Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description for J–78 as published in the **Federal Register** on December 20, 1999 (64 FR 71014); FR Doc. 99–32885, and incorporated by reference in 14 CFR 71.1, is corrected as follows:

§ 71.1 [Corrected]

On page 71015, in column 1, correct the legal description of J–78 to read as follows:

Paragraph 2004 Jet Routes

* * * * *

J–78 [Revised]

From Los Angeles, CA, via Seal Beach, CA; Thermal, CA; Parker, CA; Drake, AZ; Zuni, AZ; Albuquerque, NM; Tucumcari, NM; Panhandle, TX; Will Rogers, OK; **Tulsa, OK;** Farmington, MO; Pocket City, IN; Louisville, KY; Charleston, WV; Philipsburg, PA; to Milton, PA.

* * * * *

Issued in Washington, DC, on February 25, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–5057 Filed 3–2–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM98–9–002; Order No. 603–B]

Revision of Existing Regulations Under the Natural Gas Act

Issued February 28, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; Order on rehearing.

SUMMARY: On rehearing, the Federal Energy Regulation Commission reaffirms its basic determinations in Order Nos. 603 and 603–A that its regulations only allow minor changes to storage field operations and that facilities constructed to interconnect transporters under the Natural Gas Act can be constructed under a pipeline's blanket certificate authorization.

DATES: The revision to the regulations in this order on rehearing become effective April 3, 2000.

ADDRESSES: Federal Energy Regulatory Commission 888 First Street, NE, Washington DC, 20426.

FOR FURTHER INFORMATION CONTACT:

Michael J. McGehee, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–2257

Carolyn Van Der Jagt, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202)208–2246

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

On April 29, 1999, the Commission issued a Final Rule in Order No. 603 amending its regulations governing the filing of applications for certificates of public convenience and necessity authorizing the construction and operation of facilities to provide service or to abandon facilities or services under 7 of the Natural Gas Act (NGA).[1] On September 29, 1999, the Commission issued Order No. 603–A in which it modified and clarified certain aspects of the Final Rule.[2] In this order, the Commission is clarifying that § 157.202(b)(2)(ii)(D) of its regulations allows only minor changes to storage field operations and that new injection and withdrawal wells cannot be drilled under the miscellaneous rearrangement provision of § 157.208. The Commission is also reiterating that facilities necessary to interconnect part 284 transporters can be constructed under the pipeline's blanket certificate.

II. Discussion

A. Miscellaneous Rearrangement of Storage Wells

In Order No. 603, the Commission modified § 157.202(b)(2)(ii)(D) to allow minor changes to storage field operations, but did not allow the drilling of storage injection/withdrawal wells as eligible facilities. In Order No. 603–A, the Commission clarified that § 157.202(b)(2)(ii)(D) only applies to the testing and developing of underground storage fields. It stated that drilling new injection/withdrawal wells in existing storage pools requires separate NGA 7(c) authority because such wells may inherently alter the daily and seasonal deliverability, volumetric capacity, or boundary of a storage field.

CNG Transmission Corporation (CNG) seeks further clarification of the Commission's interpretation of a company's ability to drill storage wells under its blanket certificate. Specifically, CNG contends that although new wells may not qualify as eligible facilities under § 157.202(b), under certain circumstances the drilling of such wells may qualify as a miscellaneous rearrangement of facilities under § 157.208(a). As an example, CNG states that the West Virginia Department of Transportation plans to build a highway through a portion of its storage field that would require that two active wells be capped and abandoned. It claims that in order to replace the deliverability of those wells it ''must drill an undetermined number of new wells in the same storage field,'' [3] which cannot be drilled in the same footprint as the original wells. It argues that it should be able to drill the new wells under the miscellaneous rearrangement provision in § 157.208. It requests that the Commission clarify that new wells may be drilled in a certificated storage field under the miscellaneous rearrangement provision if the purpose of the wells is to replace a well that been abandoned, and if the new well(s) does not exceed the certificated deliverability of the storage field.

Commission Response

As stated in Order No. 603–A and Order No. 609,[4] the Commission does not believe that blanket certificate authorization provides adequate oversight of the construction of new injection/withdrawal wells. Such wells may inherently alter the daily or seasonal deliverability, volumetric capacity, or boundary of a storage reservoir. Accordingly, drilling new injection/withdrawal wells in existing storage pools requires separate 7(c) authorization. Such wells are not contemplated under any provision of the blanket certificate, including the miscellaneous rearrangement provisions of § 157.208. For clarification, we will revise § 157.202(b)(6) to specifically exclude underground storage injection/withdrawal wells from the definition of miscellaneous rearrangement.

B. Interconnecting Points

In Order No. 603, the Commission limited interconnecting points to the tap, metering, metering and regulating (M&R) facilities, and minor related piping. It found that any related

[1] Revisions of Existing Regulations Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act, Order No. 603, 64 FR 26571 (May 14, 1999), FERC Stats. and Regs. ¶ 31,073 (Apr. 29, 1999).

[2] Revisions of Existing Regulations Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act, Order No. 603–A, 64 FR 54522 (Oct. 7, 1999), FERC Stats. and Regs. ¶ 31,081 (Sept. 29, 1999).

[3] CNG's request for clarification, at 2.

[4] Landowner Notification, Expanded Categorical Exclusions, and Other Environmental Filing Requirements, Order No. 609, 64 FR 57374, (Oct. 25, 1999), FERC Stats. and Regs. ¶ 31,082 (Oct.13, 1999).

pipeline connecting two interstate pipeline would function as a mainline facility and would not qualify as an eligible facility. However, on rehearing in Order No. 603–A, upon reconsideration, it determined that interconnecting pipelines between Part 284 transporters should be covered under the blanket certificate because they display more characteristics in common with lateral lines than with mainlines and do not alter mainline capacity. The Commission found that since the length of these segments would be governed by the cost limits of the blanket certificate, these facilities would have a minimal impact on the certificate holder's system. It also found that this is consistent with the intent of the blanket certificate, which authorizes pipelines to construct routine facilities that have relatively little impact on ratepayers or pipeline operations.

In their request for rehearing, Indicated Shippers contend that in Order No. 603 the Commission:

> recognized that facilities interconnecting interstate pipeline could affect the mainline capacity and thereby affect the rates and services for the respective pipelines' shippers. For these reasons, the Commission excluded these activities from the blanket certificate regulations.[5]

They argue that despite finding in Order No. 603 that interconnecting pipelines would expand mainline capacity, the Commission, in Order No. 603–A, subsequently found ''that such interconnects do not increase mainline capacity after all.'' [6] They contend that the Commission's finding is arbitrary, capricious, not supported by substantial evidence and is erroneous. Indicated Shippers assert that interconnecting pipelines do increase mainline capacity and, therefore, the Commission should retain its authority to review such facilities individually prior to granting authorization. They argued that the Commission erred by relinquishing its authority to review these facilities prior to construction.

They further assert that the footnote in Order No. 603–A that states that an interconnecting facility that will alter mainline capacity will not be covered by the blanket certificate is impracticable and unenforceable. They contend that the Commission has not ''set forth any objective standards for ascertaining whether a pipeline interconnect could alter mainline capacity,'' [7] and gives no indication of how it intends to enforce the limitation. They also argue that the regulatory text does not refer to the limitation.

Finally, Indicated Shippers state that the allowing pipelines to construct interconnecting pipeline under their blanket authority would enable pipelines to abuse their market power to control access to market. They argue that ''an after-the-fact rate case remedy is unlikely to deter or mitigate such conduct.'' [8]

Commission Response

In Order No. 603, the Commission determined that interconnecting pipeline for new receipt and delivery points was not an eligible facility ''because it is a mainline connecting two interstate pipelines, and not a supply or delivery lateral,'' [9] and mainline facilities are not eligible facilities. The Commission did not specifically find that such pipelines would necessarily increase mainline capacity as Indicated Shippers incorrectly argues.

On rehearing of Order No. 603, several parties argued that an interconnecting pipeline between two transporters does not function differently than a lateral line. Specifically, they contended that both facilities are designed to receive and/or deliver gas supplies. They asserted that the only difference between a lateral and interconnecting pipeline is that a lateral generally connects a pipeline to a production field, gathering system or customer delivery point, whereas interconnecting pipeline connects a pipeline to another pipeline.

On rehearing, the Commission determined that interconnecting pipelines display more characteristics in common with lateral lines than with mainlines. Therefore, the Commission found that it was appropriate to allow pipelines to construct such facilities under their blanket authorization. However, as with all facilities constructed under a pipeline's blanket authorization, the interconnecting pipeline cannot alter or increase the capacity of the mainline. If it does, it is excluded from the definition of eligible facility.[10] Accordingly, pipelines can only construct interconnecting pipelines if they do not increase the capacity of their mainline system. If Indicated Shippers believes that a pipeline has used it blanket authorization to construct facilities that increase mainline capacity, it should file a complaint and the Commission will investigate. Indicated Shippers request for rehearing is denied.

C. Reporting Requirements

In Order No. 603, the Commission redefined § 157.211 to provide for automatic and prior notice authority for the construction of new delivery points. Section 157.211(c) requires that the pipeline identify facilities constructed under § 157.211 in their annual report. Consistent with the reporting requirements in § 157.208(e), § 157.211(c) should have included reporting requirements for both automatic and prior notice activities. However, the Commission inadvertently limited the reporting requirements to only facilities constructed under the automatic authorization.[11] Accordingly, we will modify § 157.211(c) to require that prior notice activities be included in the pipeline's annual report. However, we note that because the prior notice application fulfills the requirements of §§ 157.211(1), (2), and (4), the pipeline only needs to refer to the docket number of the prior notice filing and report the actual cost and completion date of the delivery in the annual report.

III. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981.

[5] Indicated Shippers' request for rehearing, at 4.

[6] *Id.,* at 5.

[7] *Id.,* at 8.

[8] *Id.,* at 9.

[9] Order No. 603, at 30,795.

[10] *See* 18 CFR § 157.202(b)(2)(ii)(C), eligible facility does not include a facility that alters the capacity of a mainline.

[11] We note that the Commission took into consideration both automatic and prior notice situations in its burden estimates listed in the Final Rule.

Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission amends Part 157, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

1. The authority for Part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

2. In § 157.202, the introductory text in paragraph (b)(6) is revised to read as follows:

§ 157.202 Definitions.

* * * * *

(b) * * *

(6) *Miscellaneous rearrangement* of any facility means any rearrangement of a facility, excluding underground storage injection/withdrawal wells, that does not result in any change of service rendered by means of the facilities involved, including changes in existing field operations or relocation of existing facilities:

* * * * *

§ 157.211 [Amended]

3. In § 157.211(c) the reference to ''(a)(1)'' is removed and a reference to ''(a)'' is added in its place.

[FR Doc. 00–5116 Filed 3–2–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. 96P–0436]

Medical Devices; Anesthesiology Devices; Classification of Nitric Oxide Administration Apparatus, Nitric Oxide Analyzer, and Nitrogen Dioxide Analyzer

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying the nitric oxide administration apparatus, nitric oxide analyzer, and nitrogen dioxide analyzer into class II (special controls). The special control that will apply to these devices is a guidance document. The agency is taking this action in response to a petition submitted under the Federal, Food, Drug, and Cosmetic Act (the act) as amended by the Medical Device Amendments of 1976 (the amendments), the Safe Medical Devices Act of 1990, and the Food and Drug Administration Modernization Act of 1997. The agency is classifying these devices into class II (special controls) in order to provide a reasonable assurance of the safety and effectiveness of the devices.

DATES: This rule is effective April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Joanna H. Weitershausen, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609, ext. 164.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of enactment of the amendments, generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or class II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807.

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification.

In accordance with section 513(f)(1) of the act, FDA issued an order on January 6, 2000, classifying the device in class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. On January 7, 2000, Datex-Ohmeda submitted a petition requesting classification of the nitric oxide administration apparatus, nitric oxide analyzer, and nitrogen dioxide analyzer under section 513(f)(2) of the act. This petition incorporated by reference a reclassification petition that Datex-Ohmeda had submitted previously. The manufacturer recommended that the device be classified into class II.

After review of the information submitted in the original reclassification petition, the premarket notification submission (K974562), the panel recommendation of November 22, 1996, on the original reclassification petition, the automatic evaluation of class III designation petition, and the information developed by FDA to address concerns about delivery and monitoring of this drug, FDA determined that the INOvent Delivery System intended for use in administering nitric oxide, measuring nitric oxide, and measuring nitrogen dioxide can be classified in class II with