

June 2008

## Contacts

### [Robert E. Hogfoss](#)

Bank of America Plaza, Suite 4100  
600 Peachtree Street, NE  
Atlanta, GA 30308-2216  
(404) 888-4042  
[rhogfoss@hunton.com](mailto:rhogfoss@hunton.com)

### [Catherine D. Little](#)

Bank of America Plaza, Suite 4100  
600 Peachtree Street, NE  
Atlanta, GA 30308-2216  
(404) 888-4047  
[clittle@hunton.com](mailto:clittle@hunton.com)

### [Brigham A. McCown](#)

1445 Ross Avenue, Suite 3700  
Dallas, TX 75202-2799  
(214) 979-3086  
[bmccown@hunton.com](mailto:bmccown@hunton.com)

### [Molly H. Scott](#)

Bank of America Plaza, Suite 4100  
600 Peachtree Street, NE  
Atlanta, GA 30308-2216  
(404) 888-4157  
[mhscott@hunton.com](mailto:mhscott@hunton.com)

## PHMSA Issues Final Rule Regarding Rural Onshore Low-Stress and Gathering Lines

On June 3, 2008, the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) published its long-awaited final rule covering rural onshore low-stress and gathering hazardous liquid pipelines. 73 Fed. Reg. 31,634 (June 3, 2008). The rule seeks to address the most significant risks posed by higher-risk, larger-diameter rural onshore low-stress and gathering lines, by protecting unusually sensitive areas (USAs). In order to protect USAs, rural onshore low-stress lines are now subject to all existing pipeline safety regulations in 49 C.F.R. Part 195, including integrity management requirements. Additionally, rural onshore gathering lines will now be required to comply with safety requirements. This rule was first proposed on September 6, 2006, (see [Continuing Impact of Prudhoe Bay: New Rules for Low-Stress Lines & Gathering Lines](#)), and was then supplemented on May 18, 2007. The final rule amends 49 C.F.R. Part 195, and will take effect on July 3, 2008.

### Rural Onshore Low-Stress Lines

This final rule satisfies a requirement of the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 for PHMSA to issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations

as other hazardous liquid pipelines, including integrity management requirements. PHMSA is planning a two-phased approach to regulating low-stress pipelines. Phase one subjects larger-diameter, higher-risk, rural<sup>1</sup> low-stress pipelines that could pose a greater threat to USAs<sup>2</sup> to all requirements of Part 195. Phase two of the rulemaking will address the remaining unregulated low-stress pipelines. A low-stress pipeline is defined as a pipeline that is 8 5/8 inches and greater in diameter that is located in, or within a half mile of, a USA, and that operates at less than 20 percent of Specified Minimum Yield Strength (SMYS) (or less than 125 psi (861 kPa) gauge for non-steel pipe). The new section does not apply to rural low-stress lines that cross a waterway used for commercial navigation, because they are already regulated under Part 195.

<sup>1</sup> "Rural area" is defined 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 a community development.

<sup>2</sup> USAs are locations requiring extra protection because of the presence of sole-source drinking water, endangered species or other ecological resources.

Requirements of the rule include the following:

- Before Jan. 3, 2009
  - Comply with the annual accident and safety-related condition reporting requirements of Subpart B
- Before April 3, 2009
  - Identify all segments of pipeline meeting the criteria
- Before July 3, 2009
  - Establish a written integrity management program in compliance with § 195.452
  - Comply with all other safety requirements of Part 195, except for the corrosion control requirements of Subpart H
- Before July 3, 2011
  - Comply with corrosion control requirements of Subpart H
- Before Jan. 3, 2012
  - Complete at least 50% of the baseline assessments required by § 195.452(c), beginning with the highest-risk pipe
- Before July 3, 2015
  - Complete the baseline assessment for the rest of the segments in accordance with § 195.452(c)

The requirement to comply with reporting requirements by January 3, 2009 applies to *all* low-stress pipelines, regardless of whether they meet the above-referenced criteria. The purpose of this requirement is for PHMSA to obtain information that will be necessary for future regulatory analysis for phase two. Those pipelines that do not meet the above-referenced criteria are not required to complete the portions of the annual report form that address integrity management requirements and inspections.

If a pipeline operator concludes that implementing the integrity management assessment requirements will pose such an economic burden that it will have to abandon its pipeline, there is a provision that allows operators of affected pipelines meeting certain criteria to notify PHMSA. In response, PHMSA may grant the operator a special permit to continue operations under alternative safety requirements.

Furthermore, if a new USA is identified and a pipeline segment subsequently becomes subject to this rule, an operator must comply with the schedule listed in the table above with the following exceptions: (1) the written integrity management program required by § 195.452 should be established within 12 months after identification, and (2) the baseline assessment should be completed within five years of identification. Finally, the rule requires the retention of records demonstrating compliance with each requirement.

## Rural Onshore Gathering Lines

The final rule also addresses gathering lines. It defines a “regulated rural gathering line” for the first time, as an onshore gathering line in a rural area that has a nominal diameter from 6 5/8 inches (168 mm) to 8 5/8 inches (219.1 mm), is located in or within one-quarter mile of a USA, and operates at greater than 20 percent SMYS (or more than 125 psi (861kPa) gauge for non-steel pipe). Operators of rural gathering lines must develop and implement a program to continually assess operating conditions that could lead to internal corrosion, to clean their lines accordingly, and to begin or modify the use of corrosion inhibitors as needed. An example of an operating condition that would need to be assessed is flow rate. This new provision is intended to address corrosion and third-party damage to rural gathering lines.

Safety requirements provided for in the final rule include the following for pipelines currently in operation:

- Before April 3, 2009
  - Identify all segments of pipeline meeting the criteria
- Before July 3, 2009
  - Establish the maximum operating pressure
  - Install line markers
  - Establish a damage prevention program
  - Establish a program to continuously identify operating conditions that could contribute to internal corrosion, including measures to prevent and mitigate internal corrosion, such as cleaning the pipeline and using inhibitors
  - Have a written description of the processes used to determine the qualification of persons performing operations and maintenance tasks
- Before July 3, 2010
  - Establish a continuing education program
- Before July 3, 2011
  - Comply with corrosion control requirements of Subpart H

If a new USA is identified and a pipeline segment subsequently becomes subject to this rule, an operator must implement the requirements of the rule within six months of identification. Finally, the rule requires the retention of records demonstrating compliance with each requirement.

Hunton & Williams' attorneys have extensive knowledge and experience with the oil and gas pipeline industry. We are fol-

lowing these issues closely and are available to answer your questions and concerns, and to assist you in assessing your pipeline operations with respect to the new requirements of the final rule.

<http://www.pipelinelaw.com>

© 2008 Hunton & Williams LLP. Attorney advertising materials. These materials have been prepared for informational purposes only and are not legal advice. This information is not intended to create an attorney-client or similar relationship. Please do not send us confidential information. Past successes cannot be an assurance of future success. Whether you need legal services and which lawyer you select are important decisions that should not be based solely upon these materials.