

PART 299—IMMIGRATION FORMS

7. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

8. Section 299.1 is amended in the table by revising the entry for Form I-140, to read as follows:

§ 299.1 Prescribed forms.

Form No.	Edition date	Title
I-140	08-30-01	Immigrant Petition for Alien Worker.

Dated: July 5, 2002.

James W. Ziglar,
Commissioner, Immigration and Naturalization Service.

[FR Doc. 02-19249 Filed 7-30-02; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION**14 CFR Part 171**

[Airspace Docket No. 01-AGL-06]

Modification of Class D Airspace; Bloomington, IN; Modification of Class E Airspace; Bloomington, IN; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects several errors contained in a Final Rule that was published in the **Federal Register** on Wednesday, May 8, 2002 (67 FR 30778). The Final Rule modified Class D and Class E airspace at Bloomington, IN. **EFFECTIVE DATE:** 0901 UTC, June 13, 2002.

FOR FURTHER INFORMATION CONTACT:

Denis C. Burke, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone: (847) 294-7477.

SUPPLEMENTARY INFORMATION:**History**

Federal Register Document 02-11495 published on Wednesday, May 8, 2002 (67 FR 30778), modified Class D and Class E Airspace at Bloomington, IN. The Docket incorrectly referred to Bloomington, IL rather than

Bloomington, IN. This action corrects these errors, by replacing the State of IL with the State of IN throughout the document.

Accordingly, pursuant to the authority delegated to me, the errors for the Class D and Class E Airspace, Bloomington, IN, as published in the **Federal Register** Wednesday, May 8, 2002 (67 FR 30778), (FR Doc. 02-11495), are corrected as follows:

1. On page 30778, Columns 1 and 2, in the heading and preamble, correct “Bloomington, IL” to read “Bloomington, IN”, each place it appears.

§ 71.1 [Corrected]

2. On page 30778, column 3, in the Class D airspace designation under Paragraph 5000, correct “Bloomington, IL” to read “Bloomington, IN”.

3. On page 30779, column 1, in the Class E airspace designation under Paragraph 6005, correct “Bloomington, IL” to read “Bloomington, IN”.

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Issued in Des Plaines, Illinois, on July 18, 2002.

Nancy B. Shelton,
Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02-19367 Filed 7-30-02; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96-1-022; Order No. 587-Q]

Standards for Business Practices of Interstate Natural Gas Pipelines

Issued July 23, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on rehearing.

SUMMARY: This order rules on requests for rehearing and clarification of the final rule issued on May 1, 2002 (67 FR 30788) that incorporated by reference Version 1.5 of the consensus natural gas industry standards adopted by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB). In particular, the order addresses requests for clarification and rehearing related to the standards governing title transfer tracking.

EFFECTIVE DATE: The regulations became effective June 7, 2002.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-2294.

Marvin Rosenberg, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-1283.

Kay Morice, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-0507.

SUPPLEMENTARY INFORMATION:

Federal Energy Regulatory Commission Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell.

Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587-Q; Docket No. RM96-1-022; Order on Rehearing and Clarification.

Issued July 23, 2002.

1. In Order No. 587-O,¹ the Federal Energy Regulatory Commission (Commission) amended § 284.12 of its open access regulations to incorporate by reference Version 1.5 of the consensus industry standards for the natural gas industry promulgated by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB). These standards include requirements related to title transfer tracking (TTT) under which pipelines generally are responsible for accommodating title transfer tracking services at all pooling points.

2. On May 31, 2002, National Fuel Gas Supply Corporation (National Fuel) filed a request for clarification and rehearing relating to the adoption of the TTT standards. In particular, National Fuel contends that pipelines need only support TTT where the pipeline has a contractual relationship with a Title Transfer Tracking Service Provider or Third Party Account Administrator and that the only parties for whom pipelines need to accommodate TTT services are Title Transfer Tracking Service Providers or Third Party Account Administrators. As discussed below, the Commission provides clarification that a party requesting the processing of title transfers must have a contract with the pipeline, but denies National Fuel's request that pipelines be required to process title transfer nominations only from Title Transfer Tracking Service

¹ Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587-O, 67 FR 30788 (May 8, 2002), III FERC Stats. & Regs. Regulations Preambles, ¶ 31,129 (May 1, 2002).

Providers and Third Party Account Administrators. This decision is in the public interest because it will ensure that pipelines will not limit the processing of title transfers to select parties, but will provide the same service, without undue discrimination, to all shippers.

Background

3. Title transfer is defined as “the change of title to gas between parties at a location.”² Title Transfer Tracking (TTT) is defined as “the process of accounting for the progression of title changes from party to party that does not effect a physical transfer of the gas.”³ The two NAESB standards generally defining the pipelines’ responsibility for processing title transfers are Standards 1.3.64 and 1.3.65.⁴ Standard 1.3.64 provides:

At a minimum, the Transportation Service Providers (TSP) should be responsible for accommodating Title Transfer Tracking (TTT) services at all points identified by the

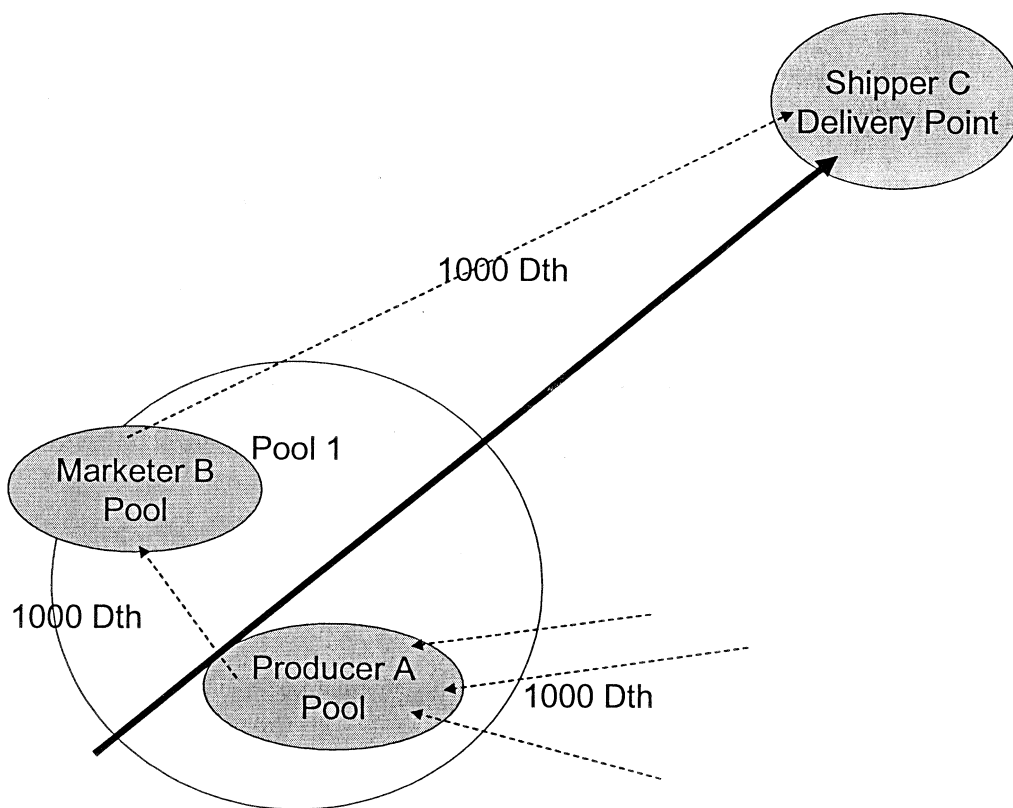
TSP as pooling points, where TTT services are requested. In absence of existing pooling points or in addition to existing pooling points where access to TTT activity is not reasonably accessible for supply receipt locations covered by an OBA, TSPs should be responsible for accommodating TTT at no less than one location.

Standard 1.3.65 states:

The Title Transfer Tracking services should be supported by means of the nominations, quick responses and scheduled quantities processes. At the Transportation Service Provider’s election, the confirmation process may also be utilized with Title Transfer Tracking Service Providers within the TSP’s system.

4. In Order No. 587–O, the Commission interpreted these standards as requiring pipelines to permit and process, on a non-discriminatory basis, transportation nominations (along with required responsive scheduling information) effecting transfers of title at pooling points by any party including shippers, poolers, or third party account

administrators.⁵ The Commission provided the following example of the pipeline’s obligations under the standards. In the example, Producer A aggregates 1000 Dth of gas from three receipt points at its pool at Pool 1, sells 1000 Dth to Marketer B at Marketer B’s pool at Pool 1, and Marketer B sells 1000 Dth to Shipper C at the pooling point for transportation to Shipper C’s delivery point under Shipper C’s firm transportation contract. The Commission explained that, under the NAESB standards, the pipeline would have to process a transportation nomination from Producer A and the required scheduling responses to reflect the transfer of gas from Producer A’s pool to Marketer B’s pool. Other than processing the transportation nomination to reflect the in-place transfer of gas, the pipeline would be required to provide no other “accounting services”⁶ respecting the transfer of title.



5. In its rehearing request, National Fuel maintains the Commission should

clarify that pipelines need only support TTT where the pipeline has a

contractual relationship with a Title Transfer Tracking Service Provider or

² 18 CFR 284.12(a)(1)(i), Standard 1.2.14 (Version 1.5).

³ 18 CFR 284.12(a)(1)(i), Standard 1.2.15 (Version 1.5).

⁴ 18 CFR 284.12(a)(1)(i), Standards 1.3.64 and 1.3.65 (Version 1.5).

⁵ A Third Party Account Administrator is defined as a Title Transfer Tracking Service Provider other than the Transportation Service Provider. Standard 1.2.17 (Version 1.5).

⁶ Standard 1.2.15 defines title transfer tracking as “the process of accounting for the progression of title changes from party to party that does not effect a physical transfer of the gas.”

Third Party Account Administrator. National Fuel further contends that the only parties for whom pipelines need to accommodate TTT services are Title Transfer Tracking Service Providers or Third Party Account Administrators.

6. On June 7, 2002, Dominion Resources, Inc. also filed a request for rehearing or reconsideration and clarification of Order No. 587–O. This rehearing request was filed late, and, accordingly, will not be addressed.⁷

Discussion

7. National Fuel maintains that the Commission's statement in Order No. 587–O (that pipelines must "effect[] transfers of title at pooling points by any party including shippers, poolers, or third party account administrators") can be read to require pipelines to process title transfers regardless of whether there is a contractual relationship between the party transferring title and the pipeline. National Fuel further argues that the Commission has incorrectly provided that pipelines must accommodate TTT services from other than Title Transfer Tracking Service Providers (and Third Party Account Administrators),⁸ and it urges the Commission to clarify that the obligation of a pipeline to accommodate TTT services arises in the context of services requested to be performed by Title Transfer Tracking Service Providers and Third Party Account Administrators.

8. The Commission agrees with National Fuel that pipelines need only process title transfers from parties with contractual relationships with the pipeline. Pipelines need to be able to verify the parties with whom they deal. The obligation to process title transfer nominations, however, extends to any party with a contractual relationship with the pipeline, including, but not limited to, parties with transportation or storage contracts, pooling contracts or operational balancing agreements, Third Party Account Administrators, and agents of any of the foregoing.

9. The Commission does not agree with National Fuel's interpretation of the standards as providing that pipelines are required to accommodate title transfers *only with* Third Party Account Administrators, and denies the rehearing request. The Commission finds that, as discussed below, National Fuel's interpretation is not supported by the text of the standards. Moreover, adopting National Fuel's interpretation, which would limit the obligation of a pipeline to provide nomination services only for certain third parties, would lead to practical difficulties, and would be inconsistent with a pipeline's obligation to provide services in a not unduly discriminatory manner under the Natural Gas Act, and the Commission's regulations.

10. The two principal standards defining the pipelines' obligations to support title transfers are Standards 1.3.64 and 1.3.65. In relevant part, these standards provide that "at a minimum, the Transportation Service Providers (TSP) should be responsible for accommodating Title Transfer Tracking (TTT) services at all points identified by the TSP as pooling points, where TTT services are requested," and that "the Title Transfer Tracking services should be supported by means of the nominations, quick responses and scheduled quantities processes." These standards do not state that pipelines are to support title transfer tracking only with Title Transfer Tracking Service Providers or Third Party Account Administrators.⁹ These standards impose a general obligation on pipelines to accommodate title transfer tracking at pooling points through the nominations, quick responses and scheduled quantities processes.¹⁰ While other standards do require pipelines to accommodate title transfer tracking from Third Party Account Administrators, these standards do not provide that Third Party Account Administrators and Title Transfer Tracking Service Providers are the sole parties from whom pipelines are required to accommodate title transfer nominations. The ability to use Third Party Account Administrators is an additional option under the standards for obtaining title transfer tracking services; the standards

do not make it the exclusive method of obtaining title transfer tracking services, nor do the standards specifically preclude shippers or others from undertaking the process of accounting for title transfers themselves.¹¹

11. Moreover, the standards define a Third Party Account Administrator only as "a Title Transfer Tracking Service Provider other than the Transportation Service Provider."¹² This definition does not specifically define or limit who can be a Third Party Account Administrator, nor does it preclude a shipper, pooler, point operator, or other firm with a contract with the pipeline from acting as a Third Party Account Administrator only with respect to its own sales. National Fuel fails to provide citation to a specific definition of the characteristics necessary qualify as a Third Party Account Administrator, nor does it explain why under the standards any party, including a shipper, pooler, point operator, cannot qualify as a Third Party Account Administrator with respect only to its own transactions. The definition of Third Party Account Administrator, therefore, is sufficiently broad to include any party wanting to account for its own title transfers and supports the conclusion that pipelines are required to process nominations reflecting title transfers from any party with a contractual relationship with the pipeline.

12. National Fuel asserts that standard 1.2.19 (which provides that "[a] title transfer Nomination is a nomination line item requesting the service of Title Transfer Tracking and is sent by an Account Holder to a Title Transfer Tracking Service Provider") and standard 1.2.16 (which defines a Title Transfer Tracking Service Provider as a "party conducting the title transfer tracking activity") support its view that title transfer tracking nominations will be made only to the Title Transfer Tracking Service Provider, not the pipeline. But these standards only define the method by which shippers choosing to use a Third Party Account Administrator will communicate with the Third Party Account Administrator; the standards do not specifically state that pipelines are required to process title transfers only from Third Party Account Administrators or that pipelines can refuse to process title transfers from shippers or other parties.¹³

⁷ Order No. 587–O was issued on May 1, 2002, and Dominion Resources rehearing request was not filed until June 7, 2002, more than 30 days from the date of issuance. Under the Natural Gas Act and the Commission regulations, rehearing requests must be filed "within thirty days after the issuance of such order." Natural Gas Act, § 19, 15 U.S.C. 7174 (a); 18 CFR 385.713 (rehearing requests must be filed no later than 30 days after issuance of final decision or final order); 18 CFR 385.2007 (issuance is defined as the earliest of posting or public notice).

⁸ Under the standards, a "Title Transfer Tracking Service Provider is a party conducting the title transfer tracking activity," and a "Third Party Account Administrator is a Title Transfer Tracking Service Provider other than the Transportation Service Provider." Standards 1.2.16 and 1.2.17.

⁹ The only relevant issue in National Fuel's rehearing request relates to Third Party Account Administrators, since the underlying assumption of National Fuel's rehearing is that the pipeline will not be establishing a Title Transfer Tracking Service Provider.

¹⁰ In effect, the standards require pipelines to process a nomination that reflects the movement of gas from the pool of the party selling gas to the pool of the purchaser. In the prior example, at P 4, Producer A would be transporting gas from its Pool to Marketer B's pool.

¹¹ No pipeline or party other than National Fuel has contested the Commission's interpretation of the standards.

¹² Standard 1.2.17.

¹³ Indeed, as pointed out above, the standards would not specifically preclude shippers, poolers, or point operators from qualifying as Third Party

13. National Fuel also asserts that an interpretation requiring pipelines to accept "nominations" * * * effecting transfers of title" from all comers would inappropriately require pipelines to assume the role of a Title Transfer Tracking Service Provider. However, as the Commission stated in Order No. 587-O, under the standards, pipelines are required only to process, on a non-discriminatory basis, nominations to reflect the in-place transfer of gas; they are not required to provide the other "accounting" services that constitute title transfer tracking.¹⁴ Under the standards, pipelines are required only to process in-place title transfers using the same nomination and confirmation procedures used to process other transportation nominations. National Fuel moreover has not shown that applying the same nomination processes to title transfers is unduly burdensome.

14. The Commission also rejects National Fuel's proposed interpretation of the standards because it would create practical difficulties for shippers. On some pipelines, the number of shippers that want to conduct title transfers or the overall number of such transactions may not be sufficient to economically support a third-party firm that offers accounting services for title transfers. Under National Fuel's interpretation, however, these shippers could be precluded from transferring title at pooling points even though they are willing to account for those transfers themselves.

15. In addition, National Fuel's interpretation of the standards ignores the requirement in the Natural Gas Act¹⁵ and the Commission's regulations¹⁶ that pipelines provide services connected with interstate transportation without undue discrimination. Under National Fuel's interpretation, pipelines would be discriminating in their handling of title transfer nominations by processing such

nominations from Third Party Account Administrators or Title Transfer Tracking Service Providers, but refusing to provide the same service for other parties doing business on the pipelines. In implementing and interpreting NAESB's standards, the standards need to be interpreted in a way that is consistent with the Natural Gas Act and Commission regulations.¹⁷ The Commission finds that requiring pipelines to process title transfer nominations on a non-discriminatory basis is more consonant with its statutory and regulatory obligations than National Fuel's interpretation.

16. National Fuel states that it anticipates that it will raise its requested clarifications with NAESB and suggests that the Commission defer addressing these issues until NAESB has an opportunity to interpret the standards. The Commission will not defer ruling on National Fuel's rehearing request. Since the NAESB standards do not compel or support National Fuel's reading, and National Fuel's interpretation raises issues regarding compliance with statutory and regulatory requirements, the Commission finds that the requirement in Order No. 587-O that pipelines process title transfer nominations with all parties is more consistent with those responsibilities.

The Commission orders: The request for clarification is granted and the request for rehearing is denied as discussed in the body of the order.

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 02-19277 Filed 7-30-02; 8:45 am]

BILLING CODE 6710-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 00C-0929]

Listing of Color Additives Exempt From Certification; Sodium Copper Chlorophyllin; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of June 20, 2002, for the final rule that appeared in the **Federal Register** of May 20, 2002 (67 FR 35429). The final rule amended the color additive regulations to provide for the safe use of sodium copper chlorophyllin as a color additive in citrus-based dry beverage mixes.

DATES: Effective date confirmed: June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202-418-3076.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 20, 2002 (67 FR 35429), FDA amended the color additive regulations to add § 73.125 Sodium copper chlorophyllin (21 CFR 73.125) to provide for the safe use of sodium copper chlorophyllin as a color additive in citrus-based dry beverage mixes.

FDA gave interested persons until June 19, 2002, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA finds that the effective date of the final rule that published in the **Federal Register** of May 20, 2002, should be confirmed.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the May 20, 2002, final rule. Accordingly, the amendments issued thereby became effective June 20, 2002.

Account Administrators in order to process their own title transfers.

¹⁴ Standard 1.2.15 defines title transfer tracking as the "process of accounting for the progression of title changes from party to party." (emphasis added).

¹⁵ 15 U.S.C. 717c(b) ("no natural gas company shall * * * (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service").

¹⁶ 18 CFR 284.7 & 284.9 ("An interstate pipeline or intrastate pipeline must provide such service without undue discrimination, or preference, including undue discrimination or preference in the quality of service provided, the duration of service, the categories, prices, or volumes of natural gas to be transported, customer classification, or undue discrimination or preference of any kind").

¹⁷ See *United Distribution Cos. v. FERC*, 88 F.3d 1105, 1166 (D.C. Cir. 1996), *Independent Insurance Agents v. Hawke*, 211 F.3d 638, 643 (D.C. Cir. 2000) (under the *Chevron* test, an agency's interpretation of a statute must be reasonable and consistent with the statute's purpose). See also *Concrete Pipe and Products v. Construction Laborers Pension Trust*, 508 U.S. 602, 629 (statutes are to be construed to avoid serious doubt of their constitutionality).