ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2008–0256; FRL–8574–7]

Virginia: Final Authorization of State Hazardous Waste Management Program Revision; Withdrawal of Immediate Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of immediate final rule.

SUMMARY: EPA is withdrawing the immediate final rule for Virginia: Final Authorization of State Hazardous Waste Management Program revision published on April 3, 2008, which authorized changes to Virginia's hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA stated in the immediate final rule that if EPA received written comments that oppose this authorization during the comment period, EPA would publish a notice of withdrawal in the **Federal Register** prior to the effective date of June 2, 2008. Since EPA did receive a comment that opposes this authorization, EPA is withdrawing the immediate final rule. EPA will address these comments in a subsequent final action based on the proposed rule also published on April 3, 2008 at 73 FR 18229.

DATES: As of June 3, 2008, EPA withdraws the immediate final rule published on April 3, 2008 at 73 FR 18172.

FOR FURTHER INFORMATION CONTACT: Thomas UyBarreta, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.

SUPPLEMENTARY INFORMATION: Because EPA received written comments that oppose this authorization, EPA is withdrawing the immediate final rule for Virginia: Final Authorization of State Hazardous Waste Management Program Revision published on April 3, 2008 at 73 FR 18172, which authorized changes to Virginia's hazardous waste program. EPA stated in the immediate final rule that if EPA received written comments that oppose this authorization during the comment period, EPA would publish a notice of withdrawal in the **Federal Register** prior to the effective date of June 2, 2008. Since EPA received comments that oppose this action, today EPA is withdrawing the immediate final rule. EPA will address the comments received during the comment period in a subsequent final action based on the proposed rule also published on April 3, 2008. EPA will not provide for additional public comment during the final action.

Dated: May 22, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–12377 Filed 6–2–08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 195

[Docket ID PHMSA–RSPA–2003–15864]

RIN 2137–AD98

Pipeline Safety: Protecting Unusually Sensitive Areas From Rural Onshore Hazardous Liquid Gathering Lines and Low-Stress Lines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: PHMSA is amending its pipeline safety regulations to extend added protection to certain environmentally sensitive areas that could be damaged by failure of a rural onshore hazardous liquid gathering line or low-stress pipeline. Building on PHMSA's existing regulatory framework, the rule is intended to protect designated ''unusually sensitive areas'' (USAs)—locations requiring extra protection because of the presence of sole-source drinking water, endangered species, or other ecological resources. This rule defines ''regulated rural onshore hazardous liquid gathering lines'' and requires operators of these lines to comply with safety requirements that address the most common threats to the integrity of these pipelines: Corrosion and third-party damage. In accordance with the Pipeline Inspection, Protection, Enforcement and Safety (PIPES) Act of 2006, the rule also significantly narrows the regulatory exception for rural onshore low-stress hazardous liquid pipelines by extending all existing safety regulations, including integrity management requirements, to large-diameter low-stress pipelines within a defined ''buffer'' area around a USA. The final rule requires operators of these, and all other low-stress pipelines, to comply with annual reporting requirements, furnishing data needed for further rulemaking required by the PIPES Act.

EFFECTIVE DATE: July 3, 2008.

FOR FURTHER INFORMATION CONTACT: Lane Miller by phone at (405) 954–4969 or by e-mail at *Lane.Miller@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA published a Notice of Proposed Rulemaking (NPRM) (71 FR 52504; September 6, 2006) proposing to extend pipeline safety regulations to rural onshore hazardous liquid gathering lines and rural onshore hazardous liquid low-stress pipelines located in or within a quarter mile of previously-defined ''unusually sensitive areas'' (See § 195.6). Unusually sensitive areas (USAs) that are in non-populated areas need extra protection because they contain sole-source drinking water, endangered species, or other ecological resources that could be adversely affected by accidents or leaks from hazardous liquid pipelines. There is no universal definition of either gathering lines or low-stress pipelines. For purposes of safety regulation, PHMSA defines gathering lines by reference to diameter and function and low-stress pipelines by reference to the stress level at which they operate (see § 195.2).

With limited exceptions, pipelines operating at low-stress in rural areas and onshore gathering lines in rural areas have not been regulated under Federal safety regulations for hazardous liquid pipelines (49 CFR part 195). Section 195.2 defines a ''rural area'' as outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area, such as a subdivision, a business or shopping center, or community development. Low-stress pipelines in these areas have been regulated only if they cross commercially navigable waterways (§ 195.1(b)(i)(C)); in the case of rural gathering lines, only limited requirements (inspection and burial (§ 195.1(b)(4)) have applied and only to onshore gathering lines located in Gulf of Mexico inlets.

The proposed rule would have defined ''regulated rural onshore gathering lines'' and ''regulated rural onshore low-stress lines'' and would have required operators of such pipelines to comply with a threat-focused set of requirements in part 195. The safety requirements proposed to be applied addressed the most common threats to the integrity of these rural lines: Corrosion and third-party damage. The proposal was intended to provide additional integrity protection, to prevent significant adverse environmental consequences, and to

enhance public confidence in the safety of these rural pipelines.

Before PHMSA issued the NPRM, Congress adopted the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act), which the President signed into law on December 29, 2006 (Pub. L. 109–468). Section four of the PIPES Act (codified at 49 U.S.C. 60102) requires PHMSA to ''issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines.'' The Act expressly provides that the new regulations may be phased in.

The threat-focused set of requirements PHMSA proposed in the NPRM, although drawn from part 195, would not have satisfied the ''same standards and regulations'' requirement in the PIPES Act. PHMSA concluded it would be inefficient to finalize that proposal without change and then later impose the rest of the Part 195 requirements. PHMSA noted that the rural low-stress pipelines covered by the NPRM are those where additional safety regulation is most important—larger-diameter pipelines that can have adverse impacts on unusually sensitive areas. PHMSA therefore concluded that the most appropriate means of implementing the PIPES Act mandate was to extend full regulation to the higher-risk, larger-diameter rural low-stress pipelines in this initial phase, followed by regulation of all smaller diameter low-stress pipelines and larger-diameter pipelines located outside of the defined ''buffer'' area.

PHMSA presented its plan for phased rulemaking to the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) in January 2007. For low-stress pipelines, PHMSA recommended that regulations be developed in two phases and explained that in phase one it would extend all of part 195 to those higher risk, rural low-stress pipelines addressed in the NPRM and in phase two would address those remaining unregulated rural low-stress pipelines. This phased approach will allow PHMSA to bring the higher-risk pipelines under immediate regulation while gathering more comprehensive data for later rulemaking concerning the lower-risk unregulated rural pipelines.

To implement phase one, PHMSA modified its NPRM via a supplemental notice of proposed rulemaking (SNPRM) that proposed to apply all part 195 requirements to any rural low-stress pipeline with a nominal diameter of 8⅝ inches or more and located in or within one-half mile of a USA. This buffer area was increased from one-quarter to one-half mile based upon comments from the NPRM. PHMSA published the SNPRM (72 FR 28008; May 18, 2007).

II. Rural Onshore Hazardous Liquid Gathering Lines

Proposed Changes

Congress gave DOT specific authority to define gathering lines for purposes of safety regulation, and to regulate a class of rural gathering lines called ''regulated gathering lines'' (49 U.S.C. 60101(a)(21) and 60101(b)). This authority directed DOT to consider functional and operational characteristics in defining gathering lines. Further direction was to consider such factors as location, length of line, operating pressure, throughput, and gas composition in deciding which rural lines warrant regulation. In its report on H.R. 1489, a bill that led to the Pipeline Safety Act of 1992, the House Committee on Energy and Commerce said ''DOT should find out whether any gathering lines present a risk to people or the environment, and if so how large a risk and what measures should be taken to mitigate the risk'' (See H.R. Report No. 102–247–Part 1, 102d Cong., 1st Sess., 23 (1991)). In PHMSA's view, Congress wanted to limit ''regulated gathering lines'' to lines posing a significant risk and to limit regulation by using a risk-based approach for areas where the consequences of a pipeline failure would be the greatest. DOT subsequently revised its regulations in part 195 to cover hazardous liquid gathering lines in non-rural areas.

The rural onshore hazardous liquid gathering lines PHMSA proposed to regulate in the September 6, 2006 NPRM are those that present the greatest risk to the environment. The NPRM proposed to add a new § 195.11(a) to define a ''regulated rural gathering line'' as a rural onshore gathering line with the following characteristics:

- A nominal diameter between 6⅝ inches and 8⅝ inches;
- Operates at a maximum operating pressure established under § 195.406 that corresponds to a stress level greater than 20 percent of the specified minimum yield strength (SMYS) or, if the stress level is unknown or the pipeline is not constructed with steel pipe, at a pressure of more than 125 pounds per square inch (psi) gage; and
- Is located in or within a quarter mile of an unusually sensitive area as defined in § 195.6.

In the NPRM, PHMSA further proposed that rural gathering lines meeting these criteria would have to comply with a focused set of requirements in part 195 that would address the principal risks posed by these rural pipelines.

The PIPES Act did not affect this proposal. The subsequent SNPRM did not change what had been proposed in the NPRM with respect to these rural gathering lines.

Comments on the NPRM

PHMSA received comments from 22 organizations in response to the NPRM for rural hazardous liquid gathering lines. These included two pipeline operators, one consultant providing services to pipeline operators, eleven trade associations and related organizations, and eight public interest groups involved in pipeline safety.

Scope

As described above, PHMSA proposed applying regulatory requirements to rural gathering lines located in or within a quarter mile of a USA using a risk-based approach on those areas where the consequences of a pipeline failure would be the greatest. A number of commenters suggested changes, discussed below, to the scope of the proposed rule. PHMSA has not made any changes in the final rule in response to these comments.

a. *Effect on production facilities.* Some commenters sought clarification about whether the proposed changes would affect production facilities. Several commenters, including several associations representing petroleum producers, suggested that a clearer definition of ''production facility'' is needed to confirm that crude oil producers are not subject to the regulations. The Western States Petroleum Association, supported by the American Petroleum Institute (API) and the California Independent Petroleum Association (CIPA), requested clarification on the applicability of the new requirements to flow lines.

Response

PHMSA does not have statutory authority to regulate production facilities. ''Production facility'' has long been defined in § 195.2, and PHMSA did not propose to change the definition in the NPRM. Therefore, revising the definition is beyond the scope of this rulemaking. Further, it is commonly understood within industry and by regulators that flow lines are part of production facilities. The regulations in part 195 do not apply to any portion of production facilities.

b. *Alternative bases.* Some commenters questioned the use of a USA as a basis for determining the scope of the proposed rule. The North Slope Borough (Alaska) Planning

Department suggested that part 195 requirements should apply to all North Slope pipelines. The Department also suggested that PHMSA revise the definition of a USA. In addition, the Ohio Oil and Gas Association (OOGA) requested clarification to ensure the proposed regulations do not include pipelines within a quarter mile of individual residential water wells absent other triggering features.

Response

The rule applies safety regulations to those portions of rural gathering lines (and rural low-stress pipelines as discussed further below) where leaks can cause the most significant damage. In regulating pipelines based on risk, PHMSA does not have a basis for extending regulation to other unregulated rural gathering lines. PHMSA does not have regulatory authority over all types of production operations conducted on the North Slope. This rule regulates rural gathering lines, which are not present on the North Slope based upon the current production operation designs. Therefore, the rural gathering line provisions in this final rule do not apply to the production operations on the North Slope.

The clarification requested by OOGA is unnecessary. PHMSA proposed to regulate rural onshore gathering lines based on their proximity to USAs. USAs are defined in § 195.6. Section 195.6(a) defines drinking water sources; individual residential wells are not included in this definition. Neither the NPRM nor the SNPRM proposed changes to the USA definition to include such wells. Any changes to the definition of a USA are beyond the scope of this rulemaking.

c. *Volume throughput.* The Alaska Department of Environmental Conservation (ADEC) suggested that PHMSA include volume throughput as a contributing factor, along with location and size, in classifying pipelines for purposes of establishing risk and determining the appropriate regulatory regime.

Response

PHMSA has decided to use operating stress level and size of a gathering line as opposed to volume throughput for the purposes of establishing the correlation of risk and consequence to a USA. Volume throughput can fluctuate considerably on a daily basis depending on the operation of a pipeline. Stress level and size does correlate to volume but stress level is an understood pipeline characteristic in the pipeline industry. Therefore, PHMSA did not include a throughput criterion.

d. *Drug and alcohol testing.* The Pipeline Testing Consortium, Inc. (PTC) commented that drug and alcohol testing is not listed as one of the applicable safety requirements.

Response

Drug and alcohol testing requirements are contained in 49 CFR part 199. Section 199.1 states that they apply to operators of all facilities subject to part 192, 193, or 195. Since the gathering lines that will become regulated under this final rule are now ''subject to'' part 195, no further change is needed to ensure the applicability of drug and alcohol testing requirements.

Buffer for Rural Onshore Gathering Lines

The NPRM proposed to define a regulated rural onshore gathering line as one meeting certain criteria and located in or within a quarter mile of a USA. A number of comments addressed the adequacy of the quarter mile buffer.

Industry commenters supported the use of the buffer, noting that analysis has shown that a quarter mile buffer will encompass most releases that could affect a USA, and that use of a buffer will pose less of a burden than a requirement for operators to determine, through comprehensive analysis, which pipeline segments could affect a USA. Taking a contrary position, Cook Inlet Regional Citizens Advisory Council (CIRCAC) noted that the buffer fails to address the potential for spilled hazardous liquids to move to environmentally-sensitive areas through water or watersheds from farther than a quarter mile away and would thus fail to include some pipelines that could affect a USA.

Response

PHMSA agrees that using a pre-defined buffer to determine which rural gathering lines will be regulated may except some rural gathering line segments that could affect USAs. Nevertheless, PHMSA's experience with oversight of ''could affect'' determinations for hazardous liquid pipelines under integrity management requirements has shown that these analyses are quite difficult and resource intensive.[1] Data available to PHMSA shows the largest spill on land traveled no more than two acres from the site of failure. This data, coupled with the relatively lower pressure and smaller diameter of gathering lines, leads us to conclude that a quarter mile buffer is adequate to encompass most pipelines that could affect a USA. We are using a buffer approach to focus on the pipelines that pose the most significant risk and to reduce the burden on these operators to determine which of their pipelines are subject to regulation. It would be unnecessarily burdensome to require all operators of these pipelines to perform complete ''could affect'' analyses when it is unlikely such analyses would result in much additional pipe becoming regulated.

Actions Required for Regulated Rural Gathering Lines

The NPRM proposed that regulated rural gathering lines comply with a set of requirements that focused on the most significant risks to these pipelines—corrosion and third-party damage. The NPRM further proposed that operators continuously monitor their pipelines to identify and remediate any changes in operating conditions that could necessitate cleaning the lines and accelerate their corrosion control program as needed. Several commenters questioned the proposed required actions or suggested that additional actions would be appropriate.

a. *Continuous monitoring.* API commented that the proposed requirement to continuously monitor regulated gathering lines for corrosion was unnecessary because the existing regulations adequately address corrosion and that it was unclear what additional monitoring is needed.

Response

We have clarified what we intended by the proposed requirement for ''continuous monitoring''. In the final rule we are requiring that operators identify operating conditions that might require cleaning the pipeline or using other measures, such as inhibitors, to prevent conditions that may lead to internal corrosion (*e.g.* , the build-up of solids). Gathering lines, by their nature, carry crude oil that typically contains contaminants or impurities such as basic sediment and water. These contaminants do not cause a problem where the oil is traveling at high velocities in the pipeline. Under this condition, these contaminants do not separate from the fluid stream and settle on the bottom of the pipe. If the velocity of the fluid stream slows down, these impurities can drop out of the oil which can potentially result in internal

[1] Part 195 uses the phrase ''could affect a high consequence area'' to identify pipelines subject to integrity management rules (§ 195.452). Section I.B. of Appendix C to part 195 lists various risk factors, such as topography and shutdown ability, an operator can use in deciding if a pipeline ''could affect a high consequence area.''

corrosion. PHMSA considers that monitoring operating conditions and running cleaning pigs as appropriate will decrease the likelihood of internal corrosion.

b. *Minimum standards for maintenance*. ADEC commented that the regulations should establish minimum standards for maintenance pigging frequency and other maintenance operations designed to prevent a spill. ADEC also suggested that the regulations should require monitoring and recording of corrosion rates through the use of weight-loss coupons or comparable technology.

Response

The requirement to monitor conditions and take additional actions to address potential internal corrosion as needed is new. It also addresses ADEC's concern about the minimum frequency of maintenance pigging and other activities to prevent a spill. PHMSA does not consider it practical to establish a one-size-fits-all minimum frequency for these activities, since the frequency at which they are needed varies considerably for different pipeline conditions. A requirement that operators monitor their conditions and implement actions as appropriate to prevent or mitigate internal corrosion is more appropriate than specified minimum frequencies for maintenance operations.

c. *Integrity management requirements*. CIRCAC noted that we did not propose any integrity management requirements for rural gathering lines.

Response

The integrity management requirements are not necessary for rural gathering lines. PHMSA's experience indicates that the most significant threats to these pipelines are third-party damage and corrosion. The requirements we are imposing on these pipelines address those threats. Imposing integrity management requirements would require operators to perform individual risk analyses. This analysis entails a foot by foot evaluation of threats to the pipeline taking into account the topography on both sides of the pipeline, the volume transported, the diameter of the pipeline, the type of pipe, and the pressure in the pipeline and the impact of the release. Our experience does not support the need to impose such a burden. Instead, we have considered the risk to these pipelines, identified the applicable threats and required the measures that best address these threats. These measures include developing a damage prevention program, complying with the corrosion control requirements of subpart H, and monitoring and mitigating conditions that could lead to internal corrosion.

Economic Impact

Several commenters, including a number of associations representing petroleum producers, noted that rural gathering lines are generally low revenue pipelines. They contended that some of the proposed compliance measures will be cost-prohibitive and will cause operators to abandon these pipelines.

Response

PHMSA does not intend to cause the unnecessary abandonment of pipelines providing valuable contributions to the U.S. energy supply. For gathering lines that will become regulated under this rule, the safety regulations imposed represent a minimal set of requirements that focus on the most significant threats to these pipelines. While they may impose some additional burden, PHMSA considers this threat-focused set of requirements necessary to assure adequate safety.

Reporting and Data Gathering

Cook Inlet Keeper commented that data collection requirements for rural gathering lines have been inadequate and supported the proposal that operators of these gathering lines follow the reporting requirements of subpart B.

Response

The final rule makes the reporting requirements of part 195, subpart B, applicable to those rural gathering lines meeting the definition of a regulated rural gathering line.

III. Rural Onshore Hazardous Liquid Low-Stress Pipelines

Proposed Changes

The NPRM proposed adding a new § 195.12(a) to define a ''regulated rural low-stress line'' as an onshore pipeline in a rural area meeting the following criteria:

- A nominal diameter of 8⅝ inches or more;
- Located in or within a quarter mile of a USA as defined in § 195.6; and
- Operating at a maximum pressure established under § 195.406 that corresponds to a stress level equal to or less than 20 percent of SMYS, or if the stress level is unknown or the pipeline is not constructed with steel pipe, a pressure equal to or less than 125 psi (861 kPa) gage.

For these rural low-stress pipelines PHMSA proposed to apply a threat-focused set of requirements in part 195. Most comments received regarding this proposal were addressed in the SNPRM and are not further discussed here.

As discussed above, section four of the PIPES Act requires PHMSA to ''issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines''. To address this mandate PHMSA issued a SNPRM proposing to extend all part 195 requirements to rural low-stress pipelines meeting certain criteria. This is phase one of PHMSA's phased approach to implementing the mandate. Phase one addresses the larger-diameter, higher-risk, rural low-stress pipelines that could pose a greater threat to USAs. This phase will also help capture the data PHMSA needs before it can extend part 195 coverage to all other unregulated, rural low-stress pipelines in phase 2.

The SNPRM:

- Revised the proposed definition to include rural low-stress pipelines in or within a half mile of a USA,
- Applied to pipelines meeting the listed criteria of all requirements of part 195 rather than the threat-focused set of requirements proposed in the NPRM,
- Allowed operators to conduct ''could affect'' analyses of which pipeline segments could affect a USA in lieu of the buffer for application of the integrity management requirements of § 195.452, and
- Allowed operators of pipelines meeting specified criteria to notify PHMSA if they would incur an excessive economic burden in complying with the integrity management assessment requirement. PHMSA proposed to stay compliance with the integrity management assessment requirements while it reviewed the notification. Based on the outcome of the review, PHMSA proposed to grant the operator a special permit imposing alternative safety requirements in lieu of an assessment.

The SNPRM also proposed to extend subpart B reporting requirements to operators of all unregulated low-stress pipelines. PHMSA explained that this was necessary so that it would have accurate and complete data about these types of pipeline operations for phase two of its low-stress pipeline rulemaking.

Comments on the SNPRM and NPRM (to the Extent not Addressed in the SNPRM)

PHMSA received comments from ten organizations in response to the SNPRM. These included one pipeline operator, six trade associations and related organizations, and three public

interest groups involved in pipeline safety.

Buffer

a. *Buffer size.* Several trade associations challenged our proposal to increase from a quarter to a half mile the buffer used to determine which rural low-stress pipelines will be subject to regulation. The commenters noted that PHMSA stated in the SNPRM that it considered a quarter mile to be adequate but had increased the buffer for conservatism and to address concerns of public interest groups. The commenters further noted that none of these groups provided any technical basis for a particular buffer size and stated that they believe expanding the buffer to a half mile is unwarranted.

Response

As described above, the PIPES Act requires that all rural low-stress pipelines be subject to all the safety requirements in part 195. This requirement largely renders moot disagreements about the size of the buffer used here. In the final rule, as was proposed in the SNPRM, PHMSA has doubled the size of the buffer, to a half mile, for added conservatism. For phase one, we are approximating the could-affect analysis by using a buffer to provide a reasonable means of identifying most of the pipelines that could affect USAs. This increase in the buffer size from one-quarter to one-half mile increases the estimated amount of low-stress pipelines covered in this final rule from 694 miles to 803 miles.

b. *Buffer vs. analysis.* Cook Inlet Keeper again objected to the use of a buffer approach in lieu of detailed could-affect determinations. Cook Inlet Keeper further objected to the option for operators to use could-affect determinations to reduce the scope of pipeline covered by integrity management requirements in the absence of an analogous means to increase the scope of coverage where pipeline segments more than a half mile from a USA could have an effect in the event of a leak.

Response

For phase one, the buffer is the first step in applying part 195 requirements to all rural low-stress pipelines. For this phase, PHMSA considers it appropriate to increase the size of the buffer to be used for bringing rural low-stress pipelines under regulation as a response to the expressed concerns of the public interest groups and Congress. PHMSA also notes that this final rule allows operators to analyze their pipelines to determine which segments could affect USAs for purposes of application of integrity management requirements. This could-affect analysis could result in a larger or smaller area than the half mile buffer. As PHMSA has done with other integrity management inspections, these analyses will be scrutinized for adequate supporting technical justification and appropriate consideration of risk factors.

Reporting Requirements

a. *Lack of integrity management data.* The Independent Producers Association of America (IPAA), the Independent Petroleum Association of Mountain States (IPAMS), and API objected to the proposal to apply all the reporting requirements in subpart B to those rural low-stress pipelines that will be considered in the phase two rulemaking. These associations suggested PHMSA require only infrastructure information for these currently non-regulated pipelines until phase two is implemented, because operators are not required to implement integrity management requirements on these pipelines and would lack the associated data for annual and incident reports. Cook Inlet Keeper supported requiring operators of all low-stress pipelines to report their incidents and safety-related conditions but took no position on data related to integrity management.

Response

Parts J and K of the annual report form require reporting of data derived from integrity management assessments. PHMSA recognizes that operators will not have integrity management information on pipelines to which integrity management requirements are not applicable. We have modified the new § 195.48 so that operators of low-stress pipelines do not have to complete parts J and K of the annual report form, or to report mileage in high consequences areas,[2] unless they are also subject to integrity management requirements. However, all operators of low-stress pipelines must report incidents and safety-related conditions.

b. *Effective dates for reporting.* API noted the range of proposed dates for complying with the reporting requirements differed between proposed sections 195.12(b)(1), where it was stated as 6–12 months, and 195.48 where it was stated as 6–9 months. Cook Inlet Keeper supported the proposed implementation timeframes but made no choices for particular values within the ranges proposed.

Response

In the SNPRM, we solicited comments on a range of potential implementation timeframes for reporting requirements and received no comments on which time period was appropriate. PHMSA will require that reporting begin six months after the effective date of the final rule. This date was included in the range suggested in both sections cited by API, and PHMSA believes it affords operators reasonable time to make necessary changes in internal data collection and processing procedures.

Economic Burden

Several organizations noted that the increased burden to conduct integrity management assessments could cause operators of some pipelines associated with marginal and ''stripper'' wells to cease operation, causing loss of oil supply or use of more costly and more-risky truck transport. To address these comments, PHMSA proposed a procedure under which operators serving such wells could obtain relief from the integrity management assessment requirement. The SNPRM proposed to limit this procedure to operators of rural low-stress pipelines serving production facilities and operating at a flow rate lower than or equal to 14,000 barrels per day. The operator of such a pipeline could notify PHMSA of its intent to abandon the pipeline because of the economic burden associated with the integrity management assessment requirements. PHMSA would stay the integrity management assessment requirements pending review of such notification and, based on the analysis of the notification, could grant the operator a special permit to allow continued operation of the pipeline while also assuring safety through alternative safety requirements.

API and SemCrude (a pipeline operator) suggested that the economic burden notification provision be made available to all low-stress pipelines by eliminating the criterion that a pipeline must carry crude oil from a production facility. Independent Petroleum Association of New Mexico (IPANM) supported the proposed exemption from the inline inspection requirements for pipelines with less than 14,000 barrels per day flow rate because of the potential loss of energy supply if wells were abandoned. API and AOPL recommended that PHMSA prepare a guidance document describing the factors it intends to consider in its review of economic burden notifications. IPA, IPAMS, and Cook

[2] High consequence areas are defined in 49 CFR 195.450.

Inlet Keeper supported the proposed notification requirement, with Cook Inlet Keeper noting that it proposes ''a reasonable approach to ensure that PHMSA's rule will not result in loss of a critical energy supply.''

Response

PHMSA did not propose an exemption from compliance. Rather, in the SNPRM, PHMSA proposed to allow operators of pipelines meeting specified criteria to notify PHMSA that an integrity management assessment would be too economically burdensome and to have their particular circumstances considered. In these limited instances, after consultation with the Department of Energy (DOE), we intended to issue a special permit that would require other, less economically burdensome safety requirements in lieu of an assessment.

We have included this provision in the final rule. This provision is intended to address impacts on producing wells that are only marginally economical. Operation of these wells would be affected if the pipeline serving them is shut down because of an economic inability to comply with the assessment requirements. The result would be a loss to U.S. energy supply of oil from shutting these wells or an adverse impact on safety by a shift to another form of transportation (*e.g.* , trucks). As such, the concern is specifically limited to pipelines that carry crude oil from production facilities. We recognize that the final rule will impose further economic burden on those operators of rural low-stress pipelines that have not previously been subject to PHMSA's regulations and oversight. In most cases, this will not be a factor. As PHMSA explained in the SNPRM, we believe most of the rural low-stress pipelines that will be subject to the final rule are held by large operators, which are already complying with the requirements of part 195. In addition, in keeping with the PIPES Act, we consider the regulatory burden justified by the increased safety and environmental protection that will result from implementation of the final rule.

PHMSA believes that API and AOPL requested guidelines because the SNPRM did not include the types of information PHMSA wants operators to provide in the notification. Therefore, PHMSA has added in this final rule a list of the topics that must be addressed when notifying us of an economic burden in § 195.12(c)(2). PHMSA will consider the need for additional guidance as experience is gained in evaluating these notifications.

Scope

a. *USA as basis.* The North Slope Borough Planning Department recommended, as they did for rural gathering lines, that part 195 regulations apply to all the pipelines on the North Slope. The North Slope Borough Planning Department also recommended that PHMSA expand the USA definition.

Response

This rulemaking is the first phase that brings a portion of rural low-stress pipelines under regulation. As discussed above, PHMSA is acting in phases to meet the statutory mandate that all low-stress pipelines be made subject to safety regulations. Future phases will make all low-stress pipelines on the North Slope subject to regulation. No change in the USA definition is needed to accomplish this.

b. *Residential wells.* The OOGA sought assurance that the definition of regulated rural low-stress pipelines applies only to hazardous liquid pipelines. The OOGA also requested clarification that the proposed regulations are not meant to include pipelines within a quarter mile of individual residential water wells, absent other triggering features.

Response

The definition of regulated rural low-stress pipelines is included in part 195. Part 195 is applicable only to hazardous liquid pipelines. This definition therefore has no effect on other types of pipelines. OOGA's comment concerning residential wells applied to both gathering lines and low-stress pipelines and has been addressed in the gathering line discussion above.

c. *Potential for jurisdictional confusion.* The Oklahoma Independent Petroleum Association (OIPA) suggested that PHMSA provide additional clarification about which pipelines are subject to the SNPRM to prevent confusion within the regulated industry and among state regulatory agencies and to prevent the requirements from being inadvertently applied to gathering lines. Additionally, IPAA and IPAMS noted that some confusion may still exist in the SNPRM concerning applicability of some requirements to gathering systems. API suggested that to avoid confusion between rural gathering lines covered under § 195.11 and rural low-stress pipelines covered under § 195.12, we include a nominal diameter greater than 8⅝ inches as a criterion defining regulated rural low-stress pipelines.

Response

We do not think further clarification is needed in the final rule. We are not adopting API's recommendation to define a low-stress pipeline as a pipeline with a nominal diameter greater than 8⅝ inches. *Gathering line* is defined in § 195.2 to be a pipeline of 8⅝ inches or less nominal outside diameter that transports petroleum from a production facility. The key characteristic is coming from a ''production facility.'' A pipeline that comes from a production facility that is greater than 8⅝ inches in diameter is not a gathering line, but a pipeline in transportation. If this type of line operates at a pressure that is less than 20% SMYS, it would be subject to the requirements proposed for low-stress pipelines. There are also pipelines that are upstream of refining that do not come from a production facility and are pipelines in transportation. If these pipelines are greater than 8⅝ inches and operate at a pressure that is less than 20% SMYS, they also would be subject to the requirements proposed for rural low-stress pipelines.

IV. Comments Outside the Scope of This Rulemaking

Several commenters raised issues beyond the scope of the NPRM or SNPRM.

ADEC suggested we include in § 195.452, a specific requirement to periodically measure and record the wall thickness of each pipeline and establish in the regulations a minimum pipe wall ''fit for service'' standard. ADEC also suggested that the regulations should require evaluation of flow rates, water content, sediment, and upset conditions as part of the integrity assessment proposed in the NPRM.

API recommended that the repair criteria in § 195.452(h) be revised to relax the requirement to repair dents without metal loss. API states that dents operating at such low pressures pose a much lower risk of failure.

API and Bridger Pipeline LLC suggested that ''petroleum storage'' be added to the list of facilities in proposed § 195.1(b)(4) so that short (*i.e.*, less than one mile long) low-stress pipelines serving such facilities would be excluded from regulation. In support of its comment, API noted that the logic used in a 1997 rulemaking to establish the other exclusions contained in § 195.1(b)(4) applies equally well to pipelines serving petroleum storage facilities.

Response

Each of these comments addresses issues which were not proposed in the

NPRM or SNPRM, and thus were not subject to public comment. Therefore, we have not incorporated any of these changes into the final rule.

With respect to ADEC's comments, the NPRM included limited requirements for integrity assessment for rural low-stress pipelines as an alternative to the requirements of § 195.452. In the SNPRM, PHMSA proposed to substitute the full integrity assessment requirements of § 195.452. The integrity assessment requirements of § 195.452, imposed on low-stress pipelines by § 195.12(b)(2) of this final rule, will result in the same type of analysis as ADEC suggests without the need for modifying § 195.452.

API's and Bridger Pipeline's comment applies to a paragraph included in a revision of § 195.1 describing the overall applicability of part 195. The purpose of the revision in the NPRM was for clarity and proposed no substantive changes other than to add the pipelines addressed in this rulemaking. The proposed revision to § 195.1 was repeated in the SNPRM without change. We have not made any further changes to § 195.1, beyond those proposed, that would change the scope of part 195.

V. Advisory Committee

On July 24, 2007, PHMSA convened, via telephone conference, a meeting of the THLPSSC, which is a statutorily mandated advisory committee that advises PHMSA about the technical feasibility, reasonableness and cost-effectiveness of its proposed regulations.

The purpose of the meeting was to request the committee to vote on the proposed rules as presented in the NPRM for rural hazardous liquid gathering lines and in the SNPRM for rural low-stress hazardous liquid pipelines. PHMSA discussed some of the key comments received in response to the NPRM (a quarter mile buffer zone and ''continuous monitoring'' for operators with rural onshore gathering lines) and also to the SNPRM (half mile buffer zone and the notification process for operators with rural onshore low-stress pipelines). These comments have been previously discussed in this document.

Some members of the committee were concerned that the rulemaking does not cover all rural low-stress pipelines and does not meet the mandate from the PIPES Act to have regulations for low-stress pipelines in place a year from its enactment. The PIPES Act allows PHMSA to phase in the regulations for low-stress pipelines. PHMSA presented to the committee in January 2007 its plan to approach regulating rural low-stress pipelines in two phases. In this initial phase, PHMSA is implementing full regulation of the higher-risk, larger-diameter rural low-stress pipelines. PHMSA has not yet proposed adding requirements to rural low-stress pipelines not addressed in the SNPRM.

A few members of the committee expressed a concern that the proposed regulations did not require the operator of a rural low-stress pipeline to conduct an analysis of the pipeline to determine which pipeline segments ''could affect'' a USA. As discussed earlier, PHMSA concludes that the ''buffer'' approach that includes low-stress pipelines within a half mile of a USA captures the pipeline segments that could affect USAs. The buffer is intended to approximate the could-affect analyses based on the risk factors most common for these rural low-stress pipelines. We have given operators the option of using a could-affect analysis to determine the exact size of the could-affect area.

During the meeting, committee members addressed the API comment that the repair criteria in § 195.452(h) be revised to relax the requirement to repair dents without metal loss, stating that dents operating at such low pressures pose a much lower risk of failure. As discussed previously, this change to the regulations is beyond the scope of this rulemaking proceeding. PHMSA plans to review these criteria as we move into the phase two rulemaking for rural low-stress pipelines.

After careful consideration, the THLPSSC voted unanimously to find the NPRM, SNPRM, and supporting regulatory evaluations technically feasible, reasonable, practicable, and cost effective. A transcript of the teleconference is available in Docket ID PHMSA–RSPA–2003–15864.

VI. Final Rule

The final rule revises 49 CFR part 195 to bring the higher risk, large diameter rural onshore gathering lines and low-stress pipelines under its coverage. The final rule also revises the statement of the scope of part 195 for clarity and revises the instructions for sending notifications related to integrity management assessments to change the mailing address (due to DOT headquarters recent move) and to add an option to submit the notification via the Internet.

Section-by-Section Analysis

Section 195.1 Which pipelines are covered by this part?

Part 195 has been revised numerous times over the years. These changes have often included changes to the pipelines covered or excluded as described in § 195.1. As a result of these piecemeal changes, this section became somewhat confusing. We have revised this section to provide more clarity.

This section identifies the scope of hazardous liquid pipelines to which part 195 requirements apply. Section 195.1(b) includes a list of particular types of pipelines that are exempted from the requirements of part 195.

This rule also adds certain rural onshore gathering lines and low-stress pipelines to the list of pipelines for which part 195 is applicable. This requires a change to § 195.1 to add these pipelines to the scope. The pipelines added to the scope of part 195 are regulated rural gathering lines (defined in § 195.1(a)(4)(ii)), rural low-stress pipelines meeting specified criteria (§ 195.1(a)(5)(ii)). In addition, we have also added the reporting requirements for all rural low-stress pipelines (§ 195.1(a)(6)).

There are no other substantive changes.

Section 195.11 What is a regulated rural gathering line and what requirements apply?

This final rule adds this new section. This section defines the rural gathering lines newly subject to safety regulation (§ 195.11(a)). These are rural gathering lines from 6⅝ to 8⅝ inches in diameter that are located in or within a quarter mile of a USA as defined in § 195.6, and that operate at greater than 20 percent SMYS (or more than 125 psi (861 kPa) gage for non-steel pipe). USAs include areas requiring extra protection because of the presence of sole source drinking water, endangered species, or other ecological resources that could be damaged by oil leaks.

This section also defines the regulatory requirements applicable to regulated rural gathering lines (§ 195.11(b)) and timeframes for implementation. All new rural gathering lines meeting the criteria in paragraph (a) must be designed, installed, constructed, and tested in accordance with the requirements of part 195. The maximum operating pressure for regulated rural gathering lines must be established in accordance with the requirements of § 195.406. These pipelines must also be marked and must be addressed by a public education and a damage prevention program. Steel pipelines must be protected from corrosion in accordance with the requirements of subpart H. Operators must also develop and implement a program to continuously assess operating conditions (*e.g.*, flow rate) that could lead to internal corrosion, to clean their lines accordingly, and to begin or

modify the use of corrosion inhibitors as needed. Finally, operators must be able to demonstrate that personnel who perform activities on these pipelines are qualified for such tasks.

Section 195.12 What requirements apply to low-stress pipelines in rural areas?

This section is also newly added in this final rule. It applies to low-stress pipelines 8⅝ inches and greater in diameter that are located in, or within a half mile of, a USA as defined in § 195.6, and that operate at less than 20 percent of SMYS (or less than 125 psi (861 kPa) gage for non-steel pipe). Affected operators must comply with all requirements of part 195, as required by the PIPES Act. This section identifies the timeframes in which operators must comply with various portions of part 195 (§ 195.12(b)). The timeframes are based on PHMSA's judgment concerning how long it will take an operator to implement the requirements without imposing undue burden.

This section also includes a provision allowing operators of affected pipelines meeting certain criteria to notify PHMSA if they conclude that implementing the integrity management assessment requirements will pose such an economic burden that they would abandon their pipelines. This provision is limited to rural low-stress pipelines carrying crude oil from production facilities and where shutdown of the pipeline would cause loss of oil supply or a transition to truck transportation. PHMSA (with assistance from DOE, as appropriate) will review notifications and, if justified, may grant the operator a special permit to allow continued operation of the pipeline subject to alternative safety requirements.

This section does not apply to rural low-stress pipelines that cross a waterway used for commercial navigation because they are currently regulated under this part. This rule makes no change to the applicability of part 195 requirements to these pipelines.

Section 195.48 Scope

There has not previously been a scope section in subpart B, because all pipelines subject to part 195 were subject to all the requirements in subpart B. This section is added as part of this final rule to define the scope of pipelines now subject to subpart B reporting requirements. All pipelines that have previously been subject to part 195 must still meet all subpart B reporting requirements. In addition, all rural low-stress pipelines (including those not meeting the criteria in § 195.12(a)) must follow the reporting requirements beginning six months after the effective date of the final rule. Subpart B thus now applies to some pipelines (*i.e.*, rural low-stress pipelines not meeting the criteria of § 195.12(a)) that are not otherwise subject to part 195. This is a first step towards applying all the requirements of part 195 to all rural low-stress pipelines, as required by the PIPES Act, and is intended to generate information that will be necessary for future regulatory analysis. Rural low-stress pipelines not now subject to the other requirements of part 195 are not required to complete those portions of the annual report form that relate to integrity management requirements and inspections.

Section 195.452 Pipeline Integrity Management in High Consequence Areas

The substantive integrity management requirements in this section are not changed. The only change is to paragraph (m), which informs operators where and how to submit notifications that are required under this section. DOT headquarters has moved to a different location in Washington, DC, and the mailing address in this paragraph is changed accordingly. Paragraph (m) has also been modified to provide the option for operators to submit notifications via the Internet. PHMSA would prefer that operators use Internet submission.

VII. Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures

PHMSA considers the final rule a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). The rulemaking is also significant under DOT regulatory policies and procedures (44 FR 11034: February 26, 1979). PHMSA has prepared a final Regulatory Evaluation, a copy of which has been placed in the docket.

Both rural onshore gathering lines and rural onshore low-stress pipelines will be affected by the regulatory changes included in the final rule. The following table presents the estimates of the mileage affected by the final rule.

TABLE.—SUMMARY OF AFFECTED MILEAGE

Category	Miles
Rural Gathering Lines	
Gathering line mileage affected	599
Rural Low-Stress Pipelines	
Low-stress mileage brought under part 195 safety requirements	803
Additional low-stress mileage for which annual, accident, and safety-related condition reports must be filed	3,921

The primary quantifiable benefits expected from the final rule are improved safety performance and reliability for the pipeline mileage brought under part 195. That is, the final rule is expected to reduce the number of incidents and the incident consequences (including deaths, injuries, property damage, product loss, environmental damage, and environmental spill cleanup activities). The final rule is expected to generate benefits from both the affected gathering lines and the affected low-stress pipelines.

Overall, the benefits of the final rule are expected to be approximately $4 million annually. This includes only a portion of the total benefits, since benefits from improved safety of gathering lines could not be quantified. The present value of the benefits that could be quantified for a 20-year period using a 3-percent discount rate is approximately $58 million, while the present value for a 20-year period using a 7-percent discount rate is approximately $41 million.

This final rule also may produce benefits by preventing disruptions in the fuel supply caused by pipeline failures. Any interruption in the fuel supply impacts the U.S. economy by putting upward pressure on the prices paid by businesses and consumers, as recent incidents on Alaskan low-stress pipelines feeding major petroleum trunk lines have illustrated. Supply disruptions also have national security implications, because they increase dependence on foreign sources of oil.

The operators of the pipelines affected by the regulatory changes included in the final rule are expected to incur costs attributable to those changes. Both the affected gathering lines and the affected low-stress pipelines are expected to incur costs attributable to the final rule.

With respect to rural gathering lines, the following activities required by the final rule are those most likely to give rise to new costs:

- Determine whether the pipelines are within a quarter mile of a USA.

- Implement corrosion control for steel pipes.
- Continuously identify operating conditions that could contribute to internal corrosion.
- Install and maintain pipeline line markers.
- Implement a damage prevention program.
- Implement a public education program.
- Establish a maximum operating pressure (MOP) for steel pipes.
- Report accidents and safety-related conditions and make annual reports.
- Meet design, construction, and testing requirements for steel gathering lines constructed, replaced, relocated, or otherwise changed.
- Meet drug and alcohol testing requirements.
- Demonstrate compliance with operator qualification requirements.

With respect to rural low-stress pipelines, the costs of the rule will be those associated with bringing the affected pipelines into compliance with part 195, which has the following eight subparts:

- Subpart A—General
- Subpart B—Annual, Accident, and Safety-Related Condition Reporting
- Subpart C—Design Requirements
- Subpart D—Construction
- Subpart E—Pressure Testing
- Subpart F—Operation and Maintenance
- Subpart G—Qualification of Pipeline Personnel
- Subpart H—Corrosion Control

In addition, the low-stress pipelines brought under part 195 would also need to comply with 49 CFR part 199, which deals with alcohol and drug testing.

Overall, the costs of the final rule are expected to be approximately $6 million in the first year, $3 million in the second through the sixth years, and $2 million in all subsequent years. The present value of this cost over 20 years using a 3-percent discount rate is approximately $39 million, while its present value over 20 years using a 7-percent discount rate is approximately $29 million.

Comparing the benefits and costs indicates the final rule is cost-beneficial. Net benefits (the excess of benefits over costs) for the final rule are approximately $20 million using a 3-percent discount rate and $13 million using a 7-percent discount rate. When considering these results, it should be kept in mind that many benefits associated with the final rule could not be quantified.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), PHMSA must consider whether its rulemaking actions would have a significant economic impact on a substantial number of small entities.

Based on consultations with the IPAA, which represents over 6,000 independent crude oil and natural gas producers throughout the U.S. and with the Small Business Administration, PHMSA expects a very few small operators to be affected by the rule. Rather, PHMSA expects that the rule will affect major petroleum pipeline companies with more than 1,500 employees.

Based on available information, PHMSA expects that major petroleum pipeline companies operate the gathering lines operating at more than 20% of SMYS (or alternatively at 125 psi (861 kPa) gage). In total, 35 major petroleum pipeline companies were estimated to operate these gathering lines. PHMSA's information also indicates that major petroleum pipeline companies are expected to operate the low-stress lines with a nominal diameter of 8⅝ inches or greater. The exact number of major petroleum pipeline companies operating these pipelines is unknown, although it is estimated to be between 30 and 40.

PHMSA notes that the requirement for all operators of low-stress pipelines to submit annual, accident, and safety-related condition reports will affect small operators. The costs associated with this reporting, however, will be minor (see the summary of the Paperwork Reduction Act analysis, which is presented below). Therefore, based on this information showing that the economic impact of this rule on small entities will be minor, I certify under section 605 of the Regulatory Flexibility Act that these regulations will not have a significant impact on a substantial number of small entities.

Executive Order 13175

PHMSA has analyzed this final rule according to the principles and criteria in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because this final rule will not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Paperwork Reduction Act

This final rule contains information collection requirements applicable to operators of hazardous liquid gathering lines and low-stress pipelines in rural areas. The information collection required by this rulemaking is already approved under OMB Control No. 2137–0047. With an estimated additional 35 operators subject to these requirements, this rulemaking will add an additional 873 burden hours in the first year of implementation and 453 burden hours in subsequent years. Renewal of the existing information collection with the additional burden is pending.

Operators of regulated rural onshore hazardous liquid gathering lines will be required to comply with 49 CFR part 195 information collection requirements for demonstration of operator qualification, public awareness, drug and alcohol testing, and annual, accident, and safety-related condition reporting. Operators of certain gathering lines in non-rural areas are currently subject to part 195. The number of gathering line operators subject to regulation may vary as lines are brought into and taken out of service and as changes occur in the boundaries of non-rural locations. The number may also vary as changes occur as new USAs are identified. The final rule is not expected to substantially increase the number of operators under PHMSA jurisdiction and will only marginally increase the burden hours for all information collections requirements.

The burden hours will remain the same for the operator qualification and drug and alcohol reporting requirements because regulated rural onshore gathering line operators may continue to use their existing cadre of personnel to address the requirements in this final rule, and this rule will not require operators to modify their existing programs. Regarding operator qualification, operators only need to demonstrate that they are complying with the operator qualification requirements. Therefore, no additional employees will be tested or be required to qualify to perform covered pipeline duties. There will be a slight increase in burden hours for operators adding gathering lines to their public awareness, damage prevention, and corrosion control programs, and subpart B reporting requirements. Most, if not all, of the operators of these pipelines already have to comply with these existing program requirements and only need to add these regulated rural onshore gathering lines to their existing programs. It should take each operator no more than an additional eight burden hours to include the gathering lines into its public awareness program, and four burden hours to modify its damage prevention program. The final rule will require operators to modify their corrosion control programs to establish comprehensive programs for continuously identifying operating

conditions that could contribute to internal corrosion; this should take each operator no more than an additional ten burden hours annually. Lastly, it will require no more than an additional eight hours for an operator to comply with the annual, accident, and safety-related condition reporting requirements in subpart B. These burden hour estimates are based on data for currently regulated pipelines.

Therefore, this final rule marginally increases the burden hours for regulated rural onshore gathering line operators. This rule adds 1,050 additional burden hours to affected regulated onshore rural gathering lines operators the first year, and 630 burden hours each subsequent year. The associated cost of these annual burden hours is $67,987.50 in the first year and $40,792.50 every year thereafter.

Operators of hazardous liquid low-stress lines will be required to comply with all information collection requirements in part 195. Further, operators of low-stress lines that will remain unregulated must comply with the reporting requirements in subpart B, *i.e.*, annual, accident, and safety-related condition reports. The operators of certain low-stress lines in non-rural areas are currently subject to part 195. Like gathering line operators, the number of low-stress pipeline operators subject to regulation also may vary as lines are brought into and taken out of service and as changes occur in the boundaries of non-rural locations. This final rule also may vary as changes occur as new USAs are identified. Except for the subpart B reporting requirements, this final rule is not expected to increase the number of operators under PHMSA jurisdiction complying with part 195.

The burden hours will remain the same for operator qualification and drug and alcohol reporting requirements because low-stress operators may continue to use their existing cadre of personnel to address the requirements in this final rule, and this rule will not require operators to modify their existing programs. Therefore, no additional employees will be tested or required to qualify to perform covered pipeline duties. There will be a slight increase in burden hours for operators adding rural low-stress lines to their integrity management, national pipeline mapping, public awareness, damage prevention, and corrosion control programs. Operators of these lines already have to comply with these existing program requirements and only need to add these rural low-stress pipelines to their existing programs. It should take each operator an additional 20 burden hours to include its rural low-stress pipelines into its existing integrity management program, and 20 burden hours for all operators to provide mapping information to PHMSA on the characteristics of its pipeline system. It should take each operator an additional eight burden hours to include the rural low-stress pipelines in its public awareness program, and four burden hours to modify its damage prevention program. The final rule will require operators to modify their corrosion control programs, which should take each operator no more than an additional ten burden hours annually. The increase associated with these information collection requirements is 2,170 burden hours the first year, and 1,330 hours each subsequent year. The associated cost of these annual burden hours is $140,507.50 in the first year and $86,117.50 in each subsequent year.

This final rule also requires all operators of regulated and unregulated low-stress pipelines to comply with the reporting requirements in subpart B for annual, accident, and safety-related condition reports. Operators of unregulated rural low-stress pipelines that currently are not required to follow part 195 will take an additional 892 burden hours to comply with these reporting requirements in the first year after implementation and 420 burden hours in each subsequent year. The total cost of the added burden hours in the first year is estimated to be $57,757 and $27,195 in each subsequent year. These calculations are based on 4,724 miles of previously unregulated rural low-stress pipeline. This mileage includes 803 miles of low-stress pipeline within a half mile of a USA that will be regulated under this rule and an estimated additional 3,921 miles of rural low-stress pipeline that would be subject only to subpart B reporting requirements. Most of the burden hours will be generated by operators previously unregulated. For those operators that currently have regulated pipelines under part 195, the burden hour increase will be minimal.

Except for the subpart B reporting requirements, this final rule is estimated to marginally increase the burden hours for rural low-stress operators. This rule adds 954 additional burden hours to affected rural low-stress pipeline operators the first year, and 458 burden hours each subsequent year. The associated cost of these annual burden hours is $61,771.50 in the first year and $23,655.50 every year thereafter.

In total, this final rule will slightly increase the paperwork burden for affected regulated rural onshore gathering line and rural low-stress pipeline operators. In the first year after implementation, this final rule is expected to add 984 burden hours, which is expected to cost $63,724. In subsequent years, the final rule is expected to add 476 burden hours, which is expected to cost $24,820.50

Unfunded Mandates Reform Act of 1995

This rulemaking does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the proposed rulemaking.

National Environmental Policy Act

PHMSA has analyzed this rulemaking for purposes of the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*). PHMSA has determined that this rulemaking will not significantly affect the quality of the human environment. This rulemaking will require only limited physical modification or other work that would disturb pipeline rights-of-way resulting in negligible to minor negative environmental impact from activities such as identifying segments of pipelines meeting the regulatory definitions, inspection and testing, installing and maintaining line markers, implementing corrosion controls, pipeline cleaning, and establishing integrity assessment programs. Based on the comments from the THLPSSC and the testimony provided by operators during the 2006 Congressional hearings, PHMSA believes that many of these safety measures, such as implementing corrosion control and installing and maintaining line markers, have already been implemented on a large portion of the pipeline mileage that will become regulated under this final rule. Furthermore, by requiring activities such as accident reporting, implementing public education and damage prevention programs, and establishing operator qualification programs, it is likely that the number of spills from rural onshore hazardous liquid gathering and low-stress lines will be reduced. Reductions in hazardous liquid spills are a minor to moderate positive environmental impact offsetting the negligible negative environmental impacts. A final environmental assessment document is in the docket.

Executive Order 13132

PHMSA has analyzed this final rule according to the principles and criteria contained in Executive Order 13132 (''Federalism''). This rule does not (1) have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) impose substantial direct compliance costs on State and local governments; or (3) preempt state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13211

This final rule is not a ''significant energy action'' under Executive Order 13211. It is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Furthermore, this rulemaking has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

List of Subjects in 49 CFR Part 195

Regulated rural gathering, Rural low-stress pipelines.

■ Accordingly, PHMSA amends 49 CFR part 195 as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

■ 2. Section 195.1 is revised to read as follows:

§ 195.1 Which pipelines are covered by this part?

(a) *Covered.* Except for the pipelines listed in paragraph (b) of this section, this part applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide associated with those facilities in or affecting interstate or foreign commerce, including pipeline facilities on the Outer Continental Shelf (OCS). This includes:

(1) Any pipeline that transports a highly volatile liquid (HVL);

(2) Transportation through any pipeline, other than a gathering line, that has a maximum operating pressure (MOP) greater than 20-percent of the specified minimum yield strength;

(3) Any pipeline segment that crosses a waterway currently used for commercial navigation;

(4) Transportation of petroleum in any of the following onshore gathering lines:

(i) A pipeline located in a non-rural area;

(ii) To the extent provided in § 195.11, a regulated rural gathering line defined in § 195.11; or

(iii) To the extent provided in § 195.413, a pipeline located in an inlet of the Gulf of Mexico.

(5) Transportation of a hazardous liquid or carbon dioxide through a low-stress pipeline or segment of pipeline that:

(i) Is in a non-rural area; or

(ii) Meets the criteria defined in § 195.12(a).

(6) For purposes of the reporting requirements in subpart B, a rural low-stress pipeline of any diameter.

(b) *Excepted.* This part does not apply to any of the following:

(1) Transportation of a hazardous liquid transported in a gaseous state;

(2) Transportation of a hazardous liquid through a pipeline by gravity;

(3) A pipeline subject to safety regulations of the U.S. Coast Guard;

(4) A low-stress pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation;

(5) Transportation of hazardous liquid or carbon dioxide in an offshore pipeline in State waters where the pipeline is located upstream from the outlet flange of the following farthest downstream facility: The facility where hydrocarbons or carbon dioxide are produced or the facility where produced hydrocarbons or carbon dioxide are first separated, dehydrated, or otherwise processed;

(6) Transportation of hazardous liquid or carbon dioxide in a pipeline on the OCS where the pipeline is located upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator;

(7) A pipeline segment upstream (generally seaward) of the last valve on the last production facility on the OCS where a pipeline on the OCS is producer-operated and crosses into State waters without first connecting to a transporting operator's facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. A producing operator of a segment falling within this exception may petition the Administrator, under § 190.9 of this chapter, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance;

(8) Transportation of a hazardous liquid or carbon dioxide through onshore production (including flow lines), refining, or manufacturing facilities or storage or in-plant piping systems associated with such facilities;

(9) Transportation of a hazardous liquid or carbon dioxide:

(i) By vessel, aircraft, tank truck, tank car, or other non-pipeline mode of transportation; or

(ii) Through facilities located on the grounds of a materials transportation terminal if the facilities are used exclusively to transfer hazardous liquid or carbon dioxide between non-pipeline modes of transportation or between a non-pipeline mode and a pipeline. These facilities do not include any device and associated piping that are necessary to control pressure in the pipeline under § 195.406(b); or

(10) Transportation of carbon dioxide downstream from the applicable following point:

(i) The inlet of a compressor used in the injection of carbon dioxide for oil recovery operations, or the point where recycled carbon dioxide enters the injection system, whichever is farther upstream; or

(ii) The connection of the first branch pipeline in the production field where the pipeline transports carbon dioxide to an injection well or to a header or manifold from which a pipeline branches to an injection well.

(c) *Breakout tanks.* Breakout tanks subject to this part must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies specifically to breakout tanks and a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails. Anhydrous ammonia breakout tanks need not comply with §§ 195.132(b), 195.205(b), 195.242 (c) and (d), 195.264(b) and (e), 195.307, 195.428(c) and (d), and 195.432(b) and (c).

■ 3. Add §§ 195.11 and 195.12 to read as follows:

§ 195.11 What is a regulated rural gathering line and what requirements apply?

Each operator of a regulated rural gathering line, as defined in paragraph (a) of this section, must comply with the safety requirements described in paragraph (b) of this section.

(a) *Definition.* As used in this section, a regulated rural gathering line means an onshore gathering line in a rural area that meets all of the following criteria—

(1) Has a nominal diameter from 6⅝ inches (168 mm) to 8⅝ inches (219.1 mm);

(2) Is located in or within one-quarter mile (.40 km) of an unusually sensitive area as defined in § 195.6; and

(3) Operates at a maximum pressure established under § 195.406 corresponding to—

(i) A stress level greater than 20-percent of the specified minimum yield strength of the line pipe; or

(ii) If the stress level is unknown or the pipeline is not constructed with steel pipe, a pressure of more than 125 psi (861 kPa) gage.

(b) *Safety requirements.* Each operator must prepare, follow, and maintain written procedures to carry out the requirements of this section. Except for the requirements in paragraphs (b)(2), (b)(3), (b)(9) and (b)(10) of this section, the safety requirements apply to all materials of construction.

(1) Identify all segments of pipeline meeting the criteria in paragraph (a) of this section before April 3, 2009.

(2) For steel pipelines constructed, replaced, relocated, or otherwise changed after July 3, 2009, design, install, construct, initially inspect, and initially test the pipeline in compliance with this part, unless the pipeline is converted under § 195.5.

(3) For non-steel pipelines constructed after July 3, 2009, notify the Administrator according to § 195.8.

(4) Beginning no later than January 3, 2009, comply with the reporting requirements in subpart B of this part.

(5) Establish the maximum operating pressure of the pipeline according to § 195.406 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009.

(6) Install line markers according to § 195.410 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009. Continue to maintain line markers in compliance with § 195.410.

(7) Establish a continuing public education program in compliance with § 195.440 before transportation begins, or if the pipeline exists on July 3, 2008, before January 3, 2010. Continue to carry out such program in compliance with § 195.440.

(8) Establish a damage prevention program in compliance with § 195.442 before transportation begins, or if the pipeline exists on July 3, 2008, before July 3, 2009. Continue to carry out such program in compliance with § 195.442.

(9) For steel pipelines, comply with subpart H of this part, except corrosion control is not required for pipelines existing on July 3, 2008 before July 3, 2011.

(10) For steel pipelines, establish and follow a comprehensive and effective program to continuously identify operating conditions that could contribute to internal corrosion. The program must include measures to prevent and mitigate internal corrosion, such as cleaning the pipeline and using inhibitors. This program must be established before transportation begins or if the pipeline exists on July 3, 2008, before July 3, 2009.

(11) To comply with the Operator Qualification program requirements in subpart G of this part, have a written description of the processes used to carry out the requirements in § 195.505 to determine the qualification of persons performing operations and maintenance tasks. These processes must be established before transportation begins or if the pipeline exists on July 3, 2008, before July 3, 2009.

(c) *New unusually sensitive areas.* If, after July 3, 2008, a new unusually sensitive area is identified and a segment of pipeline becomes regulated as a result, except for the requirements of paragraphs (b)(9) and (b)(10) of this section, the operator must implement the requirements in paragraphs (b)(2) through (b)(11) of this section for the affected segment within 6 months of identification. For steel pipelines, comply with the deadlines in paragraph (b)(9) and (b)(10).

(d) *Record Retention.* An operator must maintain records demonstrating compliance with each requirement according to the following schedule.

(1) An operator must maintain the segment identification records required in paragraph (b)(1) of this section and the records required to comply with (b)(10) of this section, for the life of the pipe.

(2) An operator must maintain the records necessary to demonstrate compliance with each requirement in paragraphs (b)(2) through (b)(9), and (b)(11) of this section according to the record retention requirements of the referenced section or subpart.

§ 195.12 What requirements apply to low-stress pipelines in rural areas?

(a) *General.* This section does not apply to a rural low-stress pipeline regulated under this part as a low-stress pipeline that crosses a waterway currently used for commercial navigation. An operator of a rural low-stress pipeline meeting the following criteria must comply with the safety requirements described in paragraph (b) of this section. The pipeline:

(1) Has a nominal diameter of 8⅝ inches (219.1 mm) or more;

(2) Is located in or within a half mile (.80 km) of an unusually sensitive area (USA) as defined in § 195.6; and

(3) Operates at a maximum pressure established under § 195.406 corresponding to:

(i) A stress level equal to or less than 20-percent of the specified minimum yield strength of the line pipe; or

(ii) If the stress level is unknown or the pipeline is not constructed with steel pipe, a pressure equal to or less than 125 psi (861 kPa) gage.

(b) *Requirements.* An operator of a pipeline meeting the criteria in paragraph (a) of this section must comply with the following safety requirements and compliance deadlines.

(1) Identify all segments of pipeline meeting the criteria in paragraph (a) of this section before April 3, 2009.

(2) Beginning no later than January 3, 2009, comply with the reporting requirements of subpart B for the identified segments.

(3)(i) Establish a written program in compliance with § 195.452 before July 3, 2009, to assure the integrity of the low-stress pipeline segments. Continue to carry out such program in compliance with § 195.452.

(ii) To carry out the integrity management requirements in § 195.452, an operator may conduct a determination per § 195.452(a) in lieu of the half mile buffer.

(iii) Complete the baseline assessment of all segments in accordance with § 195.452(c) before July 3, 2015, and complete at least 50-percent of the assessments, beginning with the highest risk pipe, before January 3, 2012.

(4) Comply with all other safety requirements of this part, except subpart H, before July 3, 2009. Comply with subpart H before July 3, 2011.

(c) *Economic compliance burden.* (1) An operator may notify PHMSA in accordance with § 195.452(m) of a situation meeting the following criteria:

(i) The pipeline meets the criteria in paragraph (a) of this section;

(ii) The pipeline carries crude oil from a production facility;

(iii) The pipeline, when in operation, operates at a flow rate less than or equal to 14,000 barrels per day; and

(iv) The operator determines it would abandon or shut-down the pipeline as a result of the economic burden to comply with the assessment requirements in §§ 195.452(d) or 195.452(j).

(2) A notification submitted under this provision must include, at minimum, the following information about the pipeline: Its operating, maintenance and leak history; the estimated cost to comply with the integrity assessment requirements (with

a brief description of the basis for the estimate); the estimated amount of production from affected wells per year, whether wells will be shut in or alternate transportation used, and if alternate transportation will be used, the estimated cost to do so.

(3) When an operator notifies PHMSA in accordance with paragraph (c)(1) of this section, PHMSA will stay compliant with §§ 195.452(d) and 195.452(j)(3) until it has completed an analysis of the notification. PHMSA will consult the Department of Energy (DOE), as appropriate, to help analyze the potential energy impact of loss of the pipeline. Based on the analysis, PHMSA may grant the operator a special permit to allow continued operation of the pipeline subject to alternative safety requirements.

(d) *New unusually sensitive areas.* If, after July 3, 2008, an operator identifies a new unusually sensitive area and a segment of pipeline meets the criteria in paragraph (a) of this section, the operator must take the following actions:

(1) Except for paragraph (b)(2) of this section and the requirements of subpart H, comply with all other safety requirements of this part before July 3, 2009. Comply with subpart H before July 3, 2011.

(2) Establish the program required in paragraph (b)(2)(i) within 12 months following the date the area is identified. Continue to carry out such program in compliance with § 195.452; and

(3) Complete the baseline assessment required by paragraph (b)(2)(ii) of this section according to the schedule in § 195.452(d)(3).

(d) *Record Retention.* An operator must maintain records demonstrating compliance with each requirement according to the following schedule.

(1) An operator must maintain the segment identification records required in paragraph (b)(1) of this section for the life of the pipe.

(2) An operator must maintain the records necessary to demonstrate compliance with each requirement in paragraphs (b)(2) through (b)(4) of this section according to the record retention requirements of the referenced section or subpart.

■ 4. Add § 195.48 in subpart B to read as follows:

§ 195.48 Scope.

This subpart prescribes requirements for periodic reporting and for reporting of accidents and safety-related conditions. This subpart applies to all pipelines subject to this part and, beginning January 5, 2009, applies to all rural low-stress hazardous liquid pipelines. An operator of a rural low-stress pipeline not otherwise subject to this part is not required to complete Parts J and K of the hazardous liquid annual report form (PHMSA F 7000–1.1) required by § 195.49 or to provide the estimate of total miles that could affect high consequence areas in Part B of that form.

■ 5. Revise 195.452(m) to read as follows:

§ 195.452 Pipeline integrity management in high consequence areas.

* * * * *

(m) *How does an operator notify PHMSA?* An operator must provide any notification required by this section by:

(1) Entering the information directly on the Integrity Management Database Web site at *http://primis.phmsa.dot.gov/imdb/;*

(2) Sending the notification to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; or

(3) Sending the notification to the Information Resources Manager by facsimile to (202) 366–7128.

Issued in Washington, DC on May 23, 2008.

Carl T. Johnson,

Administrator.

[FR Doc. E8–12099 Filed 6–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070706269–8586–01]

RIN 0648–AV71

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Alaska Individual Fishing Quota On-line Services; Recordkeeping and Reporting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to modify the Individual Fishing Quota (IFQ) Program for the fixed-gear commercial Pacific halibut fishery and sablefish fishery by revising regulations describing on-line access to IFQ account information specific to those fisheries. The action would improve the efficiency of the Pacific Halibut and Sablefish IFQ Program and is intended to promote the goals and objectives of Northern Pacific Halibut Act and the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective July 3, 2008.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS Alaska Region, P. O. Box 21668, Juneau, AK 99802 or the Alaska Region NMFS website at *http://www.alaskafisheries.noaa.gov* and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone (EEZ) off Alaska, which include sablefish, but not halibut, are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement, the ''Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea,'' which was signed at Ottawa, Canada, on March 2, 1953, and was amended by the ''Protocol Amending the Convention,'' signed at Washington, D.C., March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act).

The directed commercial Pacific halibut fishery in Alaska is managed under an Individual Fishing Quota (IFQ) Program, as is the fixed gear sablefish fishery. The IFQ Program is a limited-access management system. Both species are also a part of the annual apportionment under the Western Alaska Community Development Quota (CDQ) Program. These programs are codified at 50 CFR part 679.