provide an opportunity for broker-dealers to make any necessary adjustments to their systems should any problems develop during the conversion process. Furthermore, by moving the effective date to June 7, implementation will not take place at the same time as heavy systems usage that is expected to occur from the processing of interest and dividend payments (interest and dividend processing are typically times of extensive systems usage).

By the Commission.

Dated: November 9, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-28266 Filed 11-15-94; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Parts 342, 346, and 347**

[Docket No. RM94-2-000]

Cost-of-Service Reporting and Filing Requirements for Oil Pipelines

Issued October 28, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to establish filing requirements for cost-of-service rate filings for oil pipelines; filing requirements for oil pipelines seeking to establish new or changed depreciation rates; and new and revised pages of FERC Form No. 6, Annual Report for Oil Pipelines. These requirements are adopted as companions to Order No. 561, Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, published in the Federal Register on November 4, 1993. That order established an indexing methodology which would establish ceilings on oil pipeline rates. The

¹ 17 CFR 240.15c6-1 (1994).

Commission provided the opportunity for oil pipelines to seek an exception to indexing through a cost-of-service filing if the pipeline could show that, under indexing, it would substantially underrecover prudent costs.

EFFECTIVE DATE: This final rule is effective January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harris S. Wood, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-0224.

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 Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208-1781. The full text of this proposed rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Order No. 571

The Federal Energy Regulatory Commission (Commission) in this order revises the information reported by oil pipelines in their FERC Form No. 6, Annual Report of Oil Pipeline Companies (Form No. 6), and adopts filing requirements for cost-of-service rate filings by oil pipelines. The Commission also adopts rules for oil pipelines performing depreciation studies. Finally, the Commission is deferring at this time the requirement to file Form No. 6 on an electronic medium in addition to making a paper filing. These changes shall become effective January 1, 1995, concurrently with the new regulations promulgated by Order No. 561.¹

¹ Revisions to Oil Pipeline Regulations pursuant to Energy Policy Act, Order No. 561, 58 FR 58785

I. Introduction

This proceeding is a companion to Order No. 561. In Order No. 561, the Commission established an indexing methodology, which would establish ceilings on oil pipeline rates, to be used by oil pipelines as the generally applicable and simplified ratemaking methodology for oil pipelines on or after January 1, 1995. The Commission provided the opportunity for oil pipelines to seek an exception to indexing through a cost-of-service filing if the pipeline could show that, under indexing, it would substantially underrecover prudent costs. Further, the Commission provided that rates for new services could be established either through settlement or by use of a cost-of-service methodology.²

In Order No. 561, the Commission recognized that cost-of-service rate filing information would be necessary for oil pipelines to justify seeking rate increases under the cost-of-service alternative, should they choose to use this methodology, and for interested parties to decide whether to challenge proposed cost-of-service rates. The Commission also recognized that Form No. 6 might need to be revised to enable review of the effectiveness of the index in tracking industry-wide cost changes and for interested parties to decide whether to challenge indexed rates.

The present rule adopts regulations specifying the information that must accompany oil pipelines' cost-of-service rate filings and requested changes in depreciation rates, and modifies and streamlines Form No. 6.

II. Public Reporting Requirement

The Commission estimates the public reporting burden for the collections of information under the final rule will be reduced for Form No. 6 by approximately seven percent and will, in effect, remain unchanged for rate filings, since the Commission is here codifying the information to be provided which the Commission's staff in the past has requested from oil pipelines that have made cost-of-service rate filings. The information will be

(November 4, 1993), III Stats. & Regs. ¶ 30,985 (1993), *order on reh'g and clarification*, Order No. 561-A, 59 FR 40243 (August 8, 1994), III FERC Stats. & Regs. ¶ 31,000 (1994). Unless the context indicates otherwise, all references to Order No. 561 include Order No. 561-A.

² 18 CFR 342.2. In Docket No. RM94-1-000, Market-Based Ratemaking for Oil Pipelines, the Commission elicited comments on its proposal to permit oil pipelines to seek market-based rates and the appropriate standards for making a determination that a pipeline lacks significant market power. This matter is the subject of a Final Rule in Docket No. RM94-1-000, issued contemporaneously.

collected on Form No. 6, "Annual Report of Oil Pipeline Companies" and FERC-550, "Oil Pipeline Rates: Tariff Filings."³ These estimates include the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The current annual reporting burden associated with these information collection requirements is as follows: Form No. 6: 22,200 hours, 148 responses, and 148 respondents; and FERC-550: 5,350 hours, 535 responses, and 140 respondents.

The final rule will reduce the existing reporting burden associated with Form No. 6 by an estimated 1,628 hours annually, or an average of 11 hours per response based on an estimated 148 responses. This estimate includes the addition of two new schedules, the elimination of several schedules, and increasing the reporting thresholds for which oil pipelines must analyze and report certain data.

Comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden, can be sent to the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202) 208-1415]; and to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for Federal Energy Regulatory Commission), FAX: (202) 395-5167.

III. Background

On October 22, 1993, the Commission issued a Notice of Inquiry (NOI) concerning the information to be included by an oil pipeline in a cost-of-service rate filing, and on potential changes to Form No. 6.⁴ In the NOI, the Commission invited comment on what action would be appropriate to develop a final rule with respect to cost-of-service rate filings, whether and to what extent its Form No. 6 should be revised in light of Order No. 561, and whether and to what extent it should establish additional requirements with respect to an oil pipeline's depreciation studies.

On July 28, 1994, the Commission issued a Notice of Proposed Rulemaking (NOPR).⁵ In the NOPR, the Commission

³ FERC-550 is the designation covering oil pipeline tariff filings made to the Commission.

⁴ Cost-of-Service Filing and Reporting Requirements for Oil Pipelines, Notice of Inquiry, 58 FR 58817 (November 4, 1993), IV FERC Stats. & Regs. Notices ¶ 35,528 (October 22, 1993).

⁵ Cost-of-Service Filing and Reporting Requirements for Oil Pipelines, Notice of Proposed

proposed that oil pipelines seeking cost-of-service rates would be required to file specific data conforming to the Order No. 154-B methodology.⁶ The Commission also proposed to revise and streamline Form No. 6, and proposed that Form No. 6 data would be filed on an electronic medium. Finally, the Commission proposed certain rules for oil pipelines performing depreciation studies. The changes were proposed to be made effective January 1, 1995.⁷

The Commission received fourteen sets of comments.⁸ After analyzing those comments as discussed below, the Commission is adopting the rules proposed in the NOPR, except for the electronic reporting requirement for Form No. 6, with minor modifications and with clarifying statements. Although the Commission has procured the software development tool, the electronic version of the Form No. 6 application has not yet been developed. Therefore, the Commission is deferring the electronic reporting requirement at this time, pending development and testing of the necessary electronic version of the Form No. 6 application. Once that process is complete, the Commission intends to issue a final rule providing for the electronic filing of Form No. 6.

IV. Cost-of-Service Filing Requirements

The Commission is adding a new Part 346 to its regulations that sets forth the threshold filing requirements for oil pipelines seeking to establish initial rates on a cost-of-service basis, or to pursue a cost-of-service alternative to indexing as a means of establishing just and reasonable rates. The Commission is also amending sections 342.2 and 342.4 to reflect the addition of Part 346.

A. Authority for Filing Requirements

AOPL argues that the Commission's proposed cost-of-service rate filing requirements represents an improper attempt to modify the Interstate Commerce Act's (ICA) ⁹ rate filing scheme, ignores the mandate of the Act

of 1992 to reduce regulatory burdens and costs through streamlined procedures, and imposes undue burdens on pipelines proposing cost-based rates.¹⁰ AOPL asserts that a pipeline need only file a notice of a rate change, not the supporting documents underlying that rate change, unless its rates have been called into question.¹¹

The Commission's filing requirements for oil pipeline rate changes fully comport with the Act of 1992 and the ICA. The Act of 1992 required the Commission to establish a simplified and generally applicable ratemaking methodology for oil pipelines in accordance with the just and reasonable standard of the ICA. Order No. 561 has done so by adopting an index method. Cost-based rates are a part of this scheme but are allowed a pipeline only as an alternative to indexing, and only if the pipeline can meet certain threshold conditions. Thus, the pipeline must demonstrate at the outset that it meets the substantial divergence test of Order No. 561—i.e., that there is a substantial divergence between the actual costs experienced by the pipeline and the rate resulting from application of the index such that rates at the indexed ceiling level would preclude the pipeline from charging a just and reasonable rate.¹² The threshold filing requirements for cost-of-service ratemaking adopted in this rule are the means that the Commission has decided are necessary for a pipeline to make a *prima facie* demonstration that it should be allowed to pursue the cost-of-service alternative as a means of establishing just and reasonable rates. The materials required to be filed with a cost-of-service optional filing thus are designed to address the threshold issue of whether there is such a substantial divergence as to warrant a cost-of-service filing. A mere notice of rate change alone would fail to show good cause for a pipeline's departure from indexing, or why it should be allowed to change its rates outside the basic indexing scheme. As to AOPL's claim that the cost-of-service filing requirements impose undue burdens,¹³ a pipeline can always choose not to pursue this alternative to indexing and stay with rate changes under indexing.

Contrary to AOPL's assertion,¹⁴ the Commission is following the statutory scheme applicable to oil pipeline rate filings. If a pipeline desires to depart from the ordinary scheme of rate

changes based on the index and seek rate changes based on its cost of service, it is up to the pipeline to meet the special circumstances of the rules, and it is reasonable for the Commission to require a threshold filing from the pipeline to demonstrate that it does.¹⁵

AOPL claims that the pipeline should not be required to establish an initial case for cost-based rates at the initial filing stage.¹⁶ It claims that to require the pipeline to shoulder a burden of proof regarding cost-based rates prior to knowing whether the rate has been challenged is contrary to any notion of streamlining, and it argues that the pipeline should not be required to provide extensive threshold justification for each cost-based rate.¹⁷ Further, AOPL asserts that the pipeline may choose some method other than the Opinion No. 154-B method to justify its cost-based rates, such as a stand-alone cost showing.

The Commission's cost-of-service filing requirements are not designed to provide information in sufficient detail for a pipeline to shoulder its burden of proof regarding cost-based rates if they are challenged. Rather, the burden is on the pipeline to demonstrate only that its rates at the index ceiling would substantially diverge from its actual costs to such an extent that the indexed ceiling rates would not be just and reasonable. If a pipeline's rates are challenged, it must demonstrate that the challenged rate, if based on cost, is just and reasonable, which may include an appropriate rate design and cost allocation to justify the rate. Additional information can be supplied by the pipeline to justify its challenged rates, including, if it chooses, a stand-alone cost showing. This, however, does not negate the importance of the initial showing that is required of the pipeline in order to justify departure from indexing.

B. Cost-of-Service Methodology

AOPL and Marathon argue that the Opinion No. 154-B methodology is inadequate for establishing rates. AOPL asserts that this methodology has never been used to set individual rates, and continues to argue for a stand-alone cost methodology.¹⁸ As explained in Order No. 561, the regulations providing for an Opinion No. 154-B submission are merely the filing requirements for the cost-of-service alternative to indexing. An oil pipeline seeking cost-of-service

Rulemaking, 59 FR 40493 (August 9, 1994), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,509 (July 28, 1994).

⁶ Opinion No. 154-B methodology is derived from the Commission's opinions in Williams Pipe Line Company, Opinion No. 154-B, 31 FERC ¶ 61,377 (1985), on rehearing, Opinion No. 154-C, Williams Pipe Line Company, 33 FERC ¶ 61,327 (1985); and ARCO Pipe Line Company, Opinion No. 351, 52 FERC ¶ 61,055 (1990), on rehearing, Opinion No. 351-A, ARCO Pipe Line Company, 53 FERC ¶ 61,398 (1990).

⁷ Electronic reporting of Form No. 6 was proposed to commence with the reporting year 1995 reports, due on or before March 31, 1996.

⁸ A list of commenters is contained in Appendix A to this order.

⁹ 49 App. U.S.C. 1 (1988).

¹⁰ AOPL, pp. 29-39.

¹¹ AOPL, pp. 36-39.

¹² 18 CFR 342.4(a).

¹³ AOPL, p. 8.

¹⁴ AOPL, p. 36.

¹⁵ Section 12(1) of the ICA provides: "The Commission is authorized and required to execute and enforce the provisions of this chapter."

¹⁶ AOPL, pp. 36-39.

¹⁷ AOPL, p. 37.

¹⁸ AOPL, pp. 25-28.

rate treatment for some or all of its rates will submit the information required by new Part 346. Absent challenge to the rates proposed, that is all that is required of the oil pipeline. Matters of rate design and cost allocation will be at issue only if the rates are protested and a hearing is conducted.¹⁹ As the Commission stated in Order No. 561-A, the issues of fully-allocated costs for oil pipelines have not been determined in a fully litigated case by this Commission under the ICA.²⁰ The Commission also stated that proponents of costing methodologies other than fully-allocated costs will not be precluded from advocating such methodologies in individual cases.²¹ The Commission reaffirms that statement here.

Chevron suggests that the filing requirements should include a requirement that the carrier provide cost allocation and rate design schedules with its rate filing.²² The Commission will not adopt this recommendation, since there will be no need for allocation and rate design information except at a hearing on a challenged cost-of-service rate filing. Thus, the Commission does not believe that a point-to-point rate showing, for example, is necessary as a filing requirement. The burden that this requirement would impose is not justified, particularly since the cost-of-service methodology is an alternative to indexing, and the initial filing need only show that there is a substantial divergence between the costs of the pipeline, as reflected in Statement A, and the revenues that would be produced by the indexed ceiling rates, as reflected in Statement G.²³

Similar requests are made by Alaska and Total.²⁴ These commenters also request that the Form No. 6 data be provided in such a fashion. For the same reasons, the Commission will not adopt these suggestions.

AOPL urges the Commission to discard Opinion No. 154-B, arguing that this must have been Congress' intent in passing the Act of 1992.²⁵ To the

contrary, Congress mandated only that the Commission establish a simplified and generally applicable ratemaking methodology. It did not specify what methodology should be used. The Commission has given full weight to the Congressional intent by providing that indexing will be the simplified and generally applicable methodology for oil pipeline ratemaking. Under this scheme, cost of service continues only as an option that pipelines may choose to use if they meet the threshold requirement.²⁶

AOPL further argues that pipelines should be allowed to use a variety of methods to justify individual rate changes.²⁷ Buckeye also seeks alternatives to indexing for partly competitive pipelines to use in less competitive markets.²⁸ These issues are beyond the scope of this rulemaking, but parties are free to make proposals in individual cases.

ARCO seeks clarification of several items. It first asks that the Commission require that pipelines seeking to use a cost of service approach file a full system-wide cost of service. Protestants then would be required to be specific in their protests.²⁹ The Commission has determined that the Opinion No. 154-B filing will be required for a cost-of-service filing, and that a cost allocation and rate design showing would only be required if the pipeline's rates are protested. This will reduce the burden on the pipeline and the Commission in those cases where there is no protest. The information required to be filed by Part 346 of the regulations adopted by this order will be sufficient for a cost-of-service showing if there are no protests.

ARCO further requests clarification that, if a pipeline can show that its total revenue requirement is not being met, it may charge cost-of-service rates above the index without any other showing, and that, in that case, no information on point-to-point rates would be filed except in an investigation.³⁰ ARCO is generally correct. All a pipeline need show to make a *prima facie* case under the cost-of-service alternative is that the revenues to be produced by the indexed ceiling rates substantially diverge from its costs. Upon challenge, however, the pipeline must provide data supporting its proposed individual rates, including allocation and rate design. It will not be allowed to charge rates higher than its

properly allocated costs would justify for any one service.

ARCO further seeks clarification of when in the process a pipeline must demonstrate prudence of its costs.³¹ It asserts that a pipeline should be required to demonstrate prudence only when a serious doubt is raised. In this, too, ARCO is correct. A protestor must first raise a reasonable challenge as to the prudence of the pipeline's costs, and then the pipeline will have the burden of establishing the prudence of those costs.

The Commission will continue to use the Opinion No. 154-B methodology for oil pipelines seeking to use a cost-of-service methodology.

C. Filing Requirements Adopted

As required by Order No. 561, a pipeline seeking to change rates is required to file a transmittal letter containing the previous rate for the same movement or service, the applicable ceiling rate for the movement in question, and the new proposed rate.³² This is all that is required to justify a rate change within the index.

In this rule, the Commission requires a pipeline to file additional information if it is filing for a cost-of-service rate above the indexed rate ceiling, or as support for an initial rate. This information will permit a pipeline to establish an initial case for cost-of-service rates. The additional filing requirements provide sufficient information for a preliminary cost-of-service showing. If the Commission institutes an investigation into a pipeline's rates, additional information may be required of the pipeline. The new filing requirements are set forth in new Part 346 of the Commission's regulations.

Part 346 also contains the definition of the terms "base period" and "test period." The definitions of these terms are consistent with the definitions of similar terms in the Regulations under the Natural Gas Act,³³ applicable to natural gas pipeline companies.

The oil pipeline must file the following statements and supporting work papers to support either an initial rate developed on a cost-of-service basis or a change in rates using the cost-of-service methodology.

Statement A—Total Cost of Service

This statement shows the calculation of the Total Cost of Service for a pipeline.

¹⁹ The Commission has never established individual rates for oil pipelines on a cost-of-service basis, since no contested case has come to the Commission for final decision on issues of cost allocation and rate design. However, nothing in the Opinion No. 154-B costing methodology would limit the Commission in deciding how to allocate costs to establish individual rates.

²⁰ Order No. 561-A, Regulations Preambles, III FERC Stats. & Regs. ¶ 31,000, at p. 31,107.

²¹ IV FERC Stats. and Regs. ¶ 31,000, at p. 31,107 (1994).

²² Chevron, p. 7.

²³ See 18 CFR 346.2(c) (1) and (7).

²⁴ Alaska, pp. 1-2 and the appendices to its comments; Total, p. 1.

²⁵ AOPL, p. 19.

²⁶ See 18 CFR 342.4(a), adopted by Order No. 561-A.

²⁷ AOPL, p. 28.

²⁸ Buckeye, pp. 2-4.

²⁹ ARCO, p. 3.

³⁰ ARCO, pp. 3-5.

³¹ ARCO, pp. 8-9.

³² 18 CFR 342.3(b).

³³ See 18 CFR 154.63(e)(2)(i).

Statement B—Operation and Maintenance

This statement shows the operation, maintenance, administrative and general expenses, and depreciation and amortization expenses.

Statement C—Overall Return on Rate Base

This statement shows the derivation of the return on rate base consisting of deferred earnings, equity and debt ratios, weighted cost of capital, and costs of debt and equity.

Statement D—Income Taxes

This statement shows the calculation of the Income Tax Allowance.

Statement E—Rate Base

This statement shows the calculation of the return rate base required by the Opinion No. 154-B methodology to derive the cost of service.

Statement F—Allowance for Funds Used During Construction

This statement shows the calculation of the Allowance for Funds Used During Construction (AFUDC).

Statement G—Revenues

This statement shows the revenues at the effective, proposed, and indexed ceiling rates.

Details of the various statements and supporting schedules are found in new Part 346 of the regulations.

V. Form No. 6 Revisions

In the NOPR, the Commission proposed several changes to Form No. 6, the Annual Report for Oil Pipelines. These changes were proposed to provide information that would be necessary for the implementation of Order No. 561, and to update and streamline the information required of oil pipelines.

A. New Schedule

A new schedule, page 700, Annual Cost of Service Based Analysis Schedule, was proposed to be added to Form No. 6 showing basic information needed for a review of rate filings made within the index cap. The new schedule would require each pipeline company to report, as of the end of the reporting year and the immediately preceding year, its Total Annual Cost of Service (as calculated under the Order No. 154-B methodology), operating revenues, and throughput in barrels and barrel-miles. This schedule would permit a shipper to compare proposed changes in rates against the change in the level of a pipeline's cost of service. It would also permit a shipper to compare the change

in a shipper's individual rate with the change in the pipeline's average company-wide barrel-mile rate. Underlying calculations of and supporting data for these figures need not be reported in Form No. 6. Of course, the oil pipeline will be expected to be consistent in its application of the Opinion No. 154-B methodology from year to year to permit valid comparisons of data from one year to the next. If it makes major changes in its application of the methodology, it must report that it has done so, and recalculate the prior year's cost of service to reflect such a change. While the Commission believes that the Opinion No. 154-B methodology is well-defined and for the most part generally understood in the industry, it is modifying the instructions for page 700 to require that the pipeline describe any change in application of Opinion No. 154-B made from past years in its calculation of total cost of service, and to require that the changed application be reflected on page 700 for the calculation of the total cost of service for the prior reporting year as well.

The commenters supporting the use of page 700 recommended that the pipeline be required to report its cost of service on each separate system operated by the pipeline.³⁴ Moreover, some commenters recommended that substantial additional information be required on page 700, setting forth in detail additional information and the assumptions used in the calculations.³⁵ Alberta recommended that the cost-of-service reporting requirements be implemented for Form No. 6 expense and income statements to streamline shipper review of the individual cost components, thereby making the information contained in page 700 consistent, from an accounting standpoint, with the other information contained in Form No. 6.³⁶

The pipelines, on the other hand, strenuously objected to the use of page 700 as a rate review tool and as a monitoring tool, asserting that it is misleading, burdensome, and duplicative.³⁷

Contrary to what appears to be the assumption by most commenters, page 700 is designed to be a preliminary screening tool for pipeline rate filings. It is not intended to be the information which, in itself, either forms the basis of a Commission decision on the merits of

a pipeline filing, or demonstrates that the pipeline's proposed or existing rates are just and reasonable. Rather, it should provide a means whereby a shipper can determine whether a pipeline's cost of service or per-barrel/mile cost is so substantially divergent from the revenues produced by its rates to warrant a challenge that requires the pipeline to justify its rates. Therefore, the additional information suggested by the commenters—e.g., specifying the achieved rate of return, rate of return assumptions, and the debt and equity components—will not be required.

Moreover, the Commission is not here attempting to require a pipeline to demonstrate with precision its cost-of-service attributable to each individual pipeline system it operates. If the pipeline seeks a cost-of-service rate for some or all of its rates, it will be required at that time to demonstrate that its properly allocated costs justify such rate treatment. This, however, will be left to individual cost-of-service rate filings, not required as a part of Form No. 6, which is and shall remain primarily a financial report.

Requests that the pipelines be required to file separate cost-of-service information for each individual system are denied. Likewise, the recommendations of the pipelines that page 700 be discarded will be denied. The Commission finds that the information contained in a single place in Form No. 6 will be useful in its monitoring of the performance of the index, and that the information may indeed be useful as a "substantial divergence" screen, as suggested by TE Products Pipeline.³⁸ Any additional burden should be minimal on the pipelines in deriving an Opinion No. 154-B cost of service on an annual basis, since much of the basic information is available in its Form No. 6. As explained above, the use of the page 700 should be limited and should not be misleading. As Marathon and AOPL point out, some of the information is already included in other schedules in Form No. 6. However, the Commission finds that having the information displayed on a single page 700 will make it easier for the Commission and other interested parties to analyze.

Davis³⁹ suggests that the Commission define "substantial divergence as being a percentage [variation] * * *." The Commission will not adopt this suggestion, inasmuch as what constitutes a "substantial divergence" may depend on factors other than a

³⁴ Total, pp. 1-2, Alaska, p. 2, Chevron, pp. 3-5.

³⁵ Chevron, p. 5, Alaska, pp. 1-2, Alberta, pp. 2-3.

³⁶ Alberta, p. 2.

³⁷ AOPL, pp. 8-15, ARCO, pp. 9-14, Marathon, pp. 1-4.

³⁸ TE Products, p. 1.

³⁹ Davis, p. 2.

simple percentage variation in costs and revenues. Therefore, the Commission concludes that whether a substantial divergence exists should be determined on the facts of individual cases, not generically.

Chevron suggests that use of page 700 is likely to be meaningless as a monitoring tool, since the Commission is likely to get numerous interpretations of how the Opinion No. 154-B methodology should be implemented, thereby resulting in a compilation that does not reflect actual changes in costs on an industry-wide basis.⁴⁰ As previously stated, the Commission will require that any change in application of the Opinion No. 154-B methodology from one year to the next be described and reflected in the total cost of service calculations appearing on page 700. Moreover, the compilation of data from page 700 will be only a part of the evidence used by the Commission for monitoring how the index tracks industry cost changes.

Upon consideration of the comments, the Commission has determined that Form No. 6 should contain information that will permit its use for a number of purposes: Reviewing changes in rates made by use of the index, monitoring existing rates, and analyzing and auditing finances. At present, the primary focus of Form No. 6 is on financial accounting information that is gathered based on accounting principles which are different in some respects from the ratemaking principles used to establish rates for oil pipelines. To serve as a tool to evaluate the performance of the index and future changes in oil pipeline rates using the index methodology, Form No. 6 will be revised to include additional information.

Revisions to Form No. 6 are needed to provide at least a preliminary basis for shipper assessments of filed rate changes under Order No. 561. Form No. 6 data should be complete enough to enable an evaluation of whether a proposed rate change under indexing substantially exceeds the pipeline's changes in costs. As currently structured, Form No. 6 does not provide sufficient information to do this.

Only limited additional information is needed in Form No. 6 to permit adequate preliminary review of a pipeline's cost-of-service showings, and to permit shipper comparison of indexed rate changes with changes in costs incurred. Thus, the single new schedule will be added to Form No. 6.

The use of trended original cost to establish a rate base for oil pipelines, as

required by the Opinion No. 154-B methodology, entails complex calculations to derive annual figures for equity and equity returns for ratemaking purposes. This calculation will differ from the book equity figures contained in Form No. 6, which are required for financial reporting purposes. To require the display of these calculations in Form No. 6 would be cumbersome and not be of significant benefit in a shipper's determination of whether to protest a pipeline's indexed rate filing.⁴¹ In any event, if a shipper protest results in a cost-of-service justification by the pipeline, the underlying calculations would be available.

The changes to Form No. 6 will be effective for reporting year 1995. The 1995 Form No. 6 must be filed on or before March 31, 1996. The new schedule appearing on page 700 therefore would not be required for Form No. 6 filings until March 31, 1996, for reporting year 1995. In the interim, a verified copy of this new schedule for calendar years 1993 and 1994 is required to be prepared separately and filed concurrently with the first indexed rate change filing made by a pipeline after January 1, 1995, or by March 31, 1995, whichever is earlier. For index rate change filings made early in 1995, complete data may not be available. In this instance, a 1994 schedule shall be prepared utilizing the most recently available data annualized for 1994. By March 31, 1995, a new 1994 schedule must be submitted, using the actual 1994 data.

This will provide shippers with the necessary information for an analysis of proposed indexed rate changes after January 1, 1995, the effective date of the regulations in Order No. 561. In addition, as discussed below, the information on this page will become part of the Commission's evaluation of the effectiveness of the index. Accordingly, the Commission will amend § 342.3(b) of the regulations to require a verified copy of a schedule containing the information contained on page 700 for calendar years 1993 and 1994 to be filed with the first indexed rate change filing made after January 1, 1995, or by March 31, 1995, whichever is earlier.

In Order No. 561, the Commission stated it would monitor the effectiveness of the index in tracking industry costs. These reviews will occur every five years, commencing July 1,

2000.⁴² Page 700, together with other information contained in Form No. 6, will permit the Commission to use the Form No. 6 data to help fulfill this commitment. Since the Total Cost of Service, for example, is derived from all of the components of a pipeline's costs and capital properties, this figure, when used in conjunction with other Form No. 6 information, will provide details on general trends affecting each company.

B. Other Revisions to Form No. 6

Since the regulatory responsibility for oil pipelines was transferred to this Commission from the Interstate Commerce Commission in 1977, only cosmetic changes have been made to Form No. 6, other than the addition of a Statement of Cash Flows. In addition to the addition of Page 700, which is primarily designed to conform with Order No. 561, the Commission proposed in the NOPR other changes to make Form No. 6 a more useful report. As discussed below, some of the information proposed in the NOPR will not be required by this final rule.

AOPL and Marathon⁴³ argue that the information to be contained on pages 102-103, Corporate Control, is of no value to the Commission. However, in the Commission's view, it is necessary to have information about vertical control of the pipelines for proper rate regulation to ensure against improper cost shifting and for the purpose of analyzing property transactions between affiliates. The suggestion to delete this information is denied.

AOPL and ARCO⁴⁴ argue that the information regarding officer salaries requested on page 104, Principal General Officers, is not needed by the Commission. On further reflection, the Commission agrees, and the changes proposed to page 104 will not be adopted.

AOPL and Marathon⁴⁵ recommend that the information proposed on pages 230-231, Analysis of Federal Income & Other Taxes Deferred, and pages 108-109, Important Changes During the Year, be combined with pages 122-123, Notes to Financial Statements. AOPL also suggests that the information proposed for collection by the NOPR on pages 230-231 should be limited to present GAAP reporting requirements. The Commission does not agree. As to AOPL's suggestion that the information required on pages 230-231 be presented

⁴¹ For a discussion of the differences in the equity and equity return figures contained in Form No. 6 and the use of those figures for ratemaking purposes under the Opinion No. 154-B methodology, see Supplemental Brief of AOPL filed in Docket No. RM93-11-000 on January 21, 1994, at 11-12.

⁴² III FERC Stats. & Regs. ¶ 30,985 (1993), at 30,947.

⁴³ AOPL, p. 18; Marathon, p. 3.

⁴⁴ AOPL, pp. 18-19; ARCO, pp. 14-15.

⁴⁵ AOPL, pp. 18-19; Marathon, p. 3.

⁴⁰ Chevron, p. 5.

in accordance with GAAP reporting requirements and combined with the Notes to Financial Statements, the Commission considers the deferred tax schedule on pages 230-231 to be a necessary supporting schedule to the financial statements. Although the notes to financial statements are the appropriate place to disclose significant financial effects on a company of recently enacted income tax laws and regulatory actions, the deferred tax schedule is designed to present details, using a uniform format, on each significant item which causes a temporary difference between taxable income and pretax accounting income. This schedule, like the Form No. 6 carrier property and operating expense account schedules, permits a detailed analysis of the various charges and credits which comprise the balances of the current and noncurrent deferred income tax assets and liabilities. The latter are presented in the financial statements only as a single asset or liability balance for current and noncurrent deferred income taxes. Moreover, the information contained on pages 108-109 may not be appropriate for notes to financial statements, such as properties added or changes to franchise rights. These pages are for reporting of different types of information than changes to the financial condition of the pipeline, even though they may impact the financial condition.

AOPL and Marathon⁴⁶ recommend that page 350, Employees and Their Compensation, be deleted. The Commission agrees, since the information as to salary expense is available in a different format elsewhere in Form No. 6.

Based on the comments received on the NOPR and review of the current schedules in Form No. 6, the Commission will make several changes to the annual report for oil pipelines. To simplify the Form No. 6 data, the Commission will delete information not relevant to the Commission's regulatory responsibilities under the ICA. The Commission will also modify certain Form No. 6 financial statements to a comparative format by requiring two years of data to enhance their usefulness and to conform the Form No. 6 data formats to the formats of FERC Form Nos. 1⁴⁷ and 2⁴⁸ (Form Nos. 1 and 2) for electric utilities and natural gas pipeline companies, respectively.

The Commission will change the format of several schedules to

accommodate electronic filing and reporting requirements for Form No. 6 similar to that used for Form No. 1. When a rule adopting an electronic filing requirement is issued, electronic filing of Form No. 6 information, similar to that for Form No. 1, should reduce the reporting burden for both large and small pipelines. Financial information reported electronically should also aid the Commission in conducting reviews of the pipeline companies and the rates charged.

The Commission will eliminate unneeded schedules or individual data elements, and will modify certain schedules so they will contain more useful and relevant data. A sample copy of the revised pages in Form No. 6 are attached as Appendix B.

Other than as discussed above, the Commission is adopting the changes to Form No. 6 as proposed in the NOPR. The specific changes the Commission adopts are:

Page 102—Corporate Control Over Respondent

Some format modifications are made for electronic reporting purposes to better report vertical control of respondent from the immediate parent to ultimate controlling parent company.

Page 103—Companies Controlled by Respondent

This is a new schedule added as new page 103, similar to the schedules currently in Form Nos. 1 and 2, to report all subsidiaries directly controlled by a respondent.

Page 105—Directors

This schedule is modified to delete the instructions at the top of the page and information required at lines 21 through 23. The deleted material is replaced with similar instructions at the top of the schedule and "Title" is inserted in addition to "Name of Director" in column (a). This will make the format the same as Form Nos. 1 and 2.

Pages 106 and 107—Voting Powers of Security Holders

This schedule is deleted because it is not needed for Commission regulatory purposes.

Pages 108 and 109—Important Changes During the Year

The current format is replaced with instructions similar to Form Nos. 1 and 2.

Pages 110, 111 and 113—Comparative Balance Sheet Statement

Page 114—Income Statement

Page 118—Appropriated Retained Income

Page 119—Unappropriated Retained Income Statement

Pages 120 and 121—Statement of Cash Flows

The Commission has modified these financial statements to require that data be presented on a comparative basis (i.e., for two years) to enhance the usefulness of these financial statements. The Commission has deleted from page 119 the schedule showing Dividend Appropriations of Retained Income, because it is not needed for Commission regulatory purposes.

Page 117—Working Capital

This schedule is deleted because it is not needed for Commission regulatory purposes.

Pages 122 and 123—Notes to Financial Statements

The Commission has added new instructions which will require statements of a company's accounting practices and policies (with specific reference to such matters as income taxes, pensions, and post-retirement benefits); and significant matters concerning acquisitions and sales, significant contingencies, and liabilities existing at the end of the year, and other matters that will materially affect company operations.

Page 200—Receivables From Affiliated Companies

The reporting thresholds in Instruction No. 2 are raised from \$100,000 to \$500,000.

Page 201—General Instructions Concerning Schedules 202-205

The Commission has modified these instructions to conform with Form Nos. 1 and 2 by deleting the subclassifications presently required.

Pages 206 and 207—Other Investments

Pages 208 and 209—Securities, Advances and Other Intangibles Owned or Controlled Through Nonreporting Carrier and Noncarrier Subsidiaries

These schedules are deleted because they are not needed for Commission regulatory purposes.

Page 211—Instructions for Schedule 212-213

The Commission has modified the footnote to Instruction No. 3 to require that a respondent identify the original

⁴⁶ AOPL, p. 19; Marathon, p. 3.

⁴⁷ Annual Report of Major Electric Utilities, Licensees, and Others.

⁴⁸ Annual Report of Natural Gas Companies.

cost of property purchased or sold. This information is useful in the analysis of carrier property transactions between oil pipeline companies. In addition, the reporting thresholds in Instruction Nos. 3 and 5 are raised from \$50,000 and \$100,000 to \$250,000 and \$500,000, respectively.

Pages 218 and 219—Amortization Base and Reserve

The reporting thresholds in Instruction No. 4 are raised from \$10,000 to \$100,000.

Page 220—Noncarrier Property

The reporting thresholds in Instruction No. 2 are raised from \$100,000 to \$250,000.

Page 221—Other Deferred Charges

The reporting thresholds in the instruction are raised from \$100,000 to \$250,000.

Page 225—Payables to Affiliated Companies

The reporting thresholds in Instruction Nos. 2 and 3 are raised from \$100,000 to \$250,000.

Pages 230 and 231—Analysis of Federal Income and Other Taxes Deferred

The Commission has replaced the current reporting format with instructions that require an analysis of the respondent's current and non-current deferred income tax assets and liabilities.

Pages 250 and 251—Capital Stock

The current schedules are replaced with schedules and instructions similar to Form No. 2.

Pages 302 through 304—Operating Expense Accounts

"Operating Ratio" at line 23 is deleted because it is not needed for Commission regulatory purposes.

Page 336—Interest and Dividend Income

The reference to Schedule pages 206 to 207 at line 2 is deleted because these pages are eliminated.

Page 337—Miscellaneous Items in Income and Retained Income Accounts for the Year

The reporting thresholds in Instruction No. 2 are raised from \$100,000 to \$250,000.

Page 351—Payments for Services Rendered by Other Than Employees

The reporting thresholds in Instruction No. 1 are raised from \$30,000 to \$100,000.

Finally, since the Commission has deferred the requirement that oil pipelines file Form No. 6 on an electronic medium, in addition to paper filing, § 385.2011 of Part 385 of Title 18 of the Code of Federal Regulations will not be changed as proposed in the NOPR at this time. The Commission will issue a final rule on this subject at an appropriate time.

VI. Depreciation

A. Discussion of Comments

In Order No. 561, the Commission stated that it would be the pipelines' responsibility in the future to perform depreciation studies to establish revised depreciation rates for oil pipelines. The Commission further stated that the specific requirements for such studies would be developed in this proceeding.⁴⁹ In the NOPR, the Commission proposed a new Part 347 to its regulations, encompassing the information required to be submitted by oil pipeline companies to establish revised depreciation rates.

Several commentors provided comments concerning the process for the establishment and/or changing of depreciation rates for common carrier property. Based upon a review of these comments, several modifications will be made to the regulations as proposed in the NOPR.

One commentor⁵⁰ suggested that the transmittal letter, which submits a request for new or changed depreciation rates, only be filed with the Commission and not sent to all shippers and subscribers. The Commission disagrees. It will continue to require the transmittal letter to be sent to all shippers and subscribers. Depreciation rates as set or as subsequently modified can have a considerable effect on a pipeline's rates; and as such, shippers need to be kept informed as to when the rates are being requested to be established or changed. As Davis states, "To apprise shippers and subscribers of the change in the depreciation rate is alerting them that a forthcoming rate change could be challenged on the basis of the rate of depreciation."⁵¹ If a change in the tariff rate is requested resulting from an approved change in the underlying depreciation rates, then protests filed because of a lack of adequate information about the change in depreciation rates could be prevented.

Modifications to the proposed regulations (18 CFR 347.1) which

delineate the information which should be filed when seeking to establish or change depreciation rates have been requested by several commentors.⁵² As to those claims that certain data are not available, the Commission has provided in § 347.1(e) for consideration of individual circumstances. Section 347.1(e) states, in part:

Modifications, additions, and deletions to these data elements should be made to reflect the individual circumstances of the carrier's properties and operations. [emphasis added]

This statement allows for the modification of the data elements for individual pipelines to account for, among other things, information which is not available to the pipeline. Therefore, a pipeline which does not have up-to-date engineering maps⁵³ could submit "simplified maps or drawings that contain such information * * *." Where information is not available, that data element may be omitted by simply stating that the information is not available.

The comments concerning oil field reserve and production information⁵⁴ are well taken and that portion of the regulations [18 CFR 347.1(e)(5)(ix)] is modified from that previously proposed to require only that the pipeline disclose the fields or areas from which crude oil is obtained.

Similarly, the comments concerning the proprietary nature of individual shipper information are also well taken.⁵⁵ The portion of the proposed regulations in 18 CFR 347.1(e)(vi) is modified to require that pipelines supply only a list of shipments and their associated receipt points, delivery points, and volumes for the most current year. Such information shall be provided in such a format to prevent disclosure of information which would violate the ICA.

Further, as requested by AOPL,⁵⁶ all information submitted pursuant to 18 CFR 347.1 will be publicly available unless specific confidential treatment is sought by the filing carrier.

B. Depreciation Regulations Adopted

Other than as discussed above, the Commission is adopting depreciation regulations as proposed in the NOPR. The Commission adopts the following regulations as new Part 347 of the Commission's regulations, which requires the following information to be filed by oil pipeline companies to justify

⁴⁹ III FERC Stats. & Regs. ¶ 30,985 (1993), at 30,967-8.

⁵⁰ Davis, p. 2.

⁵¹ *Id.*

⁵² Davis, Marathon, and AOPL.

⁵³ See Davis, pp. 3-4.

⁵⁴ Davis, pp. 4-5, Marathon, pp. 5-6, and AOPL, pp. 40-41.

⁵⁵ Davis, p. 4; AOPL, pp. 41-42.

⁵⁶ AOPL, p. 40, n. 69.

a request for either new or changed carrier account depreciation rates:

a. A brief summary of the general principles on which the proposed depreciation rates are based (e.g., why the economic life of the pipeline section is less than the physical life).

b. An explanation of the organization, ownership, and operation of the pipeline.

c. A table of the proposed depreciation rates by primary carrier account.

d. An explanation of the average remaining life on a physical basis and on an economic basis.

e. The following specific background data would be submitted concurrently with any request for new or changed property account depreciation rates for oil pipelines:⁵⁷

(1) Up-to-date engineering maps of the pipeline including the location of all gathering facilities, trunkline facilities, terminals, interconnections with other pipeline systems, and interconnections with refineries/plants. These maps must indicate the direction of flow.

(2) A brief description of the pipeline's operations and an estimate of any major near-term additions or retirements including the estimated costs, location, reason, and probable year of transaction.

(3) The present depreciation rates being used, by account.

(4) For the most current year available and for the two prior years, a breakdown of the throughput (by type of product, if applicable) received from each source (e.g., name of well, pipeline company) at each receipt point and throughput delivered at each delivery point.

(5) The daily average throughput (in barrels per day) and the actual average capacity (in barrels per day) for the most current year, by line section.

(6) A list of shipments and their associated receipt points, delivery points, and volumes (in barrels) by type of product (where applicable) for the most current year.

(7) For each primary carrier account, the latest month's book balances for gross plant and accumulated reserve for depreciation.

(8) An estimate of the remaining life of the system (both gathering and trunk lines) including the basis for the estimate.

(9) For crude oil, a list of the fields or areas from which crude oil is obtained.

(10) If the proposed depreciation rate adjustment is based on the remaining

physical life of the properties, the Service Life Data Form (FERC Form No. 73) through the most current year. This may only require an updating from the last year for which information was filed with the Commission.

(11) Estimated salvage value of properties by primary carrier account.

An oil pipeline company is required to provide this, and any other information it deems pertinent, in sufficient detail to fully explain and justify its proposed rates. Any modifications, additions, and deletions to these data elements should only be made to reflect the individual circumstances of the pipeline's properties and operations, and must be accompanied by a full explanation of why the modifications, additions, or deletions are being made.

VII. Other Issues

In addition to the issues discussed above, certain other issues were raised by the commenters. The TAPS Carriers seek clarification on whether they must file page 700 of Form No. 6 in their annual reports. For consistency, the Commission will require that page 700 be included in the Form No. 6 filing, but the information required need not be submitted by those entities excluded, for ratemaking purposes, from the Act of 1992.⁵⁸ Page 700, as indicated above, is a tool to assist in the analysis of rate changes and cost changes brought about by the rate methodologies of Order No. 561, which was issued to conform with the Act of 1992. Since certain entities, such as the TAPS Carriers, are excluded from its provisions, no useful purpose would be served by having the exempted entities submit the information required on page 700.

Chevron objects to the use of a test year comprised of nine months of known and measurable changes after the last month of available actual experience utilized in a cost-of-service rate filing. It argues that the Commission's natural gas regulations, which have the same nine-month period "factors into the nine-month adjustment period the fact that the gas pipeline's rate filing will be protested by its customers and suspended by the Commission for the statutory five-month period." It asserts that oil pipeline rates are typically suspended for only one day, and by allowing the full nine-month period, the pipeline may recover costs five months before the costs are incurred.⁵⁹ Chevron suggests that the

Commission not allow changes that occur outside a three-month period, or which do not take place before the rate goes into effect, whichever is later.⁶⁰ The Commission will not adopt this proposed change. The nine months of known and measurable changes applied to the base period to arrive at the test period is a method long established and utilized in natural gas pipeline regulation. The nine-month period is appropriate in establishing rates which are prospective in nature and which will be in effect into the future. Only "known and measurable" changes are properly allowed to be included. By including these changes, the resulting test period correctly reflects the best projection of the actual circumstances which will be in effect under which the proposed rates of the pipeline are filed. Moreover, there is no basis for Chevron's suggestion that the nine-month period factors into account a five-month suspension period, especially as § 154.63(e)(2)(i) provides for a test period up to nine months beyond the date of filing.

VIII. Environmental Analysis

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for Commission action that may have a significant adverse effect on the human environment.⁶¹ The Commission categorically excludes certain actions from this requirement as not having a significant effect on the human environment.⁶² No environmental consideration is necessary for the promulgation of a rule that does not substantially change the effect of the regulation being amended, or that involves the gathering, analysis, and dissemination of information, or the review of oil pipeline rate filings.⁶³ Because this final rule involves only these matters, no environmental consideration is necessary.

IX. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act⁶⁴ generally requires the Commission to describe the impact that a 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. An analysis is

⁵⁷ All of the information listed here may not be appropriate and thus could be omitted from the filing. For example, if the pipeline carries only crude oil, information requested concerning petroleum products would not be needed.

⁵⁸ Section 1804(2)(B) of the Act of 1992 excludes from the provisions of the Act, for ratemaking purposes, TAPS and any pipeline delivering oil directly or indirectly to TAPS.

⁵⁹ Chevron, p. 6.

⁶⁰ Chevron, p. 7.

⁶¹ Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 1987); FERC Stats. and Regs., Regulations Preambles 1986-1990, ¶30,783 (1987).

⁶² 18 CFR 380.4.

⁶³ 18 CFR 380.4(a).

⁶⁴ 5 U.S.C. 601-612.

not required if a rule will not have such an impact.⁶⁵

Pursuant to section 605(b), the Commission certifies that the rules and amendments will not have a significant impact on a substantial number of small entities. The pipelines subject to this rule are not small entities.

X. Information Collection Requirements

The Office of Management and Budget's (OMB) regulations at 5 CFR 1320.14 (footnote) require that OMB approve certain information and recordkeeping requirements imposed by an agency. The information collection requirements in this final rule are contained in FERC-6 "Annual Report of Oil Pipeline Companies" (1902-0022) and FERC-550 "Oil Pipeline Rates: Tariff Filings" (1902-0089).

The Commission uses the data collected in these information requirements to carry out its regulatory responsibilities pursuant to the Interstate Commerce Act (ICA), the Act of 1992, and delegations to the Commission from the Secretary of Energy. The Commission's Office of Pipeline Regulation uses the data for the analysis of all rates, fares, or charges demanded, charged, or collected by any pipeline common carrier in connection with the transportation of petroleum and petroleum products and also as a basis for determining just and reasonable rates that should be charged by the regulated pipeline company.

The Office of Economic Policy uses the data in its functions relating to the administration of the ICA and the Act of 1992. The Commission's Office of Chief Accountant uses the data collected in Form No. 6 to carry out its compliance audits and for continuous review of the financial conditions of regulated companies.

Because of the proposed revisions to both FERC-550 and Form No. 6, and the expected reduction in public reporting burden of the latter, the Commission is submitting a copy of the final rule to OMB for its review and approval. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street, NE, Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202) 208-1415]. Comments on the requirements of this rule can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for Federal Energy Regulatory Commission), Washington, DC 20503, FAX: (202) 395-5167.

IX. Effective Dates

This final rule will be effective January 1, 1995.

List of Subjects in 18 CFR Parts 342, 346, and 347

Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below.

PART 342—OIL PIPELINE RATE METHODOLOGIES AND PROCEDURES

1. The authority citation for Part 342 is revised to read as follows:

Authority: 5 U.S.C. 571-83; 42 U.S.C. 7101-7532; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

2. Section 342.2 is amended by revising paragraph (a) to read as follows:

§ 342.2 Establishing initial rates.

(a) Filing cost, revenue, and throughput data supporting such rate as required by Part 346 of this chapter; or

3. Section 342.3 is amended by revising paragraph (b) to read as follows:

§ 342.3 Indexing.

(b) Information required to be filed with rate changes. The carrier must comply with Part 341 of this chapter.

(1) 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.

(2) 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 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.

4. Section 342.4 is amended by revising paragraph (a) to read as follows:

§ 342.4 Other rate changing methodologies.

(a) *Cost-of-service rates.* A carrier may change a rate pursuant to this section if it shows that there is a substantial divergence between the actual costs experienced by the carrier and the rate resulting from application of the index such that the rate at the ceiling level would preclude the carrier from being able to charge a just and reasonable rate within the meaning of the Interstate Commerce Act. A carrier must substantiate the costs incurred by filing the data required by Part 346 of this chapter. A carrier that makes such a showing may change the rate in question, based upon the cost of providing the service covered by the rate, without regard to the applicable ceiling level under § 342.3.

5. Part 346 is added to subchapter P to read as follows:

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

Sec.

346.1 Content of filing for cost-of-service rates.

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

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

§ 346.1 Content of filing for cost-of-service rates.

A carrier that seeks to establish rates pursuant to § 342.2(a) of this chapter, or a carrier that seeks to change rates pursuant to § 342.4(a) of this chapter, must file:

- (a) A letter of transmittal which conforms to §§ 341.2(c) and 342.4(a) of this chapter;
- (b) The proposed tariff; and
- (c) The statements and supporting workpapers set forth in § 346.2.

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

A carrier that files for rates pursuant to § 342.2(a) or § 342.4(a) of this chapter must file the following statements, schedules, and supporting workpapers. The statements, schedules, and workpapers must be based upon an appropriate test period.

(a) *Base and test periods defined.* (1) For a carrier which has been in operation for at least 12 months:

(i) A base period must consist of 12 consecutive months of actual

⁶⁵ 5 U.S.C. 605(b).

experience. The 12 months of experience must be adjusted to eliminate nonrecurring items (except minor accounts). The filing carrier may include appropriate normalizing adjustments in lieu of nonrecurring items.

(ii) A test period must consist of a base period adjusted for changes in revenues and costs which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within nine months after the last month of available actual experience utilized in the filing. For good cause shown, the Commission may allow reasonable deviation from the prescribed test period.

(2) For a carrier which has less than 12 months' experience, the test period may consist of 12 consecutive months ending not more than one year from the filing date. For good cause shown, the Commission may allow reasonable deviation from the prescribed test period.

(3) For a carrier which is establishing rates for new service, the test period will be based on a 12-month projection of costs and revenues.

(b) *Cost-of-service summary schedule.* This schedule must contain the following information:

(1) Total carrier cost of service for the test period.

(2) Throughput for the test period in both barrels and barrel-miles.

(3) For filings pursuant to § 342.4(a) of this chapter, the schedule must include the proposed rates, the rates which would be permitted under § 342.3 of this chapter, and the revenues to be realized from both sets of rates.

(c) *Content of statements.* Any cost-of-service rate filing must include supporting statements containing the following information for the test period.

(1) *Statement A—total cost of service.* This statement must summarize the total cost of service for a carrier (operating and maintenance expense, depreciation and amortization, return, and taxes) developed from Statements B through G described in paragraphs (c) through (7) of this section.

(2) *Statement B—operation and maintenance expense.* This statement must set forth the operation, maintenance, administration and general, and depreciation expenses for the test period. Items used in the computations or derived on this statement must consist of operations, including salaries and wages, supplies and expenses, outside services, operating fuel and power, and oil losses and shortages; maintenance, including salaries and wages, supplies and

expenses, outside services, and maintenance and materials; administrative and general, including salaries and wages, supplies and expenses, outside services, rentals, pensions and benefits, insurance, casualty and other losses, and pipeline taxes; and depreciation and amortization.

(3) *Statement C—overall return on rate base.* This statement must set forth the rate base for return purposes from Statement E in paragraph (c)(5) of this section and must also state the claimed rate of return and the application of the claimed rate of return to the overall rate base. The claimed rate of return must consist of a weighted cost of capital, combining the rate of return on debt capital and the real rate of return on equity capital. Items used in the computations or derived on this statement must include deferred earnings, equity ratio, debt ratio, weighted cost of capital, and costs of debt and equity.

(4) *Statement D—income taxes.* This statement must set forth the income tax computation. Items used in the computations or derived on this statement must show: return allowance, interest expense, equity return, annual amortization of deferred earnings, depreciation on equity AFUDC, underfunded or overfunded ADIT amortization amount, taxable income, tax factor, and income tax allowance.

(5) *Statement E—rate base.* This statement must set forth the return rate base. Items used in the computations or derived on this statement must include beginning balances of the rate base at December 31, 1983, working capital (including materials and supplies, prepayments, and oil inventory), accrued depreciation on carrier plant, accrued depreciation on rights of way, and accumulated deferred income taxes; and adjustments and end balances for original cost of retirements, interest during construction, AFUDC adjustments, original cost of net additions and retirements from land, original cost of net additions and retirements from rights of way, original cost of plant additions, original cost accruals for depreciation, AFUDC accrued depreciation adjustment, original cost depreciation accruals added to rights of way, net charge for retirements from accrued depreciation, accumulated deferred income taxes, changes in working capital (including materials and supplies, prepayments, and oil inventory), accrued deferred earnings, annual amortization of accrued deferred earnings, and amortization of starting rate base write-up.

(6) *Statement F—allowance for funds used during construction.* This statement must set forth the computation of allowances for funds used during construction (AFUDC) including the AFUDC for each year commencing in 1984 and a summary of AFUDC and AFUDC depreciation for the years 1984 through the test year.

(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 § 342.4(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.

6. Part 347 is added to subchapter P to read as follows:

PART 347—OIL PIPELINE DEPRECIATION STUDIES

Sec.

347.1 Material to support request for newly established or changed property account depreciation studies.

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

§ 347.1 Material to support request for newly established or changed property account depreciation studies.

(a) *Means of filing.* Filing of a request for new or changed property account depreciation rates must be made with the Secretary of the Commission. Filings made by mail must be addressed to the Federal Energy Regulatory Commission with the envelope clearly marked as containing "Oil Pipeline Depreciation Rates."

(b) *Number of copies.* Carriers must file three paper copies of each request with attendant information identified in paragraphs (c) through (e) of this section.

(c) *Transmittal letter.* Letters of transmittal must give a general description of the change in depreciation rates being proposed in the filing. Letters of transmittal must also certify that the letter of transmittal (not including the information to be provided, as identified in paragraphs (d) and (e) of this section) has been sent to each shipper and to each subscriber. If there are no subscribers, letters of transmittal must so state. Carriers requesting acknowledgement of the receipt of a filing by mail must submit a duplicate copy of the letter of transmittal marked "Receipt requested." The request must include a postage paid, self-addressed return envelope.

(d) *Effectiveness of property account depreciation rates.* (1) The proposed depreciation rates being established in the first instance must be used until they are either accepted or modified by the Commission. Rates in effect at the time of the proposed revision must continue to be used until the proposed revised rates are approved or modified by the Commission.

(2) When filing for approval of either new or changed property account depreciation rates, a carrier must provide information in sufficient detail to fully explain and justify its proposed rates.

(e) *Information to be provided.* The items delineated in paragraphs (e) (1) through (5) of this section are the data to be provided as justification for depreciation changes. Modifications, additions, and deletions to these data elements should be made to reflect the individual circumstances of the carrier's properties and operations.

(1) A brief summary relating to the general principles on which the proposed depreciation rates are based (e.g., why the economic life of the pipeline section is less than the physical life).

(2) An explanation of the organization, ownership, and operation of the pipeline.

(3) A table of the proposed depreciation rates by account.

(4) An explanation of the average remaining life on a physical basis and on an economic basis.

(5) The following specific background data must be submitted at the time of and concurrently with any request for the establishment of, or modification to, depreciation rates for carriers. If the information listed is not applicable, it may be omitted from the filing:

(i) Up-to-date engineering maps of the pipeline including the location of all gathering facilities, trunkline facilities, terminals, interconnections with other pipeline systems, and interconnections with refineries/plants. Maps must indicate the direction of flow.

(ii) A brief description of the carrier's operations and an estimate of any major near-term additions or retirements including the estimated costs, location, reason, and probable year of transaction.

(iii) The present depreciation rates being used by account.

(iv) For the most current year available and for the two prior years, a breakdown of the throughput (by type of product, if applicable) received with source (e.g. name of well, pipeline company) at each receipt point and throughput delivered at each delivery point.

(v) The daily average capacity (in barrels per day) and the actual average capacity (in barrels per day) for the most current year, by line section.

(vi) A list of shipments and their associated receipt points, delivery points, and volumes (in barrels) by type of product (where applicable) for the most current year. The submitted data must be presented in a format which will protect any individual shipper information, the release of which would violate Section 15(13) of the Interstate Commerce Act (49 App. U.S.C. 15(13)).

(vii) For each primary carrier account, the latest month's book balances for gross plant and for accumulated reserve for depreciation.

(viii) An estimate of the remaining life of the system (both gathering and trunk lines) including the basis for the estimate.

(ix) For crude oil, a list of the fields or areas from which crude oil is obtained.

(x) If the proposed depreciation rate adjustment is based on the remaining physical life of the properties, a complete, or updated, if applicable, Service Life Data Form (FERC Form No. 73) through the most current year.

(xi) Estimated salvage value of properties by account.

Note: These Appendices will not appear in the Code of Federal Regulations.

Appendix A—Comments Received

Alaska, State of (Alaska)
Alberta Department of Energy (Alberta)
Association of Oil Pipelines (AOPL)
ARCO Pipe Line Company and Four Corners
Pipe Line Company (ARCO)
Buckeye Pipe Line Company, L.P. (Buckeye)
Chevron U.S.A. Products Company (Chevron)
Davis, Glenn E. (Davis)
Indicated TAPS Carriers and Kuparuk
Transportation Company (TAPS Carriers)
Lakehead Pipe Line Company (Lakehead)
Marathon Pipe Line Company (Marathon)
National Council of Farmer Cooperatives
(NCFC)
Petrochemical Energy Group (PEG)
Texas Eastern Products Pipeline Company,
L.P. (TEPPCO)
Total Petroleum, Inc. (Total)

Appendix B—Revised Sheets For Form No. 6: Annual Report of Oil Pipeline Companies

This Appendix B contains the pages from Form No. 6 which are revised in the Commission's Final Rule, Docket No. RM94-2-000.

APPENDIX B.—FORM NO. 6 SCHEDULES REVISED¹

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¹ Copies of these revised sheets are not being published in the *Federal Register*, but are available in copies of this order from the Commission's Public Reference Room.

[FR Doc. 94-27621 Filed 11-15-94; 8:45 am]
BILLING CODE 6717-01-P

18 CFR Part 348

[Docket No. RM94-1-000]

Market-based Ratemaking for Oil Pipelines

Issued October 28, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to adopt filing requirements and procedures with respect to an application by an oil pipeline for a determination that it lacks significant market power in the markets in which it proposes to charge market-based rates. This rule adopts procedural rules in order to implement the Commission's Order 561 market-based ratemaking policy, which was published in the *Federal Register* on November 4, 1993. In that order, the Commission adopted a simplified and generally applicable