

*J. Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*K. Energy Effects*

We analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a "significant energy action." Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

*L. Technical Standards*

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with the applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; Test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

*M. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 0023.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human

environment. Therefore, this rule is categorically excluded, under section 2.B.2. Figure 2–1, paragraph 34(d), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the equipping of vessels. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

**List of Subjects***33 CFR Part 155*

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

*33 CFR Part 156*

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 155 and 156 as follows:

**PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS**

■ 1. The authority citation for 33 CFR Part 155 and the note following citation continue to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 also issued under section 4110(b) of Pub. L. 101–380.

**Note to Part 155:** Additional requirements for vessels carrying oil or hazardous materials are contained in 46 CFR Parts 30 through 40, 150, 151, and 153.

**§ 155.200 [Amended]**

■ 2. In § 155.200, remove the definition for "Sea State 5."

**§ 155.490 [Removed and Reserved]**

■ 3. Remove and reserve § 155.490.

**PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS**

■ 4. The authority citation for 33 CFR Part 156 is revised to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120(bb) is also issued under 46 U.S.C. 3703.

**§ 156.120 [Amended]**

■ 5. In § 156.120, remove paragraph (ee).

Dated: December 17, 2008.

**Brian M. Salerno,**

*Assistant Commandant for Marine Safety, Security and Stewardship, U.S. Coast Guard.*  
[FR Doc. E8–30803 Filed 12–24–08; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****18 CFR Chapter I**

[Docket No. RM07–9–00]

**Review of FERC Form Nos. 6 and 6–Q**

**December 18, 2008.**

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice Terminating Proceeding.

**SUMMARY:** The Federal Energy Regulatory Commission is terminating its notice of inquiry regarding the need for changes or revisions to the Commission's reporting requirements. This notice specifically addresses FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6–Q (Quarterly Report of Oil Pipeline Companies).

**DATES:** *Effective Date:* December 29, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Jenifer Lucas (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8362. E-mail: [jenifer.lucas@ferc.gov](mailto:jenifer.lucas@ferc.gov).

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**SUPPLEMENTARY INFORMATION:**

1. On February 15, 2007, the Commission issued a Notice of Inquiry (NOI) in this proceeding, seeking comments from filers and users of various financial forms, including FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6–Q (Quarterly Report of Oil Pipeline Companies), addressing whether the forms should be modified.<sup>1</sup> The FERC Form No. 6 contains data such as a balance sheet, cost-of-service information, income statement, and

<sup>1</sup> *Assessment of Information Requirements for FERC Financial Forms*, FERC Stats. & Regs. ¶ 35,554 (2007).

statement of cash flow for oil pipeline companies. Similarly, the FERC Form No. 6–Q contains the same type of information but for each of the first three quarters of each year. Interested parties filed comments addressing possible modifications to the forms, and on July 18, 2007, the Commission's Staff conducted a public workshop to discuss the topic.

2. As discussed below, the Commission will not modify FERC Form Nos. 6 and 6–Q at this time. Accordingly, the Commission is terminating Docket No. RM07–9–000.<sup>2</sup>

### Summary of Significant Comments

3. The Association of Oil Pipelines (AOPL), Shell Pipeline Company L.P., Enbridge, Inc., Plains Pipeline L.P., and Magellan Pipeline Company LLC (collectively, Carriers) argued for few if any changes to FERC Form No. 6. In contrast, the Air Transport Association of America, Inc., the Society for the Preservation of Oil Pipeline Shippers, Anadarko Petroleum Corporation, Crowley Energy Consulting and Tesoro Refining & Marketing Company (collectively, Shippers) sought significant changes to the information required by FERC Form No. 6.

4. The Carriers argue that the Commission has analyzed and either revised or affirmed the form repeatedly since 1994, most recently in 2006,<sup>3</sup> finding that it satisfies applicable ratemaking requirements and provides the information necessary for shippers to challenge the oil pipelines' rates. The Carriers emphasize that oil pipelines are required to file extensive information, including total annual cost of service, operating revenues, and throughput in barrels and barrel-miles. In the Carriers' view, this information is adequate to permit shippers to compare the level of an oil pipeline's cost of service with their rates, and to compare the shippers' own changes in rates to changes in average barrel-mile rates.

<sup>2</sup> Following the issuance of the NOI, the Commission issued a Notice of Proposed Rulemaking addressing FERC Form Nos. 2, 2–A, and 3–Q. On March 21, 2008, the Commission issued Order No. 710 revising these forms. *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, 73 FR 19389 (April 10, 2008), FERC Stats. & Regs. ¶ 31,267 (2008) *order on reh'g*, Order No. 710–A, 123 FERC ¶ 61,278 (2008). Additionally, on September 19, 2008, the Commission issued Order No. 715 revising FERC Form Nos. 1, 1–F, and 3–Q. *Revisions to Forms, Statements and Reporting Requirements for Electric Utilities and Licensees*, Order No. 715, 73 FR 58720 (October 7, 2008), FERC Stats. & Regs. ¶ 31,277 (2008). This order addresses the sole remaining aspect of the NOI: The financial forms relating to oil pipeline companies.

<sup>3</sup> *Five-Year Review of Oil Pipeline Pricing Index*, 114 FERC ¶ 61,293 (2006).

5. The Shippers contend that FERC Form No. 6 does not provide an adequate basis for supporting complaints regarding oil pipeline rates, and thus it impedes the Commission's statutory duty to monitor cost-based rates, analyze costs of different services and classes of assets, and compare costs across lines of business. In particular, Shippers argue that the current reporting system is not useful in an environment where certain oil pipelines may own several pipeline systems. At a minimum, assert Shippers, each oil pipeline reporting financial and rate data on more than one pipeline system (or more than one segment of a pipeline system) should be required to segregate cost and revenue information for each system.<sup>4</sup> Shippers maintain that this would facilitate examinations of possible cross-subsidies. Shippers further argue that oil pipelines should file workpapers that fully support the data reported on FERC Form No. 6, including cost-of-service calculations.

### Commission Analysis

6. In Order No. 561, the Commission responded to Congress' direction that the Commission "promulgate new regulations to provide a simplified and generally applicable ratemaking methodology for oil pipelines, and to streamline procedures in oil pipeline proceedings."<sup>5</sup> The Commission's regulations evidence this light-handed regulation in part by encouraging the settlement of disputes in oil pipeline rate matters.<sup>6</sup> Order No. 561 also established price caps for oil pipeline rates and instituted an annual indexing process for rates tied to the Producer Price Index for Finished Goods minus one percent.

7. The Commission has reviewed the comments addressing possible changes to FERC Form Nos. 6 and 6–Q. These forms provide cost and revenue data that are intended to be a screening tool used to assess on an ongoing basis the justness and reasonableness of an oil pipeline's rates. The information provided is not intended to be at the level of detail necessary to litigate a case. Rather, the information need only

<sup>4</sup> FERC Form No. 6 reflects aggregated data. AOPL contends that providing cost-of-service and revenue information for each segment would be an undue burden because the oil pipeline companies do not break down costs by segment, and they would be forced to estimate amounts that they do not track separately.

<sup>5</sup> *Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992*, Order No. 561, FERC Stats. & Regs. ¶ 30,985, at 30,940 (1993), *order on reh'g*, Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 (1994), *aff'd*, *Association of Oil Pipe Lines v. FERC*, 83 F.2d 1424 (D.C. Cir. 1996).

<sup>6</sup> 18 CFR 343.5.

be of sufficient detail for a complainant to make a *prima facie* case that existing rates are not just and reasonable.<sup>7</sup> Indeed, the information provided in FERC Form No. 6 has been adequate to allow shippers over the last 10 years to file numerous complaints challenging rates.<sup>8</sup> Further, in a recent five-year review of the oil pipeline pricing index, the Commission's Staff was able to track industry cost changes by using data from the Annual Cost of Service Based Analysis Schedule.<sup>9</sup>

8. Additionally, the Commission has through various orders already revised FERC Form No. 6 to make carrier costs more transparent. For example, the Commission added the page 700, Annual Cost of Service Based Analysis Schedule, which includes the filer's operating and maintenance expenses, depreciation expense, AFUDC depreciation, amortization of deferred earnings, rate base, rate of return, income tax allowances, total cost of service, total operating revenues, and throughput in barrels and barrel-miles for the end of the current and previous calendar years.<sup>10</sup> In Order No. 571, moreover, the Commission rejected requests that the data reported on the Annual Cost of Service Based Analysis Schedule include separate cost of service information for each individual system, and explained that the schedule was not intended to require a pipeline to demonstrate with precision its cost-of-service attributed to each individual system it operates.<sup>11</sup> In this regard,

<sup>7</sup> *Cost-of-Service Reporting and Filing Requirements for Oil Pipelines*, Order No. 571, FERC Stats. & Regs. ¶ 31,006, at 31,168–69 (1994), *aff'd*, *Association of Oil Pipe Lines v. FERC*, 83 F.2d 1424 (D.C. Cir. 1996).

<sup>8</sup> See *SFPP, L.P.*, 63 FERC ¶ 61,014 (1993); *Texaco Refining and Marketing, Inc. v. SFPP, LP*, 86 FERC ¶ 61,035 (1999); *ARCO Products Co. v. SFPP, L.P.*, 91 FERC ¶ 61,142 (2000); *ARCO a subsidiary of BP America, Inc. v. Calnev Pipe Line, L.L.C.*, 97 FERC ¶ 61,057 (2001); *Chevron Products Co. v. SFPP, L.P.*, 114 FERC ¶ 61,133 (2006); *Williams Energy Services, LLC v. Mid-America Pipeline Company, LLC*, 116 FERC ¶ 61,175 (2006). In setting these cases for hearing, the Commission based its finding on an analysis of the entire carrier system.

<sup>9</sup> *Five-Year Review of Oil Pricing Index*, 114 FERC ¶ 61,293 (2006).

<sup>10</sup> See Order No. 571, FERC Stats. & Regs. ¶ 31,006; *Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Account*, Order No. 620, FERC Stats. & Regs. ¶ 31,115 (2000), *order on reh'g*, Order No. 620–A, 94 FERC ¶ 61,130 (2001).

<sup>11</sup> Order No. 571, FERC Stats. & Regs. ¶ 31,006, at 31,168–69. *Accord Five-Year Review of Oil Pricing Index*, 114 FERC ¶ 61,293, at P 51–52 (2006). See also Order No. 620, FERC Stats. & Regs. ¶ 31,115, at 31,958–59 ("Consistent with our decision in Order No. 571, the Commission denies suggestions by shippers that pipelines be required to file separate cost of service information for each individual system and additional information specifying debt and equity components.")

Shippers did not provide sufficient justification for the Commission to further modify the requirements of FERC Form Nos. 6 and 6-Q.

9. The Commission recognizes that FERC Form No. 6 contains only enough information for a threshold determination of whether the existing rates are just and reasonable. However, the Commission concludes that FERC Form Nos. 6 and 6-Q continue to provide sufficient information to allow shippers to file a complaint requesting a determination of the justness and reasonableness of a pipeline's rates. Accordingly, the Commission concludes that no changes to FERC Form Nos. 6 and 6-Q are warranted at this time, and the Commission terminates Docket No. RM07-9-000.

#### The Commission Orders

Docket No. RM07-9-000 is hereby terminated, as discussed in the body of this order.

By the Commission.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-30621 Filed 12-24-08; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2008-N-0039]

#### 21 CFR Part 524

#### Ophthalmic and Topical Dosage Form New Animal Drugs; Triamcinolone Cream

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Modern Veterinary Therapeutics, LLC. The ANADA provides for veterinary prescription use of triamcinolone cream on dogs for topical treatment of allergic dermatitis and summer eczema.

**DATES:** This rule is effective December 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** John K. Harshman, Center for Veterinary Medicine (HFV-104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8197, e-mail: [john.harshman@fda.hhs.gov](mailto:john.harshman@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Modern Veterinary Therapeutics, LLC, 1550

Madrugá Ave., suite 329, Coral Gables, FL 33146, filed ANADA 200-459 that provides for veterinary prescription use of VETAZINE (triamcinolone acetonide) Cream on dogs for topical treatment of allergic dermatitis and summer eczema. Modern Veterinary Therapeutics, LLC's VETAZINE Cream is approved as a generic copy of VETALOG Cream, sponsored by Fort Dodge Animal Health, A Division of Wyeth Holdings Corp., under NADA 46-146. The ANADA is approved as of November 13, 2008, and the regulations are amended in § 524.2481 to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

#### List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

#### PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

■ 2. In § 524.2481, revise paragraphs (b), (c)(2), and (c)(3) to read as follows:

#### § 524.2481 Triamcinolone cream.

\* \* \* \* \*

(b) *Sponsor.* See Nos. 015914, 053501, and 054925 in § 510.600(c) of this chapter.

(c) \* \* \*

(2) *Indications for use.* For topical treatment of allergic dermatitis and summer eczema.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: December 18, 2008.

**William T. Flynn,**

*Acting Director, Center for Veterinary Medicine.*

[FR Doc. E8-30694 Filed 12-24-08; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1314

[Docket No. DEA-298F]

#### RIN 1117-AB13

#### Combat Methamphetamine Epidemic Act of 2005: Fee for Self-Certification for Regulated Sellers of Scheduled Listed Chemical Products

**AGENCY:** Drug Enforcement Administration (DEA), Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** To comply with the requirement of the Controlled Substances Act that fees be set at a level to ensure the recovery of the full costs of operating the various aspects of the Diversion Control Program, this Final Rule establishes an annual self-certification fee for certain "regulated sellers," that is, persons and entities selling scheduled listed chemical products at retail locations who are required to self-certify with DEA relative to compliance with certain requirements of the Combat Methamphetamine Epidemic Act of 2005 (CMEA). This Final Rule establishes the annual self-certification fee for regulated sellers who are not DEA pharmacy registrants.

**DATES:** *Effective Date:* February 1, 2009. The new fee will be in effect for all new applications electronically sent on or after the effective date and for all renewal applications electronically sent on or after the effective date.

**FOR FURTHER INFORMATION CONTACT:** Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrisette Drive, Springfield, VA 22152; Telephone (202) 307-7297.

**SUPPLEMENTARY INFORMATION:**