§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

Paragraph 6010 VOR Federal Airways

* * * * *

V–2 [Revised]

From Seattle, WA; Ellensburg, WA; Moses Lake, WA; Spokane, WA; Mullan Pass, ID; Missoula, MT; Helena, MT; INT Helena 119° and Livingston, MT, 322° radials; Livingston; Billings, MT; Miles City, MT; 24 miles, 90 miles, 55 MSL, Dickinson, ND; 10 miles, 60 miles, 38 MSL, Bismarck, ND; 14 miles, 62 miles, 34 MSL, Jamestown, ND; Fargo, ND; Alexandria, MN; Gopher, MN; Nodine, MN; Lone Rock, WI; Madison, WI; Badger, WI; Muskegon, MI; Lansing, MI; Salem, MI; INT Salem 082° (085°M) and Aylmer, ON, Canada, 261° (269°M) radials; Aylmer; INT Aylmer 086° and Buffalo, NY, 259° radials; Buffalo; Rochester, NY; Syracuse, NY; Utica, NY; Albany, NY; INT Albany 084° and Gardner, MA, 284° radials; to Gardner. The airspace within Canada is excluded.

* * * * *

Issued in Washington, DC, on August 28, 2006.

Edith V. Parish,

Manager, Airspace and Rules.

[FR Doc. E6–14744 Filed 9–5–06; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0436; FRL–8214–3]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Ford Motor Company Adjusted Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a January 4, 2006, request from Illinois for a site specific revision to the State Implementation Plan (SIP) for the Ford Motor Company (Ford). The revision will allow Ford to discontinue use of its Stage II vapor recovery system (Stage II) at its Chicago Assembly Plant. In place of Stage II, Ford will comply with the standards of the Federal onboard refueling vapor recovery (ORVR) regulations, as well as meet other minor conditions. The exclusive use of ORVR will provide at least an equivalent amount of gasoline vapor capture as Stage II.

DATES: Comments must be received on or before October 6, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–0436, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 886–5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Julie Henning, Environmental Protection Specialist, State and Tribal Planning Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–4882, *henning.julie@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: August 17, 2006.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. E6–14544 Filed 9–5–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 195

[Docket No. PHMSA–2003–15864; Notice 3]

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: Notice of proposed rulemaking.

SUMMARY: We are proposing to extend pipeline safety regulations to rural onshore hazardous liquid gathering lines and low-stress lines within a defined buffer of previously defined ''unusually sensitive areas.'' These are non-populated areas requiring extra protection because of the presence of sole source drinking water resources, endangered species, or other ecological resources.

This proposal will define ''regulated rural onshore gathering lines'' and ''regulated rural onshore low-stress lines'' and require operators of the lines to comply with certain safety requirements. These proposed safety requirements will address the most common threats to the integrity of these rural lines: corrosion and third-party damage. This proposal is intended to provide additional integrity protection for unusually sensitive areas that could be affected by these lines and improve public confidence in the safety of hazardous liquid rural onshore gathering and low-stress lines.

DATES: Persons interested in submitting written comments on the rules proposed in this document must do so by November 6, 2006. PHMSA will consider late filed comments so far as practicable.

ADDRESSES: You may send written comments to the docket by any of the following methods:

- *Mail:* Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Anyone wanting confirmation of mailed comments must include a self-addressed stamped postcard.
- *Hand delivery or courier:* Room PL–401, 400 Seventh Street, SW., Washington, DC. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays.
- *Web site:* Go to *http://dms.dot.gov*, click on ''Comments/Submissions'' and follow instructions at the site. Alternatively, go to *http://regulations.gov.*

All written comments should identify the docket number and notice number stated in the heading of this notice.

Docket access. For copies of this notice or other material in the docket, you may contact the Dockets Facility by phone (202–366–9329) or go to the hand delivery address. For Web access to the docket to read and download filed material, go to *http://dms.dot.gov/search*. Then type in the last five digits of the docket number shown in the heading of this notice, and click on ''Search.''

Anyone can search the electronic form of all comments filed in any of DOT's dockets by the name of the individual filing the comment (or signing the comment, if filed for an entity such as an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the April 11, 2000 issue of the **Federal Register** (65 FR 19477) or go to *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: DeWitt Burdeaux by phone at 405–954–7220 or by e-mail at *Dewitt.Burdeaux@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

a. History

Over the past six years, PHMSA has designed and executed a risk-based system approach to oversight of the national pipeline infrastructure. This approach is embodied in the ''Integrity Management Program'' of the agency and its budget. The program has many elements, including the data that supports the agency's decision making, regulatory framework, enforcement program, training and preparation of Federal and State inspectors, research and development to advance integrity assessment and management, and performance measurement and reporting. We have sought advice on each aspect of the program at the conceptual stage from our technical advisory committee members and in public meetings.

As to regulatory framework, we undertook rulemaking projects on a risk-prioritized basis, acting first on those parts of the infrastructure that posed the greatest risk to people and the environment. To begin the program, we defined high consequence areas and mapped the locations on the National Pipeline Mapping System, including areas unusually sensitive to environmental damage, which we previously defined in our 2000 regulation. Since 2000, we have completed and implemented regulations that provided integrity management protections for people and the environment that could be affected by a failure from high pressure, large and small hazardous liquid pipelines and provided protections to people that could be affected by high pressure gas transmission pipelines. We recently completed our gas gathering lines regulation by taking an integrity-related approach to protecting people from gas gathering lines. We began consideration of the current regulatory initiative in 2003 and discussed it during our technical advisory committee meetings, and at public meetings in 2004. This is the remaining element in the regulatory framework designed to protect unusually sensitive areas from hazardous liquid pipelines in rural areas.

b. PHMSA's Safety Rules for Hazardous Liquid Pipelines Exempt Rural Low-Stress Lines and Gathering Lines

Low-stress lines generally transport hazardous liquid at low-stress levels for relatively short distances to and from refineries and terminals, while gathering lines transport petroleum products from production facilities to downstream locations, such as a refinery or processing plant.

PHMSA's safety rules for hazardous liquid pipelines (49 CFR part 195) apply to both offshore and onshore gathering and low-stress lines. PHMSA currently regulates gathering lines in populated areas, and those in rural areas in the inlets of the Gulf of Mexico. PHMSA also regulates low-stress lines that are located in populated areas or cross commercially navigable waterways. It also regulates any low-stress line transporting highly volatile liquids. These lines are subject to all of the regulatory requirements in part 195.

This proposal impacts some of the onshore rural gathering lines and low-stress lines that PHMSA currently exempts from all or portions of the part 195 regulatory requirements. Onshore gathering lines in rural areas are exempt from all part 195 rules except requirements for inspection and burial in Gulf of Mexico inlets (§ 195.1(b)(4)). Part 195 defines ''gathering line'' as a pipeline 8⅝ inches or less in nominal outside diameter that transports petroleum from a production facility. The term ''production facility'' is defined as piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treating of petroleum or carbon dioxide, and associated storage or measurement. To qualify, piping or equipment must be used to extract petroleum or carbon dioxide from the ground or facilities where petroleum or carbon dioxide is produced and prepared for transportation by pipeline. This includes piping between treatment plants that extract carbon dioxide and facilities used for the injection of carbon dioxide for recovery operations. The term ''petroleum'' means crude oil, condensate, natural gasoline, natural gas liquids, and liquefied petroleum gas. Also, ''rural area'' means 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.

Part 195 defines ''low-stress'' as a hazardous liquid pipeline operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength (SMYS) of the line pipe. SMYS is the minimum yield strength, expressed in p.s.i. (kPa) gage, prescribed by the specification under which the material is purchased from the manufacturer. Low-stress lines in rural areas are exempt from part 195 if they transport nonvolatile petroleum products and are located outside a waterway currently used for commercial navigation. Under this proposal, some of these rural lines will no longer be exempt if within a defined buffer zone of an unusually sensitive area. This proposal will not affect other exempt low-stress lines, specifically pipelines subject to safety regulations of the U.S. Coast Guard, or those pipelines that serve certain refining and terminal facilities, if the pipeline is less than 1-mile long (measured outside of facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation.

c. Statutory Authority

Except for a 1991 requirement establishing inspection and burial rules for pipelines, including rural gathering

lines, located in Gulf of Mexico inlets, from 1979 until 1992, PHMSA did not have statutory authority to regulate rural gathering lines.[1] It was not until the Pipeline Safety Act of 1992 (codified at 49 U.S.C. 60101(a)(22)), that Congress gave DOT authority to regulate certain rural gathering lines. This legislation directed DOT to define the term ''gathering line'' by October 24, 1994, and the term ''regulated gathering line'' by October 24, 1995 (49 U.S.C. 60101(b)(1)(A) and (b)(2)(A)).

Four years later, in the Accountable Pipeline Safety and Partnership Act of 1996 (Pub. L. 104–304), Congress moderated its directive to define ''regulated gathering line'' by adding the words ''if appropriate'' (49 U.S.C. 60101(b)(2)(A)). Congress also gave DOT specific authority to collect information from gathering line operators related to deciding whether and to what extent to regulate rural gathering lines (49 U.S.C. 60117(b)). Because of the need to regulate the safety of certain rural petroleum gathering lines (as explained in section II of this preamble), we think it is now appropriate to define the term ''regulated gathering line'' for hazardous liquid transportation.

In defining ''regulated gathering line'' for hazardous liquid transportation, PHMSA is required by statute to consider various physical characteristics to decide which rural onshore gathering lines need safety regulation. These characteristics include location, length of line from the well site, operating pressure, throughput, and composition of the transported hazardous liquid (49 U.S.C. 60101(b)(2)(A) and (b)(2)(B)(i)). Further, the statute states a ''regulated gathering line'' may not include ''a crude oil [petroleum] gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage'' (49 U.S.C. 60101(b)(2)(B)(ii)).[2] In other words, in rural areas unusually sensitive to environmental damage, PHMSA may regulate petroleum gathering lines of any diameter or operating pressure. But in other rural areas, PHMSA may not regulate petroleum gathering lines 6 inches or less in nominal diameter operating at a low pressure. Congress did not define ''low pressure'' or areas ''unusually sensitive to environmental damage.'' PHMSA, however, has defined ''unusually sensitive areas'' in §§ 195.2 and 195.6, and low-stress hazardous liquid pipeline in § 195.2, as discussed above. PHMSA considers a low pressure pipeline synonymous to a low-stress pipeline.

PHMSA has statutory authority under 49 U.S.C. 60102 to prescribe regulations that provide adequate protection against risks to life and property posed by pipeline transportation. This statute requires PHMSA to develop practicable standards designed to ensure hazardous liquids are safely transported by pipeline of any stress level, and to protect people and the environment. PHMSA's authority (49 U.S.C. 60102(k)) specifically prohibits it from excepting from regulation a hazardous liquid pipeline facility only because the facility operates at low internal stress.

d. Public Participates in Decision Making

1. Meetings

In 2003, PHMSA invited the public to discuss oil and gas gathering line issues at meetings in Austin, Texas (68 FR 62555; Nov. 5, 2003) and Anchorage, Alaska (68 FR 67129; Dec. 1, 2003). The meetings gave people an opportunity to comment on what might make regulating the safety of rural gathering lines appropriate, and what the safety rules should be. State pipeline safety agencies also actively participated in these meetings. Transcripts of both meetings are in the docket (PHMSA–2003–15864–2 and 3).

Following the two public meetings, PHMSA published a notice to clarify its plans about regulating rural gathering lines (69 FR 5305; Feb. 4, 2004). In the notice, PHMSA sought comments on a suitable approach to identifying gathering lines it should regulate.

PHMSA held a public workshop to discuss the need to regulate rural low-stress lines on June 26, 2006, in Alexandria, Virginia. This meeting is discussed further in section C.3. of this document.

2. Comments Addressing Rural Gathering Lines

Because of the public meetings and clarification notice, PHMSA received several comments on regulating rural gathering lines. Next is a summary of the significant comments.

The Association of Oil Pipelines (AOPL), a trade association representing operators of hazardous liquid pipelines, stated gathering lines usually are in areas of little population and operate at low pressures. It said most releases are due to small corrosion leaks and operators repair the leaks quickly. AOPL found that 67 percent of these hazardous liquid leaks resulted in spills of less than five barrels. Thus, AOPL said, releases were unlikely to have serious public safety or environmental consequences. Nevertheless, in recognition of Congress' safety concerns, AOPL said it would support limited pipeline safety regulation of certain higher-risk rural gathering lines as a reasonable balance between costs and risk. It said comprehensive regulation could cause oil producers to shut in marginally profitable wells or switch to riskier truck transport.

AOPL put forward a regulatory plan for rural crude oil gathering lines. The plan covers any line 6 inches or more in nominal diameter operating at a hoop stress of more than 20 percent of SMYS if the line could affect a high consequence area. AOPL said operators should have discretion in selecting a method to identify which gathering lines could affect high consequence areas. (Section 195.450 defines a ''high consequence area'' as a commercially navigable waterway, an area of high or concentrated population, or an unusually sensitive area. And § 195.6 defines ''unusually sensitive area'' as a drinking water or ecological resource unusually sensitive to environmental damage from a hazardous liquid pipeline release. Both sections contain subordinate definitions that further explain the meaning of ''high consequence area'' and ''unusually sensitive area.'')

AOPL's plan recommended certain safety regulations it thought would be suitable for higher-risk rural gathering lines. AOPL's plan includes the corrosion control rules in subpart H of part 195. In addition, to address excavation damage, AOPL's plan includes the public education rules in § 195.440 and the damage prevention program rules in § 195.442. Finally, the plan includes the accident and safety-related condition reporting rules in subpart B of part 195.

AOPL also suggested PHMSA regulate nonrural gathering lines in locations with rural characteristics in the same manner as rural gathering lines. Although AOPL did not offer a method to identify these lines, the most likely method would be a population density survey. Part 195 does not require operators of nonrural gathering lines to conduct population density surveys. Thus, PHMSA believes it would be burdensome for operators to conduct

[1] Although these lines are not regulated under part 195, PHMSA's rules for onshore oil spill response plans (49 CFR part 194) cover many rural crude oil gathering lines and low-stress lines. Part 194 regulations apply to oil pipelines that could cause substantial harm to the environment by spilling oil into or on any navigable water of the United States or adjoining shoreline.

[2] In addition to these requirements related specifically to regulated gathering lines, under the Federal pipeline safety law, PHMSA must consider various other factors in prescribing pipeline safety rules (see 49 U.S.C. 60102(b)).

such surveys just to identify nonrural line segments in rural-like settings and to discover later changes in population. Apart from AOPL's comment, operators of nonrural gathering lines have not expressed dissatisfaction with the present regulatory scheme of part 195. Therefore, PHMSA is not proposing to change how part 195 applies to nonrural gathering lines.

After filing its written comment, AOPL sent PHMSA data for the years 2001–2003 on 583 gathering line spills collected from five of its member companies, representing multiple gathering systems. The origin of the data was the industry's Pipeline Performance Tracking System, a voluntary data collection effort that began in 1999. Participants report spills of 5 gallons or more to land and all spills to water from oil pipelines, whether regulated by part 195 or not. AOPL's data shows one third of the spills were 5 barrels or more. The data also show corrosion (84%) and excavation damage (7%) caused 91 percent of the reported gathering line spills; pipe material and weld failure, 2 percent; and other identified causes, less than 1 percent.

Arctic Connections, an environmental consulting firm based in Alaska, urged PHMSA to regulate rural gathering lines in sensitive Alaskan wetlands and coastal environments because oil spills threaten subsistence living and have lasting effects in the Arctic. The Cook Inlet Regional Citizens Advisory Council, a nonprofit environmental protection organization, and Cook Inlet Keeper, a nonprofit watershed protection organization, also supported regulation of unregulated pipelines that threaten Alaska's Cook Inlet. To show the need for regulation, Arctic Connections and Cook Inlet Keeper filed data from the Alaska Department of Environmental Conservation (ADEC) and other sources on releases by various unregulated pipelines in Alaska. Although the data do not distinguish pipelines by type, Cook Inlet Keeper said its review showed most of the oil spills in Cook Inlet between 1998 and 2003 came from unregulated gathering lines.

North Slope Borough, the northernmost county of Alaska, favored regulation of all high-pressure, large-diameter North Slope lines that could injure residents or affect subsistence living, the environment, or traditional use areas.

Delta County Colorado considered regulation of rural gathering lines essential to assure safe development of oil and gas in areas experiencing increased pressures of population growth. Delta County thought safety rules should apply to all gathering lines (rural and nonrural), but should be suitable for the risks involved.

Chevron Texaco Upstream and the U.S. Department of Energy (DOE) suggested PHMSA identify and analyze the risks of rural gathering lines and target regulations to specific problems. The Independent Petroleum Association of America (IPAA) also urged PHMSA to focus on actual—not speculative—risks.

DOE and IPAA were concerned with the possible increased costs of gathering crude oil could cause producers to shut in marginally profitable wells. They pointed out that added costs would have the potential to reduce the nation's oil supply and hinder development of new wells.[3] The Interstate Oil & Gas Compact Commission defines marginal wells, sometimes called ''stripper'' wells, as wells producing 10 barrels of oil per day or less. DOE also said some part 195 rules, such as integrity management, corrosion control, personnel qualification, public education, accident reporting, and determining whether a pipeline could affect a high consequence area, could be too costly for smaller operators to carry out. (A discussion of energy impacts is under the Regulatory Analyses and Notices section of this document.)

The Oklahoma Independent Petroleum Association (OIPA) also expressed concern about the potential impact on marginal wells of imposing new safety rules on rural gathering lines. In addition, OIPA argued PHMSA should not consider regulating rural gathering lines until it has data showing the types and scale of safety problems.

3. Comments Addressing Rural Low-Stress Lines

On June 26, 2006, PHMSA held both a public workshop and meeting of the Technical Hazardous Liquid Pipeline Safety Standards Committee to discuss how best to regulate low-stress lines to better protect unusually sensitive areas from risks from spills. During this meeting PHMSA received several significant comments.

API and AOPL presented their proposal, which is discussed in detail in Section II. b. below. The majority of the participants agreed that recent accidents reinforced the need for PHMSA's plan to regulate low-stress lines near unusually sensitive areas (USAs), and supported, for the most part, API's and AOPL's regulatory proposal. API and AOPL's proposal recommended low-stress lines located within ¼ mile of an USA, i.e., buffer, be partially regulated under part 195. Their analysis of the spill data for low-stress pipelines showed that the ¼-mile buffer would contain the spread in 99.6% of the releases. Several of the commenters questioned whether the proposed ¼-mile buffer was large enough to provide adequate protection to these critical areas. Some commented on whether a larger buffer would encompass too many lines. Others questioned the effectiveness of leak detection methods on these lines. The transcript of this meeting is in the docket (PHMSA–2003–15864). PHMSA invites comments on whether the proposed ¼-mile buffer zone is appropriate.

Conoco Phillips noted that most unregulated low-stress pipelines are less than 1-mile long, and are rarely more than 25 miles. Conoco Phillips also noted that the primary threat to the unregulated low-stress lines is corrosion because many lack an effective coating and cathodic protection. Further, it noted that internal corrosion may be exacerbated by water and microbiological organisms.

The Alaska Department of Environmental Conservation also believes that government oversight is needed for unregulated low-stress lines, and shared its proposal on how Alaska plans to address lines not currently regulated by PHMSA.

II. Need To Regulate

a. Rural Onshore Hazardous Liquid Gathering Lines

Congress recognized some rural gathering lines might pose risks warranting federal safety regulation and authorized DOT to regulate a class of rural gathering lines called ''regulated gathering lines'' based on risk-related physical characteristics, such as diameter, pressure, location, and length of line. 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'' (H.R. Report No. 102–247—Part 1, 102d Cong., 1st Session, 23 (1991)). In PHMSA's view, Congress wanted to limit ''regulated gathering lines'' to lines posing a significant risk and to limit regulation of those lines to suitable risk-reduction measures.

To get more information about rural crude oil gathering lines PHMSA asked the public whether these pipelines pose a risk warranting pipeline safety

[3] Marginal wells account for 16 percent of US oil production (Interstate Oil and Gas Compact Commission, ''Marginal Oil and Natural Gas: American Energy for the American Dream, 2005).''

regulation, and, if so, what those rules should be. As discussed in section I of this preamble, commenters largely recognized a need for PHMSA safety rules to prevent serious accidents and to respond to Congress' safety concern. Most commenters backed rules addressing known risks of a significant scale. However, a few commenters expressed concern that extensive rules could cause producers to shut in marginal wells or divert transportation to riskier modes—mainly trucks.

A few commenters submitted data about oil pipeline accidents, including accidents on rural crude oil gathering lines. AOPL's data show corrosion damage and excavation damage were the leading causes of spills, and 33 percent of the spills were 5 barrels or more. Although the data do not separate spills occurring from rural gathering lines from those occurring from other unregulated liquid lines, the spill causes are consistent with PHMSA's accident data on hazardous liquid pipelines overall. Also, there is no reason to expect rural gathering lines are less vulnerable to corrosion, excavation damage, and other integrity threats than nonrural gathering lines. They may be even more vulnerable because they have not been subject to federal safety regulation to ensure their continued integrity. While we have limited data, we think it is reasonable to assume AOPL's data are representative of rural crude oil gathering lines. A full discussion of the available data is in the regulatory evaluation for this proposed rulemaking, which can be obtained in the docket listed above.

A 1997 report by California's Office of the State Fire Marshal, ''An Assessment of Low-Pressure Crude Oil Pipelines and Gathering Lines,'' strengthens this assessment. In California, the State Fire Marshal regulates intrastate pipelines covered by part 195. The report, available online at *http://osfm.fire.ca.gov/lowpressrpt.html*, concerns accidents during 1993–1995 on rural gathering lines and other pipelines specifically exempt from part 195. According to the report, the leading causes of the accidents '' corrosion and excavation damage—matched the leading causes of accidents on regulated pipelines.

b. Rural Onshore Hazardous Liquid Low-Stress Lines

The original safety regulations for hazardous liquid pipelines did not apply to any low-stress pipelines. Because of their low operating pressures and minimal accident history, low-stress hazardous liquid pipelines were thought to pose little risk to public safety. PHMSA began rulemaking in this area in 1990 following one of the most prominent hazardous liquid pipeline accidents on record involving the spill of approximately 500,000 gallons of heating oil from an underwater pipeline in Arthur Kill Channel in New York.

To get more information on low-stress lines, in 1990, PHMSA published an advance notice of proposed rulemaking (ANPRM) (55 FR 45822; October 31, 1990). In the ANPRM, PHMSA sought information about the costs and benefits of regulating low-stress lines. The analysis of the data received in response to the ANPRM showed regulation of all low-stress pipelines could impose costs disproportionate to benefits. PHMSA, therefore, focused on those low-stress pipelines posing a higher risk to people and the environment. The risk factors identified were the commodity in transportation and the location of the pipeline. In 1994, PHMSA extended the hazardous liquid safety requirements to low-stress pipelines that transport highly volatile liquids (HVL) in all locations, and other low-stress lines in populated areas and where the pipeline segments cross navigable waterways. In this rulemaking, PHMSA deferred regulating non-HVL low-stress pipelines in rural environmentally sensitive areas pending development of a suitable definition of ''environmentally sensitive area.'' The agency said it was developing a better concept of what constitutes an environmentally sensitive area for purposes of pipeline regulation and this would provide the groundwork for the future rulemaking on rural low-stress lines. PHMSA explained that it needed to learn the extent to which low-stress pipeline spills affect environmentally sensitive areas and the definition used in part 194 (Response Plans for Onshore Oil Pipelines) was too broad for part 195.

In 2000, PHMSA issued a final rule defining ''unusually sensitive areas'' (USAs) (65 FR 246). The USAs address higher risk environmentally sensitive areas needing extra protection. In this rule, PHMSA noted its 1994 decision to defer regulating nonvolatile products transported in low-stress pipelines located in rural sensitive areas until it defined these areas. The agency reiterated its intention to reconsider the issue once there was a sensitive area definition. In 2000, PHMSA defined protection of USAs for most hazardous liquid pipelines through its integrity management regulations. As explained previously in section I.a, this definition was essential to PHMSA's completing its series of risk-based rulemakings to provide better protection to people and the environment from high pressure hazardous liquid pipelines, high pressure gas transmission pipelines and rural gas gathering pipelines. Protecting these areas from rural low-stress lines is the last of these initiatives.

Since 2000, there have been about 30 hazardous liquid low-stress line incidents on lines PHMSA currently regulates. While PHMSA does not have incident data for non-regulated lines, we believe a comparable number of incidents have occurred on currently unregulated low-stress lines, some of which have been significant. For instance on August 6, 2006, a crude oil spill occurred on a 30-inch, unregulated low-stress pipeline in the Eastern Operating Area of the Prudhoe Bay Field on the North Slope of Alaska. This spill resulted in the release of at least 20 barrels of crude oil onto the tundra, and at least another 175 barrels that were collected in a portable tank. Previously, on March 2, 2006, a leak from a 34-inch, unregulated low-stress pipeline was discovered in the Western Operating Area of the Prudhoe Bay Field. This leak resulted in the release of approximately 5,000 barrels of processed crude oil. Although we believe these incidents are not representative of the condition of unregulated rural low-stress lines in the lower 48 states, these incidents reinforced the necessity for PHMSA to complete this rulemaking to better protect USAs from any spill that could occur from an unregulated rural low-stress pipeline.

As PHMSA was developing its proposal on how best to address rural low-stress lines, after the March incident, API and AOPL submitted a regulatory proposal on how PHMSA should address certain currently exempt low-stress pipelines. The proposal requests PHMSA:

- Add a new subpart in part 195 to address assessment and control of low pressure pipelines;
- Define regulated low-stress lines as pipelines with a diameter greater than 8⅝ inches, operating at 20 percent or less of SMYS, located off the operator's property, and located within ¼-mile of an unusually sensitive area; and
- Modify 49 CFR 195.1(b)(iii) to add petroleum storage facilities to the list of facilities exempt from regulation, unless a facility crosses a sole source aquifer in an unusually sensitive area.

Further, API and AOPL propose that PHMSA add programmatic requirements to require operators of a regulated rural low-stress line to comply with the reporting requirements in subpart B, the corrosion control requirements in subpart H, the line marker requirements in § 195.410, and four additional requirements:

1. *Assessment:* The operator should inspect the pipeline using in-line inspection tools or commensurate technology to assess the pipeline segment every five years unless the operator performs an engineering analysis to justify a longer timeframe.

2. *Leak Detection:* The operator should have a means to detect leaks on the covered pipelines.

3. *Damage Prevention:* The operator should put in place basic damage prevention practices, such as registering facilities with one-call organizations and excavation monitoring.

4. *Training for Abnormal Operating Conditions:* The operator should be trained to recognize and respond to abnormal operating conditions.

Lastly, API and AOPL recommend, with the exception of line identification, operators have up to 5 years after the effective date of a rule to begin compliance.

As a follow-up to the June 26th public meeting, the Cook Inlet Regional Citizens Advisory Council submitted comments to the docket. Cook Inlet recommends eliminating the low-stress regulatory exemption in 49 CFR 195.1(b)(3)(i). Instead, Cook Inlet recommends PHSMA apply its baseline pipeline regulations to all low-stress transmission pipelines, and its integrity management program rules to those low-stress transmission pipelines that may affect High Consequence Areas.

API and AOPL also submitted supplemental information reflecting their analysis of spill data. They found that of the 312 large releases of hazardous liquids (greater than five barrels) between 1999 and 2004, only 67 (21%) were from low-stress transmission pipelines. Further, releases from low-stress lines accounted for only 7% of the total volume of hazardous liquid releases from all pipeline incidents. They determined that corrosion (64%) and third party damage (21%) together caused 85% of these releases from low-stress pipelines.

c. Conclusion for Need To Regulate

Based on our consideration of Congress' safety concern, the public comments, and the accident data, we believe the potential for future harm to the public's health and environment from rural onshore gathering and rural low-stress lines is clear. The record shows rural gathering lines experience the same leading causes of accidents as hazardous liquid pipelines we now regulate, and releases from unregulated low-stress lines can affect unusually sensitive areas. Therefore, we believe it no longer appropriate to continue to exempt rural onshore gathering lines and rural low-stress lines from nearly all safety requirements in part 195.

III. Regulatory Options

In considering what safety rules should apply to ''regulated rural gathering lines'' and ''regulated rural low-stress lines,'' the first alternative we considered was to collect more information about the potential hazards of these lines before proposing any specific safety rules. We rejected this alternative because we believe we have sufficient information; collecting more information would be unlikely to change our current understanding of the risks these lines pose.

The second alternative we considered was to apply all part 195 rules to regulated rural gathering lines and, as suggested by Cook Inlet, for regulated rural low-stress lines. We rejected this alternative because it could impose significant costs on the industry without offsetting safety benefits. Also, the costs could have a significant effect on U.S. oil supplies by causing production to stop at many marginal oil wells. Further, while we understand Cook Inlet's desire to extend oversight to all low-stress lines, we believe we should focus on those posing the most significant threats to USAs, and on the most critical issues associated with those lines. Therefore, the proposal only includes safety requirements that address the most prominent threats to low-stress lines. This determination is based on our analysis of the most critical safety concerns, including the data submitted by API and AOPL demonstrating that corrosion and third party damage cause the greatest threat to the integrity of these lines.

The third alternative was to adopt the approaches API and/or AOPL suggested. For gathering lines, AOPL's suggested approach includes limited operation and maintenance rules and reporting rules for accidents and safety-related conditions. The operation and maintenance rules would be the public education rules in § 195.440, the excavation damage prevention rules in § 195.442, and the corrosion control rules in subpart H of part 195. The reporting rules would be provisions of subpart B of part 195 related to accidents and safety-related conditions. The benefit of this alternative is it would focus on the leading threats to rural gathering lines—corrosion and excavation damage. Also the information collected would enable PHMSA to recognize safety problems and evaluate the effectiveness of adopting only limited safety rules.

By focusing mainly on the threats of excavation damage and corrosion, the AOPL approach does not address significant safety issues related to pipeline design, construction, and testing, such as choice of materials, qualification of welding procedures, and suitable test pressure. AOPL's approach does not include installation and maintenance of line markers under § 195.410 or operator qualification program requirements under part 195, subpart G. The use of line markers to warn excavators of the presence of hazardous liquid pipelines has long been a safety practice in the hazardous liquid pipeline industry. Regarding operator qualifications, Congress mandated PHMSA establish regulations for operator qualification programs on pipelines. Congress also directed pipeline operators to develop and adopt a qualification program should DOT fail to prescribe standards and criteria.

The fourth alternative to address rural onshore low-stress lines was also the approach suggested by API and AOPL. This approach would subject rural onshore hazardous liquid low-stress lines that have a diameter greater than 8⅝ inches, operate at 20 percent SMYS, and are located within a ¼-mile of an unusually sensitive area to certain regulatory requirements. The regulatory approach includes the reporting requirements of part 195, subpart B, the corrosion control rules in part 195, subpart H, the damage prevention rules in § 195.442, and installation of line markers in § 195.410. The API and AOPL approach also includes leak detection, assessment, and limited operator qualification requirements. We believe the information collected about threats on non-regulated gathering lines also applies to threats associated with regulated hazardous liquid lines. Based on this information, we believe corrosion and excavation damage are the leading causes of accidents on low-stress lines. Thus, the benefit of this approach is it focuses on these leading threats to rural onshore low-stress lines.

A disadvantage of the API and AOPL approach for rural gathering lines is it does not address other significant safety issues related to pipeline design, construction, and testing, and does not include the public awareness requirements under § 195.440. In its petition, API and AOPL did not explain why these safety requirements were omitted. Regarding public awareness, in 49 U.S.C. 60112(c), Congress mandated that pipeline facility operators establish and carry out continuing public awareness programs to notify the public about the location of its facilities, one-call programs and accident procedures. Further, the API and AOPL proposal does not fully address the operator

qualification requirements. Congress mandated PHMSA establish regulations for operator qualification programs on pipelines. Congress also directed pipeline operators to develop and adopt a qualification program should DOT fail to prescribe standards and criteria. Although Congress provided some flexibility in the statute, we believe that the API and AOPL approach is too limited because it only addresses one of the multiple facets of the operator qualification requirements.

As a fifth alternative, we considered developing new safety rules for ''regulated rural gathering lines'' and ''regulated rural low-stress lines.'' We rejected this alternative because we have no reason to conclude part 195 safety rules now in effect for non-rural gathering and low-stress lines would be less effective if applied to rural lines. Our experience shows part 195 rules are effective and should work well for ''regulated rural gathering lines'' and ''regulated rural low-stress lines'' because the integrity threats involved are similar for all the lines.

Finally, we considered modified versions of the approaches API and AOPL suggested for rural gathering and low-stress lines. This approach would provide integrity protection by focusing on the primary threats to these lines—corrosion and third-party damage. For rural gathering, this alternative would add, line marker requirements under § 195.410 and the qualification requirements in subpart G for the operator's personnel. Markers are a traditional way of alerting excavators to dig carefully in the presence of hazardous liquid pipelines. Under 49 U.S.C. 60131, DOT must require pipeline operators to develop and adopt a qualification program that complies with the standards DOT develops for such programs.

In addition, the modified version would require operators to establish a maximum operating pressure for each steel line according to § 195.406, and to design, construct, and test lines according to applicable part 195 rules. A maximum operating pressure would guard against the danger of accidental overpressure. Part 195 design, construction, and testing rules would ensure a minimum standard of integrity for all new, replaced, and relocated ''regulated gathering lines.'' We required similar rules on markers, operating pressure, design, construction, and testing for rural gas gathering lines in a final rule published March 15, 2006 (71 FR 13289). These requirements should not be too burdensome, because similar safety requirements are in the *ASME B31.4 Code*, ''Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids,'' a consensus standard followed widely throughout the hazardous liquid pipeline industry.

Our modified approach to the API and AOPL suggestion for rural onshore low-stress lines would include public awareness requirements in § 195.440 and a modified version of the operator qualification requirements. These operators are also required under 49 U.S.C. 60102(a) to have public awareness program. Under 49 U.S.C. 60131(e)(5) and (f), Congress allowed DOT and State pipeline safety agencies to waive or modify any operator qualification requirement if not inconsistent with the pipeline safety laws. PHMSA believes an approach similar to the modified approach used for gas gathering would be appropriate for low-stress lines. This modification would allow operators to describe the processes they have in place to ensure personnel performing operations and maintenance activities are qualified.

Additionally, the modified version would require operators to establish a maximum operating pressure for each steel line according to § 195.406, and to design, construct, and test lines according to applicable part 195 rules. A maximum operating pressure would guard against the danger of accidental overpressure. Part 195 design, construction, and testing rules would ensure a minimum standard of integrity for all new, replaced, and relocated ''regulated rural low-stress lines.'' Lastly, the modified version would require an operator to periodically assess the integrity of the lines to identify and address any conditions affecting the integrity of the lines, no matter the cause, and to establish and maintain a leak detection program based on API's recommended practice 1130 (API 1130) ''Computational Pipeline Monitoring,'' which is currently being used by industry and is incorporated by reference into our existing regulations. Because API 1130 only addresses pipelines transporting a stable single phase product, operators transporting other products will need to develop another appropriate leak detection method.

Further, our modified version includes additional corrosion control requirements for onshore rural gathering lines and low-stress lines. Our proposal includes a requirement to continuously monitor these lines and based on identified changes to clean and accelerate the corrosion control program when necessary.

A discussion of the safety rules we are proposing is in section IV of this preamble.

IV. Proposed Regulations for Regulated Rural Gathering Lines

a. Proposed Definition of ''Regulated Rural Gathering Line''

We are defining those rural gathering lines presenting a higher risk to public health and the environment as regulated rural gathering lines.[4] PHMSA believes Congress did not think all rural gathering lines subject people or the environment to a high enough risk to qualify as a regulated rural gathering line. This reasoning is based on the various risk factors the statute requires us to consider, the complete exemption in most rural areas of low-pressure lines 6 inches or less in nominal diameter. Thus, we have determined higher risk rural areas are those areas we defined in § 195.6 as unusually sensitive areas. These areas include drinking water and ecological resource areas.

PHMSA considered whether the present definition of gathering line in § 195.2 is acceptable. This definition represents the typical function of a crude oil gathering line—to move crude oil away from a production facility. It also represents the typically small size of crude oil gathering lines—8⅝ inches or less in nominal outside diameter. Since its adoption, the definition has served to identify which petroleum pipelines in rural areas are exempt from part 195 because they are gathering lines. Also, in our experience, operators and government inspectors have had little difficulty using the definition for that purpose. We decided, therefore, the § 195.2 definition of gathering line is acceptable for helping to define a regulated rural gathering line. Furthermore, because we are not changing the coverage of the non-rural gathering lines we now regulate, we see no reason to change the long-standing definition of a gathering line.

Congress identified ''throughput'' and ''composition of the transported hazardous liquid'' as two other possible risk factors to consider in determining which rural gathering lines should be regulated. We think it unnecessary to include these factors. Throughput, or volume of oil moved in a unit of time, is largely dependent on pipe diameter and operating pressure. And the composition of hazardous liquids transported by gathering lines is chiefly crude oil.

[4] Although the statute directs us to define a regulated gathering line, for purposes of this rulemaking, we are proposing to define *regulated rural line*. Non rural onshore gathering is already regulated under part 195 and we are not proposing to change regulation of these currently regulated lines. This rulemaking focuses on certain rural onshore gathering not presently regulated.

AOPL was the only commenter to offer a definition of ''regulated gathering line.'' Under this definition, a ''regulated gathering line'' would be a line 6 inches or more in nominal diameter operating above 20 percent of SMYS that could affect a high-consequence area.

An advantage of AOPL's definition is its use of the statutory risk factors of diameter, operating pressure (expressed as a percentage of SMYS), and location (could affect a high consequence area) to identify higher-risk lines. And we think the definition uses these factors in a reasonable way.

Our proposed definition of a regulated rural gathering line is based in part on AOPL's suggested definition. AOPL's definition is based on gathering lines in high consequence areas. High consequence areas include populated areas. We already regulate onshore gathering lines in populated areas and are not proposing to change any of the pipeline safety requirements applicable to these lines. Therefore, we are basing our definition on those rural gathering lines meeting certain criteria and located within a defined zone of an unusually sensitive area as defined in § 195.6. Unusually sensitive areas include drinking water and ecological resource areas. These areas are unusually sensitive to environmental damage from a hazardous liquid pipe release because a release into these areas could substantially impact the Nation's supply of drinking water, endanger public health, and create long-term or irrevocable damage to the habitat of threatened and endangered species.

Our proposed definition, like AOPL's definition, does not use line length as a defining characteristic of these higher-risk rural lines. Line length, a statutory risk factor, is relevant to potential spill volume, because the shorter the line, the less oil there is to drain out after shutdown. Part 194 recognizes this risk factor by not requiring spill response plans for certain small pipelines 10 miles or less in length. However, because short lines can cause substantial environmental harm in vulnerable locations, part 194 does not allow operators to use the 10-mile exception for lines proximate to navigable waters, public drinking water intakes, or environmentally sensitive areas.

Instead of using AOPL's criteria to define a regulated rural gathering line as one that could affect an unusually sensitive area, we have decided to use a buffer. We saw a potential difficulty in operators determining which lines could affect an unusually sensitive area. 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.'' PHMSA believes this would be too burdensome for most operators. To reduce the burden of making this decision for possibly thousands of rural line segments, we are proposing a buffer—a distance beyond the defined area where a rural gathering line presumably could not affect that area.

PHMSA considered the buffers used in §§ 194.103(c)(4) and (5) of the Oil Spill response plan requirements. Those sections require a buffer of five miles from a public drinking water intake and one mile from an environmentally sensitive area. However, after reviewing the incident data, we concluded those buffer sizes were not warranted. During the June 26th public meeting, AOPL clarified it recommended a buffer of ¼-mile for rural gathering lines because its data revealed the largest on land spill from a pipeline traveled no more than 2 acres. The operating pressure is also a factor when evaluating the potential spill volume from a pipeline. Thus, gathering lines operating at lower pressures do not have the potential to release as much product as those operating at higher pressures. Thus, we have determined that gathering lines that operate above 20% SMYS and that are between 6⅝ inches and 8⅝ inches in diameter and are located in or within ¼-mile of an USA have the potential to substantially impact public health and the environment. We invite comments and supporting technical documentation on whether a larger buffer is needed to provide better protection for these critical environmental areas. PHMSA would also like data on the miles of gathering lines likely to be affected by any increase in the size of the buffer.

Thus, we are proposing to add a new section 195.11(a) that would 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 SMYS or, if the stress level is unknown or the pipeline is not constructed with steel pipe, at a pressure of more than 125 psig; and
- Is located in or within ¼-mile of an unusually sensitive area as defined in § 195.6.

A pressure of 125 psig conservatively approximates 20 percent of SMYS for steel pipe of unknown stress level, based on minimum weight pipe 8 inches in nominal diameter with 24000 psi yield strength.

We invite comments and supporting technical documentation on whether values other than 125 psig and ¼-mile would be more suitable for the respective purposes. We are particularly interested in comment on whether the proposed ¼-mile buffer is adequate to protect those drinking water and ecological resources particularly vulnerable to damage from a hazardous liquid pipeline release, or whether a larger buffer is needed. If commenters believe a larger buffer is needed, data on the pipeline mileage that would be affected would be helpful.

b. Proposed Rewrite of § 195.1

Section 195.1 specifies the hazardous liquid pipeline facilities subject to the requirements of part 195 and those exempt from coverage. We propose to rewrite this section to clarify which lines are subject to part 195. This section clarifies that onshore non-rural gathering lines are subject to all of part 195's requirements. A regulated rural gathering line, as defined in this proposal, would be subject to the limited safety requirements provided in a new § 195.11, discussed below.

The rewrite of § 195.1 clarifies the present rulemaking does not affect onshore gathering lines in inlets of the Gulf of Mexico. Onshore gathering in these inlets would continue to be subject only to the inspection and burial rules in § 195.413. At no point during our public meetings on regulating onshore gathering lines in rural areas did anyone comment on the need to expand these rules.

We also have clarified the language in several of the exceptions from part 195's coverage. We have not changed the intent or scope of any of these. We have simply cleaned up some of the language to make the exceptions easier to read.

c. Proposed Safety Requirements for ''Regulated Rural Gathering Lines''

A new § 195.11(b) would be added to the part 195 regulations to specify the safety requirements for these lines. We have developed these proposed requirements to manage the integrity of rural gathering lines by providing complete protections to address the known significant threats and to continue to collect more information about these lines through the reporting requirements. Based on our review of the gathering lines in populated areas and our investigation of the non-

regulated lines in rural areas, we have found that the highest risks to these lines are corrosion and third party damage. This proposal focuses on those threats. Through continuous monitoring of the lines, required as part of the corrosion program, the operators will gather more information about the risk the lines pose. We seek comments on whether this proposal should specifically address other threats. We also seek comment on whether PHMSA should require all gathering line operators to submit an annual report and accident reports as required for regulated operators by §§ 195.49 and 195.59.

Operators would first have to identify all segments of regulated rural gathering pipeline. Operators would have to design, install, construct, initially inspect, and initially test new, replaced, relocated, or otherwise changed steel lines according to certain existing part 195 rules. However, for pipelines converted to hazardous liquid service, operators would have the option of following the conversion rules in § 195.5.

Operators of newly constructed non-steel lines would have to notify PHMSA at least 90 days before the start of transportation. The notice would give PHMSA an opportunity to review the pipeline and order any changes necessary for safety.

Under the proposal, operators would have to comply with the reporting requirements in subpart B of part 195. The other proposed safety requirements for these regulated rural lines include:

- Establishing a maximum operating pressure under § 195.406;
- Installing and maintaining line markers under § 195.410;
- Establishing and applying a public education program according to § 195.440;
- Establishing and applying a damage prevention program according to § 195.442;
- For steel lines, controlling and remediating corrosion according to subpart H of part 195; to include cleaning, continuous monitoring, and remediating any problems identified; and
- Establishing and applying an operator qualification program that describes the processes the operator has in place to ensure the personnel performing operations and maintenance activities are qualified.

To address one of the major threats to these lines, we are proposing operators include these lines in their corrosion control program. A corrosion control program under part 195's subpart H includes provisions on how an operator is to remediate corroded pipe. We are also proposing additional corrosion control requirements in the form of continuous monitoring and cleaning. We seek public comment on whether the continuous monitoring provision primarily associated with corrosion control should be as proposed, or extended to other provisions of this proposed rule.

Although not listed as a specific safety requirement in the rule, operators are required to continue to comply with the drug and alcohol testing rules in 49 CFR part 199. Part 199 requires operators of pipelines subject to part 195 to test personnel for use of prohibited drugs and misuse of alcohol. Persons subject to testing are those who perform a regulated operation, maintenance, or emergency-response function on a regulated pipeline.

Under § 195.406, the maximum operating pressure of a pipeline is the lowest pressure applicable to the pipeline among a list of pressures. However, most of the pressures listed apply only to pipelines subject to the design and pressure testing rules of part 195. The only pressure applicable to pipelines not subject to those rules is in § 195.406(a)(2)—the design pressure of any other component of the pipeline. Because operators normally do not operate a hazardous liquid pipeline above its design pressure, compliance with § 195.406(a)(2) should not be difficult on ''regulated rural gathering lines'' to which part 195 design and pressure testing rules would not apply. Still, we do not want operators to reduce operating pressure unnecessarily on any existing line with a history of satisfactory operation. So we invite comments on the need to amend § 195.406 to allow such continued operation and, if so, what that amendment should be.

The proposal provides, except for the requirements applicable to newly-constructed pipelines and corrosion control, the safety requirements apply to all materials of construction.

The proposed time frames for compliance with each proposed safety requirement are shown in section V.d. of this document. The proposed compliance deadlines vary according to the safety requirements. To gain a better understanding of how different time frames will affect the costs and feasibility of an operator's compliance, we have proposed a range of compliance times. This approach will allow operators longer time frames for complex activities that are more costly to implement, and to readily implement less complex safety requirements. For example, under the proposal, operators would have six months, 12 months or some period in between those time frames after the effective date of the final rule to identify regulated rural gathering pipeline segments and to comply with the reporting requirements. The corrosion control program, including the additional requirements for continuous monitoring, remediation and cleaning, would have to be in place within two to three years from the final rule's effective date. We believe a longer time frame for the corrosion control program may be necessary for pipelines that require major construction to implement new monitoring, remediation, or cleaning facilities. Additionally, recoating of the line involves major construction and a longer planning and construction cycle may be necessary.

A final rule will require a period somewhere in the proposed ranges. Our preference is for shorter compliance periods. But we have proposed a lower and upper range of compliance periods so that in a final rule we can set compliance times that can be done quickly enough to address any problems on these lines but are not cost burdensome, impractical or have an adverse effect on energy supply. We seek comments and supporting documentation to address the effects of these compliance periods on an operator's operations. These comments should address cost, operational difficulties in complying, technology concerns, and other issues, such as time needed to secure necessary permits.

d. New Unusually Sensitive Areas

Proposed § 195.11(c) concerns onshore rural gathering lines that become ''regulated rural gathering lines'' because of a new unusually sensitive area. Operators should at least annually review the National Pipeline Mapping System (NPMS) to determine if the addition of a new unusually sensitive area has caused any of their unregulated rural gathering lines to become ''regulated rural gathering lines.'' We are proposing a range between six months to one year for compliance with applicable safety requirements when a previously unregulated line becomes regulated. We seek comments and supporting documentation that address the effect of these time frames on the costs and feasibility of compliance. We want to completely understand the impacts of an operator's ability to comply with a shorter or longer time frame.

e. Records

Proposed § 195.11(d) provides record retention requirements. Certain records,

such as the segment identification records, would have to be retained for the life of the pipe. Other records would have to be kept according to the record keeping requirements of the specific section or subpart referenced.

V. Proposed Rules for ''Regulated Rural Low-Stress Lines''

a. Proposed Definition of ''Regulated Rural Low-Stress Lines''

We are proposing to define regulated rural low-stress lines as those rural low-stress lines presenting a higher risk to the public's health and the environment. Congress directed PHMSA to focus pipeline regulation on protecting people and the environment against risks presented by pipeline transportation, but not to exempt pipeline facilities solely because they operate at low-stress levels. Thus, as with rural gathering lines, we determined the higher risk rural areas that should be protected from a release from a low-stress pipeline are those areas we defined in § 195.6 as unusually sensitive environmental areas. These areas include drinking water and ecological resource areas.

After evaluating the accident history and the API and AOPL proposed definition, we believe PHMSA's definition should focus on rural low-stress lines with a diameter of 8⅝ inches or more and operating at 20 percent or less of SMYS that could cause harm to an USA. In its proposed definition, API and AOPL recommended a buffer zone of ¼-mile from an USA and provided data showing the impact from a spill has not gone beyond ¼-mile. Their data showed hazard liquid releases, regardless of whether the spill has a radius, diameter, or ellipse formation, will not spread more than ¼-mile. Based on this data, PHMSA proposes a ¼-mile buffer as the zone of protection for an USA. Thus, if a rural low-stress line meets the above criteria and is within ¼-mile of an USA, it would be regulated.

PHMSA considered the buffer zones used in § 194.103(c)(4) and (5) of the Oil Spill response plan requirements, but after reviewing the incident data found those buffer sizes were not warranted. We believe regulating low-stress pipeline segments located within ¼-mile of an unusually sensitive area provides a reasonable zone of protection for these areas from the release of large quantities of hazardous liquids. We invite comments and supporting technical documentation on whether a larger buffer is needed to provide better protection for these critical environmental areas. PHMSA would also like data on the miles of low-stress lines likely to be affected by increasing the buffer size.

We are proposing to add a new section § 195.12(a) to define a ''regulated low-stress line'' as an onshore line in a rural area meeting the following criteria:

- A nominal diameter of 8⅝ inches or more;
- Located within ¼-mile of an unusually sensitive area as defined in § 195.6; and
- Operates 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 an 125 psig.

b. Proposed Rewrite of 195.1

We propose to rewrite this section to clarify which lines are subject to part 195. This section clarifies which low-stress pipelines are subject to part 195 and which are exempt. A regulated rural low-stress line would be subject to the limited safety requirements provided in a new § 195.12, discussed below.

We also have clarified the language in several of the exceptions from part 195's coverage. We have not changed the intent or scope of any of these. We have simply cleaned up some of the language to make the exceptions easier to read. PHMSA is not adopting AOPL's suggestion to exempt petroleum storage facilities in § 195.1 because the proposal is unclear as to which storage facilities should be exempt. For example, regulated tanks are tanks that are used to relieve surges in a pipeline system or used to receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline. API/AOPL, in their proposal and presentation at the public meeting, did not explain why these facilities should be exempted.

c. Proposed Safety Requirements for ''Regulated Rural Low-Stress Pipelines''

A new § 195.12(b) would be added to part 195 regulations to specify the safety requirements for regulated rural low-stress lines. As we did with rural gathering lines, we have developed these safety protections to address the known threats to the integrity of these lines. Based on our review of regulated low-stress lines and our investigation of non-regulated lines in rural areas, we have found that the highest risks to these lines are corrosion and third party damage. Although this proposal focuses on those threats, operators will gather additional information through the reporting requirements, the continuous monitoring required as part of the corrosion program, and the integrity assessment that includes identification and remediation of any condition presenting a threat to the integrity of these lines, no matter the cause. We seek comments on whether this proposal should specifically address other threats. We seek comment on whether PHMSA should require all operators of low-stress lines to submit an annual report as required by § 195.49.

Operators would have to identify all segments of regulated rural low-stress lines. They would also have to design, install, construct, initially inspect and test new, replaced, relocated, or otherwise changed steel lines according to certain existing part 195 requirements. However, for pipelines converted to hazardous liquid service, operators would have the option of following the conversion rules in § 195.5.

Under the proposal, operators would have to comply with the reporting requirements in subpart B of part 195. The other proposed safety requirements for these regulated rural lines include:

- Establishing a maximum operating pressure under § 195.406;
- Installing and maintaining line markers under § 195.410;
- Establishing and applying a public education program according to § 195.440;
- Establishing and applying a damage prevention program according to § 195.442;
- For steel lines, controlling and remediating corrosion according to part 195, subpart H, and cleaning and continuous monitoring to identify and remediate problems;
- Establishing and applying a modified operator qualification program to allow an operator to describe the processes the operator has in place to ensure personnel performing operations and maintenance activities are qualified under part 195, subpart G;
- Establishing and applying a program to assess at continuing intervals the integrity of the low-stress lines. The purpose of this assessment is to determine and remediate any condition presenting a threat to the integrity of these regulated segments. These conditions are not limited to those caused by corrosion or third-party damage. The proposal allows an operator to use in-line inspection tests and pressure testing as assessment methods. An operator could also use alternative technology, such as direct assessment, if the operator demonstrates the technology can provide an equivalent understanding of the line

pipe. If an operator uses direct assessment, PHMSA would expect the methodology to follow that required for using direct assessment in the gas integrity management regulations; and

• Establishing and applying a leak detection program based on API 1130, or other appropriate method suitable for the commodity being transported.

To address one of the major threats to these lines, we are proposing operators include these lines in their corrosion control program. A corrosion control program under part 195's subpart H includes provisions on how an operator is to remediate corroded pipe. We are also proposing additional corrosion control requirements in the form of continuous monitoring, cleaning and remediating problems identified from the continuous corrosion monitoring. We seek public comment on whether the continuous monitoring provision associated primarily with corrosion control should be as proposed or extended to other provisions of this proposed rule.

Although not listed as a specific safety requirement in the proposed rule, operators are required to continue to comply with the drug and alcohol testing rules in 49 CFR part 199, which requires operators to test personnel for use of prohibited drugs and misuse of alcohol. Individuals subject to testing are those who perform a regulated operation, maintenance, or emergency-response function on a regulated pipeline.

The proposed compliance deadlines vary according to the safety requirements, and are listed below. To gain a better understanding of how different time frames will affect the costs and feasibility of an operator's compliance, we have proposed a range of compliance times. API and AOPL recommended that compliance begin for all requirements within 5 years, but we believe a phased approach is more appropriate. This approach will allow operators longer time frames for complex activities that are more costly and time consuming to implement, and to readily implement less complex requirements. For example, under the proposal, operators would have six months, 12 months or some period in between those ranges after the effective date of the final rule to identify regulated rural low-stress pipeline segments and to comply with the reporting requirements. The proposal would have an operator establish an integrity assessment program within one year to two years from the final rule's effective date, and allow 5 years to 7 years to complete the integrity assessment of all regulated rural low-stress segments, with half of those segments having to be completed within three to four years from the final rule's effective date. The proposed time frame for the integrity assessment takes into account the time necessary to address physical changes to the pipeline for the use of internal inspection devices, and any extensive planning and construction. The corrosion control program, including the additional requirements for continuous monitoring and cleaning, would have to be in place within two to three years from the final rule's effective date.

A final rule will require a completion period somewhere in the proposed ranges. Our preference is for shorter compliance periods. Shorter periods should be feasible because operators currently comply with many of these requirements and would merely be adding low-stress lines to their current operations. But we have proposed a lower and upper range of compliance periods so that in a final rule we can set compliance times that can be completed quickly enough to address any problems on these lines but are not cost burdensome, impractical or have an adverse effect on energy supply. We seek comments and supporting documentation to address the effects of these compliance periods on an operator's operations. These comments should address cost, operational difficulties in complying, technology concerns, and other issues, such as time needed to secure necessary permits. We also seek comment on whether there are simpler and more immediate methods an operator could use to identify the condition of these regulated rural low-stress pipelines.

d. Compliance Time Frames for Gathering Lines and Low-Stress Lines

Unless otherwise indicated the time frames shown in the chart below are applicable to both onshore rural gathering lines and low-stress lines.

Safety requirement	Time frame
Identification of Line Segments	6 months–12 months following effective date of rule.
Design, Construction, and Testing of Steel Pipelines	1 year–2 years following effective date of rule.
Reporting Requirements	6 months–12 months following effective date of rule.
Maximum Operating Pressure	12 months–18 months following effective date of rule.
Installation of Line Markers	12 months–18 months following effective date of rule for existing lines.
Public Education Program	12 months–18 months following effective date of rule for existing lines.
Damage Prevention Program	12 months–18 months following effective date of rule for existing lines.
Corrosion Control Program	2 years–3 years following effective date of rule.
Operator Qualification Program	1 year–2 years following effective date of rule.
Integrity Assessment Program **	1 year–2 years following effective date of rule.
Integrity Assessment—50% completed **	3 years–4 years following effective date of rule.
Completed Integrity Assessments **	5 years–7 years following effective date of rule.
Leak Detection Program [5]	2 years–3 years following effective date of rule.

e. New Unusually Sensitive Areas

Proposed § 195.12(c) concerns onshorerural low-stress lines that become ''regulated rural low-stress lines'' because of a new unusually sensitive area. Operators should, at least annually, review the NPMS to determine whether their unregulated low-stress lines have become ''regulated rural low-stress lines.'' We are proposing a range of time periods for compliance with applicable safety requirements when a previously unregulated line becomes regulated. We would establish a period between six months to one year for operators to comply with all proposed requirements except the integrity assessment, and two to three years to do the integrity assessment. We request comment and supporting documentation that addresses the effect of these time frames on the costs and feasibility of compliance. We want to completely understand the impacts of an operator's ability to comply with a shorter or longer time frame.

[5] The compliance time frame applies only to onshore rural low-stress lines.

f. Records

Proposed § 195.12(d) provides record retention requirements. Certain records such as the segment identification records would have to be retained for the life of the pipe. Other records would have to be kept according to the record keeping requirements of the specific section or subpart referenced.

g. Minor Changes to Existing Rules

A few corrosion control rules in subpart H of part 195 address procedures under § 195.402(c)(3). Under the requirements proposed for regulated rural gathering and low-stress lines, operators would have to establish corrosion control procedures under § 195.11(b)(9), not under § 195.402(c)(3). So in existing §§ 195.555, 195.565, 195.573(d), and 195.579(d), we are proposing to replace ''§ 195.402(c)(3)'' with ''§§ 195.11(b)(9), 195.12(b)(8) or § 195.402(c)(3).''

Existing §§ 195.557(a) and 195.563(a) refer to pipelines ''constructed, relocated, replaced, or otherwise changed after the applicable date in § 195.401(c),'' the deadline for compliance with part 195. Comparable deadlines for ''regulated rural gathering lines and regulated rural low-stress lines are in proposed §§ 195.11(b)(9) and 195.12(b)(8), respectively. Thus, in §§ 195.557(a) and 195.563(a), we are proposing to replace ''§ 195.401(c)'' with ''§§ 195.11(b)(9), 195.12(b)(8) or 195.401(c).''

V. Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures. PHMSA considers this proposed rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). Therefore, the Office of Management and Budget (OMB) has received a copy of this proposed rulemaking to review. This proposed rulemaking is also significant under DOT regulatory policies and procedures (44 FR 11034: February 26, 1979).

PHMSA prepared a draft Regulatory Evaluation of the proposed rule. A copy is in Docket No. PHMSA–2003–15864. If you have comments about the Regulatory Evaluation, please file them as described under the **ADDRESSES** heading of this document.

For the purpose of the Regulatory Evaluation, PHMSA estimates 599 of the 2,722 miles of onshore rural hazardous liquid gathering lines would be newly defined as regulated rural gathering lines as a consequence of the proposed regulatory changes. Since these lines operate at greater than 20 percent of SMYS (or 125 psig), PHMSA assumes major pipeline firms operate these lines.

PHMSA estimates 684 of the 5,000 miles of onshore rural hazardous liquid low-stress lines would be newly defined as regulated rural low-stress lines as a consequence of this proposal. Although these lines operate at lower than 20 percent of SMYS, PHMSA believes the affected operators also are major pipeline firms.

PHMSA acknowledges these mileage figures are estimates. PHMSA invites comments on the reasonableness of those estimates.

Overall, the initial costs of the proposed regulatory changes are expected to be approximately $5 million, the recurring annual costs are expected to be $2 million during years 2 through 6, and the recurring annual costs are expected to be $1 million for years 7 and beyond. The present value of the NPRM over 20 years using a 3 percent discount rate would be $21 million, while its present value over 20 years using a 7 percent discount rate would be $17 million.

Evidence suggests the two most significant safety problems on onshore rural hazardous liquid gathering lines and low-stress lines are corrosion and excavation damage. The proposed regulatory changes address both. Consequently, the intended benefits of the proposed regulatory changes are that they will reduce both.

It is difficult to quantify the benefits that would result from the proposed regulatory changes. Information that could be used to estimate the benefits attributable to improved safety through reduced incidents and incident consequences on gathering lines is difficult to quantify. Benefits due to improved safety can be estimated for low-stress lines, however. Those benefits are $3.3 million per year. The present value of those benefits over 20 years using a 3 percent discount rate would be $49 million, while their present value over 20 years using a 7 percent discount rate would be $35 million. PHMSA invites public comment on its cost and benefit estimates.

In addition to any reduction in incidents that might be attributable to the proposed regulatory changes, we expect the proposed changes to improve public confidence in the safety of onshore hazardous liquid gathering lines and low-stress lines in rural areas. This we believe would be a significant benefit of the proposed regulatory changes.

The proposed rules also may produce public benefits by preventing disruptions in fuel supply caused by pipeline failures. Any interruption in fuel supply impacts the U.S. economy by putting upward pressure on the prices paid by businesses and consumers. Supply disruptions also have national security implications, because they increase dependence on foreign sources of oil. In most cases, we would not expect failures of onshore rural gathering lines to have significant impacts on fuel supply. However, low-stress pipelines in Alaska feeding major liquid pipelines are important links in the fuel supply chain, as recent incidents have illustrated.

Other additional benefits expected to result from the proposed rule include avoided environmental and other damage from pipeline spills. These benefits can be significant. For example, on January 1, 1990, a low-stress pipeline operated by Exxon ruptured and eventually spilled 567,000 gallons of No. 2 fuel oil into the Arthur Kill, which separates Staten Island from New Jersey. The incident has a known cost of nearly $84 million (in 2005 dollars). While the figure includes costs attributable to the spill response by the responsible parties, the natural resources damage assessment, penalties, and ''Other'', it does not include any public response costs or third party claims against the responsible parties. Even though the proposed rule does not include such costs in its cost estimates, if the rule would prevent only one incident similar to the Arthur Kill spill during the first 20 years, the overall benefits of the proposed rule could potentially increase by between 95% and 166%.

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.

PHMSA assumes major pipeline firms operate the lines that will be regulated under this proposal. These operators are already subject to part 195 because they operate pipelines covered by part 195. These operators will experience slight added costs because they will be required to fold their newly regulated rural gathering lines into their existing part 195 compliance programs.

PHMSA consulted the International Petroleum Association of America (IPAA), which represents over 6,000 independent crude oil and natural gas producers throughout the U.S., and IPAA believes small operators would not be impacted. PHMSA also consulted with the Small Business Administration, which also believes this proposal will not impact small entities. Therefore, PHMSA does not expect the

proposed rules to impact any small entities.

Based on these facts, I certify that a small number of major operators will experience increased costs, but this impact will not be a significant economic impact on a substantial number of small entities. PHMSA invites public comment on its estimate of the number of small entities that would become subject to part 195 for the first time as a result of this rulemaking.

Executive Order 13175. PHMSA has analyzed this proposed rulemaking according to the principles and criteria contained in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because the proposed rulemaking would not significantly or uniquely affect the communities of the Indian tribal governments nor impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Paperwork Reduction Act. This proposed rulemaking contains information collection requirements applicable to operators of hazardous liquid gathering lines and low-stress lines in rural areas. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), PHMSA has submitted a paperwork analysis to the Office of Management and Budget for its review.

Operators of rural gathering lines and low-stress lines proposed to be regulated would have to comply with part 195 information collection requirements regarding corrosion control, damage prevention programs, public education programs, and accident reporting. These operators would also have to comply with the information collection requirements in 49 CFR part 199 concerning drug and alcohol testing.

Certain gathering lines and low-stress lines in nonrural areas are currently subject to part 195. The number of gathering line and low-stress 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 nonrural locations. If the proposed rules become final, this number also may vary as changes occur in the boundaries of unusually sensitive areas.

PHMSA currently has an OMB approved information collection request (2137–0047) for hazardous liquid operators under its jurisdiction. PHMSA currently has an OMB approved information collection request (2137–0047) for hazardous liquid operators under its jurisdiction. This proposed rule, if adopted, will not increase the number of operators under PHMSA jurisdiction and will only marginally increase the burden hours currently approved under OMB No. 2137–0047. We estimate that this proposal will require an additional burden of 8 hours. This is for all impacted operators. The total cost of this operator burden is approximately $520.56 (= $65.07 × 8 hours, assuming a senior engineer costing $65.07 fully loaded is preparing the incident reports).

Type of Information Collection Request: Revision of an Existing Collection.

Title of Information Collection: Transportation of Hazardous Liquids by Pipeline.

Recordkeeping and Accident Reporting Requirements Respondents: Estimated 0 new operators.

Estimated Total Annual Burden on New Respondents: 0 hours.

PHMSA invites comments on the above estimates.

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

National Environmental Policy Act. PHMSA has analyzed the proposed rulemaking for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). PHMSA has preliminarily determined that the proposed rulemaking is unlikely to significantly affect the quality of the human environment.

The proposed rulemaking would require only limited physical modification or other work that would disturb pipeline rights-of-way, 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 and leak detection programs. All of these activities result in negligible to minor negative environmental impact. PHMSA also believes that many of these safety measures (for example, implementing corrosion control and installing and maintaining line markers) are already being undertaken for a large portion of the pipeline mileage that would become regulated under the proposed rules. Furthermore, by requiring these and other safety rules such as accident reporting, implementing public education and damage prevention programs, and establishing operator qualification programs, it is likely the number of spills on rural gathering lines and low-stress lines will be reduced, thereby resulting in minor to moderate positive environmental impact that would offset the negative environmental impacts.[6]

An environmental assessment document is available for review in Docket No. PHMSA–2003–15864. A final determination on environmental impact will be made following the close of the comment period. If you have any comments about this draft and environmental assessment, please submit them as described under the **ADDRESSES** heading of this document.

Executive Order 13132. PHMSA has analyzed the proposed rulemaking according to the principles and criteria contained in Executive Order 13132 (''Federalism''). None of the proposed regulatory requirements (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.

Although the state consultation requirements do not apply to this proposed regulatory action because there are no preemption issues, PHMSA has involved state pipeline safety personnel in discussing approaches on regulating rural gathering and low-stress pipelines. PHMSA representatives met on several occasions with the National Association of Pipeline Safety Representatives (NAPSR), an organization of state pipeline safety personnel, to discuss regulation of rural onshore gathering pipelines. In September 2003 and February 2004, PHMSA met with the NAPSR gathering pipeline committee and also gave presentations at the national NAPSR meetings in 2004 and 2005. In 2003, PHMSA discussed the potential impact of a regulation on rural liquid gathering pipelines with State officials in West Virginia and Louisiana. In April 2006, PHMSA looked at the impact of the regulation on rural gathering and low-stress pipelines in West Virginia and Ohio. PHMSA also met with State

[6] This EA considers the pipeline safety actions proposed for rural onshore gathering and low-stress pipelines. This EA does not consider other actions that operators are required to take to comply with other statutory authorities, such as the Clean Water Act.

officials at the Texas Railroad Commission in April 2002 to gather data on rural low-stress lines in Texas. Further, PHMSA talked to the Alaska Department of Environmental Conservation about low-stress lines in Alaska.

Executive Order 13211. The transportation of hazardous liquids through rural gathering lines and low-stress lines has a substantial aggregate effect on the nation's available energy supply. However, after analysis, PHMSA has determined this proposed rulemaking 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. It is possible avoiding future spills may have a positive effect on the supply of energy. We invite comments on the Energy Impact Analysis, which is available for review in the docket.

List of Subjects in 49 CFR Part 195

Carbon dioxide, Crude oil, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, PHMSA proposes to amend 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 CFR1.53.

2. Amend § 195.1 to revise the section heading and to revise paragraphs (a) and (b), to redesignate paragraph (c) as paragraph (d) and to add a new paragraph (c) to read as follows:

§ 195.1 Which pipelines are covered by this part?

(a) Except for the pipelines listed in paragraph (c) 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).

(b) This part applies to:

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

(2) Transportation through any pipeline, other than a gathering line, that has 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 pipelines:

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

(ii) A regulated rural gathering pipeline defined in § 195.11. The requirements for these lines are provided in § 195.11; or

(iii) A pipeline located in an inlet of the Gulf of Mexico. These lines are only subject to the requirements in § 195.413;

(5) Transportation of a hazardous liquid or carbon dioxide through a low-stress pipeline in a non-rural area; or

(6) Transportation of a hazardous liquid through a regulated low-stress pipeline in a rural area as defined in § 195.12. The requirements for these lines are provided in § 195.12.

(c) 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 1-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 49 CFR § 190.9, 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.

(d) 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. Amend § 195.3(c) by revising item B. (12) of the 49 CFR Reference table to read ''§§ 195.12(b)(11), 195.134, 195.444.''

4. 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 between 6⅝ inches (168 mm) and 8⅝ inches (219.1 mm);

(2) Is located in, or within ¼-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) and (b)(9) of this section, the safety requirements are applicable to all materials of construction.

(1) Identify all segments of regulated rural gathering pipeline within [6 months–12 months following effective date of final rule].

(2) For steel pipelines constructed, replaced, relocated, or otherwise changed after [1 year–2 years following effective date of final rule], design, install, construct, initially inspect, and initially test the pipeline according to this part, unless the pipeline is converted under § 195.5.

(3) For non-steel pipelines constructed after [1 year following effective date of final rule], notify the Administrator according to § 195.8.

(4) Beginning [6 months–12 months following effective date of final rule], 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 [effective date of final rule], before [12 months–18 months following effective date of final rule].

(6) Install and maintain line markers according to § 195.410 before transportation begins, or if the pipeline exists on [effective date of final rule], before [12 months–18 months following effective date of final rule].

(7) Establish and apply a public education program according to § 195.440 before transportation begins, or if the pipeline exists on [effective date of final rule], before [12 months–18 months following effective date of final rule].

(8) Establish and apply a damage prevention program according to § 195.442 before transportation begins, or if the pipeline exists on [effective date of final rule], before [12 months–18 months following effective date of final rule].

(9) For steel pipelines, control and remediate corrosion according to subpart H of this part, except corrosion control is not required for pipelines existing on [effective date of final rule] before [2 years–3 years following effective date of final rule]. In addition to the requirements in subpart H, continuously monitor to identify and remediate any changes in operating conditions that could necessitate cleaning the lines and accelerating the corrosion control program.

(10) Demonstrate compliance with the Operator Qualification program requirements in subpart G of this part by describing the processes used 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 [effective date of final rule], before [1 year–2 years following the effective date of the final rule].

(c) *New unusually sensitive areas.* If, after [effective date of final rule], a new unusually sensitive area is identified and a segment of pipeline becomes regulated as a result, the operator must implement the requirements in paragraphs (b)(2) through (b)(10) of this section within [six months–one year] for the affected segment.

(d) *Records.* An operator must maintain the segment identification records required in paragraph (b)(1) of this section for the life of the pipe. For the requirements in paragraphs (b)(2) through (b)(10) of this section, an operator must maintain the records necessary to demonstrate compliance with each requirement according to the record retention requirements of the referenced section or subpart.

§ 195.12 Which low-stress lines in rural areas are regulated and what requirements apply?

Each operator of a *regulated low-stress line* in a rural area, 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 low-stress line in a rural area* means an onshore line in a rural area that meets all of the following criteria:

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

(2) Is located in, or within ¼-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 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) *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) and (b)(8) of this section, the safety requirements in this section are applicable to all materials of construction.

(1) Identify all segments of regulated low-stress pipeline in rural locations before [6 months–12 months following effective date of final rule].

(2) For steel pipelines constructed, replaced, relocated, or otherwise changed after [1 year–2 years following effective date of final rule], design, install, construct, initially inspect, and initially test the pipeline according to this part, unless the pipeline is converted under § 195.5.

(3) Beginning [6 months–12 months following effective date of final rule], comply with the reporting requirements in subpart B of this part.

(4) Establish the maximum operating pressure of the pipeline according to § 195.406 before transportation begins, or if the pipeline exists on [effective date of final rule], before [12 months–18 months following effective date of final rule].

(5) Install and maintain line markers according to § 195.410 before transportation begins, or if the pipeline exists on [effective date of final rule], before [12 months–18 months following effective date of final rule]

(6) Establish and apply a public education program according to § 195.440 before transportation begins, or if the pipeline exists on [effective date of final rule], before [12 months–18 months following effective date of final rule].

(7) Establish and apply a damage prevention program according to § 195.442 before transportation begins, or if the pipeline exists on [effective date of final rule], before [12 months–18 months following effective date of final rule].

(8) For steel pipelines, control and remediate corrosion according to

subpart H of this part, except corrosion control is not required for pipelines existing on [effective date of final rule] before [2 years–3 years following effective date of final rule]. In addition to the requirements in subpart H, continuously monitor to identify and remediate any changes in operating conditions that could necessitate cleaning the lines and accelerating the corrosion control program.

(9) Demonstrate compliance with the Operator Qualification program requirements in subpart G of this part by describing the processes used 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 [effective date of final rule], before [1 year–2 years following the effective date of the final rule].

(10) Establish and apply a program to assess the integrity of the regulated pipeline segments to determine and remediate any condition presenting a threat to the integrity of these segments before [12 months–24 months following effective date of final rule]. These conditions are not limited to those caused by corrosion and third-party damage. An operator may use in-line inspection tools, pressure testing conducted in accordance with subpart E of this part, or other technology the operator demonstrates can provide an equivalent understanding about the condition of line pipe. An operator must prioritize the regulated rural low-stress segments for the integrity assessment and conduct the integrity assessment of at least 50 percent of these segments before [36 months–48 months following effective date of final rule], and complete the assessment for all regulated segments before [60 months–84 months following effective date of final rule]. An operator must establish reassessment intervals for continually assessing the pipe segments. The intervals must be as frequent as necessary to ensure the continued integrity of each pipe segment, but may not exceed 68 months. An operator may be able to justify an engineering basis for a longer assessment interval on a segment of line pipe. The justification must be supported by a reliable engineering evaluation.

(11) Establish and apply a program, based on API 1130, or other appropriate method suitable for the commodity being transported to detect leaks on the regulated segments before [24 months–36 months following effective date of the final rule]. The leak detection method cannot be based solely on field personnel's visual and olfactory senses. The program must evaluate the capability of the leak detection means. The evaluation must consider the following factors:

(i) Length and diameter of the pipeline;

(ii) Product transported;

(iii) Timeliness of detection capability; and

(iv) Proximity of response personnel and equipment.

(c) *New unusually sensitive areas.* If, after [effective date of final rule], a new unusually sensitive area is identified and a segment of pipeline becomes regulated as a result, the operator must take the following actions:

(1) Implement the requirements in paragraphs (b)(2) through (b)(9) and (b)(11) of this section within six months–one year from the date the area is identified; and

(2) Complete the assessment required by paragraph (b)(10) of this section within two years–three years from the date the area is identified.

(d) *Records.* An operator must maintain the segment identification records required in paragraph (b)(1) of this section for the life of the pipe. For the requirements in paragraphs (b)(2) through (b)(9) of this section, an operator must maintain the records necessary to demonstrate compliance with each requirement according to the record retention requirements of the referenced section or subpart. For the integrity assessment program required in paragraph (b)(10) and the leak detection program required in paragraph (b)(11), an operator must maintain the records for the life of the pipe.

5. Amend §§ 195.555, 195.565, 195.573(d), and 195.579(d) by removing ''§ 195.402(c)(3)'' and adding, in its place, ''§§ 195.11(b)(9), 195.12(b)(8) or § 195.402(c)(3).''

6. Amend §§ 195.557(a) and 195.563(a) by removing ''§ 195.401(c)'' and adding in its place, ''§§ 195.11(b)(9), 195.12((b)(8)) or § 195.401(c).''

Issued in Washington, DC, on August 31, 2006.

Jeffrey D. Wiese,

Acting Deputy Associate Administrator for Pipeline Safety.

[FR Doc. 06–7438 Filed 8–31–06; 11:46 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060823223–6223–01; I.D. 072706B]

RIN 0648–AT63

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Tilefish Fishery; Proposed Total Allowable Landings

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a change to the annual total allowable landings (TAL) for the tilefish fishery. The Mid-Atlantic Fishery Management Council (Council) met in May 2006 and recommended an increase in the TAL from 905 mt to 987 mt. This recommendation is, in part, a result of positive findings from the 2005 tilefish stock assessment that concluded that the tilefish stock is not overfished and overfishing is not occurring. This action complies with the Fishery Management Plan for the Tilefish Fishery (FMP).

DATES: Comments must be received no later than 5 p.m., eastern standard time, on September 21, 2006.

ADDRESSES: Copies of supporting documents, including the Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. A copy of the RIR/IRFA is accessible via the Internet at *http://www.nero.noaa.gov/nero/regs/com.html*.

Written comments on the proposed specifications may be submitted by any of the following methods:

- Mail: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope: ''Comments on Tilefish Proposed Specifications.''
- Fax: (978) 281–9135.
- E-mail: *0648AT63@noaa.gov*. Include in the subject line of the e-mail the following document identifier: ''Comments on Tilefish Proposed Specifications.''