

## **PHMSA extends regulatory coverage to all rural, onshore, low-stress hazardous liquid pipelines**

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**By Heidi Slinkard Brasher**

The Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMS) issued a final rule on May 5, 2011, amending its pipeline safety regulations to apply to all rural, low-stress hazardous liquid pipelines in compliance with the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 ("PIPES Act"), through which PHMSA was required to subject these low-stress hazardous liquid pipelines to the same regulations as other rural hazardous liquid pipelines. Compliance with the PIPES Act occurred in phases, beginning in 2008.



Phase One applied 49 C.F.R. Part 195 regulations to high-risk, large-diameter (8-5/8" or larger) rural, low-stress pipelines within one-half mile of an unusually sensitive area ("USA"). PHMSA began with these pipelines because it had more information on those rural pipelines than others and those rural pipelines were most likely to cause harm to the USAs. The reporting requirements under Part 195 were applied to all rural, low-stress pipelines as well because PHMSA intended to apply the entire Part 195 to all such pipelines in the future and the application of the reporting requirements to all pipelines would help identify the operators and mileage not yet regulated. Additionally, each operator of rural, low-stress pipeline was asked to voluntarily comply with an OMB survey requesting information about the pipelines so a cost assessment could occur regarding the operators' potential cost of compliance upon application of the regulations and so an evaluation of state incident data collected in the past could be evaluated.

After completion of Phase One and evaluation of the data received, Phase Two applied all Part 195 requirements – including Integrity Management (“IM”) requirements – to all rural, lowstress hazardous liquid pipelines less than 8-5/8” in diameter not included in Phase One implementation, but which are located within one-half mile of a USA. These are known as Category 2 pipelines. Category 1 pipelines are those which were regulated under Phase One. Category 3 pipelines are the remaining rural, low-stress hazardous liquid pipelines not included in Categories 1 or 2. Because Category 3 pipelines are not within the “could affect” half-mile buffer of the USA (where Category 2 pipelines are located), they are not required to meet the IM components of Part 195.



Comments submitted during rulemaking made clear to PHMSA that application of the “could affect” analysis to determine which segments are subject to IM requirements was “unnecessarily burdensome.” Instead of taking into account the various factors necessary to determine whether a pipeline “could affect” a high consequence area (“HCA”) (i.e., comparison of pipeline and HCA locations and consideration of topography, ground cover, nearby waterways, flow, seasonal variations, stream turbulence, response time, etc.), PHMSA instead opted to apply a half-mile buffer around USAs to determine whether IM requirements would apply to pipeline segments. This is intended to simplify application. However, operators who believe their pipelines do not pose any danger, despite being within the half-mile buffer zone, may undergo the more burdensome “could affect” standard to demonstrate that the IM requirements need not be satisfied. Once a pipeline is determined to be within the half-mile buffer zone, IM requirements apply and continue to apply even if the USA moves over time and the pipeline segments no longer are within a half-mile of a USA. If a pipeline falls within this scenario, an operator must continue to abide by IM requirements or undergo a “could affect” analysis to demonstrate to PHMSA that it need not continue to comply.

As a result, all rural, low-stress pipelines not excluded under section 195.1 (e.g., gathering lines which, if regulated, are instead regulated under section 195.11) are now regulated under section 195.12. Category 2 and 3 compliance deadlines are as follows:

- July 1, 2012: Within nine months of the October 1, 2011, effective date of the final rule, an operator must identify its Category 2 and 3 pipelines
- April 1, 2014: Within 2½ years of the effective date of the final rule, at least 50 percent of all Category 2 pipelines must have complete baseline IM assessments
- October 1, 2016: Within five years of the effective date of the final rule, all Category 2 pipelines must have complete baseline IM assessments

Because all rural, low-stress hazardous liquid pipelines are now subject to all Part 195 safety requirements, the annual report form is required for all operators except that Category 3 pipelines, which are not subject to IM requirements, need not complete the IM-related portions.,

## LINKS

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