

documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96-15692 Filed 6-19-96; 8:45 am]

BILLING CODE 6717-01-M

#### [Docket No. RM96-5-001]

#### **Gas Pipeline Facilities and Services on the Outer Continental Shelf—Issues Related to the Commission's Jurisdiction Under the Natural Gas Act and the Outer Continental Shelf Lands Act; Order Dismissing Requests for Rehearing**

Issued: June 14, 1996.

On February 28, 1996, the Commission issued a Statement of Policy (policy statement) in this proceeding which reviewed issues concerning the status, scope and effect of its regulation of gathering and transportation on the Outer Continental Shelf (OCS).<sup>1</sup> The policy statement articulated, clarified and, to some extent, modified the criteria the Commission will use to determine whether pipeline facilities located on the OCS have a primary function of gathering or transmission. Specifically, the Commission added a new factor to its existing primary function test for facilities located in water depths of 200 meters or more. The Commission stated that such facilities would be presumed to have a primary purpose of gathering up to the point or points of potential connection with the interstate pipeline grid. From that point on, the Commission would continue to apply the existing primary function test.

Four parties filed requests for rehearing and/or clarification or

reconsideration.<sup>2</sup> As discussed below, the Commission will dismiss the requests for rehearing, reconsideration or clarification.

#### Summary of the Requests

The following issues were raised by one or more of the parties in their requests for rehearing, reconsideration and/or clarification. The parties seek assurance that the Commission in the policy statement did not intend to create a presumption that all facilities located in water depths of less than 200 meters are transmission. They contend that the "bright line" test or new factor added to the primary function test for deep water facilities is inconsistent with Commission policy as articulated in *Amerada Hess Corporation (Amerada Hess)*.<sup>3</sup> Additionally, some parties argue that any presumption or bright line test is inconsistent with *EP Operating Co. v. FERC*,<sup>4</sup> which mandates a case-by-case application of the physical factors of the primary function test. Some parties note that many certificated offshore facilities are not necessarily transmission facilities and that the Commission did not scrutinize the function of such facilities when certificating them. Thus, these parties argue that the Commission has no rational basis for determining that pipelines are transmission facilities because of their proximity to certificated interstate pipelines when the "in-proximity" facilities may be misfunctionalized.

The parties also contend that the distinction between deep and shallow-water facilities articulated in the policy statement results in determinations of primary function based on a pipeline's vintage (older offshore pipelines tend to be in shallower waters and were certificated) or geographical location, rather than on the physical factors applied in the traditional primary function test. Other parties express concern that the new approach outlined in the policy statement will result in the Commission's giving undue weight to certain factors of the primary function

test, such as size, operating pressure and central point in the field, when attempting to determine the function of facilities located in shallower water. They posit that this occurred in *Shell Gas Pipeline Company*,<sup>5</sup> where the Commission applied the approach outlined in the policy statement for the first time. Overemphasizing these factors for offshore facilities, they argue, is inconsistent with *Amerada Hess* and subsequent cases where the sliding scale approach was used. Additionally, they argue that the new approach can result in a single line being considered both gathering and transmission, which would be arbitrary and capricious.

Some parties are primarily concerned that the policy statement did not resolve issues related to whether there is a level playing field for regulated and unregulated offshore pipelines. Columbia argues that the Commission erred by not deciding to regulate all offshore pipelines under the Outer Continental Shelf Lands Act and by leaving a dual regulatory scheme in place. Further, Columbia asserts that the Commission erred by not initiating a generic production area rate design proceeding to address the issues raised by the commenters in this proceeding. INGAA maintains that the ability of interstate pipelines to utilize alternative ratemaking approaches does not solve the problems of the dual regulatory scheme, and that the Commission erred in the policy statement by so suggesting.

Finally, clarification is sought that the policy statement was intended to provide guidance and not intended to have the force and effect of a rule.

#### Discussion

The purpose of the policy statement in this proceeding was to provide the natural gas industry with guidance by stating the criteria the Commission will use to determine the function of offshore pipelines, especially new facilities constructed in deep water producing areas. A policy statement is not a rule, and generally objections to such a statement are not directly reviewable.<sup>6</sup> Rather, such review must await implementation of the policy in a specific case.<sup>7</sup> Therefore, the Commission declines to consider at this time the issues raised in the requests for rehearing, reconsideration or clarification, but will consider such issues and arguments in the specific

<sup>5</sup> 74 FERC ¶ 61,219 (1996).

<sup>6</sup> See, e.g., *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 75 FERC ¶ 61,024 (1996).

<sup>7</sup> See *American Gas Association v. FERC*, 888 F.2d 136 (D.C. Cir. 1989).

<sup>2</sup> They are: BP Exploration & Oil, Inc. (BP), Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (Columbia) (filing jointly), the Interstate Natural Gas Association of America (INGAA), and Williams Field Services Group, Inc. and Transcontinental Gas Pipe Line Corporation (Williams) (filing jointly).

<sup>3</sup> 52 FERC ¶ 61,268 (1990). In *Amerada Hess*, the Commission stated it would consider the changing technical and geographic nature of exploration and production offshore when applying the primary function test to offshore facilities. *Amerada Hess* provided for a "sliding scale" approach where facilities with increasing length and diameters could still be classified as gathering where these physical factors are a function of the distance from shore and of the water depth of production areas.

<sup>4</sup> 876 F.2d 46 (5th Cir. 1989).

<sup>1</sup> 74 FERC ¶ 61,076 (1996), 61 FR 8611 (March 5, 1996).

cases where the policy is applied. In this regard, we note that many of the issues raised in the requests for rehearing in this proceeding are raised in the rehearing requests filed in *Shell Gas Pipeline Company*.<sup>8</sup> Therefore, we are dismissing the requests for rehearing, reconsideration or clarification filed in this proceeding.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96-15688 Filed 6-19-96; 8:45 am]

BILLING CODE 6717-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-00434; FRL-5367-7]

### Proposed Testing Guidelines; Notice of Availability and Request for Comments

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** EPA has established a unified library for test guidelines issued by the Office of Prevention, Pesticides and Toxic Substances (OPPTS), and is announcing the availability of proposed testing guidelines for Series 870—Health Effects Test Guidelines. These test guidelines have been updated and harmonized, to the extent possible, with the Organization for Economic Cooperation and Development (OECD) guidelines for testing of chemicals, and other relevant international standards. A FIFRA Scientific Advisory Panel (SAP) meeting to review the Series 870 test guidelines will be scheduled for this summer. Complete details of this meeting will be announced in a Federal Register notice.

**DATES:** Comments must be received on or before August 19, 1996.

**ADDRESSES:** Interested persons are invited to submit written comments in triplicate to: By mail: Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person: Bring comments to: Rm. 1132, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: [guidelines@epamail.epa.gov](mailto:guidelines@epamail.epa.gov). Electronic comments must be submitted as an ASCII file avoiding the use of special

characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP-00434" (FRL-5367-7). No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under

"SUPPLEMENTARY INFORMATION."

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. All statements will be made part of the record.

**FOR FURTHER INFORMATION CONTACT:** By mail: Leonard Keifer, Office of Pollution Prevention and Toxics (7403), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone: (202) 260-1548; e-mail: [keifer.leonard@epamail.epa.gov](mailto:keifer.leonard@epamail.epa.gov).

By mail: William Sette, Office of Pesticide Programs (7509C), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone: (703) 305-6375; e-mail: [sette.william@epamail.epa.gov](mailto:sette.william@epamail.epa.gov).

Copies of documents may be obtained by contacting: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or for courier pick-up: Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-5805. By internet: e-mail requests to: [guidelines@epamail.epa.gov](mailto:guidelines@epamail.epa.gov) or via the EPA Public Access Gopher ([gopher.epa.gov](http://gopher.epa.gov)) under the heading "Environmental Test Methods and Guidelines."

**SUPPLEMENTARY INFORMATION:** The Agency is revising its test guidelines for Series 870—Health Effects Test Guidelines. Guidelines in the 870 Series are for use by the Office of Pesticide Programs (OPP) and the Office of

Pollution Prevention and Toxics (OPPT) and have been harmonized with those of OECD. The proposed guidelines are being made available for comment. All interested parties are encouraged to submit comments on the proposed guidelines. Specific comments should reference the specific number and paragraph or subparagraph of the appropriate proposed guideline. Recommended technical or scientific changes/modifications should be supported by current scientific/technical knowledge and include supporting references. References may be to the published literature, studies submitted to the Agency in support of registration, and unpublished data. Citations must be sufficiently detailed so as to allow the Agency to obtain copies of the original documents and unpublished data supplied to allow their evaluation.

A record has been established for this notice under docket number "OPP-00434" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

[guidelines@epamail.epa.gov](mailto:guidelines@epamail.epa.gov)

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The following is the complete list of proposed guidelines being made available at this time:

<sup>8</sup> *Supra*, note 5.