DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. PS–101; Amdt. 192–73 and 195–54]

RIN 2137—AB 47

Excavation Damage Prevention Programs for Gas and Hazardous Liquid and Carbon Dioxide Pipelines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule extends the existing excavation damage prevention requirements for gas pipelines in urban areas to gas pipelines in rural areas; establishes excavation damage prevention program requirements for hazardous liquid and carbon dioxide pipelines; requires, with limited exceptions, line markers for gas transmission lines in urban areas; and permits smaller lettering on line markers for hazardous liquid and carbon dioxide pipelines in heavily developed urban areas.

This final rule is accompanied by a notice of proposed rulemaking (NPRM)(Docket No. PS–101A), which proposes mandatory participation in qualified one-call systems by pipeline operators. This final rule and the NPRM are intended to reduce excavation damage, the largest single cause of reportable pipeline accidents.

EFFECTIVE DATE: This final rule takes effect April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366–2036, or Christina M. Sames, (202) 366–4561, regarding the content of this final rule; or the Dockets Unit, (202) 366–5046, for copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION

Related Document

The Secretary of Transportation, pursuant to 49 U.S.C. 60114, is required to establish minimum standards for one-call systems. RSPA implemented those requirements in 49 CFR part 198 and has prepared a NPRM titled "Mandatory Participation in Qualified One-Call Systems by Pipeline Operators" (Docket No. PS–101A).

The NPRM proposes to amend this final rule by requiring that operators of interstate and intrastate pipelines participate in qualified one-call systems. However, the NPRM proposes less stringent standards for the participation of small entities (including operators of master meter systems) whose primary activity does not include the transportation of gas.

Although RSPA anticipates these regulations will be amended by a final rule addressing mandatory participation in qualified one-call systems, RSPA sees no reason to delay the regulations developed in this final rule. In the meantime, RSPA urges pipeline operators to voluntarily participate in qualified one-call systems that cover the areas where their pipeline facilities are located.

Excavation Damage

Excavation damage is the largest single cause of reportable gas and hazardous liquid pipeline accidents. During the period of January 1, 1988 through December 31, 1993, 33 percent or 481 of a total of 1,456 reported gas pipeline incidents were caused by excavation damage by persons other than the operator or its contractor. These incidents resulted in 35 deaths, 151 personal injuries, and about $42,570,000 in property damage. Of these 481 reported excavation damage incidents, 178 incidents or 37 percent occurred in Class 1 and 2 locations (class locations are described in 49 CFR 192.5) where damage prevention programs have not been required. These Class 1 and 2 incidents resulted in 7 deaths, 40 personal injuries, and about $10,912,000 in property damage.

Similarly, during the 1988–1993 period, 20 percent or 245 of a total of 1,221 reported hazardous liquid pipeline accidents were caused by excavation damage by persons other than the pipeline operator or its contractor. These accidents resulted in 3 deaths, 46 personal injuries, and about $48,821,000 in property damage. In addition, about 264,500 barrels of hazardous liquids were reported to have been spilled as a result of these accidents.

The above statistics do not account for all of the gas pipeline incidents and hazardous liquid pipeline accidents that have occurred from 1988 to 1993. Sections 191.3 and 195.50 exempt certain gas pipeline incidents and hazardous liquid pipeline accidents from the reporting requirements. Thus, the actual number of personal injuries and the amount of property damage resulting from excavation damage by persons other than the operator or its contractor can be assumed to be higher.

Existing Gas Damage Prevention Program

The most widely accepted approach to reducing excavation damage to underground pipelines and other underground facilities is a formalized damage prevention program that employs a one-call system. RSPA permits this approach for gas pipelines under the current § 192.614, "Damage Prevention Program." Section 192.614(a) allows a pipeline operator to perform any of the duties required by § 192.614(b) through participation in a one-call system. Such participation does not relieve the operator of responsibility for compliance with any requirements of § 192.614 that are not satisfied by the one-call system.

The current rule requires each gas pipeline operator, with limited exceptions, to establish and implement a written damage prevention program for buried gas pipelines in highly populated or urban areas, specifically Class 3 and 4 locations. Damage prevention programs have not been required for gas pipelines in Class 1 and 2 locations or for hazardous liquid and carbon dioxide pipelines subject to part 195. Also excluded from this current requirement for a damage prevention program are permanently marked pipelines in certain Class 3 locations (described in § 192.5(d)(2)), pipelines to which access is physically controlled by the operator, petroleum gas pipelines subject to § 192.11, and master meter systems as defined in § 191.3.

Gas pipeline operators in Class 3 and 4 locations, with certain exclusions previously discussed, are currently required by § 192.614 to: (1) Identify excavators normally operating in the area where the pipeline is located; (2) provide notification to the public and actual notification to excavators of the program's existence and purpose, as well as how to learn the location of underground pipelines before excavation activities begin; (3) provide a means for receiving and recording notification of planned excavations; (4) if an operator has buried pipelines in the area of planned excavation, provide actual notification to a person who has given notice of intent to excavate of the type of temporary markings to be provided and how to identify them; (5) provide temporary marking of buried pipelines in the area of the excavation in a timely manner; and (6) inspect, as frequently as necessary, pipelines that the operator has reason to believe could be damaged by the excavation activities and, in case of blasting, include leakage surveys. An operator may perform any of these six duties through participation in a one-call system, but participation does not relieve the operator of responsibility for compliance with § 192.614.

One-Call Systems

A one-call system is a communication system established individually or jointly by utilities, government agencies, or other operators of underground facilities to provide a single telephone number (other methods of communication are also used) for excavators and the general public to call to notify participating members of their intent to engage in excavation activities. Notices of intent to excavate are received by the operational center and transmitted to the operators of underground pipeline facilities and other underground facilities that participate in the system. Upon receipt of notices of intended excavation activities, participating operators that have underground facilities in that area arrange for the timely identification and temporary marking of their underground facilities. Underground operators may inspect the site during the excavation activities to insure the safety of their underground facilities.

National One-Call Campaign

Presently, there are 74 one-call systems in the United States operating in 48 states and the District of Columbia. These one-call systems may not meet all of the qualifications of a "one-call notification system," as defined in § 198.39. Two states and Puerto Rico are currently without a one-call system.

Approximately 45 states and the District of Columbia have damage prevention laws that, to a varying extent, govern the activities performed by excavators and persons locating and temporarily marking underground facilities. However, most of the existing state damage prevention programs do not meet all of the requirements of § 198.37, "State one-call damage prevention program."

To address the problem of incomplete national one-call coverage and the deficiencies in some of the existing one-call systems, RSPA has launched a national campaign to encourage states to adopt improved one-call notification systems. The national campaign will target states for concentrated outreach to assist these states in their efforts to upgrade their current one-call systems. The national campaign will also work with selected states where there is a need to strengthen the one-call legislation or where a state is currently without one-call legislation.

Notice of Proposed Rulemaking

To reduce the incidence of excavation damage, RSPA issued a Notice of Proposed Rulemaking (NPRM) titled "Natural Gas and Hazardous Liquid Pipeline Damage Prevention Program" (53 FR 24747, June 30, 1988). The NPRM proposed to (1) Delete the damage prevention program exemption for buried onshore gas pipelines in Class 1 and 2 locations, and for gas pipelines in Class 3 locations that are marked in accordance with § 192.707; (2) require that hazardous liquid pipeline operators carry out similar damage prevention programs for their buried onshore pipelines; and (3) require that gas pipeline operators permanently mark their mains and transmission lines in Class 3 and 4 locations, except where placement of a marker is impractical.

Presentation to Advisory Committees

RSPA presented the three proposals listed above to its two pipeline advisory committees, the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC).

On September 13, 1988, the TPSSC discussed and unanimously supported extending § 192.614 to cover onshore gas pipelines in Class 1 and 2 locations. However, the TPSSC generally opposed the proposal requiring line markers over mains and transmission lines in Class 3 and 4 locations. Some members argued the proposed marking would be too burdensome and that markers in these class locations might cause an excavator to rely on the markers for location information instead of using the one-call system. However, two members stated their large gas companies occasionally install markers in Class 3 and 4 locations, as this final rule will now generally require for transmission lines.

On September 14, 1988, the THLPSSC voted 6 to 4 against the proposed rule to require hazardous liquid pipeline operators to establish and carry out damage prevention programs over the entire length of their pipelines. Opposition stemmed from the need to identify "on a current basis" the persons who normally engage in excavation activities in rural areas and the problem of identifying excavators who might come from some distant location or who recently entered the excavation business. A committee member also expressed concern over the exact meaning of "as often as needed," language in the proposed rule which refers to the frequency of notifying the public of the damage prevention program, and "leakage surveys applicable to the liquid transported," language which refers to the type of inspection done on pipelines that might have been damaged by blasting.

Additional Recommendations

The Transportation Research Board (TRB) proposed extending the excavation damage prevention program requirements to liquid pipelines. TRB is a unit of the National Research Council and provides public comment on scientific and technical questions of national importance. Their proposal was published in a report titled "Special Report 219–Pipelines and Public Safety." The report states that although most gas and liquid transmission pipelines were constructed in undeveloped areas and buried with 2½ to 3 feet of cover to prevent disturbance, development is intruding on these high pressure pipelines and is increasing the risk of failures from excavation damage. In the section of the Executive Summary titled "Damage Prevention and Public Awareness Programs," the report identifies significant gaps in existing damage prevention measures. TRB's first recommendation for closing these gaps was to extend the gas pipeline damage prevention program to liquid pipelines. That recommendation is one of the principal thrusts of this final rule.

Comments on the NPRM

RSPA received 81 comments on the three proposed rule changes. The commenters included gas and liquid pipeline operators, governmental agencies, and industry trade associations.

Comments—Damage Prevention Program, part 192

Of the 41 comments received addressing the proposal to extend the existing requirement for a damage prevention program in § 192.614 to Class 1 and 2 locations and to marked pipelines in Class 3 locations, 93 percent, including a gas industry trade association, expressed full or partial support, and 7 percent were opposed. Among those in support, a large gas transmission company commented that the proposal would have no significant impact on its operations because it participates in one-call systems regardless of class location, or it conducts similar programs in Class 1 and 2 locations where one-call systems are not yet operative. A large gas distribution company supported the proposal because the company voluntarily includes Class 1 and 2 locations in its current damage prevention program and believes customers and the general public expect the expenditure.

Among those opposed, a large gas distribution company argued that because conditions in urban (Class 3

and 4 locations) and rural (Class 1 and 2) locations are completely different, different types of damage prevention programs are logical and reasonable and have evolved to meet these special conditions. The company commented that requiring the same damage prevention program in both areas defies logic and cannot be cost-effective. In particular, the company stated that the temporary marking of pipelines would be more expensive and less cost-effective in rural areas because of the greater distances to be traveled.

As indicated above, 37 percent of the gas pipeline excavation damage reported over the 1988 to 1993 period occurred in Class 1 and 2 locations and resulted in 7 deaths, 40 personal injuries, and millions of dollars in property damage. Therefore, RSPA rejects the argument that applying the same damage prevention program to both urban and rural areas defies logic and cannot be cost-effective. Furthermore, the overwhelming support expressed for extension of the gas damage prevention program rule supports RSPA's determination that this action is warranted to reduce the incidence of excavation damage.

Comments—Line Markers, Part 192

Of the 67 comments received regarding the proposal to require permanent line markers for gas mains and transmission lines in Class 3 and 4 locations except where placement is impractical, 22 percent indicated full or partial support and 78 percent were opposed. Those favoring the proposal included the National Transportation Safety Board (NTSB). NTSB is the Federal agency responsible for investigating and determining the cause of pipeline accidents involving a death, substantial property damage, or significant safety issues. NTSB stated that while it may not be practicable to mark pipelines in some Class 3 and 4 locations, line markers should generally be required for gas transmission lines. Similarly, a gas distribution company commented that additional line markers may make sense when elevated pressures are involved, as is often the case with transmission lines, or when pipelines are installed in unconventional places. A state regulatory agency commented that prior to adoption of the existing Class 3 and 4 location line marking exception, many operators were required to mark mains and transmission lines in Class 3 and 4 locations. The state agency pointed out that many operators have continued this practice even though it is no longer required. The agency said that marking pipelines in these areas is not impractical and provides, in conjunction with the damage prevention program, an extra line of defense against excavation damage.

Several of those opposed to requiring line markers argued the proposed exception for locations "where placement of a marker is impractical" is imprecise and would result in continual differences of opinion between operators and government inspectors. Many commenters felt that pipeline markers are useful for indicating the presence of a buried pipeline within a rural right-of-way but are of little benefit in urban areas where excavators are generally aware of the presence of buried utilities and of the need to call before they dig. Many commenters also felt that excavators in urban areas might get a false impression of the exact location of buried pipelines from the placement of line markers and assume they can dig without contacting a one-call system or the pipeline operator for temporary marking. Several commenters pointed out that property owners and planning commissions would resist installation of pipeline markers in Class 3 and 4 locations for aesthetic reasons. Also, a large gas distribution operator commented that while marker posts at every road crossing in a rural setting are reasonable, marker posts at every street intersection in cities and suburbs are unreasonable because of the very large number of pipeline street crossings.

This final rule has not adopted the proposal to require gas mains be marked in Class 3 and 4 locations. Because mains generally operate at lower pressures than transmission lines, they usually pose less of a threat to public safety in the event of excavation damage. Thus, RSPA believes there is lesser need for mains to be marked as a backup to damage prevention programs. Also, RSPA agrees with TPSSC's and the commenters' view that, because of the vast number of mains to be marked in Class 3 and 4 locations, compliance would be unduly burdensome and line markers would likely be more expensive to install and maintain.

This final rule has adopted the line marker requirement for gas transmission lines in Class 3 and 4 locations, except where placement of a marker is impractical. RSPA believes this is a reasonable means of advancing safety without imposing an undue burden on the operators. There are relatively few gas transmission lines in Class 3 and 4 locations and some of these gas transmission operators already voluntarily mark their pipelines. RSPA agrees with these commenters who indicated that these line markers provide an extra line of defense against excavation damage.

Further support for requiring gas transmission lines in Class 3 and 4 locations to be marked is found in § 195.410. Section 195.410 requires line markers for hazardous liquid pipelines in urban areas with specific exceptions for heavily developed urban areas, such as downtown business centers. Many of the objections to placing line markers in urban areas have been resolved by permitting adjustment of the marker's location. RSPA believes that some line markers installed to mark gas transmission lines in Class 3 and 4 locations could be suitably flush mounted on streets, sidewalks, and other appropriate surfaces to minimize the situations where placement of standing markers would be objectionable. When considering the design of flush mounted gas pipeline markers, it may be helpful to note § 192.707(d)(1) currently permits operators to use less than standard letter size on line markers in heavily developed urban areas. This final rule amends § 195.410(a)(2)(i) to provide the same flexibility for the lettering size on line markers in similar areas for hazardous liquid and carbon dioxide pipelines.

A few commenters objected to the phrase in § 192.707(b) of "where placement of a marker is impractical." Commenters stated the phrase is too indefinite and should be clarified. RSPA believes the phrase is appropriate as it has been applied successfully to allow operators limited discretion in determining where to install markers for buried gas main and transmission lines in Class 3 and 4 locations. The phrase will continue to allow operators limited discretion when a marker would be extremely difficult or expensive to install or maintain, would create a dangerous condition, or would be ineffective because it would be obscured or otherwise would not serve to reduce the likelihood of excavation type damage to the pipeline.

RSPA is not persuaded by the commenters' and TPSSC's view that the presence of markers in Class 3 and 4 areas might cause excavators to rely on the location of the marker and to dig without notifying the one-call system. No evidence was offered to support this view and it has not been true for markers in Class 1 and 2 locations. Pipeline markers are installed to warn excavators of the presence of buried pipelines, to provide a telephone number to obtain more accurate location information, and to allow persons in the area to report indications of other

problems relating to the safety of the pipeline.

Comments—Damage Prevention Program, part 195

Of the 16 commenters who responded to the proposal to require hazardous liquid pipelines carry out damage prevention programs, 15 commenters indicated full or partial support and only one commenter was opposed. Of those expressing support, a large products transmission company commented it has always advocated practical, cost effective, damage prevention programs and has made the locations of its facilities known to landowners, developers, and excavators. Additionally, its company policy has been to provide inspectors during and after excavation activities. An industry trade association replied that it concurs with RSPA that federal regulations for the development of damage prevention programs should be applied to hazardous liquid pipeline operators. The one commenter opposed, a hazardous liquid pipeline company, said it would be impossible to know of every backhoe operation in the area of its pipelines. This company further stated that any obligation to prepare an excavator list should be limited to checking county licenses every 4 to 6 months.

RSPA is not swayed by the THLPSSC's and the commenter's concern about the difficulty of identifying excavators in rural areas. Although some excavators may be difficult to identify, operators are only required to identify excavators by reasonably available means. Regarding one commenter's suggestion that excavator lists be assembled only from county licenses, RSPA believes that this procedure could be a supplementary approach to identifying and notifying excavators of the damage prevention program, since not all counties or other political subdivisions require licenses for all excavators in their jurisdiction. It would generally be more helpful for operators to contact the one-call centers operating in the area of their pipeline for excavator information or to look for excavator advertisements in publications such as the local yellow-pages and newspapers.

One THLPSSC member questioned the meaning of the phrase "as often as needed," currently in § 192.614(b)(2) and proposed in § 195.442(b)(2), to describe the frequency of notification to the public and excavators to make them aware of the damage prevention program. This phrase, which is retained, is intended to require that operators provide additional notice when damage appears to be caused by persons unaware of the damage prevention program. More frequent advertisement would be expected to have a positive effect on program results.

In proposed § 195.442(b)(6)(ii), the phrase "leakage surveys applicable to the liquid transported" was intended to indicate the required leakage surveys must be appropriate for the commodity being transported. However, in view of the concern expressed by a THLPSSC member over its meaning, RSPA has deleted the term from § 195.442(b)(6)(ii) and has replaced it with the comparable performance-based standard of the gas pipeline damage prevention program rule.

Amendments

Extending the Damage Prevention Program, Part 192

RSPA is amending § 192.614 to require that operators of gas pipelines in Class 1 and 2 locations, with limited exception, carry out damage prevention programs. The existing exception for Class 1 and 2 locations under § 192.614(c)(1) is removed and replaced with an exception for pipelines located offshore.

The operators affected by this action will be given 6 months to implement their damage prevention program.

The existing exception under § 192.614(c)(2) for pipelines in Class 3 locations and marked in accordance with § 192.707 is also removed. The operators affected by this action will be given 12 months to mark the location of their pipelines. Pipelines to which access is physically controlled by the operator and pipelines that are part of a petroleum gas system subject to § 192.11 or part of a distribution system operated by a person in connection with that person's leasing of real property or by a condominium or cooperative association would still be exempt. RSPA is taking this action after considering the high incidence of excavation-related accidents in Class 1 and 2 locations, the generally recognized efficacy of damage prevention programs, and the favorable comments received in response to the NPRM.

Extending Line Markers, Part 192

Because of the continuing incidence of excavation damage in Class 3 and 4 locations and the extra risk posed by damage to transmission lines in these areas, RSPA is amending § 192.707 to require that gas operators place and maintain line markers, as close as practical, over buried transmission lines in Class 3 and 4 locations except where placement is impractical. Accordingly, the exception under § 192.707(b)(2) for line markers over buried pipelines in Class 3 and 4 locations where a § 192.614 damage prevention program is in effect is revised to limit the exception to mains and to transmission lines where placement of a marker is impractical.

Providing Flexibility in Lettering Requirements and Placement of Line Markers, Part 195

RSPA has provided flexibility in the lettering requirements listed under § 195.410(a)(2) by excepting the lettering on line markers for hazardous liquid and carbon dioxide pipelines in heavily developed urban areas from the minimum height and stroke requirements. RSPA has also provided flexibility in the placement of markers by changing the word "impracticable" to "impractical" under § 195.410(b)(2)(i). These exceptions were not proposed in the NPRM but will provide hazardous liquid and carbon dioxide operators the same flexibility as is currently afforded natural gas pipeline operators in § 192.707(b)(2)(i) and (d)(1). These revisions to the current regulations will provide uniform lettering requirements and uniform marker placement for operators of natural gas, hazardous liquid, and carbon dioxide pipelines.

Establishing Damage Prevention Programs, Part 195

RSPA is amending part 195 by adding § 195.442 to require that operators of buried hazardous liquid and carbon dioxide pipelines carry out a written damage prevention program similar to the current § 192.614 requirements for natural gas pipelines. The operators affected by this action will be given 6 months to implement their damage prevention program. This action is warranted due to the excavation damage accident rate for hazardous liquid pipelines and the demonstrated effectiveness of damage prevention programs. Commenters overwhelmingly supported this proposal. TRB's "Special Report 219–Pipelines and Public Safety," (referenced above), also supported amending the regulations to require damage prevention programs for liquid pipelines.

Rulemaking Analyses

E.O. 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and

Budget. The final rule is also not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979).

RSPA has prepared a regulatory evaluation to assess the costs and associated benefits that are expected to result from this final rule. The regulatory evaluation shows net benefits resulting from this final rule of between $1,375,000 and $1,991,000 per year. A copy of the regulatory evaluation is available in this docket.

Federalism Assessment

This rulemaking action will not have substantial direct effects on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 12612 (52 FR 41685; October 30, 1987), RSPA has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

Based on the facts available about the anticipated impact of this rulemaking action, I certify pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that this action will not have a significant economic impact on a substantial number of small entities; i.e. gas pipeline operators, small hazardous liquid pipeline operators, or small carbon dioxide pipeline operators. This determination is based on the following: (1) RSPA is not aware of any small gas, hazardous liquid, or carbon dioxide transmission companies; (2) small operators of pipelines that are part of a petroleum gas system subject to § 192.11 or are a part of a distribution system operated in connection with the leasing of real property, including master meter operators, are not affected by this regulatory action, (3) while there are many small gas distribution operators, they are currently required to have excavation damage prevention programs in the urban areas where the majority of their customers are located.

Paperwork Reduction Act

This final rule contains information collection requirements for written damage prevention programs for gas pipelines in rural areas under the revised § 192.614 and for hazardous liquid and carbon dioxide pipelines in urban and rural areas under the new § 195.442. None of these information collection requirements would be prepared for the purpose of submittal to RSPA.

The information collection requirements associated with this final rule are being submitted to OMB for approval in accordance with 44 U.S.C. Chapter 35 under the following:

OMB No: 2137–0049 for the added burden to gas pipelines and under New for hazardous liquid and carbon dioxide pipelines;

Administration: DOT, RSPA;

Title: Excavation Damage Prevention Programs for Gas and Hazardous Liquid and Carbon Dioxide Pipelines;

Need for Information: To reduce excavation damage, the largest single cause of pipeline accidents;

Proposed Use of Information: For preparation of written damage prevention programs for gas pipelines in rural areas under the revised § 192.614 and for hazardous liquid and carbon dioxide pipelines under the new § 195.442;

Frequency: On occasion;

Burden Estimate: For 2137–0049 (gas pipeline operators): 30,428 hrs annually will be added to the current burden to industry; under NEW (hazardous liquid pipeline operators): 19,580 hrs annually;

Respondents: Operators subject to 49 CFR parts 192 and 195;

Form(s): None;

Average Burden Hours per Respondent: 13 hrs (gas pipeline operators); 77 hrs (hazardous liquid pipeline operators).

For further information contact: The Information Management Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street SW, Washington, DC 20590, Tel. (202) 366–4735. Comments on the information collection requirements should be submitted to: OMB, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk officer for DOT, RSPA. It is requested that comments sent to OMB also be sent to the RSPA rulemaking docket for this final rule.

List of Subjects

49 CFR Part 192

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

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

In consideration of the foregoing, 49 CFR parts 192 and 195 are amended as follows:

PART 192—[AMENDED]

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

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

2. In § 192.614, paragraph (c)(1) and (c)(2) are revised to read as follows:

§ 192.614 Damage prevention program.

* * * * *

(c) * * *

(1) Pipelines located offshore.

(2) Pipelines, other than those located offshore, in Class 1 or 2 locations until September 20, 1995.

* * * * *

3. Section 192.707 is amended by revising paragraph (b) to read as follows:

§ 192.707 Line markers for mains and transmission lines.

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(b) *Exceptions for buried pipelines.* Line markers are not required for the following pipelines:

(1) Mains and transmission lines located offshore, or at crossings of or under waterways and other bodies of water.

(2) Mains in Class 3 or Class 4 locations where a damage prevention program is in effect under § 192.614.

(3) Transmission lines in Class 3 or 4 locations until March 20, 1996.

(4) Transmission lines in Class 3 or 4 locations where placement of a line marker is impractical.

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PART 195—[AMENDED]

4. The authority citation for part 195 is revised to read as follows:

Authority: 49 U.S.C. 60102, 60104, 60108, 60109; 49 CFR 1.53.

5. Section 195.410 is amended by removing the term "impracticable" from paragraph (b)(2)(i) and adding "impractical" in its place, and by revising paragraph (a)(2) to read as follows:

§ 195.410 Line markers.

(a) * * *

(2) The marker must state at least the following on a background of sharply contrasting color:

(i) The word "Warning," "Caution," or "Danger" followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline", or "Carbon Dioxide Pipeline," all of which, except for markers in heavily developed urban areas, must be in letters at least one inch high with an approximate stroke of one-quarter inch.

(ii) The name of the operator and a telephone number (including area code)

where the operator can be reached at all times.

* * * * *

6. Section 195.442 is added to subpart F to read as follows:

§ 195.442 Damage prevention program.

(a) After September 20, 1995, and except for pipelines listed in paragraph (c) of this section, each operator of a buried pipeline shall carry out in accordance with this section a written program to prevent damage to that pipeline by excavation activities. For the purpose of this section, "excavation activities" include excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means, and other earth moving operations. An operator may comply with any of the requirements of paragraph (b) of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section.

(b) The damage prevention program required by paragraph (a) of this section must, at a minimum:

(1) Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.

(2) Provide for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in paragraph (b)(1) of this section of the following, as often as needed to make them aware of the damage prevention program:

(i) The program's existence and purpose; and

(ii) How to learn the location of underground pipelines before excavation activities are begun.

(3) Provide a means of receiving and recording notification of planned excavation activities.

(4) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings.

(5) Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins.

(6) Provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

(i) The inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

(ii) In the case of blasting, any inspection must include leakage surveys.

(c) A damage prevention program under this section is not required for the following pipelines:

(1) Pipelines located offshore.

(2) Pipelines to which access is physically controlled by the operator.

Issued in Washington, DC on February 17, 1995.

Ana Sol Gutiérrez,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 95–6723 Filed 3–17–95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 950106003–5070–02; I.D. 121994A]

RIN 0648–AH01

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Final rule and approval of catch sharing plan.

SUMMARY: NMFS, on behalf of the International Pacific Halibut Commission (IPHC), publishes regulations governing the Pacific halibut fishery implemented by the IPHC and approved by the Secretary of State. NMFS also approves catch limits for Areas 2A and 2C, approves regulations implementing a catch sharing plan for Area 2A, and repeals three regulations for Area 4. This final rule is intended to enhance the conservation of the Pacific halibut stock and to rebuild and sustain it in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: March 15, 1995.

ADDRESSES: NMFS Alaska Regional Office, 709 W 9th Street, P.O. Box 21668, Juneau, AK 99802–1668, telephone: 907–586–7228; NMFS Northwest Regional Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115–0070, telephone: 206–586–6140.

FOR FURTHER INFORMATION CONTACT: Aven Andersen, 907–586–7228, or Joe Scordino, 206–526–6140.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has implemented new regulations governing the Pacific halibut fishery in 1995. The Secretary of State of the United States has accepted the IPHC regulations under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773–773k). However, the IPHC did not adopt 1995 catch limits for any portion of Area 2. Therefore, the United States is adopting catch limits for Areas 2A and 2C, which are implemented under domestic rule as described herein.

On behalf of the IPHC, the approved IPHC regulations are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements. The IPHC held its annual meeting on January 23–26, 1995, in Victoria, British Columbia, and adopted regulations for 1995. The substantive changes to the previous IPHC regulations (59 FR 22522, May 2, 1994) include: (1) New catch limits for all areas except Areas 2A and 2C; (2) a commercial fishing season opening on March 15 and closing November 15 for all areas except 2A, which has specific 1-day openings; (3) repeal of a prohibition on automated hook strippers; (4) elimination of Area 4D–N; (5) a requirement that halibut be dressed before offloading; and (6) revisions to the Area 4 clearance requirements. In addition, because the non Indian directed commercial fishery in Area 2A is likely to exceed the subquota for this fishery during the first 10-hour opening, the IPHC announced that it would impose vessel trip limits. However, because it was unknown at the time of the meeting how many vessels might participate in the Area 2A fishery, the IPHC staff will determine and announce the vessel trip limits necessary to avoid exceeding the subquota prior to the July 5 opening, when better information will be available on the number of vessels that may participate in the fishery.

The U.S. and Canadian Commissioners were unable to agree upon new catch limits for Area 2, which includes all waters off Canada (Area 2B), waters off southeast Alaska (Area 2C), and waters off Washington, Oregon, and California (Area 2A). However, the U.S. and Canadian Commissioners expressed a joint commitment to adopt domestic catch limits for their respective portions of Area 2 to ensure conservation of the halibut stock. Without domestic action, the Area 2