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**December 14, 2007**

EPA Docket  
Docket ID No. EPA-HQ-OPA-2007-0584  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**Re: Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure Rule Requirements – Amendments; Proposed Rule (72 Fed. Reg. 58378, October 15, 2007), EPA Docket ID No. EPA-HQ-OPA-2007-0584 and the 1971 Memorandum of Understanding between EPA and DOT**

Dear Docket Clerk:

The Association of Oil Pipe Lines (AOPL) represents the Nation's leading petroleum pipeline companies. AOPL's 50 member companies own and operate the great majority of America's 200,000 miles of petroleum pipelines, which span every part of the country and carry more than two-thirds of the country's crude oil and petroleum-based fuels. This Association is pleased that the Environmental Protection Agency (EPA) is considering proposed amendments to its Spill Prevention, Control, and Countermeasure (SPCC) Rule, and that EPA initiated a meeting between EPA and the Pipeline and Hazardous Materials Safety Administration (PHMSA) to discuss jurisdictional issues. We appreciate the opportunity to submit comments to EPA on various SPCC and jurisdictional matters that affect the operations of our Association members.

Among many of our member companies, there continues to be a concern with respect to oversight and regulation of pipeline tank facilities and certain pipelines resulting from the lack of a bright line distinction between EPA and Department of Transportation (DOT)/PHMSA jurisdiction. This lack of clarity results in having to comply with different regulatory requirements mandated by each agency regarding prevention, preparedness and response planning under Section 311 of the Clean Water Act and the Oil Pollution Act of 1990. Dual regulation is resulting in unnecessary preparation, maintenance and training to duplicative plans, the burden of compliance with different regulations, and having inspections conducted by two different agencies for the same facility.

Attached below this letter is a White Paper that was prepared by the API Pipeline Committee on Environment, Health and Safety entitled "*Rationale Supporting PHMSA's Sole Jurisdiction Over Facilities Primarily Performing Pipeline Transportation-Related Activities*". The White Paper provides details on specific issues associated with joint jurisdiction and recommendations for resolution. This White Paper was presented to PHMSA in September 2007, and recently, to EPA's Office of Emergency Management.



To resolve this dual jurisdictional issue and to address other SPCC areas specific to pipeline operations, we propose the following:

- DOT/PHMSA would continue to exert jurisdiction over breakout tanks and related piping as defined in 49 CFR 195. Further, DOT/PHMSA should exert sole jurisdiction over facilities that *primarily* provide breakout or pipeline terminus tankage even if some product movement into and/or out of a facility is not by pipeline, and some de minimus facility tank storage volume is not breakout, but is needed to support pipeline operations. Conversely, EPA should assume sole jurisdiction over a facility if the primary function of the facility is to provide non-pipeline transportation related product storage such as at a refinery or production facility tank battery. Although storage tanks at these types of facilities may feed pipelines to transport product from the facilities, their "primary function" is storage of product from a refining or production activity and thus should be under sole EPA jurisdiction. Agency jurisdiction should depend on the "primary function" of the facility. This determination should be based on a holistic view of a facility.
- Revise the 1971 Memorandum of Understanding (MOU) between EPA and DOT to clarify jurisdictional boundaries for clear understanding by each agency so that the original spirit and intent of the MOU of a "single agency jurisdictional approach" for each facility is fully realized. The MOU stated that "to the extent possible...it is considered most practical to assign one agency the responsibility for regulating [any one facility]." Under the 1971 MOU, all "transportation related" facilities would be subject to DOT jurisdiction while EPA would have jurisdiction for all "non-transportation related" facilities. An Executive Order in 1991 re-confirmed this division of responsibility between EPA and DOT. The "Memorandum of Agreement" executed between EPA and DOT in February 2000 was intended to clarify jurisdictional boundaries but resulted in further confusion in the regulated community and should be repealed, and if that is not possible, revised as suggested in the attached White Paper.
- All gathering pipelines should be under the sole jurisdiction of DOT/PHMSA. These gathering pipelines would include both pipelines transporting product from a production facility as well as pipelines gathering production from satellite storage locations to a central storage location. PHMSA currently regulates certain gathering lines and is proposing to extend its regulations to cover low stress pipelines and additional gathering lines.

One of the concerns industry has heard EPA express regarding DOT vs. EPA jurisdiction over a given facility or components within a facility, is that EPA believes its regulatory programs are more protective of the environment than the programs of DOT. It should be emphasized that the underlying statutes for many of DOT's pipeline safety regulations (overseen and regulated by PHMSA) specifically express an intent, not only to promote pipeline safety, but also to protect the environment. Some examples of DOT/PHMSA commitment to environmental protection expressed through statute, policy or goals include:

- The Accountable Pipeline and Safety Partnership Act of 1996...An act to reduce risk to the public safety **and the environment** associated with pipeline transportation of natural gas and hazardous liquid, and for other purposes.

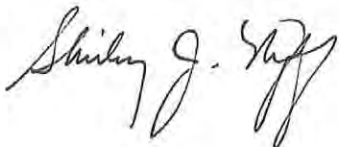
- PHMSA's web page for the pipeline integrity management rule. The web page states the purpose of the rule is to ensure the integrity of hazardous liquid pipeline segments that, in the event of a leak or failure could affect populated areas, **areas unusually sensitive to environmental damage and commercially navigable waterways.**
- Oil Pollution Act of 1990 (OPA '90). PHMSA states that its goals in implementing OPA'90 is to **decrease the likelihood of pipeline spills, diminish the environmental consequences of spills and ensure that the responses to spills are swift and well planned.** PHMSA further states that the elements of its program are intended to ensure that pipeline operators are able **to protect the environment.**

The pipeline operators believe that it is very important to prepare effective Facility Response Plans (FRPs) as outlined in the OPA'90 statutes and codified in 49 CFR 194. The FRPs are required to be submitted to PHMSA on a periodic basis for review and approval. Pipeline operators will continue to work with PHMSA in this periodic approval process to maintain the plans and improve their effectiveness.

On behalf of our membership, AOPL encourages EPA to implement appropriate amendments to its SPCC rule, and to work with PHMSA to revise the 1971 MOU to eliminate the regulatory burdens currently being experienced as a result of dual jurisdiction of pipeline transportation facilities. With the PHMSA regulations currently in place and commitment of our member companies to environmental stewardship, AOPL is confident these proposals will continue to ensure the protection of our environment.

We welcome the opportunity for further discussions with EPA and PHMSA. Please contact Dan Mihalik at 202-292-4502 or Karen Simon at 202-682-8224 if you have any questions on these comments or would like to schedule a meeting.

Sincerely,



Shirley J. Neff  
President and CEO  
Association of Oil Pipelines

cc: Peter Lidiak, Director, API Pipeline Segment  
R. Craig Matthiessen, P.E., Director, Regulation and Policy Development  
Division, Office of Emergency Management, U.S. EPA  
David Kunz, PHMSA, Chief Counsel



**RATIONALE SUPPORTING PHMSA'S SOLE JURISDICTION OVER FACILITIES PRIMARILY  
PERFORMING PIPELINE TRANSPORTATION-RELATED ACTIVITIES**

**By The API Pipeline Committee on Environment, Health and Safety (CEHS)**

**September 2007**

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## FORWARD

***This White Paper is intended to speak to the jurisdictional boundaries and responsibilities between DOT and EPA in the context of spill prevention/planning only.*** In 1970, the Clean Water Act amendments were passed. As a consequence, spill prevention responsibility was divided between the Environmental Protection Agency (EPA) and the Department of Transportation (DOT). The DOT was delegated authority for oversight of spill prevention at all "transportation-related" facilities (expressly including pipelines), while EPA was delegated authority over all "non-transportation-related" facilities.

In 1971, EPA and DOT entered into a Memorandum of Understanding (MOU) where all "transportation related" facilities would be subject to DOT jurisdiction for spill prevention planning, while EPA would have jurisdiction for all "non-transportation related" facilities. Under the MOU, the agencies were to employ a "systems approach" for oil spill prevention planning, and stated that "to the extent possible...it is considered most practical to assign one agency the responsibility for regulating [any one facility]." (See Section I, paragraph 5 of the 1971 MOU). The MOU mentioned that "DOT will generally be responsible for regulating transportation of oil by pipeline." EPA subsequently promulgated its SPCC regulations (40 C.F.R. Part 112), and DOT subsequently promulgated its own Facility Response Plan regulatory requirements (49 C.F.R. Parts 194).

An Executive Order in 1991 re-confirmed this division of responsibility between EPA and DOT, but was silent on any additional guidance.<sup>1</sup> In 2000, DOT and EPA entered into a new agreement on this issue, known as the Felder/Luftig Memorandum of Agreement (the "2000 MOA"). The 2000 MOA basically left the previously assigned responsibilities between DOT and EPA intact. However, Section III of the 2000 MOA added a new term "complex facility" (i.e. a facility performing both transportation and non-transportation (i.e. storage) activities). Unfortunately, this section of the 2000 MOA left the door wide open for too much interpretation and caused additional confusion through the attachment of ten diagrams intended to illustrate jurisdictional boundaries between DOT and EPA. Those diagrams do not necessarily reflect actual conditions for many in the pipeline industry, and do not appear to fully correlate to established law or guidance.

Section V of the 2000 MOA also stated, that "as many facilities as possible [should be] subject to single jurisdiction in the interest of regulatory efficiency" [either EPA or DOT; not both]. Ideally, in the context of the spill prevention, the regulated community would prefer that PHMSA and EPA reach consensus on the issue of "one agency per facility," depending on the primary function(s) that facility performs.<sup>2</sup> For example, a transportation-related facility that is primarily comprised of breakout tanks, with only incidental storage operations, should fall strictly under the purview of PHMSA for spill prevention. On the other hand, a facility that primarily engages in storage operations should fall strictly under the purview of EPA for spill prevention. This approach would exercise the spirit and intent of the 1971 MOU and the 1991 Executive Order 12777.

After the issuance of the 2000 MOA, EPA issued another guidance letter addressing the scope of "transportation related," which stated that "any storage of oil during transportation is still transportation related, and thus subject solely to DOT jurisdiction." EPA further defined "transportation" in this instance to include "the time between when oil is offered for transportation to a carrier [i.e., a pipeline] and the time that [the oil] reaches its destination and is accepted by the consignee."

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<sup>1</sup> Section 2d(2) of the 1991 Executive Order 12777 reads: "The functions vested in the President by Section 311(j)(5) of FWPCA and Section 4202(b)(4) of OPA, respecting the issuance of regulations requiring the owners or operators of tank vessels, **transportation-related onshore facilities** and deepwater ports subject to the DPA, to prepare and submit response plans, the approval of means to ensure the availability of private personnel and equipment, the review and approval of such response plans, and the authorization of tank vessels, transportation-related onshore facilities and deepwater ports subject to the DPA to operate without approved response plans, **are delegated to the Secretary of Transportation.**"(emphasis added)

<sup>2</sup> API acknowledges that EPA will continue to have jurisdiction over transportation-related facilities under various federal statutes (e.g. RCRA, CERCLA, CAA, CWA, TSCA) and this White Paper only focuses on the jurisdictional boundaries between DOT and EPA regarding spill prevention and spill planning.



## EXECUTIVE SUMMARY

Although the February 4, 2000 MOA was meant to clarify jurisdictional issues between DOT and EPA, the MOA added confusion to the original MOU within the regulated community. An unintended consequence was that breakout tanks that were previously regulated solely by DOT would potentially fall under the concurrent jurisdiction of EPA, which contravenes the original intent of the 1971 MOU, subsequent Executive Orders and guidance memos. Realistically, dual regulation can only result in unnecessary hardship and regulatory burden on the pipeline and bulk storage industries, with little incremental environmental benefit. Examples of the additional regulatory burden that dual jurisdiction presents includes, but are not limited to:

- Two separate agency inspections (DOT & EPA) for the same tank(s)/facility.
- Two separate set of regulations for the same facility, and even the same piece of equipment.
- Two separate sets of Facility Response Plans (FRP) for the same facility.
- Confusion over why tanks, which are constructed exactly the same, hold the same type of product and are operated the same, are regulated differently.
- In some cases, such as those involving marine facilities, there is the very real potential of three (3) agencies providing oversight (EPA, DOT and USCG) and enforcing three, separate sets of regulations.

There are three, jurisdictional prerequisites for EPA's SPCC regulations to apply. 1) The facility must be used or intended to store "oil", as defined at 40 CFR Part 112; 2) The facility must have a capacity above the regulatory threshold quantities; and 3) the facility must be "non-transportation-related."

Criterion 3, and the 2000 MOA, have caused the most confusion among the oil pipeline industry. In addition, EPA recently has moved toward a more expansive interpretation of its SPCC regulations. As an example, EPA has already "recommended" to one pipeline operator, that it review its operations as to SPCC applicability, and stated that the agency would likely conduct inspections of the pipeline operator in the future. These statements were given after an EPA tour of this particular pipeline operator's facilities on a system-wide basis, with follow up photographs from the agency as to what tanks/areas of the pipeline operator's facilities EPA believed fell under their jurisdiction. Examples include, tank truck loading hose connections from transmix tanks, PCW tanks and relief tanks, as well as the secondary containment systems around such tanks and areas. EPA appeared to focus on individual pieces of equipment, or specific activities performed at these breakout tank facilities, and did not appear to take a "systems approach" as espoused by the MOU. EPA's intent to intensify its focus on pipeline breakout facilities is therefore, palpable. In short, EPA actions appear to contradict the premise that pipeline systems should be viewed holistically as "transportation related" facilities that are exempt from SPCC regulations, and is veering away from a "single jurisdictional mindset."

This leaves the pipeline industry as a whole with less than adequate notice as to EPA's "true jurisdictional boundaries," which potentially gives rise to a "procedural due process issue." Unless PHMSA and EPA can come to a reasonable solution as to their respective jurisdictional boundaries, it is possible that EPA's future enforcement actions will likely look at the *activity* to determine SPCC jurisdiction, not the overall purpose of the facility. EPA may also focus on "any storage activity" that occurs during transportation, *however temporary*.

It is therefore recommended that PHMSA and EPA revisit the 2000 MOA at this time, amend it to ensure that there is a bright line distinction between PHMSA regulated facilities and EPA regulated facilities, that measures are enacted to ensure that each agency respects the other's jurisdictional boundaries, and that diagrams are revised and clarified to reflect more realistic scenarios. These approaches will assist the pipeline industry, bulk storage and other related industries in understanding the precise standards under which they are governed. The jurisdictional criteria should be clear so that it is understood and interpreted the same way, irrespective of which administration is in political power. Finally, in the context of spill planning and spill prevention, the premise of one agency for one facility should be of paramount importance in any future discussions, MOAs or rulemakings by and between PHMSA and EPA. (See footnote 2 conceding EPA's authority under other Federal statutes)



With respect to the 2000 MOA, API recommends that PHMSA and EPA revisit the diagrams found in the attachments as follows:

1. Attachment 1: Remain as is;
2. Attachment 2: Diagram should clarify that the primary reason that all tanks are considered as storage, and not breakout, is because the tanks can only receive from the pipeline, and have no way of also delivering back to the pipeline. In other words, the tanks in the diagram are "at the end of the pipeline."
3. Attachment 3: There should never be a pipe segment that falls under both PHMSA and EPA jurisdiction for spill prevention purposes. This possibility would be eliminated if this facility was deemed either PHMSA or EPA jurisdictional, and not dual jurisdictional. Since the tank can receive product via pipeline, and also deliver product back to the pipeline through the Processing Plant, there is a strong argument that the facility should be solely under PHMSA jurisdiction, but the final outcome should depend on the primary function of the facility. (a "holistic view" of the facility). PHMSA and EPA should develop a methodology, with industry input, to determine what the primary purpose of a facility is and determine jurisdiction from there. There are also cases where refineries feed transportation-related pipelines, but proportionately, there is a lot more production and storage occurring rather than transportation-related pipeline activity. This is also a situation, which requires a holistic view of the facility as stated above.
4. Attachment 4A: Make solely PHMSA jurisdictional, if overall purpose/function of the facility is to provide breakout service. PHMSA and EPA should develop a methodology, with industry input, to determine what the primary purpose of a facility is and determine jurisdiction from there. By way of example, if the majority of throughput/production involves inbound and outbound via pipeline, then PHMSA should have sole jurisdiction.
5. Attachment 4B: Make solely PHMSA jurisdictional, if overall purpose/function of the facility is to provide breakout service. PHMSA and EPA should develop a methodology, with industry input, to determine what the primary purpose of a facility is and determine jurisdiction from there. By way of example, if the majority of throughput/production involves inbound and outbound via pipeline, then PHMSA should have sole jurisdiction.
6. Attachment 5: Make solely PHMSA jurisdictional, if overall purpose/function of the facility is to provide breakout service. PHMSA and EPA should develop a methodology, with industry input, to determine what the primary purpose of a facility is and determine jurisdiction from there. By way of example, if the majority of throughput/production involves inbound and outbound via pipeline, then PHMSA should have sole jurisdiction.
7. Attachment 6: Diagram should clarify that the primary reason that all tanks are considered as storage, and not breakout, is because the tanks can only receive from the pipeline, and have no way of also delivering back to the pipeline. In other words, the tanks in the diagram are "at the end of the pipeline."
8. Attachment 7: Primary purpose of the entire facility should be paramount in determining final jurisdiction and this should be included as a qualifier in the drawing. PHMSA and EPA should develop a methodology, with industry input, to determine what the primary purpose of a facility is and determine jurisdiction from there. By way of example, if the majority of throughput/production involves inbound and outbound via pipeline, then PHMSA should have sole jurisdiction.
9. Attachment 8: See discussion on page 2 regarding gathering lines.
10. Attachment 9: Diagram should clarify that any tank that has the capability of receiving and delivering via pipeline, notwithstanding any other connections to a truck loading rack, is solely PHMSA jurisdictional. Primary purpose of the entire facility should be paramount in determining final jurisdiction. PHMSA and EPA should develop a methodology, with industry input, to determine what the primary purpose of a facility is and determine jurisdiction from there. By way of example, if the majority of throughput/production involves inbound and outbound via pipeline, then PHMSA should have sole jurisdiction.



11. Attachment 10: The diagram should be clarified to state that in situations where USCG and PHMSA jurisdiction overlap, PHMSA should solely regulate all pipelines, tanks and appurtenances up to the dock manifold. The dock itself and loading/unloading operations at the dock should be regulated solely by USCG. The diagram should also be clarified to remove joint jurisdiction as between PHMSA and EPA, and any tanks that can both deliver and receive via pipeline, should be solely under PHMSA jurisdiction. Moreover, there are situations where tanks are located quite a distance from a marine dock, and there are sometimes two, separate owners/operators involved, one for the tanks, one for the docks. Such scenarios should also be vetted via guidance and diagrams in an amended MOA, especially as such scenarios relate to marine security and similar issues.

One of the concerns industry has heard EPA express from time to time is that EPA feels its regulatory programs are more protective of the environment, specifically, navigable waters, than the programs of DOT. It should be emphasized that the underlying statutory scheme for many of DOT's pipeline safety regulations specifically express an intent to not only promote pipeline safety, but also to protect the environment. Logic dictates that the term "environment" must necessarily include the subset of navigable waters. PHMSA also has policy statements which speak to environmental protection, specifically, commercially navigable waterways. Examples of statutory mandates and policy statements include:

- Accountable Pipeline and Safety Partnership Act of 1996 (An Act to reduce risk to public safety **and the environment** associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes).
- <http://primis.phmsa.dot.gov/iim/index.htm> (PHMSA's integrity management web page, which includes the following statement: "These rules, effective May 29, 2001, and February 15, 2002, specify regulations to assess, evaluate, repair and validate through comprehensive analysis the integrity of hazardous liquid pipeline segments that, in the event of a leak or failure, could affect populated areas, areas unusually sensitive to environmental damage and **commercially navigable waterways**."
- Oil Pollution Act of 1990 (OPA '90)- PHMSA has responsibility for implementing the Oil Pollution Act of 1990 as it applies to onshore oil pipelines. PHMSA's stated goal is to decrease the likelihood of pipeline spills, **diminish the environmental consequences of spills**, and ensure that the responses to spills are swift and well planned. PHMSA states that its program has several elements, all of which are intended to ensure that pipeline operators are able to **protect the environment** from major oil spills. See <http://ops.dot.gov/init/opa/opa.htm> for a full description of PHMSA's goals under OPA '90.

**NOTE: With respect to the above-listed recommendations for amending the current 2000 MOA diagrams, they should also be considered as part of any recommendations listed in the body of this white paper, where applicable, even if not specifically mentioned.**



## **Breakout Tanks with Transfer to Truck**

### **Issue**

The SPCC regulations define a "breakout tank" as "a container used to relieve surges in an oil pipeline system or to receive and store oil transported by pipeline for re-injection and continued transportation by pipeline." 40 C.F.R. § 112.2. Tanks that serve primarily as breakout tanks (pipeline-in and pipeline-out) but also require product to be transferred to a tank truck for continued distribution by pipeline should not be dually regulated, since their primary purpose is to relieve surges in pipelines. These tanks pose no more risk to the environment than their counterparts that serve the sole purpose of pipeline-in and pipeline-out operations.

### **Citation**

The 1971 Memorandum of Understanding (MOU) between DOT and EPA (Appendix A of 40 CFR part 112) provided a bright line between the two agencies and the regulated community with regard to jurisdictional issues. Simply, if DOT regulated the piece of equipment, then EPA would not and should not concurrently regulate the same piece of equipment. The February 4, 2000 Memorandum of Agreement (MOA) between the DOT and EPA did not amend the 1971 MOU or re-delegate any responsibilities between the two agencies, but unfortunately, "muddied the waters" on jurisdictional boundaries.

### **Recommendations**

The proposed recommendations would establish bright line jurisdiction over breakout tanks and associated piping and equipment, and should also ensure that all breakout tanks and bulk storage facilities are appropriately regulated. It would also avoid the application of differing regulatory schemes to the same facilities, which would avoid confusion and promote economic and regulatory efficiency.

1. Attachment 1 in the 2000 MOA would remain as is. See other recommendations in the Executive Summary regarding the 2000 MOA diagrams.
2. PHMSA should continue to exert jurisdiction over breakout tanks and related facility piping as defined in 49 CFR sec. 195.3, and should exert primary jurisdiction over tanks that serve primarily as breakout tanks, *even if performing more than one function*.
3. PHMSA should modify its regulations to require all regulated pipelines to register those breakout tanks in the National Pipeline Mapping System (as opposed to the current program of voluntary registration). This will provide PHMSA with a complete picture of the tanks falling under its jurisdiction and will facilitate program implementation, inspections and enforcement.
4. PHMSA and the EPA should amend the February 4, 2000 MOA related to breakout tanks/bulk oil storage containers, so that the regulated community is clear on DOT vs. EPA jurisdiction for breakout tanks and all transportation-related appurtenances, as well as reemphasize the original legislative and executive intent of single agency jurisdiction over a given facility, depending on its overall purpose and function, *not specific activities* within a given facility.
5. PHMSA and EPA should include in an amended MOA, the understanding that tanks registered with NPMS will be subject to PHMSA jurisdiction. Tanks that serve primarily as breakout tanks, even if performing more than one function, will be subject to PHMSA oversight if registered with NPMS. Operators would be encouraged to properly vet their tanks to ensure that no tanks are mistakenly registered or not registered in the NPMS. An accurate listing of tanks in the NPMS would be facilitated by an amended MOA between PHMSA and EPA addressing the topics listed herein.
6. No tanks should be dually regulated and all tanks should fall under either PHMSA or EPA jurisdiction for spill prevention purposes, with the consequent elimination of the term "complex facility" from all regulatory language and the existing 2000 MOA. As an example, water is occasionally removed from breakout tanks via truck (for disposal). Such occasional maintenance is critical to the proper functioning of the breakout tank farm and the overall transportation infrastructure, and should not cause a breakout tank to become regulated by EPA because some of its contents are being removed by truck.



7. The EPA should exert sole jurisdiction over tank truck loading/off-loading operations only where such truck loading/off-loading occurs from tanks which are capable of only one mode of pipeline activity (i.e. they can only receive from, or deliver to the pipeline and are essentially at a dead end in the system). In such cases, the jurisdictional control point should be the first valve or transfer pump from the breakout tank.

### ***Geographical Oil Field Storage Tanks and Gathering Lines***

#### **Issue**

A geographical oil field facility with product storage and production lines transports product by small diameter gathering lines to a PHMSA high pressure pipeline transportation system. The product storage tanks, production lines, and any truck transfer or loading activity is regulated by EPA. This is not true for gathering lines. Storage at the wellhead and loading activities associated with trucking are regulated by the EPA. They are not "transportation related". Gathering lines which flow into a breakout gathering tank and then into high pressure hazardous liquid pipelines are "transportation related" and jurisdictional to PHMSA. Certain requirements under 49 CFR 195 for gathering lines and associated tankage are exempt.

#### **Citation**

In 40 CFR 112.1 and 112.7 EPA regulates onshore oil production facilities including wells, flow lines, separation equipment, storage facilities, and auxiliary non-transportation-related equipment and facilities in a single geographical oil or gas field operated by a single operator. 49 CFR 195 does not directly regulate **gathering lines** (8 5/8 inch or less nominal outside diameter), although gathering lines are transportation-related and jurisdictional to PHMSA. However, the gathering line is subject to PHMSA response planning requirements in 49 CFR 194.

#### **Recommendations**

The proposed recommendation below would establish a bright jurisdictional line over gathering lines and ensure that they fall under the appropriate regulatory scheme. It would also avoid the application of differing regulatory schemes to the same facilities, which would avoid confusion and promote regulatory efficiency.

PHMSA should exert jurisdictional control over these gathering lines, since they are more in line with PHMSA transportation-related activities. API acknowledges that PHMSA has issued a "Supplemental Notice of Proposed Rulemaking" in the May 18, 2007 FR to include in phase two, Part 195 safety standards applicable to all remaining unregulated rural low-stress pipelines. Marathon Pipe Line has developed diagrams/tables to help clarify these confusing regulations. **[included at the end of this White Paper]**

### ***Oil Filled Transformers in Transportation Only Service***

#### **Issue**

The July 2002 SPCC amendments extend the SPCC rules to electrical equipment that contain oil (e.g. transformers). It is requested that PHMSA and EPA should clarify that oil filled transformers that are in transportation-related service are not regulated under Part 112, but are covered under the provisions in 49 CFR Part 194.

#### **Citations**

- Section 112.1 (b): "...this part applies to owner or operator of a non-transportation related onshore or offshore facility engaged in...using or consuming oil and oil products..."



- Section 112.2: "Oil-filled operational equipment means equipment that includes an oil storage container (or multiple containers) in which the oil is present solely to support the function of the apparatus or the device. Oil-filled operational equipment is not considered a bulk storage container, and does not include oil-filled manufacturing equipment (flow-through process). Examples of oil-filled operational equipment include, but are not limited to...**transformers**...and other systems containing oil solely to enable the operation of the device."
- Section 112.2: "**Complex** means a facility possessing a combination of transportation-related and non-transportation-related components that is **subject to the jurisdiction of more than one Federal agency** under section 311(j) of the CWA."
- Appendix A to Part 112 Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency Section II: "Transportation-related onshore and off-shore facilities means...(C) Interstate and intrastate onshore and offshore pipeline systems including pumps and appurtenances related thereto...needed for the continuous operation of a pipeline system..."
- Appurtenances: "Equipment...used for a specific purpose or task."
- 194.5: "Pipeline means all parts of an onshore pipeline facility through which oil moves including...other appurtenances connected to line pipe..."

The citations above, as well as substantial preamble language, bring oil filled operational equipment into the realm of Part 112 regulation, although EPA does clarify that electrical equipment and other operational uses of oil (e.g., hydraulics, operating and other manufacturing equipment) are not bulk storage of oil and therefore the secondary containment for bulk oil storage tanks and other requirements do not apply. However, secondary containment under 112.7(c) does apply. As an alternate for secondary containment, the owner/operator may implement an inspection and monitoring program, develop an oil spill contingency plan, and provide a written commitment of resources to control and remove oil discharged, for qualified equipment in lieu of secondary containment for the oil-filled operational equipment.

When oil filled transformers are used for the specific purpose of powering a pump to move petroleum in a PHMSA regulated pipeline, they should be regulated under PHMSA and excluded from the requirements of Part 112. In the Memorandum of Understanding, it is stated that "transportation-related" covers pumps and appurtenances that are needed for the continuous operation of a pipeline system. In this case, the appurtenance is the transformer. In order for a transformer to be regulated under Part 112, it would have to meet the definition of a complex facility. However, transformers that are in transportation only service do not meet the definition of a complex facility because they do not service a non-transportation related activity (i.e. refining, truck, rail or terminal facilities). That said, transformers in transportation only service are an appurtenance to the pipeline and do not meet the criteria for being regulated under Part 112. Finally, in 49 CFR 194 "Response Plans for Onshore Oil Pipelines" the requirements for an oil spill response plan is the equivalent to the oil spill contingency plan that EPA allows for oil filled electrical equipment.

## Recommendations

- Notwithstanding more favorable regulatory language for transformers (and other related appurtenances listed throughout this White Paper), PHMSA should affirmatively claim jurisdiction for oil-filled transformers supporting pipeline transportation of oil in a revised MOA.
- PHMSA regulatory requirements for owners/operators of oil-filled transformers at breakout facilities should include a maintenance and inspection procedure to ensure the integrity of the transformers to prevent a release of oil to the environment.



## **Oil/Water Separators**

### **Issue**

Oil/water separators are designed to separate oil from water. The design is the same regardless if it is a terminal or a wastewater treatment facility, but EPA is making a distinction based solely on location when granting the wastewater exemption under SPCC regulations. Industry needs clarification to understand whether a separator meets the exemption, or is considered secondary containment, manufacturing equipment, or a bulk storage container.

### **Citations**

- "Some flow through treatment such as oil/water separators have a storage capacity with the treatment unit itself. This storage capacity is subject to the rule" 67 FR 47068. The Regulation (40 CFR Part 112.1(d)(6)) states that this part does not apply to "Any facility or part thereof used exclusively for wastewater treatment and not used to satisfy any requirement of this part. The production, recovery, or recycling of oil is not wastewater treatment for the purposes of this paragraph."
- In the EPA's *SPCC Guidance for Regional Inspectors*, (The "Guidance") Chapter 5, Section 5.3 discusses the oil/water separator for wastewater treatment and exemption for this use. Figures 5-2 and 5-3 clearly show the separated oil compartment but arbitrarily apply the exemption by location, not design.
- Section 5.3.2 of the Guidance states "Many of these exempt wastewater treatment oil/water separators exempt from SPCC may, however, be subject to other...regulations" and cites NPDES Permits. For NPDES permitted facilities, separators are part of stormwater control to ensure compliance with a NPDES Permit and the SPCC regulations penalize these operations.

### **Recommendations to PHMSA**

PHMSA and EPA should revise the 2000 MOA to address this issue so that a bright jurisdictional line can be drawn for oil/water separators at transportation-related facilities. For those separators that would not necessarily qualify for the storm water treatment exclusion, it should be noted that they are appurtenances needed for the operation of the pipeline. Specifically, some oil/water separators receive drainage from wash-down slabs that capture product, which comes from scraper traps. Other oil/water separators recover product from the tank bottom water before it flows to a PCW tank. As PCW tanks are integral to the pipeline transportation system, it is also logical to conclude that an oil/water separator, which is upstream of them be given the same consideration as transportation-related "appurtenances."

### **Recommendations to EPA**

1. EPA should better define the wastewater exemption, when a separator becomes a secondary container, and the type of container a separator is classified as.
2. Facilities with NPDES Permits and Stormwater Pollution Prevention Plans meet the intent of the exemption and should receive it.
3. If the exemption is not granted, onshore separators, excluding Exploration and Production facilities, should be classified the same as oil-filled manufacturing equipment (flow-through process) rather than bulk storage containers.

## **Petroleum Contact Water (PCW) and Product Interface/"Contam" Tanks**

### **Issue**

Petroleum contact water (PCW) or "draw water" typically forms as a result of condensate in product originating from the refineries and/or rainwater infiltration through external floating roofs or other tank fittings. Condensate and rainwater that accumulates in breakout tanks is drawn off the bottom and is either processed through an oil/water separator, placed directly into a PCW tank or trucked off site upon



removal from the tank. Based on the method of separation or removal, a PCW tank may have no more than a rainbow sheen or as much as several inches of product on the surface of the water. These PCW tanks help to ensure product quality and are therefore an integral part of the pipeline transportation system. From a practical standpoint, the probability of a reportable oil spill resulting from a PCW tank release is very slight. PCW tanks pose an extremely low risk to the environment, based on the quantity of oil present and should be adequately addressed in a breakout tank facility's response plan under Part 194.

Product interface is off-specification product from batch cutouts to maintain product quality in accordance with shipper specifications. It is also known as "contaminant" or "contam" for short. Interface is typically placed back into the pipeline and delivered to the respective shippers who own it. These tanks are necessary to receive and store oil for re-injection into the pipeline for continued transportation. As such, they should meet the definition of "breakout tanks" and should be exempt from SPCC requirements. Sometimes it is transported back to the refineries via tank truck. As emphasized above, PHMSA and EPA need to look at the overall purpose of the facility in the context of spill planning/spill prevention, rather than examining periodic, or isolated operations or pieces of equipment.

### **Citation**

112.2 "Oil means oil of any kind or in any form....or oil mixed with waste other than dredged spoil" Contact water is not specifically addressed in the SPCC regulations but the preamble states, "...a facility which stores, treats, or otherwise uses produced water remains subject to the rule" 67 FR 47083. PCW Tanks are an integral part of the pipeline transportation distribution system and should be subject to PHMSA oversight and jurisdiction. The same should apply to interface or contam tanks. These tanks are included under 49 CFR 194 "Response Plans for Onshore Oil Pipelines," which contains requirements for oil spill planning and response. If regulated by EPA, the regulated community would be required to prepare yet another response plan for such tanks, which creates potential confusion when attempting to employ response personnel and resources, is not cost effective and is not efficient from a regulatory perspective.

### **Recommendations to PHMSA**

The proposed recommendations would establish a bright jurisdictional line over PCW and interface/contam tanks and related piping and appurtenances, and should also ensure that all such equipment is appropriately regulated. It would also avoid the application of differing regulatory schemes to the same facilities, which would avoid confusion and promote regulatory efficiency.

1. Please refer to the recommendations for amending the applicable 2000 MOA diagrams in the Executive Summary.
2. No tanks should be concurrently regulated and all tanks should fall under either PHMSA or EPA jurisdiction.
3. PHMSA should claim jurisdiction for PCW and interface/contam tanks as being integral to the pipeline transportation system.

### **Sumps**

#### **Issue/Citation**

Part 112 is largely silent on sumps until 112.11, which deals with off-shore facilities. At these facilities, sumps are basically used for secondary containment. Sumps are used as central collection points, and this is where the jurisdiction issue comes in... "What is the intent of the sump?"...is it used for storage or for further distribution? One then has to look at how the sump is situated – is it above ground or buried or even partially buried?

#### **Recommendations**

For those facilities which are deemed as transportation-related, employing the original intent of the 1971 MOU, subsequent Executive Orders and guidance and a presumed revised MOA, PHMSA should have sole jurisdiction over any sumps within the facility.



For those facilities which are deemed non-transportation-related, employing the original intent of the 1971 MOU, subsequent Executive Orders and guidance and a presumed revised MOA, EPA should have sole jurisdiction over any sumps within the facility.

## **Hydraulic Systems**

### **Issue**

Hydraulic systems are components of a PHMSA-regulated pipeline system that are integral to accurate product measurement, as well as ensuring the proper functioning of valves. They typically consist of a box containing hydraulic fluid that is used in "proving" product volumes. Typical hydraulic fluid volumes contained in this equipment range from 25 to 450 gallons. These components are integral to pipeline product measurement and should therefore be under the sole jurisdiction of PHMSA. Moreover, the small quantities of oil they contain can be easily managed under a pipeline operator's procedural manual, which includes inspection routines. Some pipeline facilities have hydraulically operated valve systems. Since these facilitate the transportation of petroleum through the pipeline, they should also be considered "pipeline appurtenances," subject only to PHMSA jurisdiction.

### **Citation**

There is currently no PHMSA regulation directly regulating hydraulic systems. However, since they should be considered "integral" to a pipeline operation, they should be already included within the existing PHMSA regulatory scheme.

### **Citations**

- Section 112.2: "Oil-filled operational equipment means equipment that includes an oil storage container (or multiple containers) in which the oil is present solely to support the function of the apparatus or the device. Oil-filled operational equipment is not considered a bulk storage container, and does not include oil-filled manufacturing equipment (flow-through process). Examples of oil-filled operational equipment include, but are not limited to...transformers...and other systems containing oil solely to enable the operation of the device. "
- Appendix A to Part 112 Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency Section II: "Transportation-related onshore and off-shore facilities means...(C) Interstate and intrastate onshore and offshore pipeline systems including pumps and appurtenances related thereto...needed for the continuous operation of a pipeline system..."
- Appurtenances: "Equipment...used for a specific purpose or task."
- 194.5: "Pipeline means all parts of an onshore pipeline facility through which oil moves including...other appurtenances connected to line pipe..."

### **Recommendations**

Since hydraulic systems are necessary for ensuring product measurement and operating valves in a pipeline system, they should be considered as appurtenances to a transportation-related pipeline facility and therefore regulated solely by PHMSA. The quantities of oil contained within them are very small in relation to other components on the pipeline system that are already regulated solely by PHMSA. This position should be exemplified in an amended MOA between PHMSA and EPA and incorporated in any future rulemakings by either agency or both.

## **Rectifiers**

### **Issue**

Rectifiers are components of a PHMSA-regulated pipeline system that are integral to maintaining pipeline integrity by maintaining cathodic protection. Rectifiers sometimes contain small amounts of oil (in many cases, no more than a quart) to help lubricate and cool "spinner motors." Most replacement rectifiers and



new installations are using "air-cooled" motors, but there are still stocks of the old motors, which contain small amounts of oil. It is reported that the units requiring oil lubrication are no longer being manufactured, and so it is just a matter of time before they will no longer be employed in a pipeline system.

Rectifiers are placed at specified intervals along a pipeline system, depending upon soil conditions indigenous to the region. Modern rectifiers do not contain oil at all. These components are integral to pipeline integrity and should therefore be under the sole jurisdiction of PHMSA. Moreover, the small quantities of oil they contain can be easily managed under a pipeline operator's procedural manual, which includes inspection routines.

### **Citation**

There is currently no PHMSA regulation directly regulating rectifiers, however, since they should be considered "integral" to a pipeline operation, they should be already included within the existing PHMSA regulatory scheme. Since rectifiers are necessary for ensuring pipeline system integrity, they should be regulated solely by PHMSA. The quantities of oil contained within them are very small in relation to other components on the pipeline system that are already regulated solely by PHMSA.

### **Recommendations**

Rectifiers are integral to pipeline system integrity and should already be under the exclusive jurisdiction of PHMSA. This position should be clarified in an amended MOA between PHMSA and EPA and incorporated in any future rulemakings by either agency or both.

### **Other Appurtenances**

#### Corrosion Inhibitor Tanks

These tanks are used to store product that the operator injects into its lines to prevent internal corrosion, in accordance with DOT requirements (49 C.F.R. § 195.579). If the product is not an "oil," the tanks will not be subject to SPCC.<sup>3</sup> If the product contains petroleum constituents (such as benzene, ethylene, toluene or xylene), or otherwise meets the definition of "oil" as defined in 40 C.F.R. § 112.2., then the tanks would reasonably be considered "appurtenances" to a pipeline system and, therefore, be exempt as transportation-related. EPA's recent focus on "storage" activities, however, suggests that the Agency may conclude otherwise.

Since Corrosion Inhibitor Tanks are necessary for ensuring pipeline integrity, they should be considered as appurtenances to a transportation-related pipeline facility and, therefore, regulated solely by PHMSA. The quantities of oil contained within them are very small in relation to other components on the pipeline system that are already regulated solely by PHMSA. This position should be clarified in an amended MOA between PHMSA and EPA and in any future rulemakings by either agency or both.

#### Drag Reducing Agent (DRA) Tanks

These tanks are used to store Drag Reducing Agent (DRA) that is injected into the pipeline to facilitate pumping of petroleum products. Pipeline operators typically use one or two types of DRA. One has an isopentane liquid base; the other has an alkyl alcohol liquid base. The tanks with the alcohol-based DRA should not be subject to SPCC because they do not appear to meet the definition of "oil." The isopentane-based liquid does appear to meet the definition of "oil," but these tanks should be considered as "appurtenances" to a pipeline system and therefore, should be exempt as transportation-related. EPA's recent focus on "storage" activities, however, suggests that the agency may attempt to conclude otherwise. Clarifying that the tanks are "appurtenances" and transportation related should be included in an amended MOA between PHMSA and EPA and in any future rulemakings by either agency or both.

<sup>3</sup> The determination of whether a given product is an "oil" for this purpose can typically be made by review of Material Safety Data Sheets (MSDS).



### Red Dye Tanks

These tanks are used to store red dye, as required by EPA and the Internal Revenue Service, for injection into high sulfur fuel oils that are transported in the pipeline system. The red dye currently used is comprised of kerosene and xylene, and therefore meets the definition of "oil" for purposes of the SPCC regulations. These tanks should be considered as "appurtenances" to a pipeline system and therefore, should be exempt as transportation-related. EPA's recent focus on "storage" activities, however, suggests that the Agency may conclude otherwise. Clarifying that the tanks are "appurtenances" and transportation related should be included in an amended MOA between PHMSA and EPA and in any future rulemakings by either agency or both.

### Pour Point Depressant/Flow Improver Tanks

Pour point depressant or flow improver is typically added to diesel fuel in the winter months to facilitate pumping diesel through the pipeline system. It lowers the pour point of the diesel so it will flow at temperatures where it might normally start to gel (this is especially important where an operator might have to shut down a pipeline and have diesel sitting for long periods in aboveground piping in very cold temperatures). This pour point depressant is hydrocarbon based or in a hydrocarbon carrier (e.g. xylene based), thus, it is likely an "oil" under the Clean Water Act and the tank holding the depressant is arguably subject to SPCC regulations under the current regulatory scheme. Pour point depressant tanks are typically hard piped to the pipeline and the depressant is "slipstreamed" in as the product is pumped through the tank lines at a given breakout tank facility. These tanks should be considered as "appurtenances" to a pipeline system and therefore, should be exempt as transportation-related. EPA's recent focus on "storage" activities, however, suggests that the Agency may conclude otherwise. Clarifying that the tanks are "appurtenances" and transportation related should be included in an amended MOA between PHMSA and EPA and in any future rulemakings by either agency or both.

## Affects of Legislative and Regulatory Changes on DOT Regulated Pipeline Systems

### Legend

DOT Jurisdictional by Statute

Exempted by DOT 195.1(b)

Regulated

Excluded from DOT Jurisdiction  
by Statute

Excluded from DOT Jurisdiction by Statute  
AND exempted by DOT 195.1(b)

### Current

Not jurisdictional if onshore rural gathering & outside of a USA & low stress & ≤ 6"

(1) liquids in gaseous state	(2) gravity flow	(3) low stress (i) onshore, rural; if no HVL or crossing of a commercially navigable waterway	(3) low stress (ii) regulated by Coast Guard	(3) low stress (iii) in plant piping, <1 mile, onshore; if no crossing of a commercially navigable waterway	(4) onshore gathering lines 8" and smaller in rural areas	(5) offshore production facilities in State waters
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\*If gathering line is 6-8" and in the inlets of the Gulf of Mexico in <15' of water, it must be part of an identification program to assure it is not at risk of exposure or hazard to navigation (see .413)

(6) offshore pipelines in OCS upstream of transport pipelines	(7) onshore production facility incl. flow lines; refining, manufacturing	(8) Liquid or CO <sub>2</sub> (i) non-pipeline transport including vessel; aircraft; tank truck; tank car	(8) Liquid or CO <sub>2</sub> (ii) through facilities used to transfer to non-pipeline transport	(9) Carbon Dioxide (i) injection compressor; recycle piping	(9) Carbon Dioxide (ii) distribution piping to injection wells
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### Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES)

•PIPES requires PHMSA to issue regulations removing the low-stress rural exempted lines. They will now subject to same standards as regulated lines.

Not jurisdictional if onshore rural gathering & outside of a USA & low stress & ≤ 6"

(1) liquids in gaseous state	(2) gravity flow	(3) low stress (ii) regulated by Coast Guard	(3) low stress (iii) in plant piping, <1 mile, onshore; if no crossing of a commercially navigable waterway	(4) onshore gathering lines 8" and smaller in rural areas	(5) offshore production facilities in State waters
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\*If gathering line is 6-8" and in the inlets of the Gulf of Mexico in <15' of water, it must be part of an identification program to assure it is not at risk of exposure or hazard to navigation (see .413)

(6) offshore pipelines in OCS upstream of transport pipelines	(7) onshore production facility incl. flow lines; refining, manufacturing	(8) Liquid or CO <sub>2</sub> (i) non-pipeline transport including vessel; aircraft; tank truck; tank car	(8) Liquid or CO <sub>2</sub> (ii) through facilities used to transfer to non-pipeline transport	(9) Carbon Dioxide (i) injection compressor; recycle piping	(9) Carbon Dioxide (ii) distribution piping to injection wells
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# Affects of Legislative and Regulatory Changes on DOT Regulated Pipeline Systems

## Legend

DOT Jurisdictional by Statute	Exempted by DOT 195.1(b)	Regulated	Exempt by Logical Deduction
Excluded from DOT Jurisdiction by Statute	Excluded from DOT Jurisdiction by Statute AND exempted by DOT 195.1(b)	Partially Regulated	New Language

## Notice of Proposed Rulemaking: Protecting USAs from Rural Onshore Gathering and Low-Stress Lines

Not jurisdictional if onshore rural gathering & outside of a USA & low stress & ≤ 6"

(1) liquids in gaseous state	(2) gravity flow	Rural low-stress ≥ 8" & w/in 1/4 mile of USA Rural low-stress ≤ 6" or outside of 1/4 mile of USA	(3) low stress (ii) regulated by Coast Guard	(3) low stress (iii) in plant piping; <1 mile; onshore; no crossing of a commercially navigable waterway	Regulated rural gathering 6-8" & high- stress & w/in 1/4 mile of USA Rural gathering ≤ 4" or low-stress or not w/in 1/4 mile of USA	(5) offshore production facilities in State waters
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•If gathering line is 6-8" and in the inlets of the Gulf of Mexico in <15' of water, it must be part of an identification program to assure it is not at risk of exposure or hazard to navigation (see .413)

•All the following lines are regulated: HVL, High-Stress, or crosses a commercially navigable waterway.

(6) offshore pipelines in OCS upstream of transport pipelines	(7) onshore production facility incl. flow lines; refining, manufacturing	(8) Liquid or CO2 (i) non-pipeline transport including vessel; aircraft; tank truck; tank car	(8) Liquid or CO2 (ii) through facilities used to transfer to non-pipeline transport	(9) Carbon Dioxide (i) injection compressor; recycle piping	(9) Carbon Dioxide (ii) distribution piping to injection wells	Segment upstream of last valve on last production facility on the OCS where pipeline on OCS is producer- operated and crosses into State waters without 1st connecting to a transporting operator's facility on the OCS
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## Supplemental Notice of Proposed Rulemaking: Protecting USAs from Rural Low-Stress Lines

### Phase 1

•The SNPRM is Phase 1 of 2. The phased approach is being used to get the NPSRM to meet requirements of PIPES with regard to low-stress rural pipelines. Phase 1 addresses pipe ≥ 8" w/in a 1/2 mile USA buffer. Phase 2 will address all other low-stress pipe previously exempted. Phase 2 remains exempted by logical deduction until more regulations are promulgated.

•The Phase 1 pipelines will be subject to all 195 regulations including IM; however, the buffer identification may be used in lieu of a could affect analysis. This will be clarified in the Final Rule.

Not jurisdictional if onshore rural gathering & outside of a USA & low stress & ≤ 6"

(1) liquids in gaseous state	(2) gravity flow	Phase 2 (Rural low-stress < 8"; also any larger diameter rural low-stress outside of 1/2 mile USA)	(3) low stress (ii) regulated by Coast Guard	(3) low stress (iii) in plant piping; <1 mile; onshore; no crossing of a commercially navigable waterway	Regulated rural gathering 6-8" & high- stress & w/in 1/4 mile of USA Rural gathering ≤ 4" or low-stress or not w/in 1/4 mile of USA	(5) offshore production facilities in State waters
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•If gathering line is 6-8" and in the inlets of the Gulf of Mexico in <15' of water, it must be part of an identification program to assure it is not at risk of exposure or hazard to navigation (see .413)

•All the following lines are regulated: HVL, High-Stress, or crosses a commercially navigable waterway.

•Annual report, Safety Related Condition reporting, and Accident reporting apply to Phase 2.

(6) offshore pipelines in OCS upstream of transport pipelines	(7) onshore production facility incl. flow lines; refining, manufacturing	(8) Liquid or CO2 (i) non-pipeline transport including vessel; aircraft; tank truck; tank car	(8) Liquid or CO2 (ii) through facilities used to transfer to non-pipeline transport	(9) Carbon Dioxide (i) injection compressor; recycle piping	(9) Carbon Dioxide (ii) distribution piping to injection wells	Segment upstream of last valve on last production facility on the OCS where pipeline on OCS is producer- operated and crosses into State waters without 1st connecting to a transporting operator's facility on the OCS
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## Affects of Legislative and Regulatory Changes on DOT Regulated Pipeline Systems

### Legend

DOT  
Jurisdictional by  
Statute

Exempted by DOT 195.1(b)

Regulated

Exempt by Logical  
Deduction

Excluded from  
DOT  
Jurisdiction by  
Statute

Excluded from DOT Jurisdiction  
by Statute **AND** exempted by  
DOT 195.1(b)

Partially Regulated

*New Language*

### Phase 2

•No regulations have been issued yet. The expected outcome is that 195.1 (b)(3)(i) exempting rural low-stress pipe will be removed.

Not jurisdictional if onshore rural gathering & outside of a USA & low stress & ≤ 6"

(1) liquids in gaseous state	(2) gravity flow	(3) low stress (ii) regulated by Coast Guard	(3) low stress (iii) in plant piping; <1 mile; onshore; no crossing of a commercially navigable waterway	Regulated rural gathering 6-8" & high-stress & w/in 1/4 mile of USA Rural gathering ≤ 4" or low-stress or not w/in 1/4 mile of USA	(5) offshore production facilities in State waters
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•If gathering line is 6-8" and in the inlets of the Gulf of Mexico in <15' of water, it must be part of an identification program to assure it is not at risk of exposure or hazard to navigation (see .413)

•All the following lines are regulated: HVL, High-Stress, or crosses a commercially navigable waterway.

(6) offshore pipelines in OCS upstream of transport pipelines	(7) onshore production facility incl. flow lines; refining, manufacturing	(8) Liquid or CO2 (i) non-pipeline transport including vessel; aircraft; tank truck; tank car	(8) Liquid or CO2 (ii) through facilities used to transfer to non-pipeline transport	(9) Carbon Dioxide (i) injection compressor; recycle piping	(9) Carbon Dioxide (ii) distribution piping to injection wells	Segment upstream of last valve on last production facility on the OCS where pipeline on OCS is producer-operated and crosses into State waters without 1st connecting to a transporting operator's facility on the OCS
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