

additional margin of safety is not necessary to protect infants and children.

## VII. Other Considerations

### A. Endocrine Disruptors

Based on available data, no endocrine system-related effects have been identified with the consumption of *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2*Z*,4*E*)-dienoic Acid.

### B. Analytical Method(s)

Through this action, the Agency proposes a temporary exemption from the requirement of a tolerance of ABA when used on grapes without any numerical limitations for residues. It has determined that residues resulting from the pesticidal uses of *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2*Z*,4*E*)-dienoic Acid, would be so low as to be indistinguishable from natural background levels. As a result, the Agency has concluded that an analytical method is not required for enforcement purposes for this proposed use of ABA.

### C. Codex Maximum Residue Level

There are no codex maximum residue levels established for residues of *S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2*Z*,4*E*)-dienoic Acid.

## VIII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

## IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 20, 2008.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

## PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1281 is added to subpart D to read as follows:

### § 180.1281 *S*-Abscisic Acid; exemption from the requirement of a tolerance.

*S*-Abscisic Acid, (*S*)-5-(1-hydroxy-2,6,6-trimethyl-4-oxo-1-cyclohex-2-enyl)-3-methyl-penta-(2*Z*,4*E*)-dienoic Acid, is temporarily exempt from the requirement of a tolerance when used as a plant regulator in or on grape in accordance with the Experimental Use Permit 73049-EUP-4. This temporary exemption from tolerance will expire October 1, 2010.

[FR Doc. E8-6404 Filed 3-27-08; 8:45 am]

**BILLING CODE 6560-50-S**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**49 CFR Parts 190, 191, 192, 193, 194, 195, and 199**

**RIN 2137-AE29**

[Docket No. PHMSA-2007-0033]

### Pipeline Safety: Administrative Procedures, Address Updates, and Technical Amendments

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

**ACTION:** Interim final rule and request for comments.

**SUMMARY:** This interim final rule conforms PHMSA's administrative procedures with the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act) by establishing the procedures PHMSA will follow in issuing safety orders and handling requests for special permits, including emergency special permits. This interim final rule also notifies operators about electronic docket information availability; updates

addresses, telephone numbers, and routing symbols; and clarifies the time period for processing requests for written interpretations of the regulations. This interim final rule does not impose any new operating, maintenance, or other substantive requirements on pipeline owners or operators.

**DATES:** *Effective Date:* This interim final rule is effective April 28, 2008.

*Comment date:* Persons interested in submitting written comments on this interim final rule must do so by April 28, 2008. PHMSA will consider late filed comments so far as practicable.

**ADDRESSES:** Comments should reference Docket No. PHMSA-2007-0033 and may be submitted in the following ways:

- *E-Gov Web Site:* <http://www.regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

- *Fax:* 1-202-493-2251.

- *Mail:* DOT Docket Operations Facility (M-30), U.S. Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* DOT Docket Operations Facility, U.S. Department of Transportation, West Building, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* Identify the docket number, PHMSA-2007-0033, at the beginning of your comments. If you mail your comments, we request that you send two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. **Note:** All comments are electronically posted without changes or edits, including any personal information provided.

#### Privacy Act Statement

Anyone can search the electronic form of comments received in response to any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477).

#### FOR FURTHER INFORMATION CONTACT:

Larry White, PHMSA, Office of Chief Counsel, 202-366-4400, or by e-mail at [lawrence.white@dot.gov](mailto:lawrence.white@dot.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

This interim final rule conforms PHMSA's administrative procedures with the PIPES Act by outlining the procedures PHMSA will follow in issuing safety orders under 49 U.S.C. 60117(l) and handling requests for special permits, including emergency special permits under 49 U.S.C. 60118(c). This interim final rule also notifies operators about electronic docket information availability; makes minor amendments reflecting the recent relocation of DOT headquarters; updates several Web site addresses, telephone numbers, and routing symbols; and clarifies the time period for processing requests for written interpretations of the regulations. This interim final rule does not impose any new operating, maintenance or other substantive requirements on pipeline operators. The following is a brief summary of each amendment.

##### 1. Safety Orders

Section 13 of the PIPES Act amended 49 U.S.C. 60117(l) to read as follows:

"(1) In general.—Not later than December 31, 2007, the Secretary shall issue regulations providing that, after notice and opportunity for a hearing, if the Secretary determines that a pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, or other appropriate action, to remedy that condition.

(2) Considerations.—In making a determination under paragraph (1), the Secretary, if relevant and pursuant to the regulations issued under paragraph (1), shall consider—

(A) The considerations specified in paragraphs (1) through (6) of section 60112(b);

(B) The likelihood that the condition will impair the serviceability of a pipeline;

(C) The likelihood that the condition will worsen over time; and

(D) The likelihood that the condition is present or could develop on other areas of the pipeline."

The Secretary has delegated to PHMSA all necessary authority to establish and enforce regulations under the pipeline safety laws, including the PIPES Act (49 CFR 1.53). Pursuant to this delegation, PHMSA is prepared to issue safety orders under the procedures and standards prescribed in Section 13 of the PIPES Act and this interim final rule. We will consider initiating safety order proceedings to address identified pipeline integrity risks that may not rise to the level of a hazardous condition requiring immediate corrective action under 49 U.S.C. 60112, but should be addressed over time to protect life,

property, or the environment and prevent pipeline failures or conditions that could disrupt energy supplies. In keeping with legislative objectives, we intend to broadly consider all known integrity risks on a given pipeline or pipeline segment, including those related to external or environmental forces. Over time, changes in external factors, such as climate, geology, and land use, may pose direct threats to the integrity of a pipeline warranting additional monitoring and special precautions.

The PIPES Act amended 49 U.S.C. 60117(l) by establishing statutory standards for issuance of a safety order. A safety order must be based on a finding by the Associate Administrator for Pipeline Safety that a pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment. In making the required finding, the Associate Administrator will consider all relevant information, including the nine considerations expressly enumerated in § 60117(l)(2) (and by cross-reference to § 60112(b)):

- The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly;

- The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

- The characteristics of the geographical areas in which the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas;

- For hazardous liquid pipelines, the proximity of the area in which the pipeline facility is located to unusually sensitive areas;

- The population density and population and growth patterns of the area in which the pipeline facility is located;

- Any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board;

- The likelihood that the condition will impair the serviceability of the pipeline;

- The likelihood that the condition will worsen over time; and

- The likelihood that the condition is present or could develop on other areas of the pipeline.

The statute also gives PHMSA broad authority to prescribe corrective action based on the nature of the identified risk condition. As provided in section 60117(l)(2), we are authorized to “order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, or other appropriate action, to remedy th[e] condition.” For purposes of this interim final rule, we have identified specific measures that may be considered appropriate for inclusion in a safety order. In addition to physical inspection, testing, integrity assessment, and repair, PHMSA will consider ordering an operator to establish procedures for continuous monitoring of pipeline conditions; implement or strengthen its data integration processes; and improve information management systems. Through such measures, the operator would identify and incorporate findings from its continuous evaluation of the pipeline’s operations and performance. PHMSA believes this approach is consistent with the language and purpose of the PIPES Act and the clear legislative intent to address problems before they present immediate hazards.

The amendment made by the PIPES Act also requires PHMSA to provide operators with notice and an opportunity for a hearing before issuing a safety order and directs PHMSA to issue applicable procedural regulations. This interim final rule establishes the procedures PHMSA will use to issue safety orders. In general, PHMSA will use its longstanding procedures for administrative enforcement proceedings set forth in 49 CFR part 190. In addition, PHMSA will provide operators with an opportunity for informal consultation in advance of a hearing. PHMSA believes the informal consultation process will benefit the agency, operators, and the public by providing a more streamlined and timely means of achieving safety improvements. The process is summarized as follows: *Notice of Proposed Safety Order.* PHMSA will initiate a safety order proceeding by serving written notice of a proposed safety order in accordance with § 190.5 upon the operator of the identified facility. The notice will allege the existence of a condition that poses a pipeline integrity risk to public safety, property, or the environment, and state the facts and circumstances that support issuing a safety order for the specified pipeline facility. The notice will also propose testing, integrity assessment, evaluations, repairs, or other corrective action to be taken by the operator and may propose that the operator submit a

work plan and schedule to address the condition(s) identified in the notice. The notice will describe the respondent operator’s response options, including procedures for requesting informal consultation and hearing. An operator receiving a notice will have 30 days to respond.

*Informal consultation.* Upon timely request by the operator, PHMSA will provide an opportunity for informal consultation concerning the proposed safety order. Such informal consultation shall commence within 30 days, provided that PHMSA may extend this time by request or otherwise for good cause. Informal consultation provides an opportunity for the operator to explain the circumstances associated with the risk condition(s) alleged in the notice and, as appropriate, to present a proposal for remedial action, without prejudice to the operator’s position in any subsequent hearing. If the operator and PHMSA agree within 30 days of informal consultation on a plan for the operator to address each identified risk condition, they may enter into a written consent agreement, and PHMSA will then issue an administrative consent order incorporating the terms of the agreement. If a consent agreement is reached, no further hearing will be provided in the matter and any pending hearing request will be considered withdrawn. If a consent agreement is not reached, any admissions made by the operator during the informal consultation shall be excluded from the record in any subsequent hearing.

*Hearing and final action.* An operator receiving a notice of proposed safety order will be granted an administrative hearing upon written request filed within 30 days following receipt of the notice or within 10 days following the conclusion of informal consultation that did not result in a consent agreement, as applicable. The hearing will be conducted informally, without strict adherence to formal rules of evidence before a Presiding Official who has had no significant prior involvement in the case. The respondent may submit any relevant information or materials, call witnesses, and present arguments addressing the proposed safety order. After conclusion of a hearing under this section, based on the record and the recommendation of the Presiding Official, if the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator may issue a safety order under this section. If the Associate Administrator does not find that the facility has such a condition, or

concludes that a safety order is otherwise not warranted, the Associate Administrator will withdraw the notice, and promptly notify the operator in writing. PHMSA and the operator may enter into a consent agreement at any time before a safety order is issued.

*Termination of a safety order.* Once all remedial actions set forth in the safety order and associated work plans are completed, as determined by PHMSA, the Associate Administrator will terminate the safety order and notify the operator of such termination. In any case, the Associate Administrator may suspend or terminate a safety order upon a finding that the facility no longer has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment.

## 2. Special Permits

Section 10 of the PIPES Act amended 49 U.S.C. 60118(c) to read as follows:

(c) Waivers by Secretary.—

(1) Nonemergency waivers.—

(A) In general.—On application of an operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to such facility on terms the Secretary considers appropriate if the Secretary determines that the waiver is not inconsistent with pipeline safety.

(B) Hearing.—The Secretary may act on a waiver under this paragraph only after notice and an opportunity for a hearing.

(2) Emergency waivers.—

(A) In general.—The Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate without prior notice and comment if the Secretary determines that—

(i) It is in the public interest to grant the waiver;

(ii) The waiver is not inconsistent with pipeline safety; and

(iii) The waiver is necessary to address an actual or impending emergency involving pipeline transportation, including an emergency caused by a natural or manmade disaster.

(B) Period of waiver.—A waiver under this paragraph may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

(3) Statement of reasons.—The Secretary shall state in an order issued under this subsection the reasons for granting the waiver.

This amendment granted PHMSA new authority to waive compliance with a pipeline safety regulation on an emergency basis, without the prior notice and hearing required under the agency’s general waiver authority.

*Special Permit Applications and Procedures.* PHMSA now uses the term “special permits” to refer to orders granting regulatory waivers. In most cases, such orders impose conditions requiring the special permit holder to perform alternative measures, such as integrity assessment and additional inspections and monitoring, in lieu of the measures otherwise required by the relevant regulation. Therefore, PHMSA believes the term “special permit” better reflects the limited and conditional nature of these agency actions.

To clarify the procedures governing special permits, and to establish new procedures for exercise of the agency’s emergency authority, this interim final rule adds a new section entitled “Special permits,” to our administrative procedures in 49 CFR part 190. This interim final rule outlines the procedures under which pipeline operators (and prospective operators) may request special permits. It specifies the information that must be provided in each application and, in accordance with 49 U.S.C. 60118(c)(1)(B), provides for public notice and comment on applications for nonemergency special permits.

Our procedures for notice and comment in these cases are comparable to those governing the adoption or repeal of regulations: PHMSA ordinarily publishes advance notice in the **Federal Register** of its intent to consider a special permit application; invites written comments on the proposal; and establishes a public docket for submission of all comments. PHMSA also notifies the state pipeline safety program manager or other appropriate authority in each affected state. We address all public comments in our decisions granting or denying special permits and publish all special permits on the PHMSA Web site.

These general procedures govern all nonemergency special permit applications, including those involving proposed new pipelines. In the case of proposed pipelines, however, additional efforts may be warranted to notify affected communities of our proceeding. Because special permits may affect material orders and other investment decisions, and because a planned pipeline route is subject to change during the design and permitting process, a prospective operator may need to seek a special permit in advance of final site selection. In these cases, we will make special efforts to verify that communities likely to be affected have notice of the application and opportunity for comment. PHMSA has no authority over pipeline siting, but we work closely with appropriate

authorities and members of the public to address site-specific safety concerns. In the case of proposed interstate natural gas transmission pipelines, PHMSA regularly provides technical assistance on safety issues to the Federal Energy Regulatory Commission (FERC), which has exclusive authority over pipeline siting, including authority to impose site-specific safety controls.

PHMSA inspects new pipelines during construction to verify compliance with our requirements and engages in ongoing oversight of pipeline operations. PHMSA has a longstanding record of issuing corrective action orders to require operators to mitigate imminent hazards and, in accordance with this interim final rule, now is prepared to issue safety orders addressing less urgent risk conditions. On an appropriate record, moreover, PHMSA retains inherent authority to revoke a special permit, or impose additional conditions, in the interests of safety. As explained below, this interim final rule sets forth the procedures and standards that would govern such a determination. Accordingly, although we would not propose to revoke or impose additional conditions on a special permit simply because the pipeline route has changed since issuance, we are prepared to address safety concerns at any time.

This interim final rule also clarifies the relationship between special permits and other administrative orders and sets forth the grounds and procedures under which a special permit may be modified, suspended, or revoked. To protect the integrity of the special permit process, PHMSA reserves the right to revoke, suspend, or modify a special permit at any time if it discovers a material or intentional misrepresentation or omission in the application; material error in the agency’s evaluation of the special permit application; or a material change in the circumstances underlying the agency’s decision. PHMSA also will monitor the operator’s performance and may suspend or revoke a special permit based on the holder’s failure to comply with any term or condition of the special permit.

Except as may be warranted in an emergency, PHMSA will take such action only after providing the operator an opportunity to show cause why its special permit should not be revoked, suspended, or modified. This interim final rule also sets forth the administrative procedure for requesting reconsideration of a denial of an application for a special permit or revocation of an existing special permit.

*Emergency Special Permits.* This interim final rule also outlines the procedures for operators to request emergency special permits. PHMSA has authority to issue an emergency waiver of a pipeline safety regulation without prior notice and comment if necessary to address an emergency involving pipeline transportation. This interim final rule specifies additional information that must be in the application concerning how the applicant is being affected by the emergency. In accordance with the PIPES Act, this rule limits the duration of an emergency special permit to no longer than 60 days unless renewed.

*State Waivers for Intrastate Pipelines.* This interim final rule maintains the existing role that states participating in the oversight of pipelines pursuant to a certification under 49 U.S.C. 60105 or an agreement under section 60106 have in granting state waivers for intrastate pipelines. The PIPES Act does not alter the requirement that a state pipeline authority give PHMSA 60-day notice of a state waiver. However, if a state notifies PHMSA that it believes the waiver is necessary to respond to an emergency involving an intrastate pipeline subject to state regulation, PHMSA will expedite its review of the state’s decision. Because the PIPES Act does not affect the authority of a state to waive the requirements of state law, each state regulator should review its particular state law to determine the extent to which it has the authority to grant emergency waivers of state pipeline requirements.

### 3. *Electronic Docket Information Availability*

This interim final rule amends § 190.209 by adding a new paragraph notifying operators that all materials they submit in response to administrative enforcement actions may be placed on publicly accessible Web sites. Pursuant to section 6 of the PIPES Act and in accordance with its commitment to enforcement transparency, PHMSA has established a Web site that makes information and documents associated with an administrative enforcement action available to the public by electronic means. A Respondent that seeks confidential treatment under 5 U.S.C. 552(b) for any portion of its responsive materials must provide a second copy of such materials along with the complete original document. A Respondent may redact the portions it believes qualify for confidential treatment in the second copy but must provide an explanation for each redaction. The interim rule sets forth this procedure, along with other

information concerning the agency's new enforcement transparency Web site. This interim rule also reflects the decommissioning of the Department's electronic docket management system and the recent migration to the government-wide electronic docket system found at regulations.gov and allows electronic service of enforcement documents.

#### 4. Miscellaneous Amendments

On April 20, 2007, PHMSA relocated its headquarters to the new DOT building at 1200 New Jersey Avenue, SE., Washington, DC 20590. Accordingly, this interim final rule amends 49 CFR parts 190, 191, 192, 193, 194, 195, and 199 to reflect the new address. In addition, this rule updates several Web site addresses, telephone numbers, and routing symbols, and clarifies the time period for processing requests for written interpretations of the regulations.

#### Comments on This Interim Final Rule and Effective Date

This interim final rule conforms agency practice and procedures to current public law and reflects the relocation of PHMSA headquarters. This rule does not impose any new substantive requirements on operators or the public. Accordingly, we have determined that it is unnecessary to precede it with a notice of proposed rulemaking. The Regulatory Policies and Procedures of DOT (44 FR 1134; February 26, 1979) provide that, to the maximum extent possible, DOT operating administrations should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, we encourage persons to participate in this rulemaking by submitting comments containing relevant information, data, or views. We will consider all comments received on or before the closing date for comments. We will consider late filed comments so far as practicable.

Although we may later amend it based on comments received, this interim final rule will go into effect in 30 days. Because the rule conforms agency practice and procedures to reflect current public law and does not impose any new substantive requirements on operators or the public, and because its expeditious issuance facilitates implementation of the PIPES Act, we find that there is good cause under 5 U.S.C. 553(d) to make this rule effective on April 28, 2008.

#### Rulemaking Analyses and Notices

##### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This interim final rule is not considered a significant regulatory action under Section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. This interim final rule is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). Because this rule conforms agency practice and procedure to reflect current public law and does not impose any new substantive requirements on operators or the public, it has no significant economic impact on regulated entities, and preparation of a regulatory impact analysis was not warranted.

##### B. Executive Order 13132

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This rule does not introduce any regulation that: (1) Has 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) imposes substantial direct compliance costs on state and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. Further, this rule does not have impacts on federalism sufficient to warrant the preparation of a federalism assessment.

##### C. Executive Order 13175

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this rule does not significantly or uniquely affect the communities of the Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply.

##### D. Executive Order 13211

This interim final rule is not a significant energy action under Executive Order 13211. It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this rule has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

##### E. Regulatory Flexibility Act

Because this interim final rule conforms 49 CFR part 190 to the PIPES Act, updates the part 190 procedures to reflect current public law, and reflects the relocation of PHMSA headquarters, and will have no direct or indirect economic impacts for government units, businesses, or other organizations, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

##### F. Paperwork Reduction Act

This interim final rule contains no new information collection requirements and imposes no additional paperwork burdens. Therefore, submitting an analysis of the burdens to OMB pursuant to the Paperwork Reduction Act was unnecessary.

##### G. Unfunded Mandates Reform Act

This interim final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more, as adjusted for inflation, to either state, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

##### H. Environmental Assessment

Because this interim final rule conforms agency practice and procedure to reflect current public law and does not impose any new substantive requirements on operators or the public, there are no significant environmental impacts associated with this rule.

#### List of Subjects 49 CFR Part 190

Administrative practice and procedure; Penalties.

■ For the reasons discussed in the preamble, PHMSA is amending 49 CFR parts 190, 191, 192, 193, 194, 195, and 199 as follows:

#### PART 190—PIPELINE SAFETY PROGRAMS AND RULEMAKING PROCEDURES

■ 1. The authority citation for part 190 continues to read as follows:

**Authority:** 33 U.S.C. 1321; 49 U.S.C. 5101–5127, 60101 et seq.; 49 CFR 1.53.

■ 2. In 49 CFR part 190, remove the words "400 7th Street, SW" and add, in their place, the words "1200 New Jersey Avenue, SE" in the following places:

- a. Section 190.9(b)(1)(ii) and (b)(2);
- b. Section 190.11(b)(1) and (b)(2);
- c. Section 190.305 (a) and (b); and
- d. Section 190.309

■ 3. Section 190.5 is amended by revising paragraphs (a) and (c) to read as follows:

**§ 190.5 Service.**

(a) Each order, notice, or other document required to be served under this part shall be served personally, by registered or certified mail, overnight courier, or electronic transmission by facsimile or other electronic means that includes reliable acknowledgement of actual receipt.

\* \* \* \* \*

(c) Service by registered or certified mail or overnight courier is complete upon mailing. Service by electronic transmission is complete upon transmission and acknowledgement of receipt. An official receipt for the mailing from the U.S. Postal Service or overnight courier, or a facsimile or other electronic transmission confirmation, constitutes prima facie evidence of service.

**§ 190.11 [Amended]**

■ 4. Section 190.11 is amended as follows:

■ A. The last sentence of § 190.11(a) is amended by removing the telephone number “(202) 366–0918” and adding in its place the number “(202) 366–4595”.

■ B. The first sentence of § 190.11(b)(1) is amended by removing the routing symbol “(DPS–10)” and adding in its place “(PHP–30)”.

■ C. Section 190.11(b)(1) is further amended by adding a new sentence at the end to read as follows: “Written requests should be submitted at least 120 days before the time the requestor needs the response.”

■ 5–7. Section 190.209 is amended by adding a new paragraph (d) to read as follows:

**§ 190.209 Response options.**

\* \* \* \* \*

(d) All materials submitted by operators in response to enforcement actions may be placed on publicly accessible Web sites. A Respondent that seeks confidential treatment under 5 U.S.C. 552(b) for any portion of its responsive materials must provide a second copy of such materials along with the complete original document. A Respondent may redact the portions it believes qualify for confidential treatment in the second copy but must provide an explanation for each redaction.

**§ 190.227 [Amended]**

■ 8. Section 190.227(a) is amended by removing the routing symbol “(AMZ–120)” and adding in its place “(AMZ–341)”.

■ 9. Section 190.239 is added to read as follows:

**§ 190.239 Safety orders.**

(a) When may PHMSA issue a safety order? If the Associate Administrator, OPS finds, after notice and an opportunity for hearing under paragraph (b) of this section, that a particular pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator may issue an order requiring the operator of the facility to take necessary corrective action. Such action may include physical inspection, testing, repair, risk assessment, risk control, data integration, information management, or other appropriate action to remedy the identified risk condition.

(b) How is an operator notified of the proposed issuance of a safety order and what are its response options? (1) *Notice of proposed safety order.* PHMSA will serve written notice of a proposed safety order under § 190.5 to an operator of the pipeline facility. The notice will allege the existence of a condition that poses a pipeline integrity risk to public safety, property, or the environment, and state the facts and circumstances that support issuing a safety order for the specified pipeline or portion thereof. The notice will also specify proposed testing, evaluations, integrity assessment, or other actions to be taken by the operator and may propose that the operator submit a work plan and schedule to address the conditions identified in the notice. The notice will also provide the operator with its response options, including procedures for requesting informal consultation and a hearing. An operator receiving a notice will have 30 days to respond.

(2) *Informal consultation.* Upon timely request by the operator, PHMSA will provide an opportunity for informal consultation concerning the proposed safety order. Such informal consultation shall commence within 30 days, provided that PHMSA may extend this time by request or otherwise for good cause. Informal consultation provides an opportunity for the respondent to explain the circumstances associated with the risk condition(s) identified in the notice and, where appropriate, to present a proposal for corrective action, without prejudice to the operator’s position in any subsequent hearing. If the respondent and PHMSA agree within 30 days of the informal consultation on a plan for the operator to address each risk condition, they may enter into a written consent agreement and PHMSA may issue a consent order

incorporating the terms of the agreement. If a consent agreement is reached, no further hearing will be provided in the matter and any pending hearing request will be considered withdrawn. If a consent agreement is not reached within 30 days of the informal consultation (or if informal consultation is not requested), the Associate Administrator may proceed under paragraphs (b)(3) through (5) of this section. If PHMSA subsequently determines that an operator has failed to comply with the terms of a consent order, PHMSA may obtain any administrative or judicial remedies available under 49 U.S.C. 60101 *et seq.* and this part. If a consent agreement is not reached, any admissions made by the operator during the informal consultation shall be excluded from the record in any subsequent hearing. Nothing in this paragraph (b) precludes PHMSA from terminating the informal consultation process if it has reason to believe that the operator is not engaging in good faith discussions or otherwise concludes that further consultation would not be productive or in the public interest.

(3) *Hearing.* An operator receiving a notice of proposed safety order may contest the notice, or any portion thereof, by filing a written request for a hearing within 30 days following receipt of the notice or within 10 days following the conclusion of informal consultation that did not result in a consent agreement, as applicable. In the absence of a timely request for a hearing, the Associate Administrator may issue a safety order in the form of the proposed order in accordance with paragraphs (c) through (g) of this section.

(4) *Conduct of hearing.* An attorney from the Office of Chief Counsel, PHMSA, will serve as the Presiding Official in a hearing under this section. The hearing will be conducted informally, without strict adherence to formal rules of evidence in accordance with § 190.211. The respondent may submit any relevant information or materials, call witnesses, and present arguments on the issue of whether a safety order should be issued to address the alleged presence of a condition that poses a pipeline integrity risk to public safety, property, or the environment.

(5) *Post-hearing action.* Following a hearing under this section, the Presiding Official will submit a recommendation to the Associate Administrator concerning issuance of a final safety order. Upon receipt of the recommendation, the Associate Administrator may proceed under paragraphs (c) through (g) of this

section. If the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator will issue a safety order under this section. If the Associate Administrator does not find that the facility has such a condition, or concludes that a safety order is otherwise not warranted, the Associate Administrator will withdraw the notice and promptly notify the operator in writing by service as prescribed in § 190.5. Nothing in this subsection precludes PHMSA and the operator from entering into a consent agreement at any time before a safety order is issued.

(6) *Termination of safety order.* Once all remedial actions set forth in the safety order and associated work plans are completed, as determined by PHMSA, the Associate Administrator will notify the operator that the safety order has been lifted. The Associate Administrator shall suspend or terminate a safety order whenever the Associate Administrator determines that the pipeline facility no longer has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment.

(c) How is the determination made that a pipeline facility has a condition that poses an integrity risk? The Associate Administrator, OPS may find a pipeline facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment under paragraph (a) of this section:

(1) If under the facts and circumstances the Associate Administrator determines the particular facility has such a condition; or

(2) If the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique with a history of being susceptible to failure when used in pipeline service, unless the operator involved demonstrates that such equipment, material, or technique is not susceptible to failure given the manner it is being used for a particular facility.

(d) What factors must PHMSA consider in making a determination that a risk condition is present? In making a determination under paragraph (c) of this section, the Associate Administrator, OPS shall consider, if relevant:

(1) The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion

and deterioration), and the method of its manufacture, construction or assembly;

(2) The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(3) The characteristics of the geographical areas where the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas;

(4) For hazardous liquid pipelines, the proximity of the pipeline to an unusually sensitive area;

(5) The population density and growth patterns of the area in which the pipeline facility is located;

(6) Any relevant recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board;

(7) The likelihood that the condition will impair the serviceability of the pipeline;

(8) The likelihood that the condition will worsen over time; and

(9) The likelihood that the condition is present or could develop on other areas of the pipeline.

(e) What information will be included in a safety order? A safety order shall contain the following:

(1) A finding that the pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment;

(2) The relevant facts which form the basis of that finding;

(3) The legal basis for the order;

(4) The nature and description of any particular corrective actions to be required of the operator; and

(5) The date(s) by which the required corrective actions must be taken or completed and, where appropriate, the duration of the order.

(f) Can PHMSA take other enforcement actions on the affected facilities? Nothing in this section precludes PHMSA from issuing a Notice of Probable Violation under § 190.207 or taking other enforcement action if noncompliance is identified at the facilities that are the subject of a safety order proceeding.

■ 10. Section 190.305(b) is revised to read as follows:

**§ 190.305 Regulatory dockets.**

\* \* \* \* \*

(b) Once a public docket is established, docketed material may be accessed at <http://www.regulations.gov>. Public comments also may be submitted at <http://www.regulations.gov>. Comment

submissions must identify the docket number. You may also examine public docket material at the offices of the Docket Operations Facility (M-30), U.S. Department of Transportation, West Building, First Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may obtain a copy during normal business hours, excluding Federal holidays, for a fee, with the exception of material which the Administrator of PHMSA determines should be withheld from public disclosure under 5 U.S.C. 552(b) or any other applicable statutory provision.

■ 11. Section 190.341 is added to read as follows:

**§ 190.341 Special permits.**

(a) What is a special permit? A special permit is an order by which PHMSA waives compliance with one or more of the Federal pipeline safety regulations under the standards set forth in 49 U.S.C. 60118(c) and subject to conditions set forth in the order. A special permit is issued to a pipeline operator (or prospective operator) for specified facilities that are or, absent waiver, would be subject to the regulation.

(b) How do I apply for a special permit? Applications for special permits must be submitted at least 120 days before the requested effective date using any of the following methods:

(1) Direct fax to PHMSA at 202-366-4566; or

(2) Mail, express mail, or overnight courier to the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, Washington, DC 20590.

(c) What information must be contained in the application? Applications must contain the following information:

(1) The name, mailing address, and telephone number of the applicant and whether the applicant is an operator;

(2) A detailed description of the pipeline facilities for which the special permit is sought, including:

(i) The beginning and ending points of the pipeline mileage to be covered and the Counties and States in which it is located;

(ii) Whether the pipeline is interstate or intrastate and a general description of the right-of-way including proximity of the affected segments to populated areas and unusually sensitive areas;

(iii) Relevant pipeline design and construction information including the year of installation, the material, grade,

diameter, wall thickness, and coating type; and

(iv) Relevant operating information including operating pressure, leak history, and most recent testing or assessment results;

(3) A list of the specific regulation(s) from which the applicant seeks relief;

(4) An explanation of the unique circumstances that the applicant believes make the applicability of that regulation or standard (or portion thereof) unnecessary or inappropriate for its facility;

(5) A description of any measures or activities the applicant proposes to undertake as an alternative to compliance with the relevant regulation, including an explanation of how such measures will mitigate any safety or environmental risks;

(6) A description of any positive or negative impacts on affected stakeholders and a statement indicating how operating the pipeline pursuant to a special permit would be in the public interest;

(7) A certification that operation of the applicant's pipeline under the requested special permit would not be inconsistent with pipeline safety; and

(8) If the application is for a renewal of a previously granted waiver or special permit, a copy of the original grant of the waiver or permit.

(d) How does PHMSA handle special permit applications? (1) *Public notice.* Upon receipt of an application for a special permit, PHMSA will provide notice to the public of its intent to consider the application and invite comment. In addition, PHMSA may consult with other Federal agencies before granting or denying an application on matters that PHMSA believes may have significance for proceedings under their areas of responsibility.

(2) *Grants and denials.* If the Associate Administrator determines that the application complies with the requirements of this section and that the waiver of the relevant regulation or standard is not inconsistent with pipeline safety, the Associate Administrator may grant the application, in whole or in part, on a temporary or permanent basis. Conditions may be imposed on the grant if the Associate Administrator concludes they are necessary to assure safety, environmental protection, or are otherwise in the public interest. If the Associate Administrator determines that the application does not comply with the requirements of this section or that a waiver is not justified, the application will be denied. Whenever the Associate Administrator grants or denies an

application, notice of the decision will be provided to the applicant. PHMSA will post all special permits on its Web site at <http://www.phmsa.dot.gov/>.

(e) Can a special permit be requested on an emergency basis? Yes. PHMSA may grant an application for an emergency special permit without notice and comment or hearing if the Associate Administrator determines that such action is in the public interest, is not inconsistent with pipeline safety, and is necessary to address an actual or impending emergency involving pipeline transportation. For purposes of this section, an emergency event may be local, regional, or national in scope and includes significant fuel supply disruptions and natural or manmade disasters such as hurricanes, floods, earthquakes, terrorist acts, biological outbreaks, releases of dangerous radiological, chemical, or biological materials, war-related activities, or other similar events. PHMSA will determine on a case-by-case basis what duration is necessary to address the emergency. However, as required by statute, no emergency special permit may be issued for a period of more than 60 days. Each emergency special permit will automatically expire on the date specified in the permit. Emergency special permits may be renewed upon application to PHMSA only after notice and opportunity for a hearing on the renewal.

(f) How do I apply for an emergency special permit? Applications for emergency special permits may be submitted to PHMSA using any of the following methods:

(1) Direct fax to the Crisis Management Center at: 202-366-3768;

(2) Direct e-mail to PHMSA at:

*phmsa.pipeline-emergencyspecpermit@dot.gov*; or

(3) Express mail/overnight courier to the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, Washington, DC 20590.

(g) What must be contained in an application for an emergency special permit? In addition to the information required under paragraph (c) of this section, applications for emergency special permits must include:

(1) An explanation of the actual or impending emergency and how the applicant is affected;

(2) A citation of the regulations that are implicated and the specific reasons the permit is necessary to address the emergency (e.g., lack of accessibility, damaged equipment, insufficient manpower);

(3) A statement indicating how operating the pipeline pursuant to an emergency special permit is in the public interest (e.g., continuity of service, service restoration);

(4) A description of any proposed alternatives to compliance with the regulation (e.g., additional inspections and tests, shortened reassessment intervals); and

(5) A description of any measures to be taken after the emergency situation or permit expires—whichever comes first—to confirm long-term operational reliability of the pipeline facility.

**Note to paragraph (g):** If PHMSA determines that handling of the application on an emergency basis is not warranted, PHMSA will notify the applicant and process the application under normal special permit procedures of this section.

(h) In what circumstances will PHMSA revoke, suspend, or modify a special permit?

(1) PHMSA may revoke, suspend, or modify a special permit on a finding that:

(i) Intervening changes in Federal law mandate revocation, suspension, or modification of the special permit;

(ii) Based on a material change in conditions or circumstances, continued adherence to the terms of the special permit would be inconsistent with safety;

(iii) The application contained inaccurate or incomplete information, and the special permit would not have been granted had the application been accurate and complete;

(iv) The application contained deliberately inaccurate or incomplete information; or

(v) The holder has failed to comply with any term or condition of the special permit.

(2) Except as provided in paragraph (h)(3) of this section, before a special permit is modified, suspended or revoked, PHMSA will notify the holder in writing of the proposed action and the reasons for it, and provide an opportunity to show cause why the proposed action should not be taken.

(i) The holder may file a written response that shows cause why the proposed action should not be taken within 30 days of receipt of notice of the proposed action.

(ii) After considering the holder's written response, or after 30 days have passed without response since receipt of the notice, PHMSA will notify the holder in writing of the final decision with a brief statement of reasons.

(3) If necessary to avoid a risk of significant harm to persons, property, or the environment, PHMSA may in the



notification declare the proposed action immediately effective.

(4) Unless otherwise specified, the terms and conditions of a corrective action order, compliance order, or other order applicable to a pipeline facility covered by a special permit will take precedence over the terms of the special permit.

(5) A special permit holder may seek reconsideration of a decision under paragraph (h) of this section as provided in paragraph (i) of this section.

(i) Can a denial of a request for a special permit or a revocation of an existing special permit be appealed? Reconsideration of the denial of an application for a special permit or a revocation of an existing special permit may be sought by petition to the Associate Administrator. Petitions for reconsideration must be received by PHMSA within 20 calendar days of the notice of the grant or denial and must contain a brief statement of the issue and an explanation of why the petitioner believes that the decision being appealed is not in the public interest. The Associate Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. The Associate Administrator's decision is the final administrative action.

(j) Are documents related to an application for a special permit available for public inspection? Documents related to an application, including the application itself, are available for public inspection on regulations.gov or the Docket Operations Facility to the extent such documents do not include information exempt from public disclosure under 5 U.S.C. 552(b). Applicants may request confidential treatment under part 7 of this title.

#### **PART 191—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: ANNUAL REPORTS, INCIDENT REPORTS, AND SAFETY-RELATED CONDITION REPORTS**

■ 12. The authority citation for part 191 continues to read as follows:

**Authority:** 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, and 60124; and 49 CFR 1.53.

##### **§ 191.7 [Amended]**

■ 13. The first sentence of § 191.7 is amended by removing the words “the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street, SW.” and adding in

their place the words “Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, PHP-10, 1200 New Jersey Avenue SE.”.

##### **§ 191.27 [Amended]**

■ 14. Section § 191.27(b) is amended by removing the words “the Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW.” and adding in its place “Pipeline and Hazardous Materials Safety Administration, Department of Transportation, PHP-10, 1200 New Jersey Avenue SE.”

#### **PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS**

■ 15. The authority citation for part 192 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, and 60118; and 49 CFR 1.53.

##### **§ 192.7 [Amended]**

■ 16. The first sentence of § 192.7(b) is amended by removing the words “400 Seventh Street, SW.” and adding in their place the words “1200 New Jersey Avenue, SE.”

##### **§ 192.727 [Amended]**

■ 17. The seventh sentence of § 192.727(g)(1) is amended by removing the words “Room 2103, 400 Seventh Street, SW., Washington, DC 20590; fax (202) 366-4566; e-mail, *roger.little@dot.gov*.” and adding in their place the words “PHP-10, 1200 New Jersey Avenue, SE., Washington, DC 20590; fax (202) 366-4566; e-mail *InformationResourcesManager@phmsa.dot.gov*.”

##### **§ 192.949 [Amended]**

■ 18. Section 192.949(a) is amended by removing the words “Room 2103, 400 Seventh Street, SW.” and adding in their place the words “PHP-10, 1200 New Jersey Avenue, SE.”

##### **§ 192.951 [Amended]**

■ 19. Section 192.951(a) is amended by removing the words “Room 2103, 400 Seventh Street, SW.” and adding in their place the words “PHP-10, 1200 New Jersey Avenue, SE.”

#### **PART 193—LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS**

■ 20. The authority citation for part 193 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

##### **§ 193.2013 [Amended]**

■ 21. Section § 193.2013(b) is amended by removing the words “400 Seventh Street, SW.” and adding in their place the words “PHP-30, 1200 New Jersey Avenue, SE.”

#### **PART 194—RESPONSE PLANS FOR ONSHORE OIL PIPELINES**

■ 22. The authority citation for part 194 continues to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5) and (j)(6); sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.53.

##### **§ 194.119 [Amended]**

■ 23. The second sentence of § 194.119(a) is amended by removing the words “Pipeline Response Plans Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW” and adding in their place the words “Pipeline and Hazardous Materials Safety Administration, Department of Transportation, PHP 80, 1200 New Jersey Avenue, SE”.

#### **PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE**

■ 24. 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.

##### **§ 195.3 [Amended]**

■ 25. Section 195.3(b) is amended by removing the words “400 Seventh Street, SW.” and adding in their place the words “1200 New Jersey Avenue, SE.”

##### **§ 195.57 [Amended]**

■ 26. Section § 195.57(b), is amended by removing the words “Information Officer, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, 400 Seventh Street, SW” and adding in their place the words “Pipeline and Hazardous Materials Safety Administration, Department of Transportation, PHP-10, 1200 New Jersey Avenue, SE.”

##### **§ 195.59 [Amended]**

■ 27. Section 195.59(a) is amended by removing the words “Room 2103, 400 Seventh Street, SW., Washington, DC 20590; fax (202) 366-4566; e-mail, *roger.little@dot.gov*”, and adding in their place the words “PHP-10, 1200

New Jersey Avenue, SE., Washington, DC 20590; fax (202) 366-4566; e-mail, "InformationResourcesManager@phmsa.dot.gov".

#### § 195.452 [Amended]

■ 28. Section 195.452(m) is amended by removing the words, "Room 7128, 400 Seventh Street SW." and adding in their place the words "1200 New Jersey Avenue, SE."

#### PART 199—DRUG AND ALCOHOL TESTING

■ 29. The authority citation for part 199 continues to read as follows:

**Authority:** 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

■ 30. In 49 CFR part 199, remove the words "Room 7128, 400 Seventh Street, SW." and add in their place the words "PHP-60, 1200 New Jersey Avenue, SE" in the following places:

- a. Section 199.119(b); and
- b. Section 199.229(c).

Issued in Washington, DC on March 18, 2008.

**Carl T. Johnson,**  
*Administrator.*

[FR Doc. E8-5926 Filed 3-27-08; 8:45 am]

**BILLING CODE 4910-60-P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 060525140-6221-02]

RIN 0648-XG34

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper/Grouper Resources of the South Atlantic; Trip Limit Reduction

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

**ACTION:** Temporary rule; trip limit reduction.

**SUMMARY:** NMFS reduces the commercial trip limit for golden tilefish in the South Atlantic to 300 lb (136 kg) per trip in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the South Atlantic golden tilefish resource.

**DATES:** This rule is effective 12:01 a.m., local time, April 6, 2008, through December 31, 2008, unless changed by further notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone 727-824-5305, fax 727-824-5308, e-mail [susan.gerhart@noaa.gov](mailto:susan.gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Resources of the South Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.44(c)(2), NMFS is required to reduce the trip limit in the commercial fishery for golden tilefish from 4,000 lb (1,814 kg) to 300 lb (136 kg) per trip when 75 percent of the fishing year quota is met, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that 75 percent of the available commercial quota of 295,000 lb (133,810 kg), gutted weight, for golden tilefish will be reached on or before April 6, 2008. Accordingly, NMFS is reducing the commercial golden tilefish trip limit to 300 lb (136 kg) in the South Atlantic EEZ from 12:01 a.m., local time, on April 6, 2008, until the quota is reached and the fishery closes or 12:01 a.m., local time, on January 1, 2009, whichever occurs first.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest, because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction.

NMFS also finds good cause that the implementation of this action cannot be delayed for 30 days. There is a need to implement this measure immediately to prevent an overrun of the commercial fishery for golden tilefish in the South Atlantic, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be contrary to the Magnuson-Stevens Act and the FMP. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: March 24, 2008.

**Alan D. Risenhoover**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E8-6434 Filed 3-27-08; 8:45 am]

**BILLING CODE 3510-22-S**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 071004577-8124-02]

RIN 0648-AW13

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Total Allowable Catches for Eastern Georges Bank Cod, Eastern Georges Bank Haddock, and Georges Bank Yellowtail Flounder in the U.S./Canada Management Area for Fishing Year 2008

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

**ACTION:** Temporary rule; specifications.

**SUMMARY:** The following Total Allowable Catches (TACs) in the U.S./Canada Management Area are implemented for the 2008 fishing year (FY): 667 mt of Eastern Georges Bank (GB) cod, 8,050 mt of Eastern GB haddock, and 1,950 mt of GB yellowtail flounder. These TACs may be adjusted during FY 2008, if NMFS determines that the harvest of these stocks in FY 2007 exceeded the TACs specified for FY 2007. Further, NMFS is postponing the FY 2008 opening of the Eastern U.S./Canada Area until August 1, 2008, for trawl vessels. Longline gear vessels are allowed to fish in the Eastern U.S./Canada Area during the May through July 2008 period with a cap on the amount of cod caught during this period set at 5 percent of the cod TAC (i.e., 33.4 mt). The intent of this action is to provide for the conservation and management of the three shared stocks of fish, as required by the regulations implementing the Northeast Multispecies Fishery Management Plan.

**DATES:** This rule is effective May 1, 2008, through April 30, 2009.

**ADDRESSES:** Copies of the Transboundary Management Guidance Committee's (TMGC's) 2007 Guidance