

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002-06-03 **Boeing:** Amendment 39-12679. Docket 2001-NM-356-AD.

*Applicability:* Model 737-600, -700, -700C, and -800 series airplanes; as listed in Boeing Alert Service Bulletin 737-27A1234, Revision 1, dated August 10, 2000; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent jamming of the elevator flight controls, which could result in reduced controllability of the airplane, accomplish the following:

**Measurement of Clearance and General Visual Inspection**

(a) Within 10 days after the effective date of this AD, do paragraphs (a)(1) and (a)(2) of this AD, according to Boeing Alert Service Bulletin 737-27A1234, dated March 27, 2000, or Revision 1, dated August 10, 2000.

(1) Measure the clearance between a certain retention bracket for the elevator power control unit (PCU) and a quadrant on the inboard side of the right elevator PCU. If clearance is less than 0.10 inch, before further flight, accomplish rework according to the service bulletin.

(2) Perform a one-time general visual inspection for loose fasteners or brackets in certain retention bracket assemblies for the left and right elevator PCUs. If any loose fastener or bracket is found, before further flight, torque affected fasteners, according to the service bulletin.

**Note 2:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

**Alternative Methods of Compliance**

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle

Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

**Special Flight Permits**

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Incorporation by Reference**

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin 737-27A1234, dated March 27, 2000, or Boeing Alert Service Bulletin 737-27A1234, Revision 1, dated August 10, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Effective Date**

(e) This amendment becomes effective on April 3, 2002.

Issued in Renton, Washington, on March 11, 2002.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 02-6328 Filed 3-18-02; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 2**

[Docket No. RM01-7-000; Order No. 624]

**Policy on Certificates of Public Convenience and Necessity for Gas Transmission Facilities in the Off-shore Southern Louisiana Area; Final Rule**

Issued March 13, 2002.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is removing from its regulations the general statement of policy with respect to the issuance of certificates of public

convenience and necessity for the construction and operation of pipeline transmission facilities in the Louisiana off-shore area. The Commission announced a new policy with respect to pipeline construction in the off-shore Louisiana area in *ANR Pipeline Company (ANR)*.<sup>1</sup> Since the old policy has changed, we are removing it from the regulations.

**DATES:** This final rule is effective upon the date of issuance.

**FOR FURTHER INFORMATION CONTACT:** Cecilia Desmond, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-2280.

**SUPPLEMENTARY INFORMATION:**

**Federal Energy Regulatory Commission**

*Before Commissioners:* Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell.

[Docket No. RM01-7-000; Order No. 624]

*Policy on Certificates of Public Convenience and Necessity for Gas Transmission Facilities in the Off-shore Southern Louisiana Area; Final Rule*

Issued March 13, 2002.

**I. Introduction**

The Federal Energy Regulatory Commission (Commission) is removing 18 CFR § 2.65 from its regulations. Section 2.65 sets out a general policy with respect to the issuance of certificates of public convenience and necessity for the construction and operation of pipeline transmission facilities in the Louisiana off-shore area. The Commission's predecessor agency, the Federal Power Commission (FPC), announced the policy on June 4, 1968, in Order No. 363, to maximize the use of off-shore Louisiana facilities and to ensure that off-shore facilities were properly sized.<sup>1</sup> In *ANR Pipeline Company (ANR)*, the Commission confirmed that § 2.65 no longer reflects its policy with respect to pipeline construction in the off-shore Louisiana area.<sup>2</sup> Since the Commission's policy with respect to construction of off-shore facilities has changed, we are removing § 2.65 from the regulations.

**II. Discussion**

In promulgating § 2.65 in Order No. 363, the FPC noted the increasing importance of off-shore Louisiana as a

<sup>1</sup> 78 FERC ¶61,326 (1997); *reh'g denied* 85 FERC ¶61,056 (1998); *appeal denied* ANR Pipeline Co. v. FERC, 205 F.3d 403 (D.C. Cir. 2000).

<sup>2</sup> Order No. 363, 39 FERFC ¶925 (1968).

<sup>3</sup> 78 FERC ¶61,326 (1997); *reh'g denied* 85 FERC ¶61,056 (1998); *appeal denied* ANR Pipeline Co. v. FERC, 205 F.3d 403 (D.C. Cir. 2000).

source of natural gas for the nation and the much higher cost of installing off-shore pipeline facilities compared to on-shore facilities. Taking this into account, the FPC announced a policy under which it would review applications for construction of pipelines in the Louisiana off-shore area in the Gulf of Mexico on both a joint and individual company basis. The FPC intended to promote joint use arrangements and wanted pipeline companies to develop gas exchange procedures to minimize cross-hauls. The FPC believed that this would assure both timely and cost-effective full utilization of large capacity facilities in the Gulf of Mexico and development of the off-shore gas reserves.

Thus, the policy outlined in § 2.65 states that a pipeline applying for a certificate of public convenience and necessity for the construction and operation of off-shore pipeline facilities should include certain information in its application: (1) A detailed description of the applicant's efforts to transport its gas using another pipeline's existing or proposed off-shore facilities (§ 2.65 (a)(1)); (2) a demonstration that it consulted with other pipelines about using the applicant's proposed facilities to transport their gas to onshore facilities (§ 2.65 (a)(2)); (3) that the applicant will install 30-inch or larger diameter pipe or demonstrate the feasibility of a smaller proposed line (§ 2.65 (a)(3)); and (4) a demonstration that its proposed facilities will be used at a minimum annual load factor of 60 percent of the annual capacity available by the end of a 12-month period following construction, or seek a waiver of this requirement (§ 2.65(a)(4)). Section 2.65 also states that the Commission intends to enforce the 60 percent load factor requirement by permitting off-shore pipeline facilities to be included in the applicant's cost-of-service in future rate proceedings at an average unit cost predicated on load factors of not less than 60 percent (§ 2.65(b)).

Section 2.65 also states that pipelines should file applications for off-shore facilities by September 1 of the year immediately preceding the proposed installation of the facilities. This would allow staff to review all applications, on a joint and individual company basis, at the same time. In 1976, for example, in *High Island Offshore System (HIOS)*, the Commission convened public conferences to discuss a possible alternative joint approach to three competitive applications requesting authorization to construct off-shore

pipeline facilities.<sup>3</sup> The three competing applicants ultimately amended and unified their applications to propose one system rather than the three originally proposed, as anticipated by § 2.65.

In 1996, a number of interstate pipeline companies, including ANR and Nautilus Pipeline Company (Nautilus), filed applications requesting authorization to construct pipeline facilities in the Gulf of Mexico in response to significant new deepwater gas reserves being developed in several off-shore Louisiana producing regions. ANR argued that § 2.65 of the Commission's regulations required the Commission to consolidate ANR's application for authority to construct pipeline facilities in the Gulf of Mexico with Nautilus' similar application for off-shore facilities and to hold a joint hearing to consider the two applications.<sup>4</sup> Citing changed circumstances since the FPC adopted the policy announced in Order No. 363, the Commission confirmed that its policy with respect to off-shore facilities has changed and denied ANR's request for consolidation.<sup>5</sup>

ANR appealed the Commission's order, arguing that the Commission had violated its own regulation since § 2.65 required the Commission to hold a comparative hearing on its and Nautilus' applications.<sup>6</sup> In denying ANR's appeal, the court stated that, since § 2.65 is a policy statement, not a regulation, it is not binding on the Commission. Noting that an agency may not depart from prior policy without explanation, the court stated that the Commission's explanation in *ANR* adequately explained how changed circumstances justified a new policy. In response to the court's suggestion that the Commission should amend § 2.65 to reflect its new policy,<sup>7</sup> we are issuing this rule.

As explained in *ANR*, since the 1968 issuance of Order No. 363, both off-shore natural gas production and the Commission's regulatory approach to the construction of pipeline infrastructure have undergone significant changes that have affected the Commission's policy with respect to interstate pipeline construction in the Gulf of Mexico. The Gulf of Mexico, considered a few years ago to be a

mature producing area, contains significant newly discovered deep water reserves of natural gas. In recent years, the Commission's regulatory approach has been to encourage the operation of market forces and competition wherever possible to determine what pipeline facilities are constructed.

Thus, rather than allocating limited production in the Gulf of Mexico among a limited number of pipelines as set out in Order No. 363 and § 2.65, the Commission now seeks to encourage an interstate pipeline infrastructure capable of transporting natural gas from newly developed production areas in the Gulf of Mexico. This market-oriented approach allows for the most efficient, cost effective, and timely development of new off-shore reserves and transportation facilities.

In *ANR*, the Commission determined that application of the evaluation standards reflected in § 2.65 to decide which project would meet off-shore capacity requirements could needlessly delay construction of the necessary pipeline infrastructure, delay production plans, and retard further exploration and development in the area. Instead, the Commission stated that the market should determine which projects are best suited to serve the area's infrastructure needs.

Since § 2.65 no longer accurately describes the Commission's policy and the Commission no longer wishes to codify in the regulations its policy on constructing infrastructure in the Gulf of Mexico, the Commission is removing § 2.65.

### III. Administrative Findings

The Administrative Procedure Act (APA) requires rulemakings to be published in the **Federal Register** and also mandates that an opportunity for comments be provided when an agency promulgates regulations. However, the APA exempts general statements of policy from its notice and comment requirements.<sup>8</sup> Therefore, since § 2.65 is a policy statement rather than a substantive rule, we are removing it from our regulations without a period for public comment.

### IV. Effective Date and Congressional Notification

The APA exempts general statements of policy from the requirement that rules become effective only after thirty days' notice.<sup>9</sup> Therefore, this final rule will be effective upon the date of its issuance. The Commission has determined, with the concurrence of the

<sup>3</sup> 55 FPC 2674 (1976) (the three applicants were Texas Offshore Pipeline System, Inc., Amtex Offshore Pipeline Co., and Natural Gas Pipeline Co. of America).

<sup>4</sup> 78 FERC ¶ 61,326 (1997).

<sup>5</sup> *Id.* at 62,407.

<sup>6</sup> *ANR Pipeline Co. v. FERC*, 205 F.3d 403 (D.C. Cir. 2000).

<sup>7</sup> *Id.* at n. 2.

<sup>8</sup> 5 U.S.C. 553(b).

<sup>9</sup> 5 U.S.C. 553 (d)(2).

Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that the removal of this policy statement is not a major rule within the meaning of section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.<sup>10</sup> The Commission is submitting this final rule to both houses of Congress and to the Comptroller General.

## V. Environmental Analysis

Commission regulations describe the circumstances where preparation of an environmental assessment or an environmental impact statement will be required.<sup>11</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.<sup>12</sup> Since removing an outdated policy statement from the regulations falls within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, no environmental assessment or environmental impact statement is necessary.<sup>13</sup>

## VI. Regulatory Flexibility Impact Statement

The Regulatory Flexibility Act of 1980 (RFA)<sup>14</sup> generally requires a description and analysis of proposed rules that will, if promulgated, have a significant economic impact on a substantial number of small entities. The Commission is not required to make such analysis if a rule would not have such an effect.<sup>15</sup>

The Commission does not believe that the removal of § 2.65 from its regulations would have such an impact on small entities. The removal would have an impact only on interstate pipelines, which generally do not fall within the RFA's definition of small entity.<sup>16</sup> Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that the removal of § 2.65 will not have a significant economic impact on a substantial number of small entities.

## VII. Information Collection Statement

The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rules.<sup>17</sup> However, this Final Rule contains no information reporting requirements, and therefore is not subject to OMB approval.

## VIII. 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, N.E., 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. 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](mailto:WebMaster@ferc.fed.us)) or the Public Reference at (202) 208-1371 (E-Mail to [public.referenceroom@ferc.fed.us](mailto: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.

<sup>17</sup> 5 CFR Part 1320.

## List of Subjects in 18 CFR Part 2

Administrative practice and procedure, Electric Power, Natural gas, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

**Magalie R. Salas,**  
*Secretary.*

For the reasons set forth in the foregoing, the Commission is removing § 2.65 of Part 2, Chapter 1, Title 18, Code of Federal Regulations, as follows.

## PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for Part 2 continues to read as follows:

**Authority:** 5 U.S.C. 601; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 792-825y, 2601-2645; 42 U.S.C. 4321-4361, 7101-7352.

2. Remove § 2.65.

### § 2.65 [Removed]

[FR Doc. 02-6555 Filed 3-18-02; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

#### Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection

**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 a supplemental abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The supplemental ANADA provides for the subcutaneous administration of oxytetracycline (OTC) injectable solution in cattle.

**DATES:** This rule is effective March 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Steven D. Vaughn, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7580.

**SUPPLEMENTARY INFORMATION:** Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506-0457, filed a supplement to approved ANADA 200-123 that provides for the use of MAXIM 200 (oxytetracycline) Injection as treatment for various bacterial diseases in cattle

<sup>10</sup> 5 U.S.C. § 804(2).

<sup>11</sup> Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), *codified at* 18 CFR Part 380.

<sup>12</sup> 18 CFR 380.4.

<sup>13</sup> See 18 CFR 380.4(a)(2)(ii).

<sup>14</sup> 5 U.S.C. 601-612.

<sup>15</sup> 5 U.S.C. 605(b).

<sup>16</sup> 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operations.