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Senate committee reauthorizes pipeline safety programs

BY JARED BURDEN

On May 5, 2011, the Senate Commerce, Science and Transportation Committee voted to pass S. 275, the Pipeline Transportation Safety Improvement Act of 2011, moving the process of reauthorizing the pipeline safety program one step closer to becoming reality. The bill was introduced by Sens. Lautenberg (D-N.J.) and Rockefeller (D-W.Va.) and was passed by a bipartisan voice vote. The bill will now be considered by the full Senate.

If enacted, this bill will institute a regulatory scheme more rigorous than that now imposed on the pipeline industry. Among the more salient features included in the bill are stiffer penalties for violators, fines for obstructing pipeline investigations, fees for construction projects that are large or use new technology, and a provision allowing the Pipeline and Hazardous Materials Safety Administration (PHMSA) to recover its costs for the oversight of pipeline design and construction projects.

The bill will also include several mandates affecting the technical specifications or reporting requirements of pipeline facilities. For example, one provision would require operators to install automatic shut-off valves on any new or entirely replaced transmission line. The bill would also institute time limits for reporting accidents and leaks to local and state government officials and emergency responders as well as give the Secretary of Transportation authority to evaluate the expansion of integrity management system requirements. In addition, the bill would eliminate the exemption from "One-Call" notification currently enjoyed by municipalities, state agencies and their contractors.

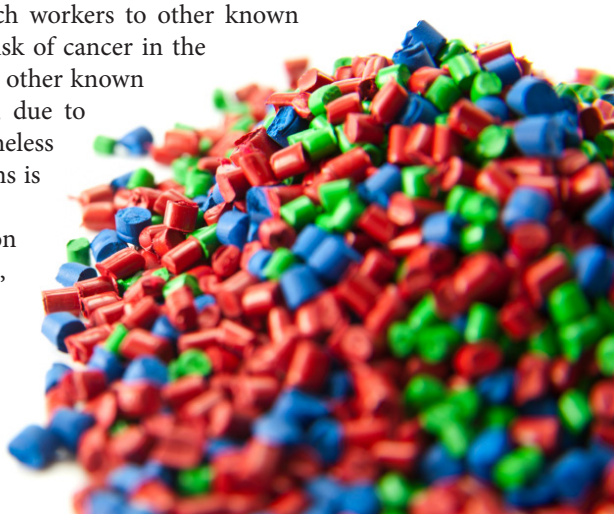
Unlike the original version of the bill, the present version allows PHMSA to maintain a status indication of each pipeline company's emergency response plan, a description of the plan's requirements, and a detailed summary of each plan. This excludes information about the location and amount of worst-case discharge scenarios as well as proprietary information. The original bill would have required posting of the complete emergency plan, drawing immediate objection from representatives of the pipeline industry concerned with the security of their facilities.

This bill also incorporates several new guidelines in response to the pipeline explosion in San Bruno, California. It will require all inter- and intrastate pipeline operators to verify their records for all gas transmission lines in Class 3 and 4 areas and Class 1 and 2 areas of high-consequence to establish maximum allowable operating pressures. This provision coincides with a PHMSA advisory issued in January 2011 which required all operators to analyze and verify the accuracy of their information about pipelines and pipeline structures.

Report on carcinogens lists Styrene as "reasonably anticipated to be human carcinogen"

BY JESSICA JOHN BOWMAN

The 12th *Report on Carcinogens*, released by the U.S. Department of Health and Human Services on June 10, 2011, lists Styrene as a chemical "reasonably anticipated to be a human carcinogen." The National Toxicology Program, which drafts the report, based its listing on experimental animal studies, limited evidence of carcinogenicity from human studies, and other evidence. The evidence of carcinogenic effect in humans is based largely on occupational studies in two major industries: the reinforced-plastics industry and the styrene-butadiene rubber industry. In both industries, styrene-exposed workers were found to face an increased risk of leukemia, lymphoma, or all lymphohematopoietic cancers. Although the report recognizes that the evidence associated with workers in the styrene-butadiene rubber industry is limited, due to the associated exposure of such workers to other known carcinogens including butadiene, the report indicates that the finding of increased risk of cancer in the reinforced-plastics industry is much stronger, due to the absence of cross-exposure to other known carcinogens in that industry. Although the report stops short of finding causality, due to the risks associated with confounding from exposure to other chemicals, it nonetheless concludes that "a causal relationship between styrene exposures and cancers in humans is credible."



In addition to the industrial groups mentioned above, styrene is used in the production of a number of other goods, including insulation, carpets, paints, polishes, adhesives, packaging, insulation, refrigeration equipment, tanks, pipes, and, increasingly, housewares such as food containers and toys. While workers who manufacture these goods may face a lower exposure rate than workers in other areas, manufacturers should take note of the report's findings and its potential implications for both their workers and their customers. A copy of the report may be found **here**.

The impact of the report's classification of styrene will likely be substantial, and styrene industry groups are expected to take legal action to block or revoke the listing.

National Transportation Safety Board finds deficiencies in emergency notification

BY VICKIE BUCHANAN

The National Transportation Safety Board (NTSB) investigates transportation accidents, determines the probable cause of the accident, and often issues recommendations to prevent similar accidents from occurring. Recently, the NTSB has been investigating the Pacific Gas and Electric Company's (PG&E) pipeline rupture and explosion in San Bruno, California. Its investigation has revealed that emergency response procedures established by pipeline operators may rob emergency responders of the opportunity to act in the critical first minutes after a rupture or a leak of a pipeline has occurred.

On September 9, 2010, a PG&E 30-inch-diameter underground natural gas transmission pipeline ruptured in a residential area in San Bruno and released 47.6 million standard cubic feet of natural gas. The released gas ignited and caused an explosion which resulted in a crater about 72 feet long and 26 feet wide. Eight people were killed, dozens more injured, 38 homes were destroyed, and 70 more homes suffered damage.

During the NTSB's investigation, it discovered that PG&E received first notice of the rupture four minutes after it occurred but then PG&E technicians spent the next several minutes trying to interpret alarms and the low-pressure indications on the pipeline. Consequently, local emergency response agencies were not notified of the pipeline rupture for 16 minutes after it had occurred. The NTSB believes that the catastrophic nature of the rupture could have been communicated to PG&E if prompt notice of the suspected rupture had been provided to emergency first responders. In turn, PG&E could have then taken aggressive measures to isolate the rupture and prevent the release while emergency first responders could have formulated an evacuation plan and a plan to minimize harm to the environment and request such assistance as necessary from other emergency agencies.

As a result, the NTSB has recommended that the Pipeline and Hazardous Materials Safety Administration (PHMSA) issue guidance to pipeline operators (1) to retain specific information regarding the components of their pipeline system (2) to ensure system specific information (including pipe diameter, operating pressure, product transported and potential impact radius) is shared with emergency response agencies in communities where the pipelines are located and (3) regarding the importance of control room operators to immediately and directly notify 911 emergency call centers in the communities where the pipelines are located when a possible rupture of any pipeline is suspected.

Significant new use rule for multi-walled carbon nanotube

BY JARED BURDEN

As of June 6, 2011, the EPA began enforcing a significant new use rule for the chemical substance generically known as multi-walled carbon nanotubes ("MWCNT"). This new regulation is limited to those nanotubes which were the subject of premanufacture notice P-08-199. The EPA has cited concerns that this particular substance is hazardous to human health as justification for instituting this rule. This new rule will affect several industries, including chemical manufacturing and petroleum refining.

The new use rule requires manufacturers, importers or processors of this variety of MWCNT to provide the EPA with at least 90 days notice before engaging in any use of the substance that is considered a significant new use pursuant to EPA guidelines. The EPA will then determine whether the proposed new use is permissible and will institute any limitations or prohibitions before the activity commences. New uses include utilizing the substance without complying with stringent workplace protection regulations which require the utilization of certain equipment and procedures when handling the substance. A new use may also arise where the substance is used outside of its site of manufacture or import. The requirements of this rule do not apply to quantities of the chemical substance after it has been completely reacted (cured), incorporated or embedded into a polymer matrix that itself has been reacted (cured), or embedded in a permanent solid polymer form not intended to undergo further processing except for mechanical processing. For a complete list of uses which are the subject of this new rule, see Title 40 of the Code of Federal Regulations, Part 721.10183.

The rule was published on May 6, 2011. In order to prevent industries from taking advantage of the window between the publication and effective dates of the rule, the EPA will consider a significant new use to have occurred if it happens any time after the publication date. An industry will not be exempt from the requirements of the rule if they have engaged in the new use between the publication and effective date of the regulation. Moreover, a significant new use of MWCNT will also trigger certain record retention requirements. A manufacturer, importer or processor of MWCNT must keep documents indicating the volume, origin and destination of the substance as well as records documenting the establishment of safety programs and the content of labels.

SIDEBAR

Draft DOT report on pipeline fitness for service

A Department of Transportation report titled *The State of the National Pipeline Infrastructure: A Preliminary Report* said that of the 2.5 million miles of pipeline nationwide, only a small, unspecified percentage is unfit for service because of the material the pipeline was made of and the way it was joined and installed. The Pipeline and Hazardous Materials Safety Administration (PHMSA) reported that "just because one pipeline is older than another does not necessarily mean that it has a higher likelihood of leaking or rupturing." Instead, the agency said that pipelines that are most vulnerable are those made of problematic materials using outdated construction practices. DOT said that smaller cast iron pipes are particularly susceptible to stresses from underground disturbances such as ground settlement, freeze-thaw cycles, undermining due to soil erosion or nearby excavation activities, and that copper service lines installed during the 1970s have been found to be most vulnerable to corrosion. PHMSA pointed out that pipes built using certain out-of-favor welding techniques have been problematic as well.

EPA data collection on nano substances

The White House Office of Management and Budget (OMB) has been reviewing a proposed data collection rule that would require manufacturers of nanoscale chemicals to provide the Environmental Protection Agency with information on production volume and manufacturing methods, along with available health and safety data. However, a scientist with the Environmental Defense Fund (EDF) said that the EPA cannot get the information it needs to make decisions about nanoscale pesticides and chemicals because the OMB is not approving proposals that would allow EPA to gather the data. The EDF claims that manufacturers and certain users of nanoscale chemicals have caused the delay of the data gathering efforts because they do not want the use of nanotechnologies to be stigmatized. EDF also has alleged that some federal agencies supported the delay. Some claims have been made that nanoscale ingredients in pesticides may pose health or environmental hazards due to their microscopic size and certain other properties.

Recap of EPA's Office of Inspector General Semiannual Report

BY HEIDI SLINKARD BRASHER

In May 2011 the EPA's Office of Inspector General (OIG) released its Semiannual Report to Congress for October 1, 2010, to March 31, 2011. The report covers the OIG's efforts in assisting the EPA in auditing and investigating programs and operations recommending more efficient, economical and effective operation of EPA programs and informing Congress and the EPA Administrator of problems, deficiencies, and necessary corrective action related to the same programs. The OIG's purpose is to detect and prevent waste, fraud and abuse within the EPA or its programs.

Much of the OIG's activities during the reporting period related to the EPA's use of $7.2 billion received under the American Recovery and Reinvestment Act of 2009 (ARRA). Twenty million ARRA dollars were allocated to the OIG for oversight and review of the EPA's use of ARRA funds. Over half of the funds have been used thus far. Problems identified by the OIG include:

- Delayed or incomplete non-ARRA activities due to focus on ARRA activities
- Lack of clearly defined responsibilities under ARRA interagency agreements, leading to ineffective accountability under the agreements
- EPA Regions cannot ensure ARRA funds have been directed to states for sites providing the greatest environmental benefit (leaking underground storage tanks)
- Failure to reach emission reduction levels and document delays for ARRA funded work under the Diesel Emissions Reduction Act
- Numerous U.S. subsidiaries of foreign-based manufacturers were granted ARRA contracts after falsifying compliance with Buy America provisions, resulting in the seizure of $1.1 million of equipment
- ARRA fraud awareness briefings are leading to the reporting of potential fraud by individuals through the OIG hotline, resulting in ARRA funds savings.

The OIG is attempting to eliminate fraud relating to ARRA funding through education and outreach among stakeholders and the public. During the reporting period, 148 hotline calls were received and 133 were pending at the end of the period.

Non-ARRA related OIG review activities related to the EPA revealed

- A lack of controls to prevent emergency drinking water facility misue
- Promotion of coal ash products without complete risk information
- Maximization of the number of Energy Star-qualified products without indentifying products or practices to maximize energy efficiency
- The agency's lack of "a coherent position management program" leading to ineffective and inefficient use of its personnel
- The need to ensure Brownfields site due diligence investigations meet federal requirements
- The EPA lacked a process to verify and ensure antimicrobial products met efficacy standards
- Four significant deficiencies were noted regarding the EPA's financial statements, including understatement of uncollectable debt and overstatement of receivables and the need to better account for headquarters personal property following the OIG's discovery of numerous missing items with a replacement cost of over $2.5 million
- The EPA's RCRA Info data system for hazardous solid liquid waste shipment tracking contains errors and missing documentation and should be improved
- The U.S. Chemical Safety and Hazard Investigation Board has not addressed audit recommendations or taken timely corrective action

The full report, including a summary of the investigations and a breakdown by type, prosecution actions and administrative actions, is available at **http://www.epa.gov/oig/reports/2011/Semiannual_Report_to_Congress_May_2011.pdf**.

Supreme Court prohibits federal common law nuisance suits seeking limits on carbon dioxide emissions

BY ROBERT J. JOYCE

By a vote of 8 – 0, the United States Supreme Court recently ruled that congressional delegation of authority to EPA to regulate pollutants under the Clean Air Act ("Act") speaks directly to regulation of carbon dioxide emissions from power plants and therefore displaces any right a plaintiff might otherwise have to seek abatement of carbon dioxide emissions from such facilities under federal common law. The court's decision was handed down on June 20, 2011, in the case of *American Electric Power Co., Inc., et al. v Connecticut, et al.* and builds on its earlier decision in *Massachusetts v. EPA*, 549 U.S. 497 (2007) in which carbon dioxide and other greenhouse gases (GHG) were found to be "air pollutants" under the Act and therefore subject to regulation by EPA. It was the decision in *Massachusetts* that paved the way for EPA to develop regulations governing greenhouse gas emissions.

In *AEP*, a number of states, together with the City of New York and several private land trusts, sued five large utilities operating coal-fired electric power plants in the United States. Plaintiffs alleged that the utilities collectively emitted 25 percent of all carbon dioxide produced at domestic power plants and 10 percent of all carbon dioxide from human activity in the United States. According to plaintiffs, these emissions constitute a "substantial and unreasonable interference with public rights" and are thus a nuisance under federal common law, as well as state tort law. Plaintiffs sought to hold defendants jointly and severally liable for global warming and to obtain an injunction in district court which would cap defendants' emissions and require periodic reductions over a period of 10 years or more. The district court, however, dismissed the claims, holding that they were "non-justiciable political questions" best left to policymakers.

The 2nd Circuit Court of Appeals took up the issue in 2007 and reversed the lower court. The 2nd Circuit found that plaintiffs' claims were not barred by the political question doctrine and that plaintiffs had, in fact, stated a claim allowing for abatement under the federal common law of nuisance. Critical to the 2nd Circuit's decision to allow the case to go forward was the fact that EPA had not yet promulgated regulations governing carbon dioxide emissions from power plants. However, this fact was thought relevant by the 2nd Circuit based on an overly broad interpretation of the Supreme Court's decision in *Milwaukee v. Illinois*, 452 U.S. 304 (1981). In *Milwaukee* (which involved a similar interstate pollution situation under the Clean Water Act), plaintiffs sought abatement of water pollution under a theory of federal common law nuisance. There, plaintiffs' claims were ostensibly dismissed because EPA had been delegated authority to, and had, in fact, promulgated regulations comprehensively regulating the water pollution at issue. According to the 2nd Circuit, the situation in *AEP* was different from *Milwaukee* because EPA, while having authority to do so, had not promulgated regulations addressing the pollution at issue. Because there were no such regulations in place for carbon dioxide emissions from power plants, the 2nd Circuit reasoned that federal common law had not been displaced and plaintiffs' claims could go forward.

On appeal to the Supreme Court, the justices (in a 4 – 4 vote) first rejected plaintiffs' standing argument with virtually no discussion and proceeded to the merits of the case. In addressing the substantive issue, the court first explored the concept and evolution of a specialized federal common law. The court characterized federal common law as a body of law addressing "areas of national concern" and within the scope of "national legislative power," such as "air and water in their ambient or interstate aspects." While confirming these parameters within which the court may be called to develop the federal common law, the court cautioned that it "remains mindful that it does not have creative power akin to that vested in Congress." In that vein, the court observed that it has "not yet decided whether private citizens . . . or political subdivisions . . . of a State may invoke the federal common law of nuisance to abate out-of-state pollution. Nor [has the Court] ever held that a State may sue to abate any and all manner of pollution originating outside its borders." Indeed, while recognizing "that public nuisance law, like common law generally, adapts to changing scientific and factual circumstances," and acknowledging the global scale and importance of the global warming issue, the court set these interstate and international pollution issues aside for another day, finding it unnecessary to decide them in light of its treatment of the core issue: whether Congress has displaced the need for the court to engage in judicial law-making.

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In addressing the issue of displacement of federal common law, the court first observed that, where Congress "addresses a question previously governed by a decision rested on federal common law . . . the need for such an unusual exercise of law-making by federal courts disappears." Unlike the concept of federal preemption of state law (discussed below) – which involves issues of federalism and thus requires "evidence of a clear and manifest [congressional] purpose" to occupy the field – the test for whether congressional legislation overrides a declaration of federal common law is simply whether the statute "speak[s] directly to [the] question at issue." Thus, Congress may override or "displace" any need to develop or apply federal common law simply by passing federal legislation addressing the issue at hand. After all, "it is primarily the office of Congress, not the federal courts, to prescribe national policy in areas of special federal interest."

Turning, then, to the Clean Air Act, the court held that the Act "and the EPA actions it authorizes displace any federal common law right to seek abatement of carbon dioxide from fossil-fuel power plants." To arrive at this conclusion, the court examined the mechanics of the Act and its directives to EPA. At its core, the Act requires EPA to identify and regulate stationary sources of pollutants that contribute to air pollution that "may reasonably be anticipated to endanger public health and welfare." As was decided in Massachusetts, carbon dioxide is a pollutant regulated under the Act. Likewise, power plants are one of the categories of pollutant sources already identified by EPA as being "reasonably anticipated to endanger public health and welfare." Those elements being established, the court observed that the Act requires EPA to establish limits for carbon dioxide emitted from both new and existing power plants and empowers EPA to enforce such limits. Furthermore, if EPA does not establish required emissions limits or does not engage in appropriate enforcement of those limits, the public is authorized to petition for rulemaking and pursue citizen's suits to implement the Act, all of which is reviewable by the federal courts. Indeed, the decision in Massachusetts was specifically directed at requiring EPA to develop regulations addressing carbon dioxide emissions, and EPA is currently doing so with a target date of May 2012 for completion. In the court's view, this leads to the inexorable conclusion that the Act "speaks directly to emissions of carbon dioxide from the defendants' plants." Consequently, because the "Act itself provides a means to seek limits on emissions of carbon dioxide from domestic power plants – the same relief the plaintiffs seek by invoking federal common law . . . [we] see no room for a parallel track" through a nuisance lawsuit.

The court clarified *Milwaukee* by finding immaterial the fact that EPA has not yet completed its work on implementing regulations to control carbon dioxide emissions from power plants. The critical inquiry for purposes of determining if federal common law has been displaced is "whether the field has been occupied, not whether it has been occupied in a particular manner." According to the court in *AEP*, the field was occupied when "Congress delegated to EPA the decision whether and how to regulate carbon dioxide emissions from power plants." It is that delegation by Congress that displaces federal common law – not the exercise of that delegation. As such, whether or not EPA has completed its rulemaking process under a delegation of authority by Congress is irrelevant to a determination as to whether federal common law has been displaced.

Clearly, then, the path for those dissatisfied with EPA's progress or conclusions (i.e., the manner in which it occupies the field) is through involvement in the rulemaking process in the first instance and subsequent judicial review of that process. As noted by the court, where EPA has been delegated rulemaking authority, "EPA's judgment . . . would not escape judicial review" insofar as the federal courts "can review agency action (or a final rule declining to take action) to ensure compliance with the Clear Air Act." That EPA is to exercise its expert judgment in determining if and to what extent emissions of a pollutant from a stationary source endanger public health or welfare "is not a roving license to ignore the statutory text. It is but a direction to exercise discretion within defined statutory limits." Ultimately, if plaintiffs are dissatisfied with EPA's final decision regulating carbon dioxide emissions from power plants, their recourse is limited to a judicial review of EPA's decision-making process.

From a practical standpoint, the court correctly views EPA as the proper party to make judgments about the complex scientific issues being debated in connection with the greenhouse

effect and global warming. Such judgments require "informed assessment of competing interests" including environmental impacts, energy needs and economic repercussions. In the Act itself, Congress required many in-depth inquiries including the costs of implementation, differences among sources and control technology, and non-air health and environmental issues, to name a few. For the courts to undertake these inquiries would require expertise that judges do not possess and resources they cannot access. EPA, as the expert in such matters, "is surely better equipped to do the job than individual judges issuing ad hoc, case-by-case injunctions." Further, a process whereby federal judges in multiple jurisdictions impose the remedies sought by plaintiffs "cannot be reconciled with the decision-making scheme Congress enacted." As such, the court concluded that the 2nd Circuit erred in allowing judges to set limits on greenhouse gasses under federal common law because Congress empowered EPA to develop such limits and because EPA's exercise of authority is subject to judicial review to ensure EPA does not make decisions in a manner that is arbitrary, capricious or contrary to law.

Finally, the court noted that plaintiffs also asserted tort claims under the laws of the states where the power plants are located. Because the 2nd Circuit held that federal common law applied, it did not address the state law claims. As such, the Supreme Court was precluded from dealing with the issue and the district court has been left to consider the state law claims and whether or not they are preempted by the Act on remand.

In summary, the *AEP* decision holds that where there is a congressional delegation of authority to EPA to regulate pollutants under the Clean Air Act that speaks directly to a particular pollutant from a particular source, such delegation displaces any right a plaintiff might otherwise have to seek abatement of the pollutant emitted from such source under federal common law. The court did not decide whether state law is preempted in any way by the Act. While seemingly a victory for industry, the decision presents a slippery slope. If Congress chooses to legislatively repeal EPA's authority to regulate carbon dioxide as a pollutant under the Act (as is currently being urged by many), the federal common law of nuisance could spring back into play. Just how this plays out will, perhaps, depended on how GHGs are further addressed, if at all, in any new federal legislation. At least for now, the issue of how to address GHGs remains in the hands of EPA, subject to review by the courts to ensure that EPA does not act arbitrarily, capriciously or contrary to law.

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

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 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, low-stress 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.

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