

that is, factors in addition to technical acceptability and price will be considered. (See FAR 13.106.)

PART 1815—CONTRACTING BY NEGOTIATIONS

10. In section 1815.209–70, revise paragraphs (b) and (c) to read as follows:

1815.209–70 NASA solicitation provisions.

* * * * *

(b) When it is not in the Government's best interest to make award for less than the specified quantities solicited for certain items or groupings of items, the contracting officer shall insert the provision at

1852.214–71, Grouping for Aggregate Award. See 1814.201–670(b).

(c) When award will be made only on the full quantities solicited, the contracting officer shall insert the provision at 1852.214–72, Full Quantities. See 1814.201–670(c).

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PART 1825—FOREIGN ACQUISITION

1825.400 [Amended]

11. Amend section 1825.400 by removing “and the Balance of Payments Program apply” and adding “applies” in its place.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.213–70 [Amended]

12. Amend section 1852.213–70 by—
a. In the provision heading, removing “(JUN 2002)” and adding “(JULY 2002)” in its place;

b. Removing “—Balance of Payments Program” in the introductory text of paragraph (e) (twice), and from paragraph (e)(1);

c. Removing “—Balance of Payments Program” in paragraph (f)(1) (twice), and from paragraphs (f)(1)(i), (f)(1)(ii), (f)(1)(iii), (f)(2) (twice), and (f)(3) (twice);

d. Removing “or the Balance of Payments Program” in paragraph (f)(4)(iii); and

e. In the introductory text of paragraph (g), removing “(j)(1)” and adding “(g)(1)” in its place.

[FR Doc. 02–19815 Filed 8–5–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1819

RIN 2700–AC33

Small Business Competitiveness Demonstration Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule revises the NASA FAR Supplement by removing Research and Development in the Physical Engineering and Life Sciences from the list of targeted industry categories (TICs) for NASA under the Small Business Competitiveness Demonstration Program. This change is required to prevent potential conflicts between the goals of the Small Business Competitiveness Demonstration Program and the Small Business Innovative Research Program created by the conversion from Standard Industrial Classification to the North American Industry Classification System.

EFFECTIVE DATE: August 6, 2002.

FOR FURTHER INFORMATION CONTACT:

Yolande Harden, NASA, Office of Procurement, Contract Management Division (Code HK); (202) 358–1279; e-mail: yharden@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The conversion from Standard Industrial Classification (SIC) to North American Industry Classification System (NAICS) combined several stand-alone classification categories together. As a result, NAICS 54171 now contains not only categories previously listed as TICs but also other categories, some of which are used in conjunction with the Small Business Innovative Research (SBIR) Program. The deletion of this category will avoid any potential conflicts between the goals of the Competitiveness Demonstration Program and the SBIR Program.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS part 1819 in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require

the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1819

Government Procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR Part 1819 is amended as follows:

1. The authority citation for 48 CFR Part 1819 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1819—SMALL BUSINESS PROGRAMS

1819.1005 [Amended]

2. Amend the table in paragraph (b) of section 1819.1005 as follows:

a. In the first column by removing “54171”; and

b. In the second column by removing “Research and Development in the Physical Engineering and Life Sciences”.

[FR Doc. 02–19814 Filed 8–5–02; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA–00–7666; Amendment 192–77]

RIN 2137–AD64

Pipeline Safety: High Consequence Areas For Gas Transmission Pipelines

AGENCY: Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule defines areas of high consequence where the potential consequences of a gas pipeline accident may be significant or may do considerable harm to people and their property. The definition includes: current class 3 and 4 locations; facilities with persons who are mobility-impaired, confined, or hard to evacuate, and places where people gather for recreational and other purposes. For facilities with mobility-impaired, confined, or hard-to-evacuate persons and places where people gather, the corridor of protection from the pipeline is 300 feet, 660 feet or 1000 feet depending on the pipeline's diameter and operating pressure. This final rule

is the first step in a two-step process to develop integrity management program requirements for gas transmission operators. In the second step, the Research and Special Programs Administration (RSPA) will propose requirements to improve the integrity of gas transmission pipelines located in these high consequence areas. This definition satisfies, in part, the Congressional mandate in 49 U.S.C. 60109 for RSPA to prescribe standards that establish criteria for identifying each gas pipeline facility located in a high-density population area.

RSPA developed the definition from the comments received on the notice of proposed rulemaking, and the earlier notice that invited public comment about integrity management concepts as they relate to gas pipelines. The definition does not yet require any specific action by gas transmission pipeline operators. Action will not be required until we issue integrity management program requirements that use the definition.

DATES: This rule is effective September 5, 2002.

FOR FURTHER INFORMATION CONTACT:

Mike Israni by telephone at (202) 366-4571, by fax at (202) 366-4566, or by e-mail at mike.israni@rspa.dot.gov, regarding the subject matter of this rule; or the Docket Facility (202) 366-9329, for copies of this rule or other material in the docket. All materials in the docket may be accessed electronically at <http://dms.dot.gov>. General information about the RSPA/OPS programs may be obtained by accessing OPS's Internet page at <http://ops.dot.gov>.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 2002, RSPA published a notice of proposed rulemaking (67 FR 1108) that proposed to define areas of high consequence where a gas pipeline accident could do considerable harm to people and their property. The proposed definition included as high consequence areas: Class 3 and 4 locations as defined in 49 CFR part 192; areas where a pipeline is within 660 or 1000 feet of a building with mobility-impaired or confined persons (hospitals, schools, retirement and day-care facilities); and areas where a pipeline is within 660 or 1000 feet of a place where 20 or more people gather at least 50 days in any 12-month period (playground, camping ground). The 1000-foot area was proposed for a pipeline with a diameter larger than 30 inches and operating at a pressure greater than 1000 psig.

In the Notice proposing the definition, we explained that because of differences

in the physical properties and consequences of a gas release versus a hazardous liquid release, and the benefits of gas transmission operators already maintaining accurate data on population near their pipelines, the definition differed from the definition we developed for hazardous liquid pipelines (49 CFR 195.450). The primary differences were that we structured the proposed definition to use the data pipeline companies already collect and maintain, and we did not include environmentally sensitive areas. A more detailed discussion of why the definitions were structured differently for liquid and gas pipelines can be found in the NPRM (67 FR 1108; Jan. 9, 2002).

Advisory Committee Consideration

On July 18, 2002, the Technical Pipeline Safety Standards Committee (TPSSC) met to review the proposed high consequence area definition for gas transmission pipelines. TPSSC is the Federal advisory committee charged with responsibility for advising on the technical feasibility, reasonableness, cost-effectiveness, and practicability of proposed natural gas pipeline safety standards. The committee voted unanimously to approve our proceeding with the high consequence area rule with consideration of several issues. First, the committee recommended that the preamble clarify that, although the definition requires no specific action on the part of operators, the rule applies only to gas transmission pipelines. RSPA has made the clarification. Second, the committee recommended that wording be included in the preamble clarifying that the definition is the first step in the process of defining requirements for managing the integrity of gas pipelines. RSPA has clarified the preamble. The upcoming proposed integrity management rule for gas transmission pipelines will describe the additional integrity assurance measures gas transmission operators will be required to implement for pipeline segments that are located in high consequence areas. Third, the committee recommended that we modify the provision defining areas where people congregate to add the word "known." RSPA agrees with the intent of this comment and has revised the definition and preamble to reflect this intent. Finally, the committee recommended that RSPA consider renaming the definition as "Potential" High Consequence Areas. In making this recommendation, the committee was under the impression that the proposed integrity management rule would give operators the opportunity to analyze

high consequence areas using the "potential impact zone" concept to identify areas within the high consequence area where no additional integrity management measures would be required. Because this issue will be addressed directly in the upcoming proposed integrity management rule, RSPA believes that renaming the definition would not be appropriate.

Comments to NPRM

We received comments from 28 sources in response to the NPRM:

Three (3) public interest groups or individual members of the public
Citizens for Safe Pipelines (a New Mexico citizens' group)
Cook Inlet Keeper
Gary L. Smith

Five (5) state agencies
Iowa Utilities Board
State of New York Department of Public Service (NYDPS)
State of New York, Office of the Attorney General
Washington State Department of Ecology (Ecology)
Washington Utilities and Transportation Commission (WUTC)

Five (5) industry associations
American Gas Association (AGA)
American Public Gas Association (APGA)
Gas Piping Technology Committee (GPTC)
Interstate National Gas Association of America (INGAA)
New York Gas Group (NYGAS)
18 natural gas pipeline operators
Baltimore Gas & Electric Company,
ChevronTexaco, CMS Energy,
Consumers Energy Company, Duke Energy Gas Transmission, El Paso Corporation, Enbridge Energy Company, Inc., Enron Transportation Services, Kinder Morgan, National Fuel Gas Supply Corporation, the Energy Distribution Segment of NiSource Inc. (NiSource EDG), North Shore Gas Company, Pacific Gas and Electric Company, PECO Energy, Peoples Gas Light and Coke Company, Questar Regulated Services, Southwest Gas and, Williston Basin Interstate Pipeline Company.

One (1) risk management consulting company
Accufacts, Inc.
One (1) suspension bridge engineering and construction company
SEFBO Pipeline Bridge, Inc.

In the following section we discuss these comments and how we addressed them in developing the final definition

of high consequence areas for gas transmission pipelines.

General Comments

Placement of Definition

The Notice proposed to place the definition of high consequence areas in a new section in Part 192, subpart M on integrity management.

Southwest Gas Corporation suggested that the definition of high consequence area be added to the general definition section in part 192 (§ 192.3) so that all definitions are in the same location.

Response: We will leave the definition of high consequence areas in the section on integrity management. Because this definition will be used in the forthcoming integrity management program regulations, it fits better in this section rather than in the section on general definitions.

Lines Covered

The proposed definition of high consequence areas applied to all gas transmission pipelines.

Several commenters recommended excluding certain low stress pipelines from the definition. These commenters explained that lower stress pipelines tend to result in leaks, rather than ruptures. Suggestions varied on which low stress pipelines we should exclude.

Many of the commenters (AGA, APGA, Consumers Energy, National Fuel Gas Supply Corporation, North Shore Gas, New York Gas Group, Peoples Gas, Questar, Southwest Gas) recommended that the definition be limited to transmission pipelines operating at or above 20% of specified minimum yield strength. Baltimore Gas & Electric recommended exempting transmission piping operated as part of and integral to a distribution system if the piping is operated below a determined pressure, such as 300 psig and is less than a determined diameter, such as 30 inches. CMS Energy recommended excluding from the definition pipelines that operate at pressures lower than 40% of the maximum hoop stress. Energy Distribution Segment of NiSource Inc. recommended that high consequence areas be limited to pipelines operating at or above 30% SMYS.

The Iowa Utilities Board suggested RSPA consider developing separate integrity management program requirements for pipelines operating at stress levels below 30% SMYS. The Utilities Board maintained that the C-FER method is not an appropriate indicator of the high consequence area for pipelines operating at stress levels below 30% SMYS. The Iowa Board

explained that because these pipelines fail by leakage rather than by rupture, the C-FER formula significantly overestimates the potential impact zone. (More discussion on the C-FER formula appears later in this document.)

New York State Department of Public Service urged that integrity management be applied to all gas transmission pipelines, not just those that traverse a high consequence area. The Department suggested that pipelines in high consequence areas could have higher priority for testing and repair.

Response: We have not revised the definition to exclude pipelines operating below a certain stress level. The high consequence area definition applies to gas transmission pipelines, as those lines are defined in part 192. Lines not falling within the definition of transmission line are not covered. We will consider ways to address transmission pipelines operating at lower stress in developing the proposed integrity management rule for gas transmission pipelines.

However, as discussed later in this document, we have added to the definition a 300-foot zone for small diameter pipelines operating at lower pressure.

As for extending integrity management to all transmission lines, RSPA's initial goal is to provide greater assurance of pipeline integrity in geographic areas where a gas pipeline rupture could do the most harm to people. Once we propose and implement the integrity management program requirements for the areas we define, we will study the results and consider how effective it would be to extend added protection to other areas.

Class 3 and 4 Locations—Proposed 49 CFR 192.761 (a) and (b)

The proposed definition of high consequence areas included class 3 and class 4 locations, as those areas are defined in § 192.5. In the Notice, we said that because class location definitions are based on population density, gas operators already maintain current data on the location of people in areas adjacent to their pipelines. It seemed more logical to structure a definition using this data rather than basing the definition on a Census Bureau definition, as we had done for hazardous liquid pipelines.

All commenters supported basing the definition of high consequence areas on current class location regulations.

However, several pipeline distribution companies (Baltimore Gas & Electric, NiSource EDG, PECO Energy) objected to RSPA's assumption that information about population density is

in the hands of operators. These commenters explained that many local distribution companies utilized class four criteria when constructing a facility, and, therefore, never established a population density baseline and do not track changes in population density.

AGA and APGA disagreed with our statements in the NPRM about the quality, timeliness and accuracy of class location data. AGA and APGA objected to the assumption that class location regulations require operators to periodically monitor and record data on increases in population near their pipelines, and that this data monitoring gives an accurate picture of where people live and work who can be affected by a release. These associations explained that many operators in metropolitan areas design their transmission lines for a Class 4 location even though the classification might be a class 2 or 3; therefore, subsequent population increases do not require detailed surveys of the area. Or if a pipeline is in a class 3 location, the operator need only determine if buildings of four or more stories become prevalent, rather than perform a survey of population density. AGA and APGA further objected to our characterizing the data operators have on buildings within 660 feet as adequate to identify the high consequence areas. They explained that the existing house count data is good information but it may not be extensive, detailed or approach real-time analysis.

Consumers Energy pointed out that by including class 3 areas, the burden is placed on local distribution company feeder systems. The company explained that its entire system would be treated as a high consequence area whereas many cross-country pipelines have few class 3 areas. PECO Energy commented that annual aerial photography and weekly aerial or foot patrols would be needed to keep current information on populations or buildings within 660 feet of its pipeline.

Response: RSPA recognizes that some operators, particularly local distribution companies, may have designed their pipelines for a class 4 location, and, as a consequence, may not maintain current data on the number and location of buildings near their pipelines. However, we continue to believe that it is preferable to base a definition for high consequence areas for gas transmission operators on the existing class location definitions, and to allow the majority of operators to use the information they have on people and buildings near their pipelines rather than to base the definition on the Census Bureau

definitions. An operator who does not maintain the data needed to define a class location will need to decide whether to treat its entire system as being within a high consequence area, or to take steps to identify which segments of the system are actually in high consequence areas. Either decision will be acceptable to OPS.

Hard-To-Evacuate Facilities—Proposed §§ 192.761 (c) and (d)

The NPRM proposed to include areas where a pipeline lies within 660 feet of a hospital, school, day-care facility, retirement facility, prison, or other facility having persons who are confined, are of impaired mobility or would be difficult to evacuate. The proposed area of protection increased to 1000 feet for a pipeline greater than 30 inches in diameter and operating at a maximum allowable operating pressure greater than 1000 psig. In the NPRM, we said we wanted to ensure that areas where there are facilities with people who may not be able to evacuate the area quickly are better protected from a potential release.

The State of New York's Office of the Attorney General supported the proposed definition. As discussed below, other commenters recommended revisions.

AGA and APGA supported including areas with buildings occupied by persons with limited mobility, but maintained that we should better define these facilities to allow operators a reasonable chance of identifying them. The trade associations explained that it would be impractical for operators to identify "other facilities having persons who are confined, are impaired, or would be difficult to evacuate" because these facilities could include home-based day-care facilities housing only one or two people. APA and APGA proposed that we include clarifying language such as "licensed facilities" or "known facilities that are visibly marked and occupied by a defined number of people." AGA and APGA also noted that the phrase "difficult to evacuate" could refer to either the building itself or to the occupants of the building.

Baltimore Gas & Electric maintained that it would have problems identifying facilities unless there is some publicly available data source. The distribution system operator argued that without corresponding data validation source references, the definition creates an unattainable requirement on system operators.

CMS Energy argued that there was no method for distinguishing what constitutes a facility or how many

people need to occupy a building for it to be considered a school or hospital. The transmission system operator commented that a definition needs a minimum number of people that have to be associated with a day care facility, school or retirement facility to prevent including residences that are used for such purposes. CMS Energy suggested using the number from the outside area of the class 3 definition, because operators could use information currently available to them and minimal retraining of field personnel would be needed.

Consumers Energy commented that facilities, such as day care facilities, are difficult to discover because they may be small, located within homes and have short business lives. The company recommended adding a requirement that at least 20 persons occupy a facility for it to be included. Consumers Energy further suggested revising the phrase difficult to evacuate because the phrase could be interpreted as meaning the people are difficult to evacuate, or the facility is difficult to evacuate because of lack of staff.

Duke Energy recommended that the language be clarified to state that facilities must be public, licensed, and marked visibly as viewed from the nearest public roadway. Duke Energy argued that operators cannot be expected to determine the locations of private, home-based day-care facilities or private homes. The company further recommended that the phrase difficult to evacuate be removed because the language is vague.

El Paso commented that revising the definition to include facilities that are public, licensed and visibly marked when viewed from the nearest public roadway would help operators identify the facilities.

Enbridge recommended specifying that facilities have to be clearly identified by external signs. Enbridge explained that there are numerous family day-care settings, group homes for home-schooled foster children, ill or elderly, but that operators cannot be expected to identify these facilities unless they are marked. Enbridge further explained that because licensing requirements vary, operators cannot always get this information through public officials.

Enron Transportation supported including these facilities in the definition but suggested we clarify the definition by adding "or other similar, well defined facility having persons who are confined * * *"

The Gas Piping Technology Committee suggested that RSPA discuss what attributes qualify a facility for

coverage, whether commercial databases are available, and if public officials have this information. The technical committee recommended that facilities be known, and that they normally have at least 20 persons.

INGAA recommended that the facilities included in the definition be public, licensed and marked visibly from the nearest public roadway, because operators could not be expected to identify private, home-based daycare facilities or private homes with retirement-age people. INGAA further argued that the phrase difficult to evacuate is vague.

National Fuel Gas Supply Corporation suggested we more closely delineate the facilities covered by the definition because operators cannot identify unmarked homes with handicapped persons.

New York Gas Group commented that local distribution companies would not be able to identify these facilities. The trade association explained that unless the facilities are licensed or are on lists maintained by local municipalities, it would be too resource intensive and impractical to locate these facilities. New York Gas Group recommended that we require operators to obtain the lists on a periodic basis.

North Shore objected that the proposed language did not include a minimum number of people that have to be in a facility, and suggested a 20-person minimum. North Shore argued that without a minimum, places such as a small police station or in-home day care would be included. The distribution company further suggested that the definition require facilities to be known, and the phrase difficult to evacuate be clarified to apply only to facilities with confined or mobility-impaired persons.

Pacific Gas and Electric Company recommended specifying a minimum number of 20 persons in a facility. The company also recommended we require that the facility be licensed to help ensure the information is available or that we work with the states to develop a database of all facilities that should be considered high consequence areas.

PECO Energy recommended specifying that the facilities be known facilities to ensure that operators have knowledge of the facility. The company explained that small operators might not have knowledge of newer facilities constructed or buildings renovated for these purposes.

Peoples Gas recommended adding a lower bound on the number of people that are present in the facility, and to add the word "known." Peoples Gas suggested that the phrase difficult to

evacuate apply to facilities with confined or mobility-impaired persons and not be an additional, separate factor because any structure in an emergency could be difficult to evacuate.

Questar commented that it was unclear if the proposed language refers to buildings that are difficult to evacuate because of the number of occupants, the design of the building, or because the occupants are confined or are impaired. Questar argued that the focus should not be on building design. Questar was not in favor of including schools in the examples. Questar explained that schools would probably be covered under the existing class location definitions, and that many types of schools are not in use all week and are not occupied by persons with impaired mobility. The company suggested that because day-care facilities may be home-based, and not visibly marked, and not known to local governments, and because certain types of retirement facilities may be difficult to identify, we should limit the definition to licensed day care and retirement facilities that are clearly marked and visible from a public roadway. Questar further recommended adding a threshold number of occupants, such as 20.

Gary Smith favored including a distance greater than 660 feet from a larger diameter pipeline for individuals with limited mobility, but did not know how realistic it would be to monitor for such individuals.

Response: RSPA has revised the definition to better define the types of facilities that are to be included. We have clarified that the facilities we are focusing on have people that because of impaired mobility or because they are confined, or because of other reasons, such as age, would be difficult to evacuate. The definition makes clear that it is focusing on the occupants not the design of the building.

We have added a requirement that the building with the occupants who are confined, mobility-impaired, or hard to evacuate has to be an identified site. An identified site is a building that can be identified through any of the following means—it has a sign; it is licensed or registered by a federal, state or local agency; it is known to public safety officials; or it appears on a list or map that is available through a federal, state or local agency, or through a publicly available or commercially available database. This revision should alleviate the concern that operators will be required to identify a family home that has elderly or disabled persons, or day-care age children.

We have kept schools in the list of examples. We agree that many schools

will likely fall within the definition for a class 3 or 4 location, and that many may not contain persons who are mobility-impaired. However, schools are facilities occupied by groups of people, most likely children, who may, because of their age, number or fear, be difficult to organize and evacuate during an emergency.

We have not required that these be public facilities. Many day care facilities and assisted-living and retirement facilities and communities are private. To limit the definition to public facilities would eliminate a great number of facilities housing children and the elderly. We have not specified a minimum number of occupants that need to be in these facilities because the populations in these facilities are in constant flux. Although a facility can be identified because it has a sign or is on a list maintained by a governmental agency, it is unlikely there would be information on how many persons occupy the facility.

The information many operators currently maintain on people and buildings near their pipelines should help operators to identify these facilities. This information may have to be supplemented with patrols that specifically look for these types of facilities along the right-of-way. This information will need to be periodically updated to ensure that newer facilities are not overlooked. To supplement this information, government websites provide listings of nursing homes, assisted-living facilities and communities that house elderly. For example, the Federal Government's Firstgov (www.firstgov.gov) website provides information on nursing home and elder care facilities in all areas of the country, as well as providing information on state websites, and state and local agencies that can be contacted for information to help locate facilities. The website also provides a hyperlink to the National Center for Education Statistics, which lists all private and public schools in any geographic area. In addition, telephone directories offer a listing source for many of the types of facilities an operator will need to identify. Addresses obtained through phone listings can be located using commercially available Web sites such as mapblast (www.mapblast.com) or mapquest (www.mapquest.com).

Areas Where People Congregate—Proposed § 192.761(e)

The proposed definition of high consequence area included an area where a pipeline was within 660 feet or 1000 feet, depending on the diameter and operating pressure of the pipeline,

of a place where 20 or more persons gather at least 50 days in any 12-month period. We listed examples of beaches, camping grounds, recreational facilities and museums. The 20-person minimum used in the proposed definition was based on the number used in the current definition of a class 3 location, and it was a number we believed typical of the number of people that frequent a recreational area. We stated that although gas transmission operators are not currently required to maintain data on areas where people congregate near their pipelines, they are required to patrol their pipeline rights-of-way, and should have knowledge about these areas. We further stated that this information should also be available from local public safety officials.

AGA and APGA thought this part of the definition should be limited to well-defined outside areas. The associations were against including buildings, such as museums, because they are likely covered by other parts of the definition, and against including seldom-used or unmarked buildings, which would require daily patrols to identify. AGA and APGA further suggested that the frequency of usage be 20 or more persons at least 5 days a weeks for ten weeks, because that is consistent with current regulations requiring operators to survey areas within 330 feet of the pipeline for well-defined areas.

Baltimore Gas & Electric maintained it was not practical or attainable to analyze every place where people may congregate on an intermittent basis.

Chevron Texaco was opposed to including places where people might congregate, and preferred focusing the definition on cities, towns, buildings and roads. Chevron thought that using Carlsbad as an example was too broad and could end up including all areas unless on company-owned property.

Citizens for Safe Pipelines urged that public recreation areas be included. The group thought that the proposed standard was too high and would be difficult to measure, and suggested that the standard should simply be evidence of public use, including evidence of vehicle traffic or camping sites, particularly near watercourses. The citizens' group explained that in the west, watercourses are places where people congregate on public land for recreation. The group recommended that operators use regular aerial patrol and consult with public land management and local government officials to identify these areas. The group also recommended including religious buildings, because significant numbers of people regularly congregate in these buildings.

Consumers Energy commented that the example of a museum did not fit because the proposed definition was aimed at outdoor facilities. The company maintained that the language was too broad and should be limited to well-defined areas, or data would be difficult to develop and maintain. Consumers Energy further maintained that the proposed occupation period was too restrictive, and too hard to identify, and suggested using a weekly basis for the occupation period or eliminating it.

Cook Inlet Keeper was not convinced that the proposed definition would cover the location of the Carlsbad pipeline accident. The organization recommended that to ensure that Carlsbad and similar areas are covered, we lower the proposed 50-day threshold, and instead, use as the trigger whether the operator has any knowledge of periodic use for recreational or other purposes.

CMS Energy maintained that the proposed definition would require operators to monitor pipelines 24-hours, 7 days a week, 365 days a year. The company objected that the proposed language could be interpreted to include areas, such as large parks or golf courses where people might not be close to the pipeline. CMS Energy objected to the example of a museum because this expands the definition to include buildings, and buildings such as rural churches might be covered. The company recommended limiting the area to a small, well-defined area within 220 yards (or 333 yards for larger pipelines).

Duke Energy acknowledged the difficulty in defining areas where people gather. The company suggested using 50 days when defining the frequency of use, a rate that would cover one day per week or a full weekend during the summer months. Duke maintained that the word area by itself was too illusive, and should be modified by the phrase "small, well-defined outside area." Duke explained that without this modification, operators would have to include beaches, parks or other large areas. Duke suggested removing museums as an example because current regulations address land use associated with structures such as office buildings, restaurants and museums, but do not address outdoor areas where people gather for weekend-type use. Duke argued that use of the word outside is critical to capture the recreational land user.

Enbridge recommended that we revise the definition to focus on areas of significantly higher consequence. Enbridge suggested focusing on areas of

significant, specific, well-defined outdoor congregation, otherwise, the proposed criteria would incorporate rural places of worship or other facilities used only for an hour or two per week. Enbridge further recommended that the definition specify areas that are clearly and publicly identified, because operators can only be expected to identify areas that have visible signs, or are on official local maps or in public information sources. The operator suggested that we base the definition on data that is public, accessible and verifiable.

Enron was against including buildings such as museums because these have multiple exits and would be protected from an accident. Enron recommended that the definition focus on small, well-defined outdoor areas, because operators will not be able to identify areas used on occasional weekends or evenings unless they are defined.

The Gas Piping Technology Committee noted that the proposed definition targets weekend activity, which will require operators to conduct weekend patrols at some frequency. The committee suggested RSPA clarify if its intent is to include organized congregation in camping grounds and other areas or to include any place where people congregate. The committee suggested revising the definition to include known areas, at established weekend or seasonal recreational facilities, such as campgrounds, beaches, or parks within a well-defined area.

INGAA expressed concerns with the proposed definition. INGAA argued that local officials could only be expected to identify well-defined and frequently-used areas, and that it was unreasonable to expect operators to identify areas, similar to the Carlsbad site, that are undefined and infrequently used. The industry association objected to including museums in the examples of areas where people congregate, because operators would have to include buildings or structures, particularly, seldom-used buildings, such as rural churches or bingo halls. INGAA commented that having to include these seldom-used structures would require operators to increase the frequency of monitoring, and to monitor on weekends and evenings. INGAA submitted substitute language that it maintained is more consistent with existing regulations, and easier for operators to comply with. This language defined the areas as small, well-defined outside areas within 660 feet of a pipeline, and occupied by 20 or more people on at least 5 days a week for ten weeks in any 12-month period. The

association argued this language would preclude operators from having to include large facilities of low usage, such as golf courses or national parks. INGAA explained that requiring an area to be well-defined would allow better utilization of land use data operators have collected, and that a usage rate of 5 days a week would not require surveillance during evening and weekend hours and is more consistent with existing regulations.

Kinder Morgan suggested that areas where people congregate only be included if they are within the pipeline's defined hazard area calculated from the C-FER model.

National Fuel commented that the proposed area would be too difficult to define, and should be revised to refer to small, well-defined outside areas.

NiSource EDG disagreed with our statement in the NPRM that the patrolling frequency required in the class location regulations is sufficient for an operator to have knowledge of where people congregate near its pipeline. The company thought only daily patrolling would uncover the proposed level of use. NiSource EDG was not aware of any public safety agency that collects, maintains and distributes recreational land use information on a statewide basis. NiSource EDG further commented that the proposed definition was subjective and imprecise, and should be revised to enable operators to identify with a level of certainty and precision the kinds of facilities that make an area high consequence.

New York Gas Group commented that based on its members' experience, it is unlikely that the proposed areas could be identified under current patrolling requirements. The trade association maintained that securing this information would require an excessive resource expenditure for expanded patrolling. New York Gas Group further maintained that such information is not available from local officials or available in standardized format.

New York State Department of Public Service commented that it is unclear whether we intended for areas where people congregate to include facilities such as transportation terminals, manufacturing facilities or business locations, and recommended clarifying the language to include these facilities. The Department of Public Service questioned the basis for the 20 or more persons congregating at least 50 days in a 12-month period, and explained that a stadium or arena may be used less than 50 days per year but, nonetheless, attract large crowds to individual events.

North Shore Gas suggested that the areas where people congregate be known and well-defined. The company also suggested the usage rate should be 5 days a week for 10 weeks in a 12-month period instead of the proposed 50 days in 12 months, because it would be easier for operators to monitor. North Shore Gas thought that the example of a museum is out of place if outside areas are being targeted.

Pacific Gas recommended that RSPA provide the pipeline industry with references to help identify public gathering areas or provide additional guidance for identifying these locations. The company further recommended that we revise the definition to known locations that can be identified by patrols during the business week.

PECO Energy suggested adding the words known or established because small operators might not have knowledge of these facilities. The company argued that operators could be forced to instigate weekend surveillance to identify the proposed areas.

Peoples Gas recommended that areas an operator has to identify be known and well-defined. Peoples Gas suggested changing the proposed 50 days of occupancy to 5 days per week for 10 weeks, otherwise, increased monitoring is needed. The company further suggested that we delete museum from the examples to focus on outdoor areas.

Questar recommended focusing the definition on well-defined outside areas where large groups of people congregate near gas transmission pipelines, and requiring that the areas be known and controlled by public officials. Questar was opposed to including buildings because they are picked up in other sections of the definition, and seldom-used buildings would be difficult to identify.

Response: We have revised the part of the definition addressing areas where people congregate. The intent in including these areas was to pick up areas that are used for recreational purposes. Such areas typically are used on weekends, and after business hours. Although an operator may only patrol during business hours during the week, it may have to expand its efforts to identify areas that people frequent at other hours. A pipeline does not shut down during evening and weekend hours, when people are using these areas. Even if an operator does not expand its patrolling, it should be able to identify these areas through its procedures for continuing surveillance or through its communications with local public safety officials.

We have revised the definition to require that there be evidence of use at

an identified site. As with the buildings with mobility-impaired or confined persons, an identified site is a building or outside area that has a visible sign, is registered or licensed by a Federal, State or local agency, is known by public officials, or is on a list or map available through a Federal, State or local agency or that can be obtained through a publicly available or commercially available database. At the site there needs to be evidence that the site is used by 20 or more persons on at least 50 days in any 12-month period. These revisions should alleviate concerns operators expressed about the proposed definition being too vague and the areas too difficult to identify. The definition now provides criteria for identifying locations where people congregate.

We have revised the examples. In the list of examples, we have included stadiums. Although stadiums holding large crowds may be located in Class 3 or 4 locations, we want to ensure such facilities are not ignored if they are located in a less densely populated area. We have added buildings used for religious purposes because groups of people are likely to gather in these buildings on weekends and in the evening. We have also added crossings of water bodies to the examples. We agree with the comment that the area near a pipeline crossing of a waterway may be used as a camping or recreational area.

We have not added modifiers, such as small and well-known. An adjective such as the word small is open to interpretation. One person's idea of small could be 10 feet, whereas another operator might consider 500 feet as small. Similarly, there would likely be disagreement about what makes an area a known area. Would it be enough that local residents know and frequent the area or would it have to be on a list maintained by a local agency for it to be known? What if it is an area known by local officials but the operator only conducts patrols during the week and has no knowledge that it is being used on weekends? By requiring that there be evidence of use at an identified site we are focusing on any area that can be identified as an area where there is regular activity by people around the pipeline.

Although concern was expressed that golf courses and national parks may have to be included, the area that needs to be looked at is only 300, 660 or 1000 feet from a pipeline. Even if the area falls within a large area as a golf course or park, the operator only has to determine if the specified area around the pipeline shows evidence of regular

use by people, or the operator can assume that people regularly frequent the area near the pipeline.

We have not limited the definition to outside areas but have included other structures that may be used for recreational or other purposes during weeknight or weekend hours. As explained above we included in the examples stadiums and religious buildings. We have taken out the example of a museum, because we agree that this type of building is most likely covered under the class location definitions.

We have not changed the usage rate from what was proposed. We believe this is a valid rate to pick up areas that are used as recreational areas because the rate will support identification of areas that are used only during week days in a typical ten (10) week summer, and areas that are used only on weekends throughout the entire year. The number of people is appropriate for a recreational activity such as baseball, football or soccer, and for a moderately used facility such as a campground.

We continue to believe that evidence of recreational use can be determined through required patrols of the pipeline right-of-way, perhaps, supplemented with patrol on a weekend or after business hours during the week. Operators are already required to have procedures for continuing surveillance and to have emergency procedures that provide for maintaining communication with public officials. Thus, it should not be burdensome for operators to consult with these officials to determine if the officials have knowledge about these areas. In addition, most recreational areas will be designated areas such as parks or campgrounds for which records are retained by governmental units at the local, county or state level.

660 and 1000-Foot Corridors

Where a pipeline is near a building with mobility-impaired or confined persons, or near an area where people congregate, we proposed that the protected area from the pipeline should be 660 feet or 1000 feet, depending on the diameter and operating pressure of the pipeline. In the NPRM we explained that we based the proposed 660-foot and 1000-foot corridors on a model developed by C-FER, a Canadian research and consulting organization. (More information on this model is in Docket #7666). The C-FER analysis was based on a simplified model of a gas pipeline rupture. The model included a simplified mathematical treatment of several phenomena important to characterizing the extent of damage following a pipeline rupture, as for

example, critical heat flux, the time of ignition of the escaping gas, the height of the burning jet, and the pipe decompression rate. The model also included estimates of several important parameters associated with the phenomena. The model validated the distance of 660 feet as the impact area for pipelines smaller than 30 inches in diameter and operating at 1000 psig or less. The model also showed that a pipeline with a diameter greater than 30 inches and operated at a pressure greater than 1000 psig has the potential to impact an area greater than 660 feet from the pipeline.

Several commenters supported our expanding the area of protection from 660 feet to 1000 feet to accommodate large pipelines operating at high pressure, but recommended decreasing the area for small-diameter pipelines operating at low pressure. These operators maintained that a decreased area would reduce the costs of surveillance and record keeping.

APA and APGA recommended that instead of the proposed 660 and 1000 foot corridors, a high consequence area be defined by the C-FER equation. AGA and APGA explained that this equation would calculate the pipeline affected zone i.e., the zone affected by the heat emitted from the burning gas.

CMS Energy urged RSPA to include along with the proposed 660-foot and 1000-foot corridors, a smaller corridor for small diameter, lower pressure lines. CMS explained that this would more accurately use the information in the C-FER report and allow operators to use technical justification to concentrate on areas of greater consequence.

Consumers Energy observed that using the C-FER model for smaller pipelines operating below 1000 psig would reduce the area of influence but that the model is more useful because it uses actual pipeline attribute data to determine the heat affected zone.

El Paso encouraged that, instead of the 660 and 1000-foot areas, we incorporate into the definition the concept of a pipeline-affected zone, as used in the C-FER study. Enbridge made the same recommendation.

GPTC commented that the C-FER Report forms a sound technical basis for determining a zone of thermal influence for a potential gas pipeline rupture, but that the simplified model we used does not consider small diameter low pressure pipelines.

INGAA recommended that we include the pipeline-affected zone equation used in the C-FER study so that operators could better use the data they have been collecting since 1970. INGAA argued that use of programmed distances, such

as the proposed 660 feet and 1000 feet, does not utilize the findings of the C-FER study.

The Iowa Utilities Board commented that two pipelines in the State and at least one that is proposed for construction in Iowa would have impact zone widths of greater than 1000 feet, using the C-FER formula. The Board also pointed out that the C-FER formula will predict smaller impact zones than those proposed for some pipelines having diameter greater than 30 inches with operating pressure over 1000 psig. The Iowa Board suggested we consider specifying operators use the C-FER formula for pipelines with diameter greater than 30 inches and operating pressure over 1000 psig rather than the proposed 1000-foot limit.

New York Department of Public Service maintained that the heat flux value of 5000 btu/hr-ft² used in the C-FER formula is too high. A lower critical heat flux value should be used, which would increase the width of the predicted impact zone.

Pacific Gas and Electric recommended using the C-FER equation in class 3 and 4 areas to determine which portions of these areas require an integrity management plan, and focusing efforts on those portions where the pipeline's impact zone encompasses a structure such as a school or hospital containing a specified number of people. The company further suggested that the definition use the C-FER equation to determine the extent of the pipeline that requires integrity verification.

Questar recommended that operators be allowed to use the C-FER equation to determine the pipeline affected zone rather than the proposed 660 or 1000 feet.

The State of New York, Office of the Attorney General supported the 660 and 1000-foot areas, but cautioned that the C-FER model used to define these dimensions does not consider low-angle, horizontal jet fires. The New York State Attorney General's office explained that this type of rupture would cause more of the heat-radiating flame surface to be centered near the ground surface in the direction of the initial horizontal jet, potentially creating a heat flux for more than 1000 feet.

Williston Basin agreed that zones of damage can extend out from the current class location defined distance of 660 feet during a release, but disagreed with applying the C-FER model only when the hazard radius exceeds 660 feet. The company thought the model should be applied over the full spectrum of pipeline operating conditions because more can be accomplished by focusing resources on the hazard radius area.

Response: RSPA has revised the definition to include a third zone for small diameter, low pressure pipelines. For a pipeline with a diameter of 12 inches or less and an operating pressure of 1200 psig or less, the area of protection will be 300 feet. Although the C-FER model predicted a potential impact area of less than 300 feet for a pipeline of the above-specified size, we will not include an area smaller than 300 feet. In addition, RSPA is further exploring ways to address low stress pipelines in the proposed gas pipeline integrity management rule. We are also considering the comment about use of the C-FER model in calculating the zone of impact in developing that proposed rule. While arguments, such as that by the New York State Attorney General's Office, may be theoretically possible, the actual incident data developed at gas pipeline rupture sites over a twenty-year period were used to validate the predictions of the C-FER model. Thus, a spectrum of different events produced burn radii that were reasonably accurately predicted by the simple formulation contained in the C-FER model. The forthcoming proposed integrity management rule will address situations where the pipe diameter and operating pressure are sufficiently large that the predicted impact zone using the C-FER model could exceed 1000 feet.

Other Area of Potential High Consequence Not Proposed

Environmental Areas

In the NPRM we explained because of the way gas products behave, a rupture would affect a very limited area, and would not pollute drinking water or ecological resources. Because any environmental consequences following a rupture would be limited, we did not include environmentally sensitive areas in the proposed definition.

Citizens for Safe Pipelines recommended adding watercourses to better protect these areas from spills of natural gas condensates.

Cook Inlet Keeper favored adding environmentally sensitive areas because natural gas condensates form in transmission pipelines and can pose environmental hazards. Cook Inlet Keeper also listed eight recent releases of natural gas pipeline condensates (spills of up to 10 gallons of condensate) in the Cook Inlet region in Alaska.

The State of New York, Office of the Attorney General recommended including pipelines within the Great Lakes because of environmental sensitivity.

The Washington State Department of Ecology recommended including

unusually sensitive areas and navigable waterways as high consequence areas, because these may be affected by a fire ignited by a gas pipeline rupture. The Department also recommended that we require operators to consult with state and local government officials to identify environmentally sensitive areas.

The Washington Utilities and Transportation Commission urged RSPA to include environmentally sensitive areas in the definition. The Commission explained that a habitat for a threatened or endangered species in the heat affected zone could be destroyed by a pipeline rupture and ignition. The Commission also urged that operators be required to consult with state and local government agencies to ensure that environmentally sensitive high consequence areas have been correctly identified.

Response: As we explained above in the section discussing areas where people congregate, we have added recreational areas near water bodies to the definition. However, we have not revised the definition to include environmental areas. RSPA believes that the limited physical impact of a gas pipeline rupture and the short duration of the impact justify excluding these areas. A natural gas release is limited to the area immediately adjacent to the pipeline, so that any resulting fire would do limited damage to a sensitive area or to a species in the area. We recognize that gas condensates that form in gas transmission pipelines can pose an environmental hazard should the pipeline rupture. However, because we believe that these discharges tend to be small and do limited damage, we are not at this stage including these areas in the definition.

Other Areas

Cook Inlet Keeper recommended adding to the definition high-traffic areas and passenger and flammable cargo rail areas. The organization also recommend including religious buildings because significant numbers of individuals are confined in these buildings on a regular basis.

The New York State Department of Public Service thought the definition should be expanded to consider important infrastructure including major electric transmission corridors and substations, other pipeline facilities, bridges, major roads and railways. The Department recommended we also consider historic landmarks near transmission pipelines and services that would be disrupted and would have a major impact on people and businesses.

SEFBO argued that pipeline bridges represent potential high consequence areas in themselves, and should be separately included as high consequence areas. SEFBO agreed that pipeline crossings of roads, highways and railroads should not be included because disruption from an explosion of a gas pipeline at such a crossing should be fairly localized and relatively short. According to SEFBO, an explosion of a natural gas pipeline on a bridge poses a unique risk of substantial economic disruption, and on a heavily traveled bridge may cause injury or death to a substantial number of persons.

Washington State Department of Ecology pointed out that recent experience has shown that a rupture of a gas pipeline could impact a near-by liquid pipeline (within 1000 feet), causing an explosion or oil spill.

Response: The primary purpose of this definition is to define areas where a pipeline rupture would lead to the greatest consequences to the public. Most areas are adequately protected by current pipeline safety regulations. In most cases, a rupture of a gas pipeline will result in limited physical damage from a pipeline rupture, and be of short duration (one or more hours). We are focusing the definition on those areas where additional protection may be necessary because the consequences to people are potentially the greatest. Except for those areas previously discussed, we have not revised the definition to include the suggested areas.

Our review of accident data concluded that the maximum spill from a gas rupture resulting in a spill from a liquid pipeline has been too small to necessitate additional protection. We believe the impact of pipelines on infrastructure is adequately treated by existing regulations, although we will consider the comments about pipeline bridges in developing the integrity management program requirements. For example, pipelines supported by bridges (vehicular, railroad, pedestrian, pipeline), or that cross public roads, highways or railroads have special design factors. (§ 192.111). Special welding requirements apply to pipeline crossings of rivers, railroads, highways, tunnels and bridges (§ 192.243). More frequent patrols are required at highway and railroad crossings (§ 192.705).

As previously discussed, we added religious buildings to the list of examples of areas where people congregate. Transportation terminals, manufacturing facilities or business locations would usually fall within a class 3 or 4 location, or be covered under the high consequence area

definition if they normally have 20 or more people on at least 50 days a year.

Costs Associated With the Definition

In the NPRM, we explained that the proposed definition had no cost impact on the pipeline industry because the definition did not by itself require an operator to take action. Costs would be incurred once we issued integrity management program requirements that required an operator to take action on transmission pipelines located in these areas.

AGA and APGA thought we should consider in this rulemaking the initial costs associated with determining the high consequence areas, including identifying the areas, documenting them and verifying them periodically.

The Gas Piping Technology Committee also pointed out that we had not considered the initial costs, the frequency of verification and the potential recurring costs associated with determining the high consequence areas. The Committee recommended we consider these costs in this rulemaking so as not to overlook them in the integrity management program rulemaking.

Kinder Morgan commented that operators will incur additional costs to determine the applicability of the definition, and will have to gather additional information to identify the facilities with mobility-impaired persons and areas where people congregate. The company noted that operators will also have to conduct additional field surveys to identify the facilities and areas within 1000 feet of a pipeline.

New York Gas Group commented that the definition would require additional company resources and significant paperwork to identify facilities with mobility-impaired persons and areas where people congregate in class 1 and 2 areas.

NiSource EDG observed that this definition will drive future costs because it will dictate the integrity management actions an operator will have to take with respect to those pipelines located in the high consequence areas.

Questar commented that we need to discuss the incremental costs associated with determining the high consequence areas, such as the incremental costs for identifying, documenting and re-verifying the high consequence areas, and expanding the survey corridor.

Williston Basin commented that assessment costs are a significant expense and that the definition will directly affect assessment costs. The company argued that because the high

consequence area definition and integrity management rulemaking are directly related, the definition cannot be complete without evaluating the definition under the requirements of the integrity management rule.

Response: We have not changed our conclusion that there are no costs associated with the definition because the definition by itself does not require an operator to take any action. We recognize that once we issue regulations requiring action based on this definition, there will be costs. Thus, when RSPA issues its notice of proposed rulemaking for gas integrity management, RSPA will estimate the cost to gas pipeline operators to determine which segments in its system satisfy the definition of high consequence areas, and other costs associated with identifying and periodically re-verifying the areas.

The Final Rule

In the final rule RSPA has defined high consequence areas to include—

- *Class 3 areas.* A Class 3 area is defined in the pipeline safety regulations as a class location unit with 46 or more buildings intended for human occupancy. A class location unit is an area that extends 220 yards on either side of the centerline of any continuous one-mile length of pipeline. A class 3 area is also an area where the pipeline lies within 100 yards of either a building or a small, well-defined outside area, such as a playground, recreation area, outdoor theater, or other place of public assembly, which is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. Neither the days nor the weeks need be consecutive.

- *Class 4 areas.* A Class 4 area is any class location unit where buildings with four or more stories are prevalent.

We have included class 3 and 4 location areas, as those areas are defined in § 192.5, to give additional protection to populated areas from a gas release. These areas will encompass about 85% of populated areas. These are the areas where most gas transmission pipeline operators maintain data on population and buildings near their pipelines. However, because the class location definitions may not cover all areas where a pipeline may pose a risk to the public, we have also included as high consequence areas:

- Areas where the pipeline is within 300, 660 or 1000 feet of a building occupied by persons who are confined, or are of impaired mobility, or would be difficult to evacuate, and
- Areas where the pipeline is within 300, 660 or 1000 feet of a building or

outside area where 20 or more persons congregate at least 50 days in any 12-month period. (The days need not be consecutive.)

The definition picks up facilities with people who may not be able to evacuate an area quickly and most recreational areas or other areas where the public may not live, but may gather regularly for recreational or other purposes. Our analysis of data on the area affected by a pipeline accident demonstrated the need for special consideration of buildings located near a pipeline that house people with limited mobility and of areas where people congregate. These last two elements explicitly include distances between the pipeline and the facility or recreational area where greater protection will be provided. Defining these distances is necessary for two reasons. First, there is a need to limit the magnitude of the search to identify facilities and recreational areas that can potentially be affected by a pipeline rupture. Second, recently completed research has defined the extent of the area potentially affected by a pipeline rupture and subsequent ignition and fire. The results from this research has been used to define the distances we have included in the definition.

Our analysis of research data on the area affected by a pipeline accident demonstrated that, for most pipelines, the area affected by the rupture and fire extended no greater than 660 feet from the pipeline. The recently completed research demonstrated that the extent of the area potentially affected by a rupture increases in direct proportion to the square root of the pressure at which the pipeline is operated, and increases in direct proportion to the pipe diameter. Therefore, the rupture of smaller pipelines can impact facilities and recreational areas at distances less than 660 feet, and the rupture of larger pipelines can impact facilities and recreational areas at distances greater than 660 feet. Our analysis determined that, for a pipeline with a diameter of 12 inches or less and a maximum allowable operating pressure of 1200 psig or less, the distance from the pipeline of potential impact is 300 feet. For pipelines with a diameter greater than 30 inches and a maximum allowable operating pressure greater than 1000 psig, the distance from the pipeline of potential impact is 1000 feet.

The research that we used as the basis for the 300, 660 and 1000-foot distances is in the docket and is referred to as the C-FER model. We compared the predictions from the C-FER model against RSPA accident data and concluded that the impact distances

predicted by the model are consistent with the burn radii observed in accidents that have occurred during the past twenty years. For example, a rupture of a 30-inch diameter pipeline operating at a maximum pressure of 1000 psig would affect an area no greater than 660 feet from the pipeline. Our research also showed that a rupture or release from a smaller-sized pipeline (a pipeline 12 inches or less in diameter and operating at a pressure of 1200 psig or less) would affect an area no larger than 300 feet from the pipeline. Therefore, for these smaller pipelines, we have defined a smaller area in which operators must identify buildings housing mobility-impaired or confined people and areas where people congregate. Similarly, for larger pipelines (a pipeline with a diameter greater than 30 inches and operating at a pressure greater than 1000 psig), we have defined a larger area of 1000 feet from the pipeline.

Because operators were concerned that they would be required to identify home-based day care and private homes with elderly occupants, the definition provides that the facility has to be an identified site. An identified site would be a building with confined or mobility-impaired persons that can be identified by any of several means: it has a sign; it is licensed or registered by a Federal, State or local authority; or it is on a list or map that is available from a Federal, State or local authority, or through a publicly available or commercially available database. Similarly, because of concerns raised about identifying recreational areas where people congregate, we have required that the building or outside area be an identified site (described above) that has evidence of use by 20 or more persons on at least 50 days a year.

The areas we have defined as high consequence areas go beyond current pipeline safety regulations in the following ways:

1. A current Class 3 location includes buildings or areas where people congregate located within 300 feet of the pipeline. The definition extends these areas out to 660 feet for pipelines of diameter greater than 12 inches and out to 1000 feet for larger pipelines (those greater than 30 inches in diameter and operating at pressures greater than 1000 psig).

2. Current Class location regulations include no explicit provision for facilities housing people with limited mobility. The definition includes these facilities.

3. The definition places more emphasis on areas where people congregate near a pipeline, such as

camping grounds and recreational areas near bodies of water. These areas may not be identified under the current class 3 location definition.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

DOT considers this action to be a non-significant regulatory action under section 3(f) of Executive Order 12866 958 FR 57135; October 4, 1993). Therefore, the Office of Management and Budget (OMB) has not reviewed this rulemaking document. This final rule is also not significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979).

Several commenters to the proposed rule (67 FR 1108–1115, January 9, 2002) disagreed with RSPA's determination that the proposed rule would incur no costs because it was only a definition. These comments were discussed above. As we previously explained, this definition does not require operators to take any action. Until there are requirements for the pipeline segments that are located in the high consequence areas we have defined, there are no cost impacts on the pipeline industry or the public. The costs will be incurred when we issue integrity management program regulations that require gas transmission operators to take actions on pipelines located in the high consequence areas. When we issue proposed regulations on integrity management for gas operators, we will then consider the costs involved in identifying and periodically re-verifying the high consequence areas.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) RSPA must consider whether a rulemaking would have a significant impact on a substantial number of small entities. This final rulemaking will not impose additional requirements on pipeline operators, including small entities that operate regulated pipelines. As this action only involves a definition, there are no cost implications, and thus we have determined it has no immediate impact on small entities. Costs are likely to result once we issue requirements for actions that use this definition. When RSPA proposes integrity management requirements for gas transmission pipelines in high consequence areas, RSPA will then examine the costs and benefits of the proposed requirements, including actions based on the high consequence area definition. Based on this information demonstrating that this rulemaking will not have an economic impact, I certify that this final rule will

not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule contains no information collection subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)). Therefore, RSPA concludes the final rule contains no paperwork burden and is not subject to OMB review under the paperwork Reduction Act of 1995.

This final rule defines high consequence areas, but does not require an operator to take any action. The definition will be used in the forthcoming rulemaking on "Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Operators)". RSPA will prepare a paperwork burden analysis for that proposed rule.

Executive Order 13084

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

Executive Order 13132

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not have any requirement that:

- (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government;
- (2) imposes substantial direct compliance costs on States and local governments; or
- (3) preempts state law.

Therefore, the consultation and funding requirements of Executive Order 13132 (64 FR 43255; August 10, 1999) do not apply. Nevertheless, in public meetings on November 18–19, 1999, and February 12–14, 2001, RSPA invited the National Association of Pipeline Safety Representatives (NAPSR), an organization that includes State pipeline safety regulators, to participate in a general discussion on pipeline integrity. RSPA also had conference calls with NAPSR to receive their input before proposing a definition of high consequence areas. Several state agencies responded to the NPRM and

their comments were considered in developing the final definition.

Unfunded Mandates

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

National Environmental Policy Act

We analyzed the final rule for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and determined the action would not significantly affect the quality of the human environment. The Environmental Assessment is available for review in the docket.

The Environmental Assessment (EA) considered the impacts of the definition, in conjunction with future requirements of an integrity management rule. The EA found that the definition by itself, did not by itself have any impact on the environment. When integrity management program requirements are issued which will incorporate the definition, there should be positive environmental benefits for the areas receiving additional protection. However, because the environmental consequences from a gas release are limited, any impact is expected to be minimal. Therefore, the definition of high consequence areas for gas pipeline integrity management will not have a significant environmental impact.

List of Subjects in 49 CFR Part 192

Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA is amending part 192 of title 49 of the Code of Federal Regulations as follows:

PART 192—[AMENDED]

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

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

2. Section 192.761 is added under a new undesignated centerheading of "High Consequence Areas" in subpart M to read as follows:

Subpart M—Maintenance

* * * * *

HIGH CONSEQUENCE AREAS**§ 192.761 Definitions.**

The following definitions apply to this section and § 192.763:

A *high consequence area* means any of the following areas:

- (a) An area defined as a Class 3 location under § 192.5;
- (b) An area defined as a Class 4 location under § 192.5;
- (c) For a pipeline not more than 12 inches in nominal diameter and operating at a maximum allowable operating pressure of not more than 1200 p.s.i.g., an area which extends 300 feet from the centerline of the pipeline to the identified site;
- (d) For a pipeline greater than 30 inches in nominal diameter and operating at a maximum allowable operating pressure greater than 1000 p.s.i.g., an area which extends 1000 feet from the centerline of the pipeline to the identified site; and
- (e) For a pipeline not described in paragraph (c) or (d) of this section, an area which extends 660 feet from the centerline of the pipeline to the identified site.
- (f) An identified site. An identified site is a building or outside area that—
 - (1) Is visibly marked;
 - (2) Is licensed or registered by a Federal, State, or local agency;
 - (3) Is known by public officials; or
 - (4) Is on a list or map maintained by or available from a Federal, State, or local agency or a publicly or commercially available database; and
 - (5) Is occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate. Examples include, but are not limited to hospitals, prisons, schools, day-care facilities, retirement facilities, and assisted-living facilities; or
 - (6) There is evidence of use of the site by at least 20 or more persons on at least 50 days in any 12-month period. (The days need not be consecutive.) Examples include, but are not limited to, beaches, playgrounds, recreational facilities, camping grounds, outdoor theaters, stadiums, religious facilities, and recreational areas near bodies of water.

Issued in Washington, DC, on August 1, 2002.

Ellen G. Engleman,
Administrator.

[FR Doc. 02-19840 Filed 8-5-02; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 011231309-2090-03; I.D. 072902E]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Removal of the Sablefish Size Limit South of 36° N. Latitude for Limited Entry Fixed Gear and Open Access Fisheries

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

ACTION: Inseason sablefish size limit adjustment; request for comments.

SUMMARY: NMFS announces removal of the sablefish size limit south of 36° N. latitude (lat.) for limited entry fixed gear and open access Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), is intended to help the fisheries achieve optimum yield (OY) while protecting overfished and depleted stocks.

DATES: Changes to management measures are effective 0001 hours (local time) August 1, 2002, through the effective dates of the 2003 specifications and management measures for the Pacific Coast groundfish fishery, unless modified, superseded, or rescinded, which will be published in the **Federal Register**. Comments on this action will be accepted through August 21, 2002.

FOR FURTHER INFORMATION CONTACT: Jamie Goen or Carrie Nordeen (Northwest Region, NMFS) 206-526-6140.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish FMP and its implementing regulations at 50 CFR part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Annual groundfish specifications and management measures are initially developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS. The specifications and management measures for the current fishing year (January 1 - December 31, 2002) were initially published in the **Federal Register** as an emergency rule for January 1 - February 28, 2002 (67 FR 1540, January 11, 2002), and as a proposed rule for all of 2002 (67 FR 1555, January 11, 2002), then finalized

effective March 1, 2002 (67 FR 10490, March 7, 2002). The final rule was subsequently amended at 67 FR 15338, April 1, 2002; 67 FR 18117, April 15, 2002; 67 FR 30604, May 7, 2002; 67 FR 40870, June 14, 2002; 67 FR 44778, July 5, 2002; and 67 FR 48571, July 25, 2002.

The July inseason trip limit adjustments (67 FR 44778, July 5, 2002) to the groundfish management measures were recommended by the Council in consultation with Pacific Coast Treaty Tribes and the States of Washington, Oregon, and California at its June 18-21, 2002, meeting in Foster City, CA and subsequently corrected by 67 FR 48571, July 25, 2002. The July trip limit adjustments were made to slow the catch of overfished species, particularly darkblotched and bocaccio rockfish. By the end of June the projected bocaccio rockfish catch in the commercial and recreational fisheries combined may have exceeded the rebuilding OY of 100 mt and could approach or exceed the acceptable biological catch of 122 mt. In order to reduce fishing effort on the continental shelf where bocaccio are found and move vessels into deeper waters off the slope, the Council recommended reinstating the minimum 22-inch (56-cm) size requirement for sablefish taken with non-trawl (fixed gear) and a reduced trip limit for sablefish under the 22-inch (56-cm) requirement taken with trawl gear. Adult sablefish tend to be found at greater depths (109 to 547 fathoms), while bocaccio tend to be found at shallower depths (27 to 137 fathoms). Prohibiting retention of small sablefish in the non-trawl fisheries and reducing the trip limit for small sablefish in the limited entry trawl fishery is expected to force vessels into deeper water when targeting sablefish, thereby reducing opportunities for fishermen targeting sablefish to intercept bocaccio. Therefore, in the trawl fishery south of 40° 10' N. lat., the July trip limit changes kept the currently scheduled cumulative sablefish limit of 4,500 lb (2,041 kg) per 2 months, but added a per trip restriction of no more than 500 lb (227 kg) of sablefish smaller than 22 inches (56 cm). To encourage the non-trawl (fixed gear) fisheries to also operate in deeper waters, the July trip limit changes kept the currently scheduled limits, but reinstated the size restriction prohibiting retention of sablefish smaller than 22 inches (56 cm) south of 40° 10' N. lat. This restriction was put in place south of the 40° 10' N. lat. management line to protect bocaccio, which are most abundant along the California coast. In addition, bocaccio tend to be at the deeper end of