advantage of spectrally efficient technologies.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Paperwork Reduction Act Analysis

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore it does not contain any new or modified "information burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

Congressional Review Act

The Commission will not send a copy of this Third Report and Order and Third Notice of Proposed Rulemaking in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.

Ordering Clauses

Accordingly, it is ordered, pursuant to Sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 332, and Sections 0.191 and 0.392 of the Commission's rules, 47 CFR 0.191, 0.392, that this Third Report and Order and Third Further Notice of Proposed Rule Making *is adopted.*

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Third Report and Order and Third Further Notice of Proposed Rule Making, including the Final Regulatory Flexibility Certification and Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

It is further ordered that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on July 22, 2010, and reply comments are due August 6, 2010.

Federal Communications Commission.

James Arden Barnett, Jr.,

Rear Admiral (Ret.), Chief, Public Safety and Homeland Security Bureau.

[FR Doc. 2010–14994 Filed 6–21–10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 195

[Docket PHMSA–2008–0186]

RIN 2137–AE36

Pipeline Safety: Applying Safety Regulation to All Rural Onshore Hazardous Liquid Low-Stress Lines

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

ACTION: Notice of Proposed Rulemaking.

SUMMARY: PHMSA is proposing to amend its pipeline safety regulations to apply safety regulations to rural low-stress hazardous liquid pipelines that are not covered by safety regulations in 49 CFR Part 195. This change complies with a mandate in the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act).

DATES: Anyone interested in filing written comments on this Notice of Proposed Rulemaking (NPRM) must do so by August 23, 2010. PHMSA will consider late comments filed so far as practical.

ADDRESSES: Comments should reference Docket No. PHMSA–2008–0186 and may be submitted in the following ways:

- *E–Gov Web site: http://www.regulations.gov.* This Web site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* DOT Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington DC, 20590–0001.
- *Hand Delivery:* DOT Docket Management System; West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the Docket ID PHMSA–2008–0186 at the beginning of your comments. If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.* **Note:** Comments are posted without changes or edits to *http://www.regulations.gov,* including any personal information provided. There is a privacy statement published on *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For technical contents of the NPRM contact Mike Israni by phone at 202–366–4571 or by e-mail at *Mike.Israni@dot.gov.* For all other information contact Tewabe Asebe by phone at 202–366–4595 or by e-mail at *tewabe.asebe@dot.gov.*

SUPPLEMENTARY INFORMATION: Until 2008, unless a rural low-stress pipeline crossed a commercially navigable waterway, a hazardous liquid pipeline operating at low-stress in a rural area was not regulated under Federal pipeline safety regulations in 49 CFR Part 195. Section 195.2 defines a "rural area" as outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area, such as a subdivision, a business or shopping center, or community development.

Because of the potential environmental damage a release from these lines could pose, in 2006, PHMSA issued a NPRM (71 FR 52504), proposing to apply a threat-focused set of safety requirements to larger-diameter (8 5/8-inches or greater) rural onshore hazardous liquid low-stress pipelines located in or within a quarter mile of an "unusually sensitive area (USA)." USAs are defined in § 195.6 as drinking water or other ecological resources that are unusually sensitive to environmental damage from a hazardous liquid pipeline release.

The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act), was signed into law on December 29, 2006, (Pub. L. 109–468). Section four of the PIPES Act (codified at 49 U.S.C. 60102(k)) requires PHMSA to "issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines." The Act also provides the new regulations could be issued in phases.

The threat-focused set of requirements PHMSA proposed in the 2006 NPRM, although drawn from Part 195, would not have satisfied the "same standards and regulations" requirement in the PIPES Act. PHMSA concluded it would be inefficient to finalize that proposal and then later impose the rest of the Part 195 requirements.

Implementation of the PIPES Act Mandate

PHMSA decided to implement the PIPES Act mandate in phases, in part because PHMSA did not have complete data on the extent of rural low-stress

pipelines that would be covered by the statutory mandate. Phase one applied full Part 195 regulation to the higher-risk, larger-diameter rural low-stress pipelines (*i.e.,* those low-stress pipelines with a diameter of 8⅝-inches or greater located in or within one-half mile of an unusually sensitive area). These are the rural low-stress pipelines that have more potential to cause harm to unusually sensitive areas. These were also the rural low-stress pipelines on which PHMSA had the most information to prepare a regulatory cost/benefit evaluation.

Once PHMSA had more complete information on the extent of unregulated rural low-stress pipelines, phase two would regulate all smaller-diameter (less than 8⅝-inches diameter) rural low-stress pipelines located in or within one-half mile of a USA and all rural low-stress pipelines of any diameter located outside the one-half mile USA buffer.

PHMSA presented its plan for phased rulemaking to the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) [1] in January 2007. PHMSA explained that this phased approach would bring the higher-risk pipelines under immediate regulation while PHMSA gathered more comprehensive data for later rulemaking concerning the lower-risk unregulated rural low-stress pipelines.

Phase One

To implement phase one, in 2007 PHMSA modified its 2006 NPRM via a supplemental notice of proposed rulemaking (SNPRM) (72 FR 28008) that proposed to apply all Part 195 requirements to any rural onshore pipeline with a nominal diameter of 8⅝ inches or more and located in or within one-half mile of a USA. The SNPRM also proposed to apply reporting requirements in Subpart B of Part 195 to all rural low-stress pipelines. This data was necessary for PHMSA to complete the regulatory evaluation for the extension of all safety requirements to the remaining rural low-stress pipelines in phase two. PHMSA published the final rule on June 3, 2008 (73 FR 31634), which finalized the proposed requirements.

[1] The THLPSSC is a statutorily mandated advisory committee that advises PHMSA about the technical feasibility, reasonableness and cost-effectiveness of its proposed regulations. The committee includes representatives of the pipeline industry, government regulators, and the public. PHMSA must submit all new regulations affecting hazardous liquid pipelines to this Committee for peer review before the rules can be published.

Surveys

Because PHMSA did not have adequate information on the number of operators with rural low-stress pipelines, or on the total mileage of these lines in service, we initiated the following actions:

(1) We revised the Pipeline Safety Regulations to require operators of any low-stress line (including those rural low-stress lines not brought under safety regulation) to comply with the annual reporting requirements and the incident reporting requirements of Part 195.

(2) On July 31, 2008 (73 FR 44800), OMB Control Number 2137–0623, PHMSA published in the **Federal Register** a notice of OMB-approved survey asking each operator of a rural low-stress hazardous liquid pipeline for voluntary information concerning the mileage and characteristics of these pipelines to assess the costs of subjecting rural low-stress pipeline mileage to Part 195 regulation.

(3) Based on the information received in response to the notice, PHMSA conducted two follow-up inquiries: (1) A request for information from operators who operate rural low-stress lines to determine the potential operating costs they were likely to incur to bring these unregulated lines into compliance with Part 195 regulation; and (2) Asked States with the majority of rural low-stress lines to identify any incident data the State may have collected through the years.

Phase Two

With the information PHMSA gathered, we are now moving to phase two to complete the requirement of the PIPES Act. In phase two, PHMSA is proposing to apply Part 195 safety requirements to all rural low-stress pipelines not included in the phase one rule. Thus, the pipelines addressed by this proposed rule are those rural low-stress pipelines of any diameter located more than one-half mile from a USA and those less than 8⅝ inches in diameter located within one-half mile of a USA.

This phased approach results in the following distinct groups of rural low-stress pipelines:

- Rural low-stress pipelines that cross navigable waterways. These are already subject to the safety requirements of Part 195. These pipelines are not affected by this rulemaking.
- Rural low-stress pipelines 8⅝ inches or greater in diameter that are located in or within one-half mile of a USA. The requirements of Part 195 were made applicable to these rural pipelines in the phase one rule.
- Rural pipelines less than 8⅝ inches in diameter that are located within one-half mile of a USA.
- Rural low-stress pipelines of any diameter that are located more than one-half mile from a USA.

To implement the compliance dates and requirements for these different groups, we are proposing to define several "categories" of rural low-stress pipelines. These are as follows:

- *Category 1:* Those rural low-stress pipelines that were covered under the phase one rule;
- *Category 2:* Rural low-stress pipelines of smaller diameter (less than 8⅝ inches diameter) located in or within one-half mile of a USA; and
- *Category 3:* All other rural low-stress pipelines that were not included in phase one.

This NPRM would retain the compliance deadlines established in phase one for Category 1 pipelines. It would subject Category 2 pipelines to the same Part 195 requirements as those made applicable to Category 1 pipelines in phase one but with different compliance deadlines. PHMSA also proposes to apply all requirements of Part 195 to Category 3 pipelines except for the integrity management requirements of § 195.452.

The phase one rule established a number of compliance deadlines for the rural pipelines it addressed. These deadlines varied from relatively near term (*e.g.,* identifying all pipeline segments subject to the phase one rule by April 3, 2009) to long term (*e.g.,* completing baseline integrity management assessments by July 3, 2015). We intend to retain these deadlines in the regulations, while establishing new compliance deadlines for those rural low-stress pipelines we are covering in this phase two NPRM.

Integrity Management

Section 195.452 addresses integrity management (IM) requirements for hazardous liquid pipelines. Operators must identify each pipeline segment that could affect a high consequence area (HCA). PHMSA has defined HCAs as populated areas, commercially navigable waterways and USAs. HCAs are identified and displayed on maps available from the National Pipeline Mapping System.

To comply with IM requirements, pipeline operators must first determine which segments of their pipeline could affect an HCA. To do this, an operator needs to compare its pipeline's location to the locations of HCAs and determine which segments of the pipeline could affect an HCA if there were a product release from the segment. These

comparisons have proven to be considerably more burdensome in practice than PHMSA believed when IM rules were initially established. They involve more than just comparison of maps of pipeline location to maps of HCAs. Operators have had to consider the topography and nature of ground cover around their pipelines to estimate the direction and distance that released product might flow. Operators have also had to consider the potential transport of released product via nearby waterways, including such factors as seasonal variations in flow, the effect of stream turbulence, and their ability to respond to a release and contain further transport of spilled product.

During the Phase one rulemaking for rural low-stress pipelines, PHMSA concluded it would be unnecessarily burdensome to require operators of these pipelines to perform a complete "could affect" analysis to determine which rural low-stress pipeline segments would be subject to IM requirements. Rather, PHMSA adopted a one-half mile buffer around USAs [2] as the "could affect" area (*i.e.,* any rural low-stress pipeline segment within the one-half mile buffer would be subject to IM requirements). PHMSA found it unlikely a "could affect" analysis on a rural low-stress pipeline would result in a larger area than the one-half mile buffer for application of IM requirements. Available data showed that the largest spill on land from a low-stress line traveled no more than two acres from the site of failure. This data, coupled with the relatively lower pressure of low-stress pipelines, led PHMSA to conclude that a one-half mile buffer was more than adequate for application of IM requirements. The majority of representatives on the THLPSSC agreed with this approach.

For phase two, PHMSA remains confident that the one-half mile buffer continues to be an adequate "could affect" area that identifies the vast majority (if not all) of rural low-stress pipelines that could affect a USA. The smaller-diameter pipelines to which we propose to apply integrity management regulation in this phase usually release a smaller amount of product in a failure, which travels a shorter distance within the environment than would the larger quantity released from larger-diameter pipelines.

As in phase one, PHMSA has included an option for pipeline operators to use "could affect" analyses in lieu of the one-half mile buffer to determine which of their smaller-diameter low-stress pipelines would be subject to IM requirements. PHMSA recognizes that operators could use this option in circumstances where it is likely the "could affect" analysis would determine that a pipeline segment cannot affect a USA (*e.g.,* where the USA is uphill from the pipeline). PHMSA concludes it would be unreasonable to exclude this option for rural low-stress pipelines, since it can identify instances in which application of IM requirements would be unnecessary.

This NPRM includes, as did the phase one rule, a provision addressing newly identified USAs. Such new USAs could result in additional pipeline segments meeting criteria for Category 1 or 2 rural low-stress pipelines and thus become subject to IM requirements.

This NPRM would require that pipeline segments identified as Category 1 or 2 continue to meet the requirements applicable to those categories even if the boundaries of a USA are redefined so that the pipeline segment (or portion thereof) is no longer within one-half mile of the USA unless the operator determines that the segment could not affect the USA. This provision adds no additional burden because pipeline operators may simply continue to treat their pipelines as they would have without the redefinition of USA boundaries.

Economic Burden

The phase one rule allowed operators of pipelines meeting specified criteria to notify PHMSA if they would incur an excessive economic burden in complying with the integrity management assessment requirements. The criteria were designed for rural pipelines that carry oil from a production facility and where the pipeline would be abandoned or shut down as a result of the economic burden associated with IM assessments. The phase one rule provides that PHMSA will stay compliance with the integrity management assessment requirements while it reviews the notification. Based on the outcome of the review, PHMSA may grant the operator a special permit imposing alternative safety requirements in lieu of an assessment.

For phase two, PHMSA considered extending the economic compliance burden provision to Category 2 pipelines—those smaller diameter rural low-stress pipelines located in or within one-half mile of a USA that would be under IM regulation. Category 3 low-stress pipelines are not subject to the IM requirements. However, PHMSA concluded that this was not necessary because no Category 2 low-stress pipeline would meet the criteria in the economic burden compliance provision of current § 195.12(c) and that concerns about preserving oil production or minimizing risk of alternative transport of crude oil from wells do not apply to these pipelines. PHMSA's reasoning is based on the definition of "gathering line" in § 195.2. That Section defines any "pipeline 219.1 mm (8⅝ inch) or less nominal outside diameter that transports petroleum from a production facility" as a gathering line. Gathering lines are not subject to the provisions of § 195.12.

Instead, requirements applicable to regulated gathering lines are found in § 195.11, and do not include IM requirements. As a result, no low-stress pipeline of 8⅝ inch or less nominal diameter that carries crude oil from a production facility is subject to IM requirements, and it is not necessary to provide an economic burden provision for these pipelines to ameliorate unintended impacts on production. PHMSA invites comment on this reasoning and whether it is necessary to provide an economic compliance burden provision applicable to Category 2 low-stress pipelines similar to that included for those in Category 1.

Proposed Rule

The NPRM would revise 49 CFR Part 195 to cover rural onshore low-stress pipelines with a diameter smaller than 8⅝ inches located in or within one-half mile of a USA and rural onshore low-stress pipelines of any diameter located outside the one-half mile buffer from a USA.

Section-by-Section Analysis

Section 195.1 Which pipelines are covered by this Part?

Section 195.1 has been revised numerous times over the years to include changes to the pipelines covered or excluded from the scope of Part 195. Section 195.1 was revised in the phase one rule to provide more clarity and to include the phase one rural low-stress pipelines within the scope of Part 195. PHMSA is proposing to revise Sections 195.1(a) and (b) to include the rural low-stress pipelines we are proposing to bring under Part 195 regulations in phase two. With the exception of the phase two pipelines we are proposing to now regulate, this NPRM is not changing any of the other covered or excluded pipelines in this Part.

PHMSA is also proposing to correct an inadvertent error to § 195.1 that was

[2] The other component of HCAs, populated areas, was not affected by the Phase One rulemaking and is not affected by this NPRM since pipelines in populated areas are not, by definition, in "rural areas" and are already regulated.

adopted under the phase one rule. The error concerns the long standing exception for low-stress pipelines subject to the regulations of the U.S. Coast Guard. Under the phase one rule, § 195.1 was incorrectly revised to state that Part 195 does not apply to any pipeline subject to the safety regulations of the U.S. Coast Guard. In this NPRM, we are correcting § 195.1 to state that Part 195 does not apply to any *low-stress pipeline* subject to the safety regulations of the U.S. Coast Guard.

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

This Section is being revised to clarify that all previously unregulated low-stress pipelines in rural areas are now covered under Part 195 regulation. This Section does not apply to rural low-stress pipelines that cross a waterway used for commercial navigation because they are already regulated under Part 195.

PHMSA proposes to revise this Section to define three categories of rural low-stress pipelines (proposed Section 195.12(b)). Category 1 lines are those that were regulated in phase one (*i.e.,* rural low-stress pipelines with a diameter of 8⅝ inches or more located in or within one-half mile of a USA). Category 2 pipelines would be those rural low-stress pipelines of smaller diameter (less than 8⅝ inches in diameter) located in or within one-half mile of a USA. Category 3 would be all remaining rural low-stress pipelines except for those that cross navigable waterways (which are already regulated).

Section 195.12(c) would set forth the proposed requirements and compliance dates for each category of pipeline. The requirements for Category 1 rural low-stress pipelines are not affected. Operators of Category 2 rural low-stress pipelines would have to comply with all requirements of Part 195, including IM requirements. Operators of Category 3 rural low-stress pipelines would be required to comply with all requirements of Part 195 except IM requirements.

Proposed Section 195.12(c) also sets forth the proposed timetables for compliance with various portions of Part 195. The compliance deadlines established by the phase one final rule for Category 1 rural low-stress pipelines remain unchanged. Except for the compliance deadlines for the completion of the baseline assessments, we are proposing to establish deadlines for Category 2 and Category 3 rural low-stress pipelines in this NPRM by applying the same criteria to Category 2 and Category 3 rural low-stress pipelines that we applied to Category 1. For example, if we required a Category 1 operator to comply with a requirement within 12 months of the effective date of the phase one final rule, we are proposing the same 12-month time frame for an operator of a Category 2 or Category 3 rural low-stress pipeline. In phase one, PHMSA adopted compliance dates of seven years and 3½ years, respectively, for the completion of the baseline assessments. PHMSA believes that it is appropriate to reduce the compliance deadlines for these requirements considering the amount of time that has transpired since the passage of the PIPES Act and the relatively small number of miles that would be subject to these requirements. Thus, we are proposing that operators of Category 2 pipelines complete all baseline assessments within five years of the effective date of the final rule and that at least 50 percent of the assessments be completed within 30 months of the effective date of the final rule.

PHMSA established the proposed compliance deadlines for Category 2 and Category 3 pipelines using our judgment on how long it would take an operator to implement the requirements without imposing undue burden. PHMSA welcomes comment on whether the proposed time frames achieve that goal.

As discussed above, PHMSA did not change the provision allowing operators of some Category 1 rural low-stress pipelines to notify PHMSA if they conclude that implementing the IM assessment requirements would pose such an economic burden that they would abandon their pipelines. This provision continues to be limited to Category 1 rural low-stress pipelines carrying crude oil from production facilities and where shutdown of the pipeline would cause loss of oil supply or a transition to truck transportation. PHMSA (with assistance from DOE, as appropriate) will review notifications and, if justified, may grant the operator a special permit to allow continued operation of the pipeline subject to alternative safety requirements. We would like comment on whether this provision should be extended to Category 2 pipelines meeting the same criteria.

Section 195.48 Scope

This Section was added in the phase one final rule. There had not previously been a scope Section in Subpart B because all pipelines subject to Part 195 were subject to all the reporting requirements in Subpart B. This Section was added in phase one because the reporting requirements of Subpart B were made applicable to all rural low-stress pipelines, even those not subject to the technical requirements of the phase one rule. Operators of those rural low-stress pipelines not subject to the technical requirements of Part 195 under phase one were not required to complete those portions of the annual report form that relate to integrity management requirements and inspections.

With this NPRM, all rural low-stress pipelines are now subject to all requirements of Part 195, except that Category 3 pipelines are not subject to the IM requirements in § 195.452. The exclusion of portions of the annual report form related to IM has therefore been modified to apply only to operators of Category 3 pipelines.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures

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

This NPRM affects those rural low-stress pipelines of any diameter that are more than one-half mile outside a USA and rural low-stress pipelines less than 8⅝ inches in diameter that are located in or within one-half mile of a USA. The following table presents the estimates for the mileage affected by this proposed rulemaking:

- Phase Two Eligible Mileage

Pipeline diameter	Miles inside USA	Miles outside USA
< 8⅝″	100.5	443.2
≥ 8⅝″	.....	840.6

Four sources of mileage data that provide varying levels of detail were analyzed to derive these final mileage estimates:

- The Regulatory Analysis for the low-stress I final rule by PHMSA published in August 2006.
- A survey of operators of low-stress pipelines.
- The annual mileage data pipeline operators report to PHMSA.
- Mileage estimates reported to the National Pipeline Mapping System (NPMS).

The estimate of 5,624 miles of rural low-stress pipeline made in the phase

one regulatory analysis appears to be a high-end estimate. The results of the survey PHMSA conducted identifies 1,575 miles and the NPMS reports 1,672.9 miles, with the NPMS data excluding both intra-plant miles and lines regulated in phase one. The PHMSA annual report database includes 1,536 newly reported low-stress rural miles. Since the data collected in the survey includes a variety of other information used in this analysis, including characteristics of the reported mileage, it is used for phase two rural low-stress pipeline mileage estimates. Distribution percentages and assumptions relating to the three phase two rural low-stress pipeline segments result in a slightly lower estimate of miles than the original estimate that resulted from the survey data. This final estimate is approximately 1,384 miles of eligible rural low-stress pipeline.

Costs of the Regulation

PHMSA estimates the 30-year net present values [3] of compliance costs for this NPRM to be $104.9 million. The operators of the pipelines affected by the regulatory changes included in the NPRM are expected to incur costs attributable to those changes. The costs of the rulemaking will be those associated with bringing the affected pipelines into compliance with Part 195, which has the following eight Subparts:

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

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

Benefits of the Regulation

The 30-year net present value of benefits of this NPRM is $326.5 million. PHMSA expects the proposed regulatory changes to reduce the number of incidents and the incident costs and consequences. The ability of the NPRM to reduce or avoid these costs is considered to be the primary benefit of the regulation and is referred to as traditional benefits. Data on incident costs for rural low-stress pipelines are generally not available because PHMSA has not regulated these pipelines in the past. Moreover, the reduction in costs that the regulation would cause is also unknown. The final 30-year net present value of benefits of this NPRM is $326.5 million.

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

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, as amended, requires Federal agencies to conduct a separate analysis of the economic impact of rules on small entities. The Regulatory Flexibility Act requires that Federal agencies take small entities' concerns into account when developing, writing, publicizing, promulgating, and enforcing regulations.

Need for the Proposed Rule

This NPRM covers certain rural onshore low-stress hazardous liquid pipelines. Beginning in 1991, Congress paid greater attention to the risks that hazardous liquid and natural gas pipelines pose to the environment. In the Pipeline Safety Act of 1992 (Pub. L. 102–508), Congress gave DOT greater authority to protect the environment from risks that pipelines pose. Congress continued to emphasize the need to better protect the environment from the risks pipelines pose in the Accountable Pipeline Safety and Partnership Act of 1996 (Pub. L. 104–304). With the PIPES Act of 2006 (Pub. L. 109–468), Congress went further and instructed DOT to apply all Part 195 requirements to unregulated rural low-stress pipelines.

PHMSA decided to apply Part 195 requirements to rural low-stress pipelines as a two-phase process. The phase one rulemaking covered large diameter pipe (greater than or equal to 8⅝ inches in diameter) located in or within one-half mile of a USA. These were the higher risk rural low-stress pipelines. The second phase, which is covered by this NPRM, covers the remaining unregulated onshore rural low-stress pipelines. This includes small diameter (less than 8⅝ inches diameter) pipeline in or within one-half mile of a USA, and any diameter rural low-stress pipeline not within one-half mile of a USA.

Description of Actions

PHMSA is bringing the remaining rural onshore low-stress pipelines not regulated by phase one under the safety regulation of 49 CFR Part 195. These lines include rural low-stress pipelines with a diameter of less than 8⅝ inches that are within one-half mile of a USA and rural low-stress pipelines of any size diameter that are outside of the one-half mile USA buffer.

Related Federal Rules and Regulations

There are currently no related rules or regulations issued by other department or agencies of the Federal Government.

Identification of Potentially Affected Small Entities

In accordance with size standards published by the Small Business Administration, a pipeline transportation business with 1,500 or fewer employees is considered a small entity.[4] Depending on the products being transported, low-stress pipeline operators belong to the North American Industry Classification System Code (NAICS) 486110, Pipeline Transportation of Crude Oil, or NAICS 486910, and Pipeline Transportation of Refined Petroleum Products. For both NAICS codes, a business with 1,500 or fewer employees is considered a small entity.

PHMSA made an extensive effort to identify small and other operators of rural low-stress lines. PHMSA surveyed these operators to get better information about the number of miles and compliance costs of rural hazardous liquid low-stress pipelines.

To ensure that the response rate was maximized, PHMSA publicized its plans to conduct the survey in (1) a 60-day **Federal Register** (FR) notice published on September 6, 2006, (71 FR 52504) and (2) a 30-day FR notice published on September 7, 2007, (72 FR 51489). No comments were submitted to either notice. PHMSA then announced the availability of the survey in a FR notice published on July 31, 2008, (73 FR 44800).

PHMSA delivered the survey and a letter explaining the importance of the study via three methods:

1. A version of the survey that allowed operators to directly input responses was posted on the PHMSA

[3] A 2.7 real discount rate is applied as suggested by OMB Circular No. A–94 for 30-year net present values.

[4] U.S. Small Business Administration "Table of Small Business Size Standards Matched to North American Industry Classification System Codes. August 22, 2008. *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.*

OPS Online Data Entry Web site (ODES). An e-mail announcing the survey was sent to the contact person responsible for each company's most recent annual report submission.

2. Respondents were also able to print an electronic version of the survey directly from the e-mail received and mail or fax a completed hard copy to the Volpe National Transportation Systems Center (Volpe Center).

3. Finally, in an effort to reach companies that currently operate unregulated pipelines exclusively, PHMSA and the Volpe Center worked with the American Petroleum Institute, the Association of Oil Pipelines and the Independent Petroleum Association of America to announce and distribute the survey to their members via their e-mail newsletters.

Of the 112 operators that responded, 21 reported rural low-stress pipeline mileage. PHMSA then conducted additional follow-up with these operators. Only 12 of the 20 operators were identified as actually having low-stress pipeline mileage eligible for the Phase 2 rulemaking. Information on these companies was collected from a compilation of Dun & Bradstreet data purchased by PHMSA, online company profiles and direct phone calls. The enterprise name, number of employees, revenues, profits, compliance costs and affected mileage are listed in Exhibit 5–1.

- **Exhibit 5-1: Low-Stress Operator Profiles**

Operator Enterprise	Number of Employees	Revenue (millions)	Profits (millions)	Affected Mileage	Compliance Costs			Data Source
					Initial	Recurring		
						Every one year	Every five year	
ExxonMobil US Production	107,000	$ 372,824	$ 40,610	2.7	$ 179,000	$ 2,000	$ -	CNN Financial Profile, http://money.cnn.com/magazines/fortune/global500/2008/snapshots/387.html
ConocoPhillips	32,600	$ 178,558	$ 11,891	56.8	$ 15,000	$ 3,000	$ -	CNN Financial Profile, http://money.cnn.com/magazines/fortune/global500/2008/snapshots/327.html
Holly Energy Partners	1,381	$ 5,867	N/A	30.3	$ -	$ -	$ -	LinkedIn, http://www.linkedin.com/companies/holly-corporation
BP	97,600	$ 291,438	$ 20,845	2.8	$ -	$ -	$ -	CNN Financial Profile, http://money.cnn.com/magazines/fortune/global500/2008/snapshots/6327.html
Marathon Pipe Line LLC	30,360	$ 77,193	$ 3,528	82.9	$ 645,000	$ -	$ 268,000	Marathon Fact Book (2008), http://www.marathon.com/content/documents/investor_center/fact_books/2008_factbook_final.pdf
Sunoco Pipeline LP	14,200	$ 42,101	$ 891	45.0	$ 500,000	$ -	$ 500,000	CNN Financial Profile, http://money.cnn.com/magazines/fortune/global500/2008/snapshots/396.html
Plains All American Pipeline, L.P.	2,000	$ 31,177	$ 217	178.7	$ 13,632,100	$ 564,500	$ 5,691,200	CNN Financial Profile, http://money.cnn.com/magazines/fortune/global500/2008/snapshots/11014.html
McCain Pipeline Company	2	N/A	N/A	4.0	$ 475,000	$ -	$ 100,000	Operator Phone Call
MarkWest Energy Partners	471	$ 1,338	N/A	100.0	$ -	$ -	$ -	Dun&Bradsheet
Westlake Petrochemicals	2,955	$ 2,290	$ 69	6.3	$ 121,500	$ -	$ 100,000	Yahoo Financial Profile, http://finance.yahoo.com/q/pr?s=WLK
Chevron Pipe Line Company	65,035	$ 210,783	$ 18,688	37.0	$ -	$ -	$ -	CNN Financial Profile, http://money.cnn.com/magazines/fortune/global500/2008/snapshots/385.html

Exhibit 5–1 shows that three of the 11 enterprises fall under 1,500 employees and are thus considered small entities. The cost estimation analysis, described in the Regulatory Analysis, concluded that the low-stress mileage held by two of these operators is already in compliance with Part 195. Therefore, these two small entities will not be adversely affected by the rulemaking. The other small entity, which has four miles of affected low-stress mileage, reports an initial compliance cost of $475,000 and recurring costs of $100,000 every five years.

Alternate Proposals for Small Businesses

The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where it is possible to do so, and still meet the objectives of applicable regulatory statutes.

The phase two Regulatory Analysis analyzes six regulatory alternatives. They are as follows:

Alternative 1: Apply all Part 195 Requirements to All Eligible rural low-stress pipelines.

Alternative 2: Apply all Part 195 Requirements to Small Diameter rural low-stress pipelines located in or within one-half mile of a USA.

Alternative 3: Apply all Part 195 requirements to rural low-stress pipelines equal to or greater than 8⅝ inches in diameter located farther than one-half mile from a USA.

Alternative 4: Apply all Part 195 requirements to rural low-stress pipelines less than 8⅝ inches in diameter outside one-half mile of a USA.

Alternative 5: Apply all Part 195 requirements except Subpart H to all rural low-stress pipelines not currently regulated.

Alternative 6: Apply all Part 195 requirements except the Integrity Management Program to all rural low-stress pipelines not currently regulated.

All six alternatives generate a benefit greater than the compliance cost. If the proposed Alternative 1, which regulates all eligible rural low-stress pipelines, is a significant economic burden to the small operator identified in the survey or to any other small entity not identified in this Regulatory Flexibility Analysis, PHMSA can consider applying one of the other five alternatives to small businesses to reduce compliance costs. Alternatives 5 and 6 are designed to eliminate the compliance costs associated with Subpart H (Corrosion Control Programs) and the Integrity Management Program (IMP). A significant portion of the small company's initial costs and all of its recurring costs is associated with the

IMP. Therefore, Alternative 6 may be a viable requirement for such operators.

Alternative 1 is the alternative that PHMSA has selected. This alternative not only complies with the statutory requirement but also increases the level of safety associated with the transportation of hazardous liquids through low-stress pipelines to a level commensurate with other pipelines that are already subject to the pipeline safety regulations.

Conclusion

From the information we have gathered, this NPRM will have an economic impact on one known small entity. Therefore, under Section 605 of the Regulatory Flexibility Act, this NPRM will not have a significant impact on a substantial number of small entities.

Executive Order 13175

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

Paperwork Reduction Act

Pursuant to 5 CFR 1320.8(d), PHMSA is required to provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. This proposed rule identifies several information collection requests that PHMSA will submit to the Office of Management and Budget (OMB) for approval based on the requirements in this proposed rule. These information collections are contained in the pipeline safety regulations, 49 CFR Parts 190–199.

PHMSA has developed revised burden estimates to reflect changes in this proposed rule. The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) type of request; (4) abstract of the information collection activity; (5) description of affected public; (6) estimate of total annual reporting and recordkeeping burden; and (7) frequency of collection. PHMSA estimates that based on the proposals in this rule, the current information collection burden for the following information collections will be revised as follows:

Title of Information Collection: Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.

OMB Control Number: 2137–0047.

Type of Request: Revision of a currently approved information collection.

Abstract: Hazardous liquid pipeline operators must keep records to ensure that their pipelines are operated safely. Operators must also report accidents.

Type of Respondents: Hazardous Liquid Operators.

Total Annual Number of Respondents: 300.

Total Annual Responses: 450.

Total Annual Burden Hours: 50,507 hours (initial increase of 1,860 hours).

Frequency of Collection: On occasion.

Title of Information Collection: National Pipeline Mapping Program.

OMB Control Number: 2137–0596.

Type of Request: Revision of a currently approved information collection.

Abstract: The operator of a pipeline facility (except distribution lines and gathering lines) provides information to the PHMSA on the characteristics of their pipeline system. The submitted information includes updates to annual mapping information for each mile of pipeline.

Type of Respondents: Pipeline Facility Operators (except distribution lines and gathering lines).

Total Annual Number of Respondents: 894.

Total Annual Responses: 894.

Total Annual Burden Hours: 16,912 hours (initial increase of 600 hours).

Frequency of Collection: Annual.

Title of Information Collection: Pipeline Integrity Management in High Consequence Areas (Operators with less than 500 Miles of Hazardous Liquid Pipelines).

OMB Control Number: 2137–0605.

Type of Request: Revision of a currently approved information collection.

Abstract: Hazardous Liquid Operators with less than 500 miles of Pipelines are required to continual assess and evaluate the integrity of their pipeline through inspection or testing. Such operators must also implement remedial, preventive, and mitigative actions on these pipelines.

Type of Respondents: Hazardous Liquid Operators (w/less than 500 miles of pipelines).

Total Annual Number of Respondents: 132.

Total Annual Responses: 132.

Total Annual Burden Hours: 268,560 hours (initial increase of 600 hours).

Frequency of Collection: On occasion.

Title of Information Collection: Public Awareness Program.

OMB Control Number: 2137–0622.

Type of Request: Revision of a currently approved information collection.

Abstract: Current regulations require pipeline operators to develop and implement public awareness programs. Public awareness and understanding of pipeline operations is vital to the continued safe operation of pipelines. Upon request, operators must submit their completed programs to the PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

Type of Respondents: Pipeline Operators.

Total Annual Number of Respondents: 22,500.

Total Annual Responses: 22,500.

Total Annual Burden Hours: 517,720 hours (initial increase of 240 hours).

Frequency of Collection: On occasion.

Requests for copies of these information collections should be directed to Cameron Satterthwaite, Office of Pipeline Safety (PHP–30), Pipeline Hazardous Materials Safety Administration (PHMSA), 2nd Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, Telephone (202) 366–8553.

Send comments directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for the Department of Transportation, 725 17th Street, NW., Washington, DC 20503. Comments should be submitted on or prior to August 23, 2010.

Unfunded Mandates Reform Act of 1995

This NPRM would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $141.3 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 NPRM.

National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires Federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. PHMSA conducted a preliminary environmental assessment of the application of phase two safety regulations to rural onshore hazardous liquid pipelines. This preliminary environmental assessment examines the environmental impacts the

NPRM, and reasonable alternatives to those actions, would have on the environment.

The preliminary environmental assessment found that the NPRM would not significantly affect the quality of the environment. This NPRM would require only limited physical modification or other work that would disturb pipelines, such as identifying segments of pipelines meeting the regulatory definitions, inspection and testing, installing and maintaining line markers, implementing corrosion controls, pipeline cleaning, and establishing integrity assessment programs. The preliminary environmental assessment concludes the expected reductions in hazardous liquid spills are a minor to moderate positive environmental impact offsetting the negligible negative environmental impacts associated with implementing the rulemaking. The full preliminary environmental assessment is available for review in the public docket.

Executive Order 13132

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

Executive Order 13211

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

List of Subjects in 49 CFR Part 195

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

For the reasons provided 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 CFR 1.53.

2. Section 195.1 is revised to read as follows:

§ 195.1 Which pipelines are covered by this part?

(a) *Covered.* Except for the pipelines listed in paragraph (b) of this section, this part applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide associated with those facilities in or affecting interstate or foreign commerce, including pipeline facilities on the Outer Continental Shelf (OCS). Covered pipelines include, but are not limited to:

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

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

(3) Except for a gathering line not covered by paragraph (a)(4) of this Section, any pipeline located in a rural or non-rural area of any diameter regardless of operating pressure;

(4) Any of the following onshore gathering lines used for transportation of petroleum:

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

(ii) A regulated rural gathering line as provided in § 195.11; or

(iii) A pipeline located in an inlet of the Gulf of Mexico as provided in § 195.413.

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

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

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

(3) Transportation of a hazardous liquid through any of the following low-stress pipelines:

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

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

(4) Transportation of petroleum through an onshore rural gathering line that does not meet the definition of a "regulated rural gathering line" as provided in § 195.11. This exception does not apply to gathering lines in the inlets of the Gulf of Mexico subject to § 195.413;

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

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

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

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

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

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

(ii) Through facilities located on the grounds of a materials transportation terminal if the facilities are used exclusively to transfer hazardous liquid or carbon dioxide between non-pipeline modes of transportation or between a non-pipeline mode and a pipeline. These facilities do not include any device and associated piping that are necessary to control pressure in the pipeline under § 195.406(b); or (10) Transportation of carbon dioxide downstream from the applicable following point:

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

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

(c) *Breakout tanks.* Breakout tanks subject to this Part must comply with requirements that apply specifically to breakout tanks and, to the extent

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

3. Section 195.12 is revised to read as follows:

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

(a) *General.* This section sets forth the requirements for each category of low-stress pipeline in a rural area set forth in paragraph (b) of this section. This section does not apply to a rural low-stress pipeline regulated under this part as a low-stress pipeline that crosses a waterway currently used for commercial navigation.

(b) *Categories.* An operator of a rural low-stress pipeline must meet the applicable requirements and compliance deadlines for the category of pipeline set forth in paragraph (c) of this section. For purposes of this section, a rural low-stress pipeline is a Category 1, 2, or 3 pipeline based on the following criteria:

(1) A Category 1 rural low-stress pipeline:

(i) Has a nominal diameter of 8–5/8 inches (219.1 mm) or more;

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

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

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

(B) 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) gauge.

(2) A Category 2 rural pipeline:

(i) Has a nominal diameter of less than 8–5/8 inches (219.1mm);

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

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

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

(B) 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) gauge.

(3) A Category 3 rural low-stress pipeline:

(i) Has a nominal diameter of any size and is not located in or within a half mile (.80 km) of an unusually sensitive area (USA) as defined in § 195.6; and

(ii) Operates at a maximum pressure established under § 195.406 corresponding to a stress level equal to or less than 20-percent of the specified minimum yield strength of the line pipe; or

(iii) 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) gauge.

(c) *Applicable requirements and deadlines for compliance.* An operator must comply with the following compliance dates depending on the category of pipeline determined by the criteria in paragraph (b) (1) of this section:

(1) An operator of a Category 1 pipeline must:

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

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

(iii) Integrity management requirements—

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

(B) An operator may conduct a determination per § 195.452(a) in lieu of the half mile buffer.

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

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

(2) An operator of a Category 2 pipeline must:

(i) Identify all segments of pipeline before [date 9 months following effective date of final rule].

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

(iii) Integrity management requirements—

(A) Establish a written integrity management program that complies with § 195.452 before [date 12 months following effective date of final rule] to assure the integrity of the pipeline segments. Continue to carry out such program in compliance with § 195.452.

(B) An operator may conduct a determination per § 195.452(a) in lieu of the half mile buffer.

(C) Complete the baseline assessment of all segments in accordance with § 195.452(c) before [date 60 months following the effective date of final rule] and complete at least 50-percent of the assessments, beginning with the highest risk pipe, before [date 30 months following the effective date of final rule].

(iv) Comply with all other safety requirements of this part, except subpart H, before [date 12 months following effective date of final rule]. Comply with subpart H of this part before [date 36 months following effective date of final rule].

(3) An operator of a Category 3 pipeline must:

(i) Identify all segments of pipeline before [date 9 months following effective date of final rule].

(ii) Comply with all safety requirements of this part, except the requirements in § 195.452, subpart B, and the requirements in subpart H, before [date 12 months following effective date of final rule].

(A) Comply with subpart B of this part by January 3, 2009.

(B) Comply with subpart H of this part before [date 36 months following effective date of final rule].

(d) *Economic compliance burden.*

(1) An operator may notify PHMSA in accordance with § 195.452(m) of a situation meeting the following criteria:

(i) The pipeline is a Category 1 rural low-stress pipeline;

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

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

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

(2) A notification submitted under this provision must include, at minimum, the following information about the pipeline: Its operating, maintenance and leak history; the estimated cost to comply with the integrity assessment requirements (with a brief description of the basis for the estimate); the estimated amount of production from affected wells per year, whether wells will be shut in or alternate transportation used, and if alternate transportation will be used, the estimated cost to do so.

(3) When an operator notifies PHMSA in accordance with paragraph (d)(1) of

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

(e) *Changes in unusually sensitive areas.*

(1) If, after June 3, 2008, an operator identifies a new USA that causes a segment of pipeline to meet the criteria in paragraph (b) of this section as a Category 1 or Category 2 rural low-stress pipeline, the operator must:

(i) Comply with the integrity management program requirement in paragraph (c)(1)(iii)(A) or (c)(2)(iii)(A) of this section, as appropriate, within 12 months following the date the area is identified regardless of the prior categorization of the pipeline; and

(ii) Complete the baseline assessment required by paragraph (c)(1)(iii)(C) or (c)(2)(iii)(C) of this section, as appropriate, according to the schedule in § 195.452(d)(3).

(2) If a change to the boundaries of a USA cause a Category 1 or Category 2 pipeline segment to no longer be within one-half mile of a USA, an operator must continue to comply with paragraph (c)(1)(iii) or paragraph (c)(2)(iii) of this section, as applicable, with respect to that segment unless the operator determines that a release from the pipeline could not affect the USA.

(f) *Record Retention.* An operator must maintain records demonstrating compliance with each requirement applicable to the category of pipeline according to the following schedule.

(1) An operator must maintain the segment identification records required in paragraph (c)(1)(i), (c)(2) (i) or (c)(3)(i) of this section for the life of the pipe.

(2) An operator must maintain the records necessary to demonstrate compliance with each applicable requirement set forth in paragraph (c) of this section according to the record retention requirements of the referenced section or subpart.

4. Section 195.48 is revised to read as follows:

§ 195.48 Scope.

This subpart prescribes requirements for periodic reporting and for reporting of accidents and safety-related conditions. This subpart applies to all pipelines subject to this part. An operator of a Category 3 rural low-stress pipeline meeting the criteria in § 195.12 is not required to complete those parts of the hazardous liquid annual report form PHMSA F 7000–1.1 associated with integrity management or high consequence areas.

Issued in Washington, DC, on June 16, 2010.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2010–14998 Filed 6–21–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R2-ES-2009-0014]
[92210-1117-0000-B4]

RIN 1018-AW50

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Roswell Springsnail, Koster's Springsnail, Noel's Amphipod, and Pecos Assiminea

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose to revise designated critical habitat for the Pecos assiminea (*Assiminea pecos*), and to newly designate critical habitat for the Roswell springsnail (*Pyrgulopsis roswellensis*), Koster's springsnail (*Juturnia kosteri*), and Noel's amphipod (*Gammarus desperatus*), under the Endangered Species Act of 1973, as amended. In total, we are proposing to designate as critical habitat approximately 515 acres (208.4 hectares) for the four species. The proposed critical habitat is located in Chaves County, New Mexico, and Pecos and Reeves Counties, Texas. We also announce the availability of the draft economic analysis and draft environmental assessment for this action.

DATES: We request that comments be received or postmarked on or before August 23, 2010. Please note that submissions via the *Federal eRulemaking Portal* (see **ADDRESSES** section, below) must be made by 11:59 pm Eastern Standard Time on this date. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by August 6, 2010.

ADDRESSES: You may submit comments by one of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Search for docket number FWS-R2-ES-2009-0014 and then follow the instructions for submitting comments.

• *U.S. mail or hand-delivery*: Public Comments Processing, Attn: Docket No. FWS-R2-ES-2009-0014; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: Wally "J" Murphy, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna Rd NE, Albuquerque, NM 87113; telephone 505–761–4781; facsimile 505–246–2542. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned government agencies, the scientific community, industry, or other interested parties concerning the proposed revisions to critical habitat for the Pecos assiminea (*Assiminea pecos*), and the proposed critical habitat for the Roswell springsnail (*Pyrgulopsis roswellensis*), Koster's springsnail (*Juturnia kosteri*), and Noel's amphipod (*Gammarus desperatus*), as well as the draft economic analysis and draft environmental assessment of the proposed designation. We will consider information and recommendations from all interested parties. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Specific information on:

• The amount and distribution of habitat for the Roswell springsnail,