

by the Commission in 2011. 87 FR 30444, May 19, 2022. The 2022 Public Notice thus provided ample indication that the interpretive question could have a broader range of outcomes than those specifically suggested in 2011.

23. Even assuming, *arguendo*, that notice was lacking, the Commission finds no conflict with the Administrative Procedure Act. Contrary to the arguments of several commenters, it is procedurally proper for the Commission to conclude that *interoperable video conferencing service* has the meaning given by the statutory definition. The Commission is not adopting or amending any substantive rule. Therefore, the notice-and-comment requirements of the Administrative Procedure Act (APA) are not implicated by any action taken here. The Commission is simply revisiting its 2011 assertion of a perceived need to resolve, through further interpretation, the correct interpretation of the word *interoperable*. At most that assertion was an interpretive rule, and hence prior notice was not required to revisit that interpretation. The Supreme Court has confirmed that the adoption or modification of interpretive rules occurs outside the APA's notice-and-comment requirements. *Perez v. Mortgage Bankers Ass'n*, 575 U.S. 92, 96 (2015).

24. Given the extended pendency of questions regarding the application of these requirements to video conferencing, the Commission recognizes that some service providers may need additional time to fully comply with the Report and Order. For that reason, the Commission extends the date for compliance with the part 14 video conferencing service rules until September 3, 2024. The Commission directs the Consumer and Governmental Affairs Bureau to announce the compliance date by subsequent Public Notice.

Final Regulatory Flexibility Analysis

25. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605(b). In document FCC 23–50, the Commission declines to adopt rule changes and therefore a Final Regulatory Flexibility Analysis has not been performed.

Ordering Clauses

26. Pursuant to sections 1, 2, 3, and 716 of the Communications Act of 1934,

as amended, 47 U.S.C. 151, 152, 153, 617, the foregoing Report and Order *is adopted*.

Congressional Review Act

27. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission sent a copy of the Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

28. The *Report and Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–15686 Filed 7–31–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192 and 195

[Docket No. PHMSA–2013–0255; Amdt. Nos. 192–134, 195–106]

RIN 2137–AF06

Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards: Technical Corrections

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Correcting amendments.

SUMMARY: PHMSA is issuing editorial and technical corrections clarifying the regulations promulgated in its April 8, 2022, final rule titled “Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards” for certain gas, hazardous liquid, and carbon dioxide pipelines. The final rule also codifies the results of judicial review of that final rule.

DATES: These corrections are effective as of August 1, 2023.

FOR FURTHER INFORMATION CONTACT:

Technical questions: Steve Nanney, Senior Technical Advisor, by telephone at 713–272–2855.

General information: Robert Jagger, Senior Transportation Specialist, by email at robert.jagger@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Corrections

On April 8, 2022, PHMSA published a final rule titled “Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards”¹ (final rule) amending the Federal Pipeline Safety Regulations (49 CFR parts 190 through 199) to, among other provisions, require the installation of rupture-mitigation valves (RMV) or alternative equivalent technologies and establish minimum performance standards for the operation of those valves to mitigate the public safety and environmental consequences of pipeline ruptures. The final rule became effective on October 5, 2022. This document identifies several editorial and technical corrections clarifying those regulations, as set forth below.

The final rule added a new § 192.179(e) requiring the installation of rupture-mitigation valves (RMV) on certain onshore gas pipeline segments 6 inches or greater in diameter. The paragraph included an exemption for those pipelines in Class 1 or Class 2 locations where the potential impact radius (PIR) of the pipeline is 150 feet or less. However, a comma was inadvertently left in between “Class 1” and “or Class 2 locations,” which led some readers to interpret that all pipelines in Class 1 locations were exempt from the RMV installation requirements, in addition to those pipelines in Class 2 locations with a PIR of 150 feet or less. As the preamble of the final rule explains (see, e.g., 87 FR 20942, 20972), the exemption was meant to apply to pipelines with a PIR of 150 feet or less in either Class 1 locations or Class 2 locations. Therefore, PHMSA is correcting that regulatory text in this document by removing the comma, restructuring the sentence for clarity, and adding “either” before the reference to Class 1 and Class 2. PHMSA is also making a conforming change to § 192.179(f), which contained similar language and will reflect the same regulatory intent.

Additionally, PHMSA is also correcting § 192.179(e) and (f) by removing a potentially confusing cross-

¹ 87 FR 20940 (Apr. 8, 2022).

reference. At both § 192.179(e) and (f), the regulatory text states that, for applicable pipelines, “all RMVs and alternative equivalent technologies installed pursuant to [these] paragraphs must meet the requirements of §§ 192.634 and 192.636.” The requirement for valve installation under paragraphs (e) and (f) of § 192.179 was intended to apply to pipelines in all class locations and regardless of a pipeline’s high-consequence area (HCA) status, as applicable. However, paragraph (a) of § 192.634 states that section is only applicable to certain pipelines located in HCAs or in Class 3 or Class 4 locations. Therefore, with the cross-reference to § 192.634 in § 192.179, it may be unclear as to what installation requirements pipelines in non-HCA Class 1 or Class 2 locations must follow. Accordingly, in this document, PHMSA is deleting the cross-references to § 192.634 from the valve installation requirements at § 192.179(e) and (f) so that it is clear that all new pipelines, regardless of HCA status or class location, must install RMVs in accordance with § 192.179. This change does not otherwise impact the additional requirements at § 192.634 specific to certain pipelines located in HCAs or in Class 3 or Class 4 locations.

The final rule also added a new § 192.610 that established the valve spacing requirements certain gas pipeline operators must follow when a class location change occurs. Paragraph (a) of § 192.610, by its reference to “transmission,” provides these requirements apply to class location changes on onshore gas transmission pipelines. In contrast, paragraph (b), as written, did not include the reference to “transmission” that would limit application of that paragraph in the same manner as paragraph (a). As a result, some readers were confused regarding whether the provisions in paragraph (b) were intended to apply to different pipelines than those subject to paragraph (a). PHMSA did not intend for paragraphs (a) and (b) to apply to different pipelines. Therefore, PHMSA is amending paragraph (b) to add a reference to “transmission” mirroring that in paragraph (a), thereby clarifying those provisions will have the same scope of application.

In § 192.634, PHMSA notes that there was an “and” omitted from paragraph (b)(3) that could potentially cause confusion. In this document, PHMSA is correcting this error by inserting the word “and” following the comma after the references to §§ 192.18 and 192.179 and the word “develop.”

When drafting the final rule, PHMSA created a new § 192.636 that contained

the operational requirements for RMVs. The notice of proposed rulemaking² (NPRM) had proposed these requirements in § 192.634, which also contained design and installation requirements for pipelines in Class 3 locations, Class 4 locations, and HCAs specifically. In the final rule, PHMSA moved the majority of the operational requirements, including those for rupture identification, valve shut-off time, and flow modeling for automatic shut-off valves (ASVs), into the new § 192.636, so that it was clear that these operational requirements applied to all RMVs. However, in the final rule, PHMSA inadvertently neglected to relocate from § 192.634 into the new § 192.636 one operational requirement it had proposed in the NPRM for the manual operation of valves upon identification of a rupture. Therefore, PHMSA is correcting that oversight in this correction document by moving § 192.634(c) into § 192.636 at a new paragraph (h). The requirements at § 192.634 are otherwise unchanged. PHMSA is also adding to that relocated language each of (1) in the first sentence, a cross-reference to the RMV installation requirement and valve shut-off requirement at § 192.634, and (2) in the last sentence, a reference to § 192.636(c) (governing RMV operation beyond the 30-minute default timeline set forth in § 192.636(b)) that had been inadvertently omitted from the final rule.

PHMSA also in § 195.258(e) mistakenly provided that operators could use a “manual compressor station valve” at a continuously manned station as an alternative equivalent technology. As hazardous liquid pipelines have pump stations, and not compressor stations, this phrasing could cause confusion. Accordingly, in this document, PHMSA is correcting this at § 195.258(e) by revising the phrase “manual compressor station valve” to read “manual pump station valve.”

At § 195.402(c)(5)(ii) of the final rule, PHMSA uses the term “incident” when discussing the identification and implementation of preventive and mitigative measures following the analyses of ruptures and RMV valve closures on hazardous liquid pipelines. As “incident” is a defined term in part 192 and not part 195, PHMSA believes there could be some potential confusion regarding the requirements of that paragraph. Accordingly, in this document, PHMSA is revising the term “incident” at § 195.402(c)(5)(ii) to read “accident” to be consistent with part 195 terminology.

PHMSA established a new § 195.417 in the final rule to describe a “notification of potential rupture” for hazardous liquid and carbon dioxide pipelines. The introductory text of paragraph (a) of that section contains an error that “a notification of a potential rupture “means refers” to the notification to [. . .].” In this document, PHMSA is correcting that typographical error to read “a notification of potential rupture means the notification to [. . .].” Additionally, PHMSA noted that the regulatory text in that section lacked an explicit reference to the uncontrolled release of carbon dioxide in addition to hazardous liquids. PHMSA explained in the final rule that, in the interest of convenience, it understood references to “hazardous liquid” within the preamble discussion of the final rule’s regulatory amendments to refer to both carbon dioxide and hazardous liquids. *See* 87 FR 20940 at n. 1. Consistent with that approach, most of the regulatory language amended by the final rule explicitly extended the final rule’s RMV installation and operation requirements to both hazardous liquid pipelines and carbon dioxide pipelines; however, PHMSA inadvertently omitted including explicit reference to carbon dioxide within § 195.417’s elaboration on the “notification of potential rupture.” Therefore, PHMSA has revised both the introductory text of paragraph (a) and paragraph (a)(3), where appropriate, to clarify that a “notification of potential rupture” can be triggered by one or more of the indicia of a potential unintentional or uncontrolled release of either hazardous liquids or carbon dioxide.

Similarly, in § 195.418, paragraph (a) states that the requirements of the section apply to both hazardous liquid and carbon dioxide pipelines. After publication of the final rule, PHMSA noticed that paragraph (b)(3) of the section, “laterals,” did not specifically mention “carbon dioxide” when discussing the commodity volumes that factor into the shut-off segment volume. Therefore, to clarify the fact that carbon dioxide laterals are also applicable to the requirements of paragraph (b)(3), PHMSA has inserted the term “carbon dioxide” where appropriate.

Prior to the final rule publishing, § 195.420(b) stated that “each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.” In the NPRM³ for the final

² 85 FR 7162 (Feb. 6, 2020).

³ 85 FR 7162 (Feb. 6, 2020).

rule, PHMSA essentially retained this requirement and added that operators must partially operate valves installed in accordance with § 195.258(c) and RMVs, as they were defined under proposed § 195.418. However, in the final rule, the word “mainline” was removed from paragraph (b), which then caused the paragraph to require that “each operator must, at least twice each calendar year but at intervals not exceeding 7½ months, inspect each valve to determine that it is functioning properly.” PHMSA understands that removing the word “mainline” from those requirements could be interpreted to mean that PHMSA expects all valves to be inspected and maintained at the intervals specified within that paragraph, even valves such as those within pump stations. It was never PHMSA’s intent to expand the valve maintenance requirement to all valves, and this is reflected throughout both the discussion in the preamble of the final rule and in the Liquid Pipeline Advisory Committee (LPAC) discussion and voting, where such an expansion is not contemplated. Therefore, in this document, PHMSA is correcting this omission by reinserting the word “mainline” in the requirements of § 195.420(b).

PHMSA also revised the valve maintenance requirements at § 195.420(b) to include specific provisions for RMVs. More specifically, PHMSA added RMV-specific requirements where operators are required to partially operate each RMV or alternative equivalent technology as a part of the requirement for operators to inspect each valve at least twice per calendar year. The requirement continues to state that “operators are not required to close the valve fully during the drill [. . .].” PHMSA notes that, as distinguishable response time drills requirements for manually or locally operated alternative equivalent technology are set out in § 195.420(e), there could be some confusion as to what the reference to “drill” means in the context of paragraph (b). Therefore, in this document, PHMSA is replacing the term “drill” used in paragraph (b) with “inspection” to more closely align with the language used earlier within the same paragraph and better distinguish between the “inspections” required under § 195.420(b) and the “drills” conducted pursuant to § 195.420(e).

II. D.C. Circuit Review of the Final Rule

On May 16, 2023, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated the final rule as it applies to gas and hazardous

liquid gathering pipelines.⁴ Therefore, in this document, PHMSA is removing gathering line-specific amendments introduced in the final rule and revising the regulatory text throughout parts 192 and 195 to clarify that the final rule amendments do not apply to gas or hazardous liquid gathering lines. These corrections include revisions to §§ 192.3, 192.9(b), (c), and (e)(1)(iv), 195.2, 195.11(b)(2), 195.258, 195.260, 195.402, 195.417, 195.418, 195.419, 195.420, and 195.452. Specific amendments are discussed below:

- Sections 192.3 and 195.2 are being revised to exempt gathering lines from the new definitions introduced in the final rule (“entirely replaced onshore transmission segments,” “entirely replaced onshore hazardous liquid or carbon dioxide segments,” “notification of potential rupture,” and “rupture-mitigation valve”). While some of those definitions may not have been used within provisions applicable to gas or hazardous liquid gathering lines, the term “notification of potential rupture” was used in sections of parts 192 and 195 that had been applicable to gathering lines. Nevertheless, to minimize confusion for operators, PHMSA is now revising all of the final rule’s new definitions to incorporate explicit exceptions for gathering lines so as to ensure that operators are not subject to those terms.

- Section 192.9 is being revised to ensure that this section accurately lists the provisions of part 192 applicable to part 192-regulated gas gathering lines by: (1) excluding §§ 192.615 (to the extent modified by the final rule⁵), 192.617(b) through (d), and 192.635 from applying to offshore gas gathering lines; (2) excluding §§ 192.179(e) through (g), 192.610, 192.615 (to the extent modified by the final rule), 192.617(b) through (d), 192.634, 192.635, 192.636, and 192.745(c) through (f) from applying to Type A regulated onshore gas gathering lines; and (3) excluding § 192.615 (to the extent modified by the final rule) from

⁴ *GPA Midstream Ass’n v. U.S. Dep’t of Transp.*, 67 F.4th 1188 (D.C. Cir. 2023). The D.C. Circuit’s vacatur remedy is self-executing: PHMSA’s memorialization in this notice of the court’s vacatur as to gas and hazardous liquid gathering lines is not legally required but is intended to assist affected pipeline operators and other stakeholders in understanding precisely what requirements remain effective following the D.C. Circuit’s decision.

⁵ PHMSA notes that, where the regulatory text of a provision requires compliance with the language in effect on October 4, 2022 (immediately before the October 5, 2022 effective date of the final rule), that historical regulatory text can be found by using the “view historical versions” link on the National Archives’ web page for the current version of parts 192 and 195 of the Code of Federal Regulations. See <https://www.ecfr.gov/current/title-49>.

applying to Type C regulated onshore gas gathering lines. While the language of § 192.617(a) (formerly § 192.617) was modified slightly in the final rule, the preamble of the final rule explains that these non-substantive changes simply provided “additional specificity to the existing regulation at § 192.617,” and that “the underlying requirement remained unchanged,”⁶ and therefore PHMSA is not exempting gas gathering lines from § 192.617(a) in this document. No revisions were required to exempt Types B and C gas gathering lines from § 192.610, § 192.617(b) through (d), § 192.634, § 192.635, § 192.636, or § 192.745(c) through (f), nor to exempt Type B gas gathering lines from the revised requirements of § 192.615, because those sections are already non-applicable to those types of pipelines pursuant to § 192.9(d) and (e). Similarly, no revisions were required to exempt offshore gas gathering lines from §§ 192.179(e) through (g), 192.610, 192.634, 192.636, and 192.745(c) through (f), since those sections are limited to onshore gas pipelines.

- Finally, PHMSA is revising §§ 195.258, 195.260, 195.402, 195.417, 195.418, 195.419, 195.420, and 195.452 to expressly exempt hazardous liquid gathering lines from the requirements in those sections that were introduced in the final rule. For clarity, PHMSA is also revising § 195.11(b)(2) to remove cross-references to any of those requirements.

PHMSA revised § 195.11(b)(2) in the final rule to establish the regulated rural gathering lines on which operators are required to install RMVs (at § 195.11(b)(2)(ii)). While the RMV installation requirement at § 195.11(b)(2)(ii) has been vacated by the D.C. Circuit and is therefore being removed in this document, PHMSA is also correcting a typographical error introduced in § 195.11(b)(2) when the word “constructed” was mistakenly written as “contracted” during transcription of the original paragraph in the final rule.

III. Regulatory Analyses and Notices

A. Statutory/Legal Authority

Statutory authority for this document’s corrections to the final rule, as with the final rule itself, whose discussion of statutory authority at section VI.A., 87 FR 20978, is incorporated herein by reference, is provided by the Federal Pipeline Safety Act (49 U.S.C. 60101 *et seq.*). The Secretary delegated his authority under the Federal Pipeline Safety Act to the

⁶ 87 FR 20969.

PHMSA Administrator under 49 CFR 1.97.

PHMSA finds it has good cause to make these corrections without notice and comment pursuant to section 553(b) of the Administrative Procedure Act (APA, 5 U.S.C. 551 *et seq.*). Section 553(b)(B) of the APA provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. As explained above, the textual alterations herein consist of editorial and technical corrections, including revisions to or codification of regulatory language (1) inadvertently deleted or omitted by the final rule, consistent with statements in the administrative record (including the preamble and amendatory text to the final rule and that make no substantive changes to the final rule but merely facilitate its implementation by aligning the regulatory text with the explanatory material in the final rule's preamble, amendatory text, and administrative record; or (2) consistent with judicial review of the final rule.⁷ Because the final rule is the product of an extensive administrative record with numerous opportunities for public comment, including through written comments and the Pipeline Advisory Committees, and because any requirements of the final rule vacated by the D.C. Circuit must be removed and “commentators could not have said anything during a notice and comment period that would have changed that fact,”⁸ PHMSA finds that additional comment on the corrections herein is unnecessary.

The immediate effective date of the corrections contained in this document is authorized under 5 U.S.C. 553(d)(3) of the APA. Section 553(d)(3) provides that a rule should take effect “not less than 30 days” after publication in the **Federal Register**, except for when good cause is found by the agency and published within the rule, thus allowing for earlier effectiveness. 5 U.S.C. 553(d)(3). “[T]he purpose of the thirty-day waiting period is to give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. F.C.C.*, 78

F.3d 620, 630 (D.C. Cir. 1996). PHMSA finds that good cause under section 553(d)(3) of the APA supports making the revisions effective upon publication in the **Federal Register** because the editorial and technical corrections at §§ 192.179(e) and (f), 192.610(b), 192.634, 192.636, 195.11(b)(2), 195.258(e), 195.402(c)(5)(ii), 195.417(a) introductory text and (a)(3), 195.418(b)(3), and 195.420(b) provide regulatory clarity for gas and hazardous liquid pipeline operators, and the correction to § 195.420 returning the word “mainline” to the regulations is consistent with the preamble of the final rule and the LPAC discussions on the subject.

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This document has been evaluated in accordance with existing policies and procedures, and is considered not significant under Executive Order 12866 (“Regulatory Planning and Review”),⁹ as amended by Executive Order 14094 (“Modernizing Regulatory Review”),¹⁰ and DOT Order 2100.6A (“Rulemaking and Guidance Procedures”); therefore, this document has not been reviewed by the Office of Management and Budget (OMB). PHMSA finds that the editorial and technical corrections herein, in all respects consistent with the final rule (as modified by judicial review), impose no incremental compliance costs nor adversely affect safety, as they either (1) merely correct non-substantive typographical errors made during the drafting of the final rule and restore the intent of the final rule as discussed in its preamble and supporting documentation, or (2) codify the results of judicial review limiting the scope of application of the final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Flexibility Fairness Act of 1996 (5 U.S.C. 601 *et seq.*), generally requires Federal regulatory agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for a final rule subject to notice-and-comment rulemaking under the APA. 5 U.S.C. 604(a).¹¹ The Small Business Administration’s implementing guidance explains that “[i]f an NPRM is not required, the RFA

does not apply.”¹² Because PHMSA has “good cause” under the APA to forego comment on the corrections herein, no FRFA is required. Moreover, PHMSA prepared a FRFA for the final rule, which is available in the docket for this rulemaking;¹³ because the corrections herein will impose no new incremental compliance costs, the analysis in that FRFA remains unchanged.

D. Paperwork Reduction Act

The corrections in this document impose no new or revised information collection requirements beyond those discussed in the final rule. As explained above, the changes being made in this document are non-substantive, and they will require no change to the current incident and annual reporting forms and their respective instructions.

E. Unfunded Mandates Reform Act of 1995

PHMSA analyzed the corrections in this document under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA, 2 U.S.C. 1501 *et seq.*) and determined that the corrections to the final rule herein do not impose enforceable duties of \$100 million or more, adjusted for inflation, in any one year, on state, local, or tribal governments, or on the private sector. PHMSA prepared an analysis of the UMRA considerations in the Final Regulatory Impact Analysis for the final rule, which is available in the docket for the rulemaking. Because the corrections herein will impose no new incremental compliance costs, the analysis in that UMRA discussion for the final rule need not be changed.

F. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) requires Federal agencies to prepare a detailed statement on major Federal actions significantly affecting the quality of the human environment. PHMSA analyzed the final rule in accordance with NEPA, implementing Council on Environmental Quality regulations (40 CFR parts 1500 through 1508) and DOT implementing policies (DOT Order 5610.1C, “Procedures for Considering Environmental Impacts”), and determined the final rule would not significantly affect the quality of the human environment.¹⁴ The corrections to the final rule in this document either (1) have no effect on PHMSA’s earlier

⁷ *GPA Midstream Ass’n v. U.S. Dep’t of Transp.*, 67 F.4th at 1201–1202. The D.C. Circuit has held that use of the APA’s good cause exception is appropriate “when rulemaking without notice and comment is ‘a reasonable and perhaps inevitable response to’ a ‘court order.’” *EME Homer City Generation, LP v. EPA*, 795 F.3d 118, 134–35 (D.C. Cir. 2015).

⁸ *EME Homer City Generation, LP v. EPA*, 795 F.3d at 134.

⁹ 58 FR 51735 (Oct. 4, 1993).

¹⁰ 88 FR 21879 (Apr. 11, 2023).

¹¹ This requirement is subject to exceptions— which are not in any event applicable here because PHMSA has good cause to forego comment in adopting the corrections herein.

¹² Small Business Administration, “A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act” 55 (2017).

¹³ Doc. No. PHMSA–2013–0255–0046.

¹⁴ Final Environmental Assessment, Doc. No. PHMSA–2013–0255–0045.

NEPA analysis, as they are consistent with, and facilitate compliance with, the final rule, or (2) merely codify the results of judicial review of the final rule.

G. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), the DOT solicits comments from the public to inform its rulemaking process. The DOT posts these comments, without edit, including any personal information the commenter provided, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

H. Executive Order 13132 (Federalism)

PHMSA has analyzed this document in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”).¹⁵ The corrections herein are consistent with, and facilitate compliance with, the final rule, and they do not have any substantial direct effect on the states, the relationship between the Federal Government and the states, or the distribution of power and responsibilities among the various levels of government beyond what was accounted for in the final rule. This document does not contain any provision that imposes any substantial direct compliance costs on state or local governments, nor any new provision that preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.¹⁶

I. Executive Order 13211

PHMSA analyzed the final rule and determined that the requirements of Executive Order 13211 (“Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use”)¹⁷ did not apply. The corrections to the final rule herein are not a “significant energy action” under Executive Order 13211 either, as they are not likely to have a significant adverse effect on supply, distribution, or energy use. Further, OMB has not designated the corrections herein as a significant energy action.

J. Executive Order 13175

This document was analyzed in accordance with the principles and criteria contained in Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”)¹⁸

and DOT Order 5301.1 (“Department of Transportation Policies, Programs, and Procedures Affecting American Indians, Alaska Natives, and Tribes”). Because none of the corrections herein have tribal implications or impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply.

K. Executive Order 13609 and International Trade Analysis

Under Executive Order 13609 (“Promoting International Regulatory Cooperation”),¹⁹ agencies must consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The corrections to the final rule in this document do not impact international trade.

L. Regulation Identifier Number (RIN)

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

M. Severability

The purpose of these editorial and technical corrections is to facilitate operator compliance with, and codify the results of judicial review of, the final rule. However, PHMSA recognizes that certain provisions focus on unique topics. Therefore, PHMSA finds that each of the editorial and technical corrections in this rule are severable and able to function independently if severed from each other. In the event a court were to invalidate one or more of the unique provisions of this rule, the remaining provisions should stand, thus allowing their continued effect.

List of Subjects

49 CFR Part 192

Gas, Natural gas, 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, PHMSA makes the following correcting amendments to 49 CFR parts 192 and 195:

PART 192—TRANSPORTATION OF NATURAL GAS AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 1. The authority citation for part 192 continues to read as follows:

Authority: 30 U.S.C. 185(w)(3), 49 U.S.C. 5103, 60101 *et. seq.*, and 49 CFR 1.97.

■ 2. Amend § 192.3 by revising the definitions for “Entirely replaced onshore transmission pipeline segments,” “Notification of potential rupture,” and “Rupture-mitigation valve” to read as follows:

§ 192.3 Definitions.

* * * * *

Entirely replaced onshore transmission pipeline segments means, for the purposes of §§ 192.179 and 192.634, where 2 or more miles, in the aggregate, of onshore transmission pipeline have been replaced within any 5 contiguous miles of pipeline within any 24-month period. This definition does not apply to any gathering line.

* * * * *

Notification of potential rupture means the notification to, or observation by, an operator of indicia identified in § 192.635 of a potential unintentional or uncontrolled release of a large volume of gas from a pipeline. This definition does not apply to any gathering line.

* * * * *

Rupture-mitigation valve (RMV) means an automatic shut-off valve (ASV) or a remote-control valve (RCV) that a pipeline operator uses to minimize the volume of gas released from the pipeline and to mitigate the consequences of a rupture. This definition does not apply to any gathering line.

* * * * *

■ 3. Amend § 192.9 by revising paragraphs (b), (c), and (e)(1)(iv) to read as follows:

§ 192.9 What requirements apply to gathering lines?

* * * * *

¹⁵ 64 FR 43255 (Aug. 10, 1999).

¹⁶ Moreover, PHMSA determined that the final rule did not impose substantial direct compliance costs on state and local governments.

¹⁷ 66 FR 28355 (May 22, 2001).

¹⁸ 65 FR 67249 (Nov. 6, 2000).

¹⁹ 77 FR 26413 (May 4, 2012).

(b) *Offshore lines.* An operator of an offshore gathering line must comply with requirements of this part applicable to transmission lines, except the requirements in §§ 192.13(d), 192.150, 192.285(e), 192.319(d) through (g), 192.461(f) through (i), 192.465(d) and (f), 192.473(c), 192.478, 192.485(c), 192.493, 192.506, 192.607, 192.613(c), 192.619(e), 192.624, 192.710, 192.712, and 192.714, and in subpart O of this part. Further, operators of offshore gathering lines are exempt from the requirements of §§ 192.617(b) through (d) and 192.635. Lastly, operators of offshore gathering lines are exempt from the requirements of § 192.615 (but an operator of an offshore gathering line must comply with the requirements of 49 CFR 192.615, effective as of October 4, 2022).

(c) *Type A lines.* An operator of a Type A regulated onshore gathering line must comply with the requirements of this part applicable to transmission lines, except the requirements in §§ 192.13(d), 192.150, 192.285(e), 192.319(d) through (g), 192.461(f) through (i), 192.465(d) and (f), 192.473(c), 192.478, 192.485(c) 192.493, 192.506, 192.607, 192.613(c), 192.619(e), 192.624, 192.710, 192.712, and 192.714, and in subpart O of this part. However, an operator of a Type A regulated onshore gathering line in a Class 2 location may demonstrate compliance with subpart N of this part by describing the processes it uses to determine the qualification of persons performing operations and maintenance tasks. Further, operators of Type A regulated onshore gathering lines are exempt from the requirements of §§ 192.179(e) through (g), 192.610, 192.617(b) through (d), 192.634, 192.635, 192.636, and 192.745(c) through (f). Lastly, operators of Type A regulated onshore gathering lines are exempt from the requirements of § 192.615 (but an operator of a Type A regulated onshore gathering line must comply with the requirements of 49 CFR 192.615, effective as of October 4, 2022).

* * * * *

(e) * * *

(1) * * *

(iv) Develop and implement procedures for emergency plans in accordance with the requirements of 49 CFR 192.615, effective as of October 4, 2022;

* * * * *

■ 4. Amend § 192.179 by revising paragraphs (e) and (f) to read as follows:

§ 192.179 Transmission line valves.

* * * * *

(e) For onshore transmission pipeline segments with diameters greater than or equal to 6 inches that are constructed after April 10, 2023, the operator must install rupture-mitigation valves (RMV) or an alternative equivalent technology whenever a valve must be installed to meet the appropriate valve spacing requirements of this section. An operator seeking to use alternative equivalent technology must notify PHMSA in accordance with the procedures set forth in paragraph (g) of this section. All RMVs and alternative equivalent technologies installed pursuant to this paragraph (e) must meet the requirements of § 192.636. The installation requirements in this paragraph (e) do not apply to pipe segments with a potential impact radius (PIR), as defined in § 192.903, that is less than or equal to 150 feet in either Class 1 or Class 2 locations. An operator may request an extension of the installation compliance deadline requirements of this paragraph (e) if it can demonstrate to PHMSA, in accordance with the notification procedures in § 192.18, that those installation compliance deadlines would be economically, technically, or operationally infeasible for a particular new pipeline.

(f) For entirely replaced onshore transmission pipeline segments, as defined in § 192.3, with diameters greater than or equal to 6 inches and that are installed after April 10, 2023, the operator must install RMVs or an alternative equivalent technology whenever a valve must be installed to meet the appropriate valve spacing requirements of this section. An operator seeking to use alternative equivalent technology must notify PHMSA in accordance with the procedures set forth in paragraph (g) of this section. All RMVs and alternative equivalent technologies installed pursuant to this paragraph (f) must meet the requirements of § 192.636. The requirements of this paragraph (f) apply when the applicable pipeline replacement project involves a valve, either through addition, replacement, or removal. The installation requirements in this paragraph (f) do not apply to pipe segments with a PIR, as defined in § 192.903, that is less than or equal to 150 feet in either Class 1 or Class 2 locations. An operator may request an extension of the installation compliance deadline requirements of this paragraph (f) if it can demonstrate to PHMSA, in accordance with the notification procedures in § 192.18, that those installation compliance deadlines would be economically, technically, or

operationally infeasible for a particular pipeline replacement project.

* * * * *

■ 5. Amend § 192.610 by revising paragraph (b) introductory text to read as follows:

§ 192.610 Change in class location: Change in valve spacing.

* * * * *

(b) If a class location change on a gas transmission pipeline occurs after October 5, 2022, and results in pipe replacement of less than 2 miles within 5 contiguous miles during a 24-month period, to meet the MAOP requirements in § 192.611, § 192.619, or § 192.620, then within 24 months of the class location change, in accordance with § 192.611(d), the operator must either:

* * * * *

■ 6. Amend § 192.634 by:

■ a. Revising paragraph (b)(3); and

■ b. Removing paragraph (c).

The revision reads as follows:

§ 192.634 Transmission lines: Onshore valve shut-off for rupture mitigation.

* * * * *

(b) * * *

(3) *Laterals.* Laterals extending from shut-off segments that contribute less than 5 percent of the total shut-off segment volume may have RMVs or alternative equivalent technologies that meet the actuation requirements of this section at locations other than mainline receipt/delivery points, as long as all of the laterals contributing gas volumes to the shut-off segment do not contribute more than 5 percent of the total shut-off segment gas volume based upon maximum flow volume at the operating pressure. For laterals that are 12 inches in diameter or less, a check valve that allows gas to flow freely in one direction and contains a mechanism to automatically prevent flow in the other direction may be used as an alternative equivalent technology where it is positioned to stop flow into the shut-off segment. Such check valves that are used as an alternative equivalent technology in accordance with this paragraph (b)(3) are not subject to § 192.636, but they must be inspected, operated, and remediated in accordance with § 192.745, including for closure and leakage to ensure operational reliability. An operator using such a check valve as an alternative equivalent technology must notify PHMSA in accordance with §§ 192.18 and 192.179 and develop and implement maintenance procedures for such equipment that meet § 192.745.

* * * * *

■ 7. Amend § 192.636 by adding paragraph (h) to read as follows:

§ 192.636 Transmission lines: Response to a rupture; capabilities of rupture-mitigation valves (RMVs) or alternative equivalent technologies.

* * * * *

(h) *Manual operation upon identification of a rupture.* Operators using a manual valve as an alternative equivalent technology as authorized pursuant to §§ 192.18, 192.179, and 192.634 and this section must develop and implement operating procedures that appropriately designate and locate nearby personnel to ensure valve shutoff in accordance with this section and § 192.634. Manual operation of valves must include time for the assembly of necessary operating personnel, the acquisition of necessary tools and equipment, driving time under heavy traffic conditions and at the posted speed limit, walking time to access the valve, and time to shut off all valves manually, not to exceed the maximum response time allowed under paragraph (b) or (c) of this section.

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 8. The authority citation for part 195 continues to read as follows:

Authority: 30 U.S.C. 185(w)(3), 49 U.S.C. 5103, 60101 *et seq.*, and 49 CFR 1.97.

■ 9. Amend § 195.2 by:

■ a. Revising the definition for “Entirely replaced onshore hazardous liquid or carbon dioxide pipeline segments”;

■ b. Removing the definition “Notification of Potential Rupture” and adding the definition “Notification of potential rupture” in its place; and

■ c. Revising the definition for “Rupture-mitigation valve”.

The revisions and addition read as follows:

§ 195.2 Definitions.

* * * * *

Entirely replaced onshore hazardous liquid or carbon dioxide pipeline segments, for the purposes of §§ 195.258, 195.260, and 195.418, means where 2 or more miles of pipe, in the aggregate, have been replaced within any 5 contiguous miles within any 24-month period. This definition does not apply to any gathering line.

* * * * *

Notification of potential rupture means the notification to, or observation by, an operator of indicia identified in § 195.417 of a potential unintentional or uncontrolled release of a large volume of commodity from a pipeline. This

definition does not apply to any gathering line.

* * * * *

Rupture-mitigation valve (RMV) means an automatic shut-off valve (ASV) or a remote-control valve (RCV) that a pipeline operator uses to minimize the volume of hazardous liquid or carbon dioxide released from the pipeline and to mitigate the consequences of a rupture. This definition does not apply to any gathering line.

* * * * *

■ 10. Amend § 195.11 by revising paragraph (b)(2) to read as follows:

§ 195.11 What is a regulated rural gathering line and what requirements apply?

* * * * *

(b) * * *

(2) For steel pipelines constructed, replaced, relocated, or otherwise changed after July 3, 2009:

(i) Design, install, construct, initially inspect, and initially test the pipeline in compliance with this part, unless the pipeline is converted under § 195.5.

(ii) [Reserved]

* * * * *

■ 11. Amend § 195.258 by revising paragraph (e) and adding paragraph (f) to read as follows:

§ 195.258 Valves: General.

* * * * *

(e) If an operator elects to use alternative equivalent technology in accordance with paragraph (c) or (d) of this section, the operator must notify PHMSA in accordance with § 195.18. The operator must include a technical and safety evaluation in its notice to PHMSA. Valves that are installed as alternative equivalent technology must comply with §§ 195.418, 195.419, and 195.420. An operator requesting use of manual valves as an alternative equivalent technology must also include within the notification submitted to PHMSA a demonstration that installation of an RMV as otherwise required would be economically, technically, or operationally infeasible. An operator may use a manual pump station valve at a continuously manned station as an alternative equivalent technology. Such a valve used as an alternative equivalent technology would not require a notification to PHMSA in accordance with § 195.18, but it must comply with §§ 195.419 and 195.420.

(f) The requirements of paragraphs (c) through (e) of this section do not apply to gathering lines.

■ 12. Amend § 195.260 by adding paragraph (i) to read as follows:

§ 195.260 Valves: Location.

* * * * *

(i) An operator of a gathering line must only comply with the requirements of 49 CFR 195.260 effective as of October 4, 2022, and need not comply with the other requirements of this section.

■ 13. Amend § 195.402 by revising paragraph (c)(5)(ii) introductory text and adding paragraph (g) to read as follows:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

* * * * *

(c) * * *

(5) * * *

(ii) *Analysis of rupture and valve shut-offs; preventive and mitigative measures.* If a failure or accident on an onshore hazardous liquid or carbon dioxide pipeline involves the closure of a rupture-mitigation valve (RMV), as defined in § 195.2, or the closure of an alternative equivalent technology, the operator of the pipeline must also conduct a post-failure or post-accident analysis of all the factors that may have impacted the release volume and the consequences of the release, and identify and implement operations and maintenance measures to minimize the consequences of a future failure or accident. The analysis must include all relevant factors impacting the release volume and the consequences, including, but not limited to, the following:

* * * * *

(g) *Exception.* An operator of a gathering line must only comply with the requirements of 49 CFR 195.402 effective as of October 4, 2022, and need not comply with the other requirements of this section.

■ 14. Amend § 195.417 by revising paragraphs (a) introductory text and (a)(3) and adding paragraph (c) to read as follows:

§ 195.417 Notification of potential rupture.

(a) As used in this part, a notification of potential rupture means the notification to, or observation by, an operator (*e.g.*, by or to its controller(s) in a control room, field personnel, nearby pipeline or utility personnel, the public, local responders, or public authorities) of one or more of the below indicia of a potential unintentional or uncontrolled release of a large volume of hazardous liquids or carbon dioxide from a pipeline:

* * * * *

(3) Any unanticipated or unexplained rapid release of a large volume of hazardous liquid or carbon dioxide, a

fire, or an explosion, in the immediate vicinity of the pipeline.

* * * * *

(c) The requirements of this section do not apply to gathering lines.

■ 15. Amend § 195.418 by revising paragraph (b)(3) and adding paragraph (d) to read as follows:

§ 195.418 Valves: Onshore valve shut-off for rupture mitigation.

* * * * *

(b) * * *

(3) *Laterals*. Laterals extending from shut-off segments that contribute less than 5 percent of the total shut-off segment volume may have RMVs or alternative equivalent technologies that meet the actuation requirements of this section at locations other than mainline receipt/delivery points, as long as all of these laterals contributing hazardous liquid or carbon dioxide volumes to the shut-off segment do not contribute more than 5 percent of the total shut-off segment volume, based upon maximum flow volume at the operating pressure. A check valve may be used as an alternative equivalent technology where it is positioned to stop flow into the lateral. Check valves used as an alternative equivalent technology in accordance with this paragraph (b)(3) are not subject to § 195.419 but must be inspected, operated, and remediated in accordance with § 195.420, including for closure and leakage, to ensure operational reliability. An operator using such a valve as an alternative equivalent technology must submit a request to PHMSA in accordance with § 195.18.

* * * * *

(d) *Exception*. The requirements of this section do not apply to gathering lines.

■ 16. Amend § 195.419 by adding paragraph (h) to read as follows:

§ 195.419 Valve capabilities.

* * * * *

(h) *Exception*. The requirements of this section do not apply to gathering lines.

■ 17. Amend § 195.420 by revising paragraph (b) and adding paragraph (h) to read as follows:

§ 195.420 Valve maintenance.

* * * * *

(b) Each operator must, at least twice each calendar year, but at intervals not exceeding 7½ months, inspect each mainline valve to determine that it is functioning properly. Each rupture-mitigation valve (RMV), as defined in § 195.2 and not contained in a gathering line, or alternative equivalent

technology that is installed under § 195.258(c) or § 195.418, must also be partially operated. Operators are not required to close the valve fully during the inspection; a minimum 25 percent valve closure is sufficient to demonstrate compliance, unless the operator has operational information that requires an additional closure percentage for maintaining reliability.

* * * * *

(h) The requirements of paragraphs (d) through (g) of this section do not apply to gathering lines.

■ 18. Amend § 195.452 by revising paragraph (i)(4) introductory text and adding paragraph (i)(4)(iv) to read as follows:

§ 195.452 Pipeline integrity management in high consequence areas.

* * * * *

(i) * * *

(4) *Emergency Flow Restricting Devices (EFRD)*. If an operator determines that an EFRD is needed on a pipeline segment that is located in, or which could affect, a high-consequence area (HCA) in the event of a hazardous liquid pipeline release, an operator must install the EFRD. In making this determination, an operator must, at least, evaluate the following factors—the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain within the HCA or between the pipeline segment and the HCA it could affect, and benefits expected by reducing the spill size. An RMV installed under this paragraph (i)(4) must meet all of the other applicable requirements in this part, provided that the requirement of this sentence does not apply to gathering lines.

* * * * *

(iv) The requirements of paragraphs (i)(4)(i) through (iii) of this section do not apply to gathering lines.

* * * * *

Issued in Washington, DC, on July 21, 2023, under authority delegated in 49 CFR 1.97.

Tristan H. Brown,

Deputy Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 230726-0175]

RIN 0648-BM13

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Commercial Trip Limit for Gray Triggerfish

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

ACTION: Final rule.

SUMMARY: NMFS implements a management measure through this final rule as described in a framework action under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico. This final rule increases the commercial trip limit for gray triggerfish in the Gulf of Mexico from 16 fish to 25 fish. The purpose of this action is to increase the commercial trip limit to allow commercial fishermen the opportunity to harvest the commercial annual catch target of gray triggerfish.

DATES: This final rule is effective on September 11, 2023.

ADDRESSES: An electronic copy of the framework document that contains an environmental assessment and a Regulatory Flexibility Act (RFA) analysis, and provides the rationale for this final rule, is available from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/modification-gray-triggerfish-commercial-trip-limits>. The proposed rule for this action is available from the same Southeast Regional Office website or from www.regulations.gov by searching “NOAA-NMFS-2023-0044.”

FOR FURTHER INFORMATION CONTACT: Peter Hood, NMFS Southeast Regional Office, telephone: 727-824-5305, email: peter.hood@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) manages reef fish in Federal waters of the Gulf of Mexico (Gulf) under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP or FMP). The Gulf Council prepared the Reef Fish FMP, and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).